



Regional Board Report

Request for Decision

Approved for Board Consideration

A handwritten signature in black ink, appearing to read "Brian Reardon".

Brian Reardon, CAO

To: Regional Board

From: Todd Cashin, Director of Community Services

Date: April 14, 2022

Subject: RDCO File No. Z21/06
Land Use Contract Termination Bylaw No. 249-01
Rural Westside Official Community Plan Amendment Bylaw No. 1274-11
Zoning Amendment Bylaw No. 871-271
Legal Description: Lot 146, District Lot 2922, ODYD, Plan 20608, except Plan EPP94860

Voting Entitlement: *Custom Vote – Electoral Areas & City of West Kelowna – 1 Director, 1 Vote*

Purpose: To terminate Land Use Contract No. 249, apply zoning to the subject property, and consider an amendment to the Rural Westside Official Community Plan.

Executive Summary:

Land Use Contracts (LUC's) are regulatory tools enacted under legislation established in the 1970's that act like site specific zoning bylaws. Under the *Local Government Act*, all remaining LUC's in the Province of British Columbia will automatically be terminated on June 30, 2024. The Regional District of Central Okanagan is moving forward with bylaws to terminate the LUC's and to apply current zoning and land use designations to the properties.

Five LUCs have been terminated in the Central Okanagan Electoral Areas and LUC No. 249 is one of four remaining LUC's that is being presented to the Regional Board for termination. Should this application be successful, LUC No. 249 will be removed in its entirety from the subject property, applying the amended future land use designation and zoning.

The Rural Westside Official Community Plan (OCP) supports rezoning the subject property to park and considering a land use plan for the area that is compatible with the existing residential area and the natural environment. The proposal is consistent with direction provided by the Province and aligns with the objectives and policies of the OCP.

Recommendation(s):

THAT the Regional Board receives the report from the Director of Community Services, dated April 14, 2022, with respect to RDCO File: Z21/06 for the property located on Alpine Road and legally described as Lot 146 District Lot 2922 Osoyoos Division Yale District Plan 20608 Except Plan EPP94860 ("the Subject Property");

AND THAT LUC Termination Bylaw No. 249-01 for the Subject Property be given first reading;

AND THAT OCP Amendment Bylaw No. 1274-11 for the Subject Property be given first reading;

AND THAT Zoning Amendment Bylaw No. 871-271 for the Subject Property be given first reading'

AND THAT the Regional Board schedule a Public Hearing on May 30, 2022, for LUC Termination Bylaw No. 249-01, OCP Amendment Bylaw No. 1274-11, and Zoning Amendment Bylaw No. 871-271, RDCO File No. Z21/06;

AND FURTHER THAT the Regional Board direct staff to accept no further development applications related to the Subject Property pending completion of the proposed bylaw amendments.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Prepared by: Chelsea Rudolph, Environmental Planner

Attachment(s):

1. Aerial Context Map
2. Land Use Contract No. 249
3. Land Use Contract No. 249 Amendment (DVP-88-328)
4. LUC Termination Bylaw No. 249-01
5. OCP Amendment Bylaw No. 1274-11
6. Zoning Amendment Bylaw No. 871-271
7. Rural Westside Official Community Plan Excerpt: *Chapter 7, Commercial*
8. P1 – Park and Open Space Zone Regulations
9. RDCO Presentation Slides

Strategic Plan Alignment:

Priorities: Sustainable Communities

Values: Good Governance

Background:

Land Use Contracts (LUC's) are regulatory tools enacted under legislation established in the 1970's that act like site specific zoning bylaws. Properties located within LUC's are not governed by the Regional District Zoning Bylaw No. 871 or Joe Rich Rural Land Use Bylaw No. 1195.

In 2014, the Province of British Columbia amended the *Local Government Act* (LGA) to automatically terminate remaining LUC's on June 30, 2024. All local governments with jurisdiction over land subject to a LUC are required to adopt zoning regulations for all LUC properties by June 30, 2022. As per the October 9, 2014, staff report to the Regional Board (Land Use Contact Discharge Priority), the Regional District is preparing bylaws to terminate all LUC's and apply appropriate land use designations and zones to the impacted parcels. LUC No. 249 is one of four remaining LUC's (out of nine total) that is being presented to the Regional Board for termination. Should this application be successful, LUC No. 249 will be removed in its entirety from the subject property, applying the amended future land use designation and zoning.

Site Context:

The subject property is located in the Central Okanagan West Electoral Area, in the community of Valley of the Sun. The parcel is directly north of Fintry Provincial Park, and adjacent to Alpine Road, Wood Road, and Firwood Road. The subject property is located within the North Westside Fire Protection Area, is impacted by a number of Development Permit Areas, and currently remains undeveloped.

Land Use Contract No. 249:

LUC No. 249 was adopted by the Regional District in 1978 to allow up to a maximum of 150 campsites, one lodge building, one washroom building, one sani-station, and a variety of recreational accommodation types.

LUC No. 249 was amended in 1988 by a Development Variance Permit (DVP-88-328) to permit two additional uses, alter the location of permitted uses, and allow recreational accommodations to utilize electrical hook-ups.

The following land uses, buildings, and structures are currently permitted under LUC No. 249:

- Up to 150 campsites
- One lodge building
- One washroom building
- One sani-station
- Recreational accommodation
 - Tents
 - Tent trailers
 - Motor homes
 - Vans
 - Campers
 - Recreation vehicles
- One 18 ft. x 36 ft. heated concrete swimming pool

The recreational accommodations must be designed and intended to be used independently to not require water or sewer hook-ups (Electrical hook-up permitted through amendment DVP-88-328).

Proposal:

As required by the Province, Regional District staff are proceeding with bylaws to terminate LUC No. 249, amend the Rural Westside OCP future land use designation from Commercial Resort to Parks and Recreation, and zone the subject property P1 – Park and Open Space.

Rural Westside Official Community Plan Bylaw No. 1274:

The North Westside area has historically been perceived as a rural and resort area. A number of large-scale commercial resort developments and commercial recreational resorts have been proposed over the years, but only a few have been developed to date. There is potential for a remaining number of commercial resorts to be developed in this area, including the subject property under the current LUC, which is a concern to residents given the condition of Westside Road.

The Rural Westside OCP provides direction for the Regional District or the Province to consider rezoning the subject property to a provincial park designation and prepare a land use plan for the area that is compatible with the existing residential area and the natural environment. It also identifies an objective to rezone the Fintry LUC site to a park. As such, amending the future land use designation from Commercial Resort to Parks and Recreation supports the desire for future uses that are sensitive to the surrounding land uses, while meeting OCP objectives to rezone the site to park and address further expansion of resort developments, easing resident concerns about the number of commercial resorts along Westside Road.

Zoning Bylaw No. 871:

In alignment with OCP direction and objectives, the proposed P1 – Park and Open Space zone allows uses that are sensitive to and compatible with surrounding land uses. Examples of permitted uses in the P1 zone include parks and playgrounds, conservation areas, recreation services, one dwelling unit, and accessory buildings and structures.

Staff compared all zones in the Zoning Bylaw to identify suitable types and forms of future development on the subject property and upon review, determined that zones permitting incompatible land uses or additional density were unsuitable given the direction and objectives in the OCP.

For example, the C5 – Campground, Cabin and Motel Commercial zone would permit upwards of 700 accommodation units on the property. Additionally, other zones that staff reviewed would allow increased density through small-lot residential subdivision (RU6 and R1), or incompatible land uses such as a cannabis production facility (RU1 and RU2).

Additional Information:

The subject property is located within a number of Development Permit Areas for the purpose of protecting the natural environment (Sensitive Aquatic and Sensitive Terrestrial), and protection of development from hazardous conditions (Slope Stability and Wildfire Interface). The property owner will be required to address the Development Permit Guidelines before considering future development of the property.

Applicant:	Regional District of Central Okanagan
Legal Description:	Lot 146, District Lot 2922, ODYD, Plan 20608, except Plan EPP94860
Lot Size:	+/- 36.169 ha (89.376 acres)
Land Use Contract:	No. 249
Current OCP Designation:	Commercial Resort
Existing Use:	Vacant
Surrounding Uses:	North: Residential East & South: Provincial Park

	West: Vacant RU6 land
A.L.R:	Outside the ALR area
Fire Protection:	Within the North Westside Road Fire Protection Area (Bylaw No. 1469)

RDCO TECHNICAL COMMENTS:

Inspection Services, Parks Services, Engineering Services, and Fire Services' interests are unaffected.

AGENCY REFERRAL COMMENTS:

BC Parks staff recommend approval of the proposed bylaws as a means of adding additional natural space between the developed areas and Fintry Provincial Park and easing possible acquisition in the future.

Interior Health staff are supportive of the application in terms of sustainable development by limiting and managing areas where commercial resorts can be developed and that from a healthy built environment perspective; community planning that preserves and connects the natural environment can have significant, positive impacts to the health and wellbeing of the community.

Ministry of Forests, Lands, Natural Resource Operations and Rural Development staff indicate a *Water Sustainability Act* application would be required for any project that involves work in or around a stream, including stream erosion protection. At the time of future development, the proponent may be requested to establish the present natural boundary area of any watercourses intersecting the property.

Ministry of Municipal Affairs staff indicate no concerns with the proposal, subject to any provincial interests raised by other ministries and agencies.

Ministry of Transportation and Infrastructure staff advise that the property is located within 800 metres of a Controlled Access Highway, requiring the bylaw to be forwarded to the Ministry for signature prior to adoption of the amendment bylaws.

Unaffected agencies include Ministry of Environment, Telus, BC Hydro, Shaw Cable, Fortis BC, Okanagan Basin Water Board, City of Kelowna, and City of West Kelowna.

Considerations:

External:	Written notices were mailed to all registered property owners of lands subject to LUC No. 249 advising of the pending Land Use Contract termination, per Section 549(2) of the <i>Local Government Act</i> (LGA). Any correspondence received from residents, or the public will be provided to the Regional Board as part of the subsequent Public Hearing.
Financial:	Section 458 of the LGA provides that compensation is not payable with regard to land use decisions for the termination of land use contracts, which extends the existing no-compensation provisions currently provided in the LGA in relation to land use bylaws.
Legal/Statutory Authority:	Granting first reading to the bylaws complies with Part 14 - Division 16 of the LGA – Discharge and Termination of Land Use Contracts.

Section 543 of the LGA permits owners of land subject to a LUC the ability to apply to the Regional Board for a variance if the timing of the termination causes the owner hardship. The application must be submitted within 6 months of bylaw adoption and the local government may permit the continuation of the LUC for a specified period of time, ending no later than June 30, 2024.

Alternative Recommendation: No alternative recommendation provided.

Should the proposed bylaws not proceed to adoption prior to June 30, 2022, termination of the Land Use Contract would occur on June 30, 2024, and the underlying zoning of C5 – Campground, Cabin and Motel Commercial would apply to the land.

Considerations not applicable:

- Organizational
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