

# REPORT TO COUNCIL



**Date:** August 28<sup>th</sup>, 2017

**RIM No.** 1250-40

**To:** City Manager

**From:** Community Planning Department (JR)

**Application:** LUCT 17-0001 /Z17-0062      **Owner:** Multiple Properties

**Address:** Multiple Addresses      **Applicant:** The City of Kelowna

**Affected Streets:** Curlew Drive, Curlew Court, Lark Street, Wren Place, Okaview Road and Stellar Drive

**Subject:** Land Use Contract Termination (LUC 77-1002)

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zones: RR1 – Rural Residential 1 & P3 – Parks and Open Space

Proposed Zones: RU1 – Large Lot Housing, RR3 – Rural Residential 3, P2 – Educational and Minor Institutional, & P3 – Parks and Open Space

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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;

THAT Application No. LUCT17-0001 to terminate LUC77-1002 from properties identified in 'Schedule A', located on Curlew Drive, Curlew Court, Lark Street, Wren Place, Okaview Road and Stellar Drive, Kelowna, B.C. be considered by Council;

AND WHEREAS the underlying P3 – Parks & Open Space zone in the City of Kelowna Zoning Bylaw No. 8000 applies to Lot 166 Section 23 Township 28 SDYD Plan KAP32591 located at 5210 Lark Street, Kelowna, BC under Land Use Contract LUC77-1002;

THEREFORE, BE IT RESOLVED THAT as the underlying RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zones for the subject properties under Land Use Contract LUC77-1002 outlined in 'Schedule B: Table 1, 2, 3, 4, 5 and 6' does not meet the land use requirements under City of Kelowna Zoning Bylaw No. 8000;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 1', located on Curlew Drive,

Curlew Court, Lark Street, Wren Place, Okaview Road, and Stellar Drive Kelowna, BC from the RR1 – Rural Residential 1 zone to RU1 – Large Lot Housing be considered by Council;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 2', located on Curlew Drive, Curlew Court, and Stellar Drive Kelowna, BC from the RR1 – Rural Residential 1 zone to RR3 – Rural Residential be considered by Council;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 3', located on Bartholomew Court, Kelowna, BC from the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zone to RU1 – Large Lot Housing be considered by Council;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 4', located on Bartholomew Court, Kelowna, BC from the RR1 – Rural Residential 1 and RR2 – Rural Residential 2 zone to RR3 – Rural Residential 3 be considered by Council;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 5', located Okaview Road, Kelowna, BC from the RR2 – Rural Residential 2 zone to RU1 – Large Lot Housing be considered by Council;

AND THAT Rezoning Application No. Z17-0062 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification for properties identified in 'Schedule B: Table 6', located on Lark Street, Kelowna, BC from the RR1 – Rural Residential 1 zone to P2 – Educational and Minor Institutional be considered by Council;

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

## **2.0 Purpose**

To consider an application to rezone the subject properties as identified in 'Schedule B: Table 1, 2, 3, 4, 5, and 6', and proceed with the termination of Land Use Contract LUC77-1002 to revert the properties within the South Okanagan Mission Sector to the new underlying RU1 – Large Lot Housing, RR3 – Rural Residential 3, P2 – Educational and Minor Institutional, and P3 – Parks & Open Space zones.

## **3.0 Community Planning**

Community Planning Staff is supportive of terminating a Land Use Contract that applies to 167 subject parcels within the South Okanagan Mission Sector, just north of the Kettle Valley Development. A Land Use Contract Discharge application (LUC17-0002) was made to the City to have the LUC discharged from 521 Curlew Drive. As outlined in the Land Use Contract Termination Strategy Report to Council dated September 12, 2016, if an application is made to request a Land Use Contract Discharge from a specific property, Staff will use the opportunity to bring forth the accompanying Termination Report when the land use contract applies to additional properties.

The 167 subject parcels are located on Curlew Drive, Curlew Court, Lark Street, Stellar Drive, Okaview Road and Wren Place. The LUC currently restricts the use to one single family dwelling. The underlying zoning (RR1 – Rural Residential 1 and RR2 – Rural Residential 2) does not fit with the established neighbourhood and is not an appropriate zone for the existing land use. However, the underlying zone, P3 – Parks & Open Space, for one of the properties is an appropriate zone therefore, 166 properties out of the 167 will need to be rezoned. Staff are recommending that properties connected to sanitary sewer be rezoned to RU1 –

Large Lot Housing and properties not connect to sanitary sewer be rezoned to RR<sub>3</sub> – Rural Residential 3. The Land Use Contract rules and regulations are effectively similar to the RU<sub>1</sub> and RR<sub>3</sub> zones. However, the one notable difference is the properties will be allowed to have secondary suites.

There are two properties that used to be a part of the LUC that have the incorrect zoning of RR<sub>1</sub> – Rural Residential 1. Staff have included these two properties in the rezoning portion of this application to provide proper zoning for the properties.

#### **4.0 Proposal**

##### **4.1 Background**

Land Use Contracts were a tool regularly used in the 1970's before it 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. 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 unless terminated early by the municipality. By June 20<sup>th</sup> 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC 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.

##### **4.2 Notification**

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. The municipality must send additional letters after the one-year grace period is complete informing the property owners of which land use regulations apply to their properties.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for all Land Use Contract terminations. Public consultation in this case is not recommended as the notification policy is a City initiative. Staff are recommending that the standard development notification, as outlined above, be sent to properties affected by the LUC under consideration for termination.

Staff are providing each property owner with an extra notification letter, before first reading, outlining a termination of their Land Use Contract is proposed. If the property does not have the correct underlying zone, then Staff will include the proposed new zone. Property owners under the LUC are able to join the LUC Discharge however, if property owners do not inform the City after a two-week period, then the City anticipates each property will wait the one year until the LUC is terminated.

##### **4.3 Site Context**

The subject 167 properties have a total area of 312,447 m<sup>2</sup> and are located just North of the Kettle Valley development. The properties are designated S2RES – Single / Two Unit Residential, EDINST – Educational / Major Institutional, and PARK – Major Park / Open Space (Public) in the Official Community Plan and the surrounding area is single family residential.

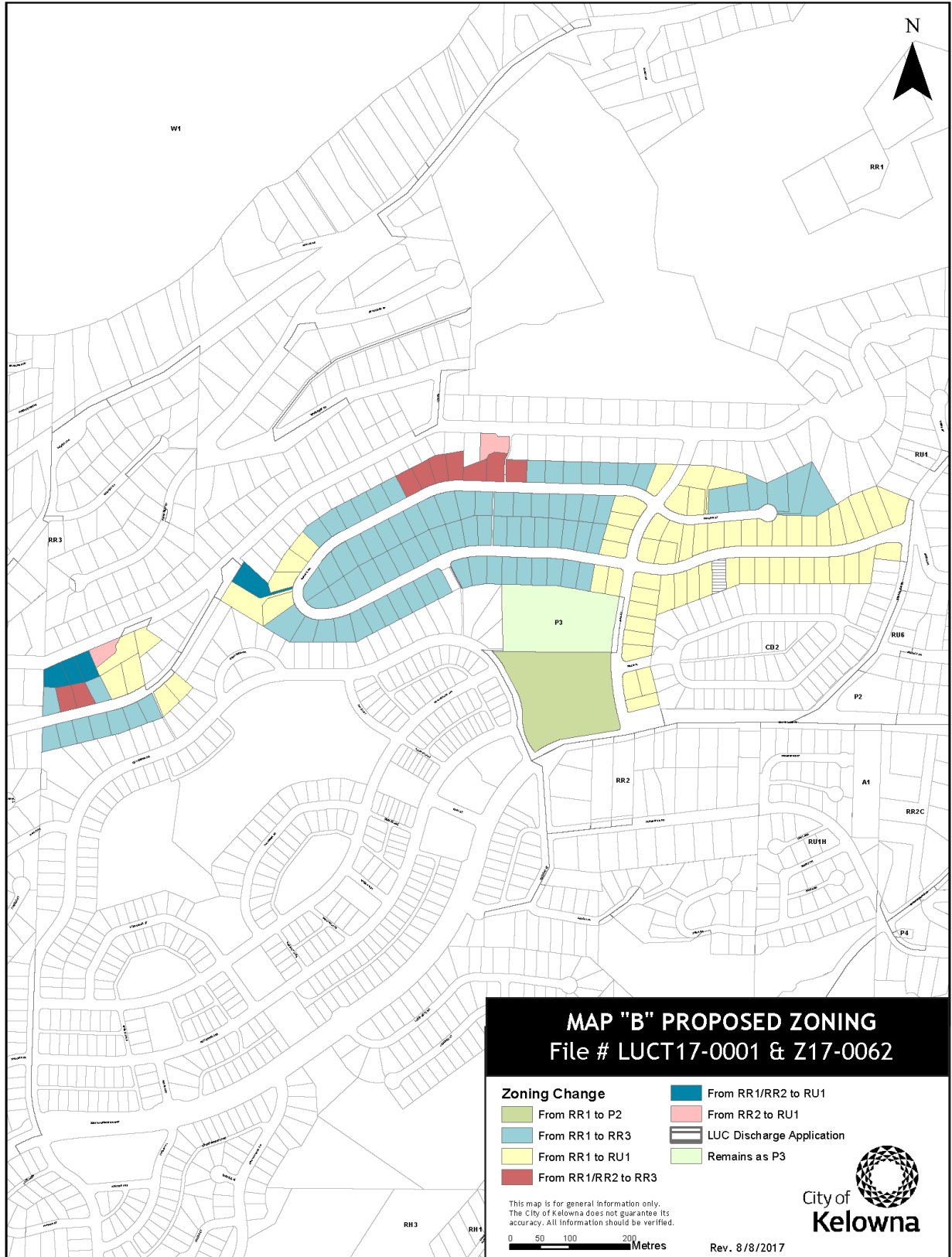
Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR2 – Rural Residential 2	Single Family Dwelling
East	RR2 – Rural Residential 2	Single Family Dwelling
South	CD2 – Kettle Valley RR2 Rural Residential 2 RU1 – Large Lot Housing	Single Family Dwelling
West	RR2 – Rural Residential 2	Single Family Dwelling

**Subject Property Map: South Okanagan Mission Sector**



**Rezoning Map:** South Okanagan Mission Sector



## 5.0 Current Development Policies

### 5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

**Council Policy No. 282.**<sup>2</sup> Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts

## 6.0 Technical Comments

### 6.1 Building & Permitting Department

- No concerns

### 6.2 Development Engineering Department

- No comment

## 7.0 Application Chronology

N/A

**Prepared by:** Jenna Ratzlaff, Planner and Adam Cseke, Planner

**Reviewed by:** Terry Barton, Urban Planning Manager

**Reviewed by:** Ryan Smith, Community Planning Department Manager

### **Attachments:**

Schedule 'A' – Land Use Contract Termination LUC77-1002

Schedule 'B: Table 1' – Properties to be Rezoned (RR1 – RU1)

Schedule 'B: Table 2' – Properties to be Rezoned (RR1 – RR3)

Schedule 'B: Table 3' – Properties to be Rezoned (RR1/RR2 – RU1)

Schedule 'B: Table 4' – Properties to be Rezoned (RR1/RR2 – RR3)

Schedule 'B: Table 5' – Properties to be Rezoned (RR2 – RR3)

Schedule 'B: Table 6' – Properties to be Rezoned (RR1 – P2)

Rezoning Map