



Regional Board Report

Request for Decision

Approved for Board Consideration

A handwritten signature in black ink that reads "Jodie Foster".

Jodie Foster, Acting CAO

To: Regional Board

From: Todd Cashin, Director of Community Services

Date: March 28, 2022

Subject: RDCO File: Z20/07

Land Use Contract Termination Bylaw No. LUC-258-06
Zoning Amendment Bylaw No. 871-265

Rural Westside Official Community Plan Amendment Bylaw No. 1274-09

Legal Descriptions: Lot 1, District Lot 3546, ODYD, Plan KAP60766; Lot 2, District Lot 3546, ODYD, Plan KAP60766; Lot A, District Lot 4499, ODYD, Plan EPP45867; Lot 1, District Lot 4499, ODYD, Plan EPP45865; Lot A, District Lot 4499, ODYD, Plan EPP45863; Lot 4, District Lot 3546, ODYD, Plan KAP60487; Common Property Strata Plan KAS 1964, Strata Lots 1 - 70, District Lot 3546, ODYD; Common Property Strata Plan KAS2021, Strata Lots 1 - 129, District Lot 3546, ODYD; and, Common Property Strata Plan KAS2022, Strata Lots 1 - 159, District Lot 3546, ODYD, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1.

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

Purpose: To terminate Land Use Contract No. 258 and apply zoning to the subject properties, and to consider an amendment to the Rural Westside Official Community Plan.

Executive Summary:

Land Use Contracts (LUC's) are land-use regulatory tools, similar to a site-specific zoning bylaw, enacted under legislation established in the 1970's. Under the *Local Government Act*, all 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 to ensure that current and appropriate zoning and land use designations apply to the properties.

Five LUCs have been successfully terminated in the Central Okanagan Electoral Areas and LUC 258 is one of the remaining four to be presented to the Regional Board for termination. Should this Community Services initiated application be successful, LUC No. 258 will be removed in its entirety from the subject properties and zoning will apply.

The Rural Westside Official Community Plan (OCP) supports considering alternatives to existing Land Use Contracts which propose more conventional housing where proposed density is consistent with surrounding land uses and the type of servicing and infrastructure provided. The proposal is consistent

with direction provided by the Province and aligns with the objectives and policies of the OCP. No concerns have been raised by affected agencies.

Recommendation(s):

THAT the Regional Board, receives the report from the Director of Community Services, dated March 28, 2022, with respect to RDCO File: Z20/07 for the properties legally described as Lot 1, District Lot 3546, ODYD, Plan KAP60766; Lot 2, District Lot 3546, ODYD, Plan KAP60766; Lot A, District Lot 4499, ODYD, Plan EPP45867; Lot 1, District Lot 4499, ODYD, Plan EPP45865; Lot A, District Lot 4499, ODYD, Plan EPP45863; Lot 4, District Lot 3546, ODYD, Plan KAP60487; Common Property Strata Plan KAS 1964, Strata Lots 1 - 70, District Lot 3546, ODYD; Common Property Strata Plan KAS2021, Strata Lots 1 – 129, District Lot 3546, ODYD; and, Common Property Strata Plan KAS2022, Strata Lots 1 - 159, District Lot 3546, ODYD, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1 (the “Shelter Cove and Timber Ridge Properties”).

AND THAT LUC Termination Bylaw No. 258-06 for the Shelter Cove and Timber Ridge Properties be given first reading.

AND THAT OCP Amendment Bylaw No. 1274-09 for the Shelter Cove and Timber Ridge Properties be given first reading;

AND THAT Zoning Amendment Bylaw No. 871-265 for the Shelter Cove and Timber Ridge Properties be given first reading;

AND THAT the Regional Board schedule a Public Hearing on April 28, 2022, for LUC Termination Bylaw No. 258-06, Zoning Amendment Bylaw No. 871-265, and OCP Amendment Bylaw No. 1274-09, RDCO File No. Z20/07;

AND FURTHER THAT the Regional Board direct staff to accept no further development applications related to the Shelter Cove and Timber Ridge Properties pending completion of the proposed bylaw amendments.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Prepared by: Brittany Nichols, Environmental Planner

Attachment(s):

1. Orthophoto Map
2. LUC Termination Bylaw No. LUC 258-06
3. Zoning Amendment Bylaw No. 871-265
4. OCP Amendment Bylaw No. 1247-09
5. RU1 Zoning
6. RU2 Zoning

7. RU5 Zoning

Strategic Plan Alignment:

Priorities: Sustainable Communities

Values: Good Governance

Background:

Land Use Contracts (LUC) are land-use regulatory tools, similar to site-specific zoning bylaws, enacted under historical legislation in the 1970's. Properties located within LUC's are not governed by the Regional Districts Zoning Bylaw No. 871 or Joe Rich Rural Land Use Bylaw No. 1195.

The Province of British Columbia has amended the Local Government Act (LGA) so that LUC's in the Province will automatically be terminated on June 30, 2024. Prior to June 30, 2022, all local governments that have jurisdiction over land subject to a LUC must provide zoning. As per the October 9, 2014, staff report to the Regional Board (Land Use Contract Discharge Priority), the intent is for the Regional District to move forward with bylaws to terminate the LUC's and apply the appropriate zoning and land use designation to the parcel(s).

LUC No. 258 is one of the remaining four (of a total of nine) LUCs to be presented to the Regional Board for termination. Should this Community Services initiated application be successful, LUC No. 258 will be removed in its entirety from the subject property and zoning will apply.

Site Context:

The subject properties are located in the Central Okanagan West Electoral Area, in the community of Wilson's Landing just North of Lake Okanagan Resort along Westside Road. Properties under Land Use Contract 258 are divided by Westside Road, with the property known as Shelter Cove located on the east side adjacent to Okanagan Lake and the properties known as Timber Ridge located on the west, upslope of Westside Road.

Shelter Cove

The Shelter Cove community is currently developed with various seasonal residential accommodation units. This single parcel of land has approximately 36 owners listed on one title. There is a mix of vacant land, vacation homes, and recreational vehicles. The existing structures were sited in accordance with the LUC and building and development permits have been issued by the RDCO. In addition, the Province has issued a number of dock licenses and water licences associated with the property.

In terms of servicing, the residential accommodation units are serviced by on-site wastewater disposal (via individual Type II and Type III septic systems) and private water is supplied from Okanagan Lake. Shelter Cove is located within the Wilson's Landing Fire Protection Area.

Timber Ridge

The Timber Ridge lands located upslope of Westside Road remain vacant with most of the existing land disturbance related to road access. Servicing is not yet in place and is to be addressed at time of future development. Timber Ridge is not within a Fire Protection Area and a portion of the lands were impacted by wildfire in 2015.

Land Use Contract No. 258:

There are a total of 363 properties under LUC No. 258 including 5 private residential properties and 358 strata lots with common property. LUC No. 258 was adopted by the Regional District on January 12, 1979, with the intent of developing a recreational vehicle resort with up to 173 RV site and other recreational uses. Subsequently, LUC 258 was amended in 1981 (Bylaw No. LUC-80-1). This amendment allowed for an increase in density to include 463 recreational vehicle sites, 42 vacation homes, a lodge, and a retreat. The LUC also allows for the subdivision of the RV sites and vacation homes into strata titles. The following land uses, buildings, and structures are permitted and continue to be regulated under LUC No. 258:

- Not more than 463 recreational vehicle sites and 42 vacation home sites;
- One recreation building;
- One retreat building, designed to accommodate up to 110 persons;
- One swimming pool building and swimming pool;
- One administration building;
- One maintenance building;
- One lodge with staff accommodation; and,
- One sani-station.

Proposal:

As required by the Province, Regional District Community Services staff have initiated a proposal to discharge LUC No. 258 and zone the subject properties under Zoning Bylaw No. 871. This will also involve an amendment to the Rural Westside Official Community Plan.

Shelter Cove

Shelter Cove is proposed to be zoned as RU5 – Small Lot Country Residential with a future land use designation of Residential Low Density. The proposed zone and land use designation aligns with policies of the Rural Westside Official Community Plan Bylaw No. 1274 and is consistent with the character and zoning of surrounding properties.

The proposed zone is intended to accommodate rural residential uses and permits a minimum parcel area of 0.61 acres (0.25 hectares) which would allow future subdivision of up to 39 lots. The RDCO Subdivision Servicing Bylaw requires community water and community sewer for parcels zoned RU5. As such, future subdivision may require the property owners apply to the RDCO for approval of a variance to the servicing requirements.

Timber Ridge

The remaining Timber Ridge lands are proposed to be zoned as RU1 – Rural 1 and RU2 – Rural 2. The proposed zone is intended to accommodate rural land uses on parcels of land that are 9.88 acres (4 hectares) or greater. The intent of the large holding designation is to preserve existing large rural parcels with limited community services and infrastructure in recognition that the North Westside area will continue to remain a rural area.

Rural Westside Official Community Plan Bylaw No. 1274:

Policies from the Rural Westside Official Community Plan support considering alternatives to existing Land Use Contracts which propose more conventional housing where proposed density is consistent with the type of servicing and infrastructure provided. Additionally, the OCP provides assessment criteria for future residential development to be evaluated including, but not limited to:

- capability of handling on-site domestic water and sewage disposal;
- impact on adjacent land uses and character of the existing area;
- availability of essential services such as fire protection;
- improvements required to existing roads; and,

- capability of the natural environment and topography to accommodate the additional development.

Additional Information:

The subject properties are located within a number of Development Permit Areas for the purpose of the protection of the natural environment (Sensitive Aquatic and Sensitive Terrestrial) and protection of development from hazardous conditions (Slope Stability and Wildfire Interface). Prior to the consideration of future development proposals, the owner(s) will be required to address the Development Permit guidelines of the OCP.

Applicant:	Regional District of Central Okanagan
Address:	4401 & 4400 Westside Road N
Legal Descriptions:	Lot 1, District Lot 3546, ODYD, Plan KAP60766; Lot 2, District Lot 3546, ODYD, Plan KAP60766; Lot A, District Lot 4499, ODYD, Plan EPP45867; Lot 1, District Lot 4499, ODYD, Plan EPP45865; Lot A, District Lot 4499, ODYD, Plan EPP45863; Lot 4, District Lot 3546, ODYD, Plan KAP60487; Common Property Strata Plan KAS 1964, Strata Lots 1 - 70, District Lot 3546, ODYD; Common Property Strata Plan KAS2021, Strata Lots 1 – 129, District Lot 3546, ODYD; and, Common Property Strata Plan KAS2022, Strata Lots 1 - 159, District Lot 3546, ODYD, together with an interest in the common property in proportion to the unit entitlement of the strata lot as shown on Form 1.
Lot Size:	Shelter Cove: +/- 9.77 ha (24 acres) Timber Ridge: +/- 128 ha (318 acres)
Land Use Contract:	No. 258
OCP Designation:	Commercial Resort
Existing Use:	Vacant, Residential, Recreational
Surrounding Uses:	North: Residential Low-density South: Rural Residential East: Okanagan Lake West: Vacant Commercial Resort Lands, Large Holdings
ALR:	Outside of the ALR
Fire Protection:	Shelter Cove: Wilsons Landing Fire Protection Area Timber Ridge: Outside of a Fire Protection Area

RDCO TECHNICAL COMMENTS:

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

AGENCY REFERRAL COMMENTS:

Advisory Planning Committee (Central Okanagan West) recommends support for the application Z20/07 as presented.

Interior Health staff are supportive of the application as the proposed land use designation and zoning for Timber Ridge is in line with the Rural Westside OCP and objectives of preserving large parcels with limited community services and infrastructure. Further, with respect to Shelter Cove, Interior Health has no objections to the proposed zoning and future land use designation and is supportive of zoning that requires community water and community sewer servicing provisions.

Ministry of Transportation and Infrastructure staff has no concerns with the proposal and advises that the property is located within 800 metres of a Controlled Access Highway. As such, the bylaw must be forwarded to the Ministry for signature prior to adoption of the Land Use Contract Termination and Zoning Amendment bylaws.

Ministry of Municipal Affairs staff provided a summary of the legislation under the *Local Government Act* applicable to the application. Ministry staff further indicate no concerns with the proposed Official Community Plan amendment bylaw.

Ministry of Forests, Lands, Natural Resource Operations and Rural Development (Lands Branch) staff noted that property owners may need to apply for commercial tenures should they wish to operate a home-based business that involves private moorage. Property owners are not permitted to rent their private moorage space nor allow others to place buoys fronting their properties. Shared moorage is not possible unless future subdivision also allows for strata development. Further, landowners should be aware that *Water Sustainability Act* applications are required for any work in and about the lake and any stream that intersects the properties.

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. 258 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 a future 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:	<p>Granting first reading to the bylaws complies with Part 14 - Division 16 of the LGA – Discharge and Termination of Land Use Contracts.</p> <p>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.</p>

Considerations not applicable:

- Organizational
 - Alternative Recommendation
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