



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

Date: March 28, 2022

Subject: Land Use Contract Termination Bylaw No.194-05
Zoning Amendment Bylaw No. 871-272
Lot B, District Lot 4499, ODYD, Plan 35684

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

Purpose: To terminate Land Use Contract No. 194 and zone the subject property as RU4 Country Residential.

Executive Summary:

Land Use Contracts (LUC) are land-use regulatory tools, similar to site-specific zoning bylaw, enacted under legislation established in the 1970's. All LUC's in the Province of British Columbia will automatically be terminated on June 30, 2024, under the Local Government Act. The Regional District of Central Okanagan is moving forward with bylaws to terminate LUC's and apply the land use designation or zone to the parcels.

Five LUCs have been successfully terminated in the Central Okanagan Electoral Areas and LUC No. 194 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. 194 will be removed in its entirety from the subject property 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.

Recommendation(s):

THAT the Regional Board, receives the report from the Director of Community Services, dated March 28, 2022, with respect to RDCO File: Z21/07;

AND THAT LUC Termination Bylaw No 194-05 for Lot B, District Lot 4499, ODYD, Plan 35684 located at 3850 Westside Road be given first reading;

AND THAT Zoning Amendment Bylaw No. 871-272 for Lot B, District Lot 4499, ODYD, Plan 35684 located at 3850 Westside Road be given first reading;

AND THAT the Regional Board schedule a Public Hearing on April 28, 2022, for LUC Termination Bylaw No 194-05 and Zoning Amendment Bylaw 871-272, RDCO File No. Z21/07.

AND FURTHER THAT the Regional Board direct staff to accept no further development applications related to Lot B, District Lot 4499, ODYD, Plan 35684 located at 3850 Westside Road pending completion of the proposed bylaw amendments.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Prepared by: Michael Czarny, Planner

Attachments:

- Orthophoto Map
- LUC Termination Bylaw No. 194-05
- Zoning Amendment Bylaw No. 871-272
- RU4 Country Residential Zoning Regulations
- Regional Board Presentation

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 Contact Discharge Priority), the intent is for the Regional District to move forward with bylaws to terminate the LUC's and apply the land use designation or zone to the parcel(s).

LUC No. 194 is one of the remaining four LUCs to be presented to the Regional Board for termination. Should this Community Services initiated application be successful, LUC No. 194 will be removed in its entirety from the subject property and zoning will apply.

Land Use Contract No. 194:

LUC No. 194 was adopted by the Regional District on January 9, 1978, and was registered to Lot F, District Lot 4499, Plan 24697, which subdivided into two lots (Lot A and the subject property, Lot B) on June 27, 1985. In 1985, a Development Permit was approved to revise the site plan under LUC No. 194 however, since development did not commence within 12 months of Development Permit issuance, the Development Permit and revise site plan lapsed. Under applications in 1989, Lot A had LUC No. 194 terminated, was rezoned to RU5 Small Lot Country Residential, and was subsequently subdivided into 15 lots.

LUC No. 194 is only applicable to the subject property, Lot B, however, LUC No. 194 contains regulations for Lot F as it existed prior to subdivision. Therefore, LUC No. 194 does not align with the subject property.

The following land uses, buildings, and structures are permitted and continue to be regulated under LUC No. 194:

- One residential single-family dwelling
- Tourist residential rentals (72 units)
- Dining lounge
- Restaurant
- Convention hall
- Commercial recreation (boat launch facilities)
- Grocery store
- Pump station to serve the entire project with water for drinking, irrigation and fire protection
- Sewer system with septic tanks and drain fields
- Roads
- Four parking lots with a total capacity of 106 spaces

Proposal:

Regional District staff is moving forward with bylaws to terminate LUC No. 194 and zone the property at RU4 Country Residential. The proposed zone aligns Rural Residential land use designation as per Rural Westside Official Community Plan Bylaw No. 1274 and is consistent with the character and zoning of the surrounding properties. The proposed zone permits a minimum parcel area of 0.5 hectares which would allow future subdivision to a maximum of five lots. Proposed subdivision would require the property owners to apply for approval of a variance to the RDCO Subdivision Servicing Bylaw for community water and community sewer servicing provisions.

Rural Westside Official Community Plan Bylaw No. 1274:

Policies from the Rural Westside Official Community Plan support considering alternative to existing Land Use Contracts which propose more conventional housing where proposed density is consistent with the type servicing and infrastructure provided.

Use and development of land is to be consistent with the future land use designations as per Rural Westside Official Community Plan Bylaw No. 1274. The subject property has a Rural Residential land use designation which supports RU4 Country Residential zoning.

Site Context:

The subject property remains undeveloped and contains one private roadway that provided access to the foreshore and contains an unnamed stream that runs from west to east along the centre of the property. The property is affected by the Aquatic Ecosystem, Terrestrial Ecosystem, Hillside, and Wildfire Interface Construction Development Permit Areas.

Additional Information:

Owners:	630501 BC LTD
Applicant:	RDCO
Address:	3850 Westside Road
Legal Description:	Lot B, District Lot 4499, ODYD, Plan
Lot Size:	+/- 2.54 ha (6.276 acres)
Land Use Contract:	Land Use Contract No. 194
OCP Designation:	Rural Residential
Existing Use:	Vacant
Surrounding Uses:	North: Rural Residential South: Rural Residential East: Okanagan Lake West: Vacant Commercial Resort Lands
ALR:	Outside of the ALR
Fire Protection:	Wilson's Landing 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) supports the application as presented.

Ministry of Forests, Lands, Natural Resource Operations and Rural Development staff expressed concerns regarding work that has occurred in or near a stream without the required Water Sustainability Act authorization. Any modifications near the stream may require investigation for potential violations.

Ministry of Transportation and Infrastructure staff 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 amending bylaws.

Considerations:

External: Written notices were mailed to the registered property owners of land subject to LUC No. 194 advising of the pending Land Use Contract termination. 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 *Local Government Act* 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 *Local Government Act* – 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.

Considerations not applicable:

- Organizational
 - Alternate Recommendation
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