

# REPORT TO COUNCIL



**Date:** July 24, 2017  
**RIM No.** 1250-40  
**To:** City Manager  
**From:** Community Planning Department (LK)  
**Application:** LUCT16-0002 **Owner:** Multiple Owners  
**Address:** Multiple Properties **Applicant:** City of Kelowna  
**Subject:** Land Use Contract Termination – Bennett Road and Paly Road

Existing OCP Designation: S2RES – Single Two Unit Residential

Existing Zone: LUC 78-1024  
LUC 76-1088

Proposed Zone: RR3 – Rural Residential 3

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## **1.0 Recommendation**

WHEREAS the BC Provincial Government has mandated that all Land Use Contracts under the jurisdiction of a local government and in the Province of British Columbia be terminated by 2024;

AND WHEREAS the BC Provincial Government has provided a legislated process for the early termination of land use contracts when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

THEREFORE BE IT RESOLVED THAT as the underlying RR3-Rural Residential 3 zone in City of Kelowna Zoning Bylaw No. 8000 applies to all subject properties under Land Use Contracts LUC76-1088 & LUC78-1024;

THAT Application No. LUCT16-0002 to terminate LUC76-1088 & LUC78-1024 from properties identified in 'Schedule A' and 'Schedule B' located on Bennett Road and Paly Road, Kelowna, B.C. be considered by Council;

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration.

## **2.0 Purpose**

To consider an application to terminate Land Use Contracts LUC76-1088 & LUC78-1024 and revert the 68 subject parcels within the McKinley Area of Kelowna to the underlying zone of RR3-Rural Residential 3.

## **3.0 Community Planning**

Community Planning Staff is supportive of terminating two Land Use Contracts that apply to 70 subject parcels within the McKinley Area of Kelowna. Application was made for LUC16-0002 to the City to have the two LUC's discharged from 1945 Bennett Road. As outlined in the Land Use Contract Termination Strategy Report to Council dated September 12, 2016, if application is made to request a Land Use Contract Discharge from a specific property, Staff will use the opportunity to bring forth the accompanying Land Use Contract Termination Report when the land use contract applies to additional properties.

Currently, there are approximately 73 Land Use Contracts still in force. Staff are recommending terminating as many land use contracts as possible before the Provincial imposed deadline of 2024 because performing all the public hearings related to zoning changes and notifications at once would be overwhelming. Further, land use contracts have had special privileges which they have enjoyed for many decades. These special privileges include: not contributing to DCCs, guaranteed land uses, and being exempt from Development Permits which guide form and character. The earlier the land use contracts can be terminated the better for infrastructure financing related to DCCs and better site planning through Development Permits.

#### **4.0 Proposal**

British Columbia first experimented with contract zoning in 1971. The Land Use Contract was a tool regularly used in the 1970's and was eliminated on November 15<sup>th</sup> 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. From 1978 to 2014, municipalities or the owners of the land could not unilaterally discharge, cancel, or modify the land use contract without the other party's consent. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30<sup>th</sup> 2024. Land use contracts will remain in force until that date. This provides property owners with ten years to complete any development authorized by their land use contract unless the LUC is terminated prior to that date. By June 20<sup>th</sup> 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land.

Land Use Contract terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one year grace period as outlined by the Local Government Act.

#### **4.1 Project Description**

The City is seeking to terminate the two Land Use Contracts from 69 additional subject properties as outlined in 'Schedule A'. The properties do have appropriate zoning regulations in place and will revert to the underlying zone of RR3 – Rural Residential 3.

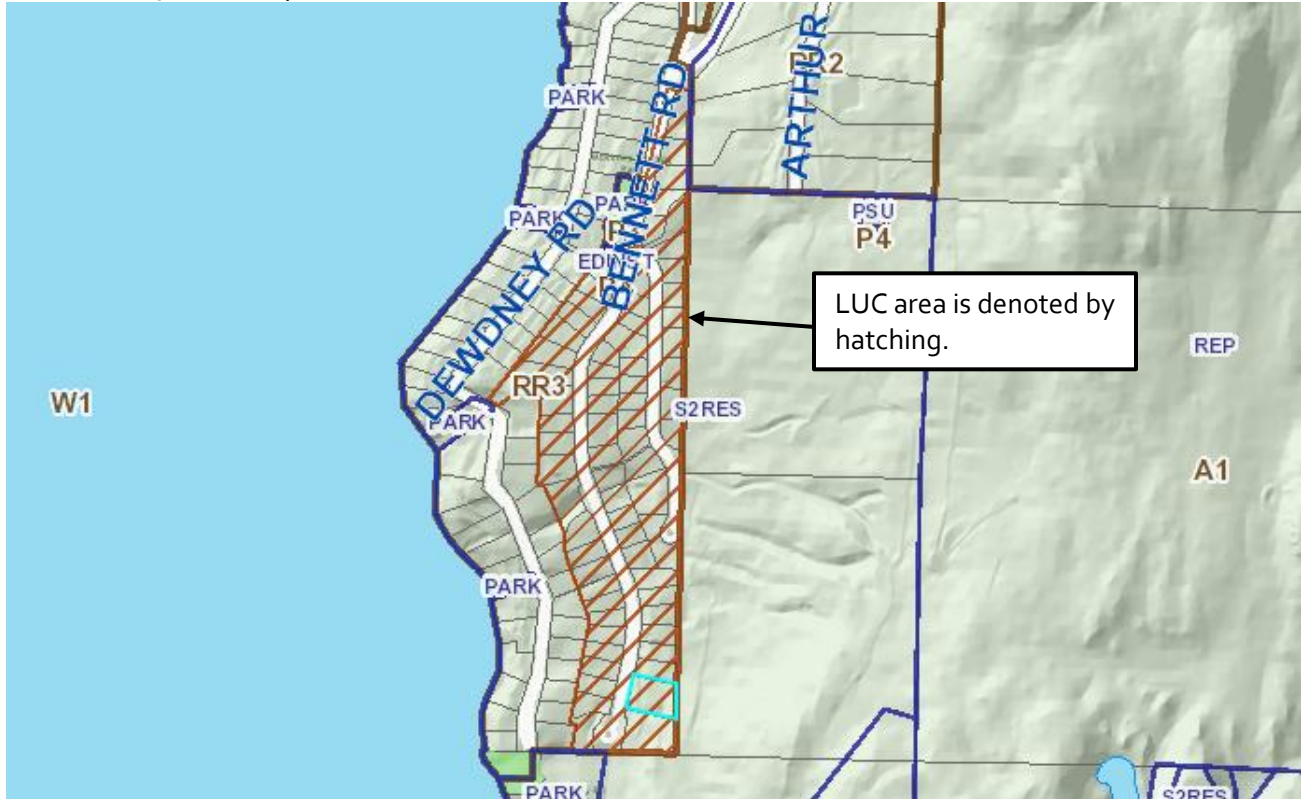
#### **4.2 Site Context**

The subject LUC's are located in the McKinley area of Kelowna and applies to 70 parcels which front onto Bennett Road and Paly Road.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR3 – Rural Residential 3	Single Family Residential
East	RR2 – Rural Residential 2 A1 – Agricultural 1	Agriculture
South	A1 – Agricultural 1	Single Family Residential
West	RR3 – Rural Residential 3	Single Family Residential

LUC Area Map: McKinley



## 5.0 Current Development Policies

### 5.1 Kelowna Official Community Plan (OCP)

#### Development Process

**Compact Urban Form.**<sup>1</sup> Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

### 5.2 Land Use Contract Termination Strategy Report to Council dated September 12, 2016

That Staff bring a package of Land Use Contract Terminations to Council approximately every quarter between 2017 and 2022. It is more cost effective from the notification perspective if the Land Use Contracts are bundled together.

<sup>1</sup> City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

**Report prepared by:** Lydia Korolchuk, Planner  
**Reviewed by:** Terry Barton, Urban Planning Manager  
**Approved for Inclusion:** Ryan Smith, Community Planning Department Manager

**Attachments:**

Attachment A: Site Plan  
Attachment B: LUC Termination Letter to Owners  
Schedule A: Properties within LUC76-1088 & LUC78-1024.