



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 25, 2022

Subject: RDCO File: Z20/05

Land Use Contract Discharge Bylaw No. 225-04
Rural Westside Official Community Plan (OCP) Amendment Bylaw No. 1274-10
Zoning Amendment Bylaw No. 871-263
Legal Descriptions: Lot 1, DL 3547, ODYD, Plan 30301, Except Plans 32216, KAP61751 & KAP89299; Lot 4 and an undivided 220/268 Share in Lot 1, DL 3547, ODYD, Plan KAP91945; Common Property Strata Plan KAS3867 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, DL 3547, ODYD, Strata Plan KAS3867; Common Property Strata Plan KAS3858 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, Plan KAP91945 both in DL 3547 ODYD; Common Property Strata Plan KAS294 & Strata Lots 1-12, DL 3547, ODYD, Strata Plan K294; Common Property Strata Plan KAS287 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K287; Common Property Strata Plan KAS520 & Strata Lots 1-99, DL 3547, ODYD, Strata Plan K520; Common Property Strata Plan KAS322 & Strata Lots 1-22, DL 3547, ODYD, Strata Plan K322; and Common Property Strata Plan KAS316 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K316

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

Purpose: To terminate Land Use Contract No. 225 and zone the properties Comprehensive Development Zone 2 (CD2 – Lake Okanagan Resort), and to amend 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 225 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. 225 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 no concerns have been raised by affected agencies.

Recommendations:

THAT the Regional Board, receives the report from the Director of Community Services, dated April 25, 2022, with respect to file Z20/05 for the properties legally described as Lot 1, DL 3547, ODYD, Plan 30301, Except Plans 32216, KAP61751 & KAP89299; Lot 4 and an undivided 220/268 Share in Lot 1, DL 3547, ODYD, Plan KAP91945; Common Property Strata Plan KAS3867 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, DL 3547, ODYD, Strata Plan KAS3867; Common Property Strata Plan KAS3858 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, Plan KAP91945 both in DL 3547 ODYD; Common Property Strata Plan KAS294 & Strata Lots 1-12, DL 3547, ODYD, Strata Plan K294; Common Property Strata Plan KAS287 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K287; Common Property Strata Plan KAS520 & Strata Lots 1-99, DL 3547, ODYD, Strata Plan K520; Common Property Strata Plan KAS322 & Strata Lots 1-22, DL 3547, ODYD, Strata Plan K322; and Common Property Strata Plan KAS316 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K316 ("Lake Okanagan Resort Properties");

AND THAT LUC Termination Bylaw No. 225-04 for the Lake Okanagan Resort Properties be given first reading;

AND THAT OCP Amendment Bylaw No. 1274-10 for the Lake Okanagan Resort Properties be given first reading;

AND THAT Zoning Amendment Bylaw No. 871-263 for the Lake Okanagan Resort Properties be given first reading;

AND THAT the Regional Board Schedule a Public Hearing on May 30, 2022, for LUC Termination Bylaw No. 225-04, OCP Amendment Bylaw No. 1274-10, and Zoning Amendment Bylaw No. 871-263, RDCO File: Z20/05;

AND FURTHER THAT the Regional Board direct staff to accept no further development applications related to the Lake Okanagan Resort Properties pending completion of the proposed bylaw amendments.

Respectfully Submitted:



Todd Cashin
Director of Community Services

Prepared by: Michael Czarny, Senior Planner

Attachments:

- Orthophoto Map
- Regional Board Presentation – April 25, 2022
- LUC Termination Bylaw No. 225-04, OCP Amendment Bylaw No. 1274-10 and Zoning Amendment Bylaw No. 871-263

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 land use designation or zone to the parcel(s).

LUC No. 225 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. 225 will be removed in its entirety from the subject property and zoning will apply.

Site Context:

Lake Okanagan Resort is located in the Central Okanagan West Electoral Area, near the Wilson's Landing community along Westside Road. Lake Okanagan Resort consists of nine parcels which includes seven strata lots managed by five strata companies. The properties contain multiple buildings and structures that support permanent, seasonal, and commercial residential uses that contain approximately 217 dwelling units. The property also contains recreational facilities that include a clubhouse, swimming pools, tennis courts, marina, boat launch and golf course. The existing structures were sited in accordance with the LUC and permits issued by the RDCO. Lake Okanagan Resort is serviced by a private communal water system and a private communal wastewater system.

Land Use Contract No. 225:

Existing structures were sited in accordance with LUC No. 225 in 1978 and subsequent amendments in 1982 and 1997. Amendment Bylaw No. LUCA-81-3 increased the density from 200 units to a maximum of 500 rental units. Amendment Bylaw No. LUCA-95-44 provided a significant update to LUC No. 225, included permanent residential uses, and an updated site plan. The following land uses, buildings and structures are permitted and continue to be regulated under LUC No. 225:

- Maximum of 500 residential units
- Club house
- Swimming pools
- Tennis courts
- Beaches
- Marina
- Golf course
- Garage and maintenance building
- Boat launch

- Restaurant
- Golf cart storage and locker room building

Proposal:

Regional District staff is moving forward with bylaws to discharge LUC No. 225 and replace it with a Comprehensive Development zone CD-2 – Lake Okanagan Resort. The CD-2 zone was prepared by adapting and closely resembling LUC No. 225, including the same uses and a maximum density of 500 units. The CD-2 zone is split into 9 zones that will provide comprehensive development of a residential and commercial resort community with recreational amenities.

Further residential development will only be permitted in CD-2(A) which permits a hotel with a maximum of 63 accommodation units for short term accommodation and CD-2(B) which permits apartment housing, town home housing, hotel, and motel with a collective maximum of 220 accommodation and dwelling units for a mix of short and long term accommodation. Uses not allowed in the LUC No. 225 have not been considered.

Concurrent with the discharge and replacement CD-2 zoning, amendments are also required to the Official Community Plan to designate residential use in a commercial zone (Chapter 6 – Residential), establish policy direction for commercial use of Lake Okanagan Resort (Chapter 7 – Commercial), identify “open space” as a Parks and Recreation amenity aligning with the designation of the golf course, and amend the future land use to include passive recreation areas of Lake Okanagan Resort as a Parks and Recreation (Chapter 10 – Parks and Recreation and Future Land Use maps).

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 handing 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 several Development Permit Areas for the purpose of the protection of the natural environment (Sensitive Aquatic and Sensitive Terrestrial), the protection of development from hazardous conditions (Slope Stability and Wildfire Interface), and to control the general form and character of resort and recreational developments (Form and Character).

Applicant:	Regional District of Central Okanagan
Address:	2751 Westside Road N
Legal Description:	Lot 1, DL 3547, ODYD, Plan 30301, Except Plans 32216, KAP61751 & KAP89299; Lot 4 and an undivided 220/268 Share in Lot 1, DL 3547, ODYD, Plan KAP91945; Common Property Strata Plan KAS3867 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, DL 3547, ODYD, Strata Plan KAS3867; Common Property Strata Plan KAS3858 & Strata Lots 1-24, and an undivided 24/268 share in Lot 1, Plan KAP91945 both in DL 3547 ODYD; Common Property Strata Plan KAS294 & Strata Lots 1-12, DL 3547, ODYD,

	Strata Plan K294; Common Property Strata Plan KAS287 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K287; Common Property Strata Plan KAS520 & Strata Lots 1-99, DL 3547, ODYD, Strata Plan K520; Common Property Strata Plan KAS322 & Strata Lots 1-22, DL 3547, ODYD, Strata Plan K322; and Common Property Strata Plan KAS316 & Strata Lots 1-18, DL 3547, ODYD, Strata Plan K316
Lot Size:	+/- 35.624 ha (88.03 acres)
Land Use Contract:	Land Use Contract No. 225
OCP Designation:	Commercial Resort and Parks and Recreation
Existing Use:	Commercial Resort
Surrounding Uses:	North: Crown Land South: Rural Residential East: Okanagan Lake West: Vacant Rural Residential Lands
ALR:	Outside of the ALR
Fire Protection:	Wilsons Landing Fire Protection Area

RDCO TECHNICAL COMMENTS:

Parks Services staff have no concerns with the proposal and provide the following background information regarding LUC No. 225:

- In 1996, the Land Use Contract #225 (LUCA No. 95-44,1997) for the development of 278 strata units at Lake Okanagan Resort on Lot 1, Plan 30301, DL 3547, ODYD except Plan 32216 was not subject to park dedication requirements under the Municipal Act, Section 992.
- In 1997, the Developer and RDCO negotiated the amount for voluntary gifting of cash in lieu of park land, based upon \$130 per unit times 278 units, to be provided to the RDCO for future park land acquisition.
- In 2010, in conjunction with subdivision application #10/5531 of Lot A, Plan KAP89299, DL 3547, ODYD, the Developer was required to provide cash in lieu of park land, as per the park dedication requirements under Local Government Act, Section 510. Cash in lieu of park land dedication, in the amount of \$50,466.00, was provided to the RDCO and was deposited into a reserve account for future park land acquisition.

Fire Services supports this application however, staff have concerns unrelated to this application consisting of several Fire Code violations that currently exist on site. Fire services will not support further development of Lake Okanagan resort until these issues have been resolved.

Inspection Services and Engineering Services’ interests are unaffected.

AGENCY REFERRAL COMMENTS:

Advisory Planning Committee (Central Okanagan West) supports the application as presented. The APC also commented that road improvements to Westside Road should be considered prior to any further development.

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.

Unaffected agencies include Ministry of Municipal Affairs, Interior Health Authority, BC Hydro,

Considerations:	
External:	Written notices were mailed to the registered property owners of land subject to LUC No. 225 advising of the pending Land Use Contract termination. Prior to starting the termination process, landowners directly impacted by LUC No. 225 had an opportunity to review and early draft of the comprehensive development zone and provide comments. Any additional 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 <i>Local Government Act</i> 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 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:	
<ul style="list-style-type: none">OrganizationalAlternate Recommendation	
