

DATE OF MEETING | June 17, 2024 |

AUTHORED BY | KRISTINE MAYES, PLANNER, CURRENT PLANNING |

SUBJECT LAND USE CONTRACTS REVIEW

OVERVIEW

Purpose of Report

To provide an update to Council of Staff's review of existing Land Use Contracts in the City of Nanaimo in advance of the forthcoming provincial termination of Land Use Contracts on 2024-JUN-30, and to seek Council direction to bring forward a Zoning Bylaw amendment bylaw and associated administrative bylaw amendments.

Recommendation

That Council direct Staff to bring forward:

1. a Zoning Bylaw amendment to rezone 1681 Boundary Avenue and 1600 Dufferin Crescent to align zoning with the existing multiple family dwelling use, and 398 Bruce Avenue to align zoning with the existing office use; and,
2. any associated administrative bylaw amendments following the termination of Land Use Contracts on 2024-JUN-30.

BACKGROUND

Land Use Contracts (LUCs) were permitted in the Province of British Columbia between 1971 and 1978 as contractual agreements between local governments and landowners for site-specific developments that did not conform to zoning bylaws. The intent was to allow more flexibility than traditional zoning. In 2014, the *Local Government Act* was amended to terminate all LUCs on 2024-JUN-30. Once terminated, provisions under the City of Nanaimo Zoning Bylaw 2011 No. 4500 (the "Zoning Bylaw") will apply to the land.

On 2014-DEC-08, Staff brought forward a report to Council advising of changes to the *Local Government Act* regarding the termination of LUCs. As outlined in the legislation, local governments were required to notify property owners of early termination of LUCs where underlying zoning was not in place as of 2022-JUN-30. As zoning is in place for all properties subject to LUCs, notification was not required. In 2022, Staff initiated a review of LUCs within the City of Nanaimo determined there are 14 active LUCs and one LUC which is in the process of being discharged (LUC1844, 500 Comox Street) which apply to 982 properties as shown on Attachment A. Staff reviewed the implications of terminating the LUCs to identify permitted uses, reviewed business licences to identify uses currently occurring on each property, and business licence records. It was determined that uses occurring on the vast majority of properties subject to a LUC are consistent with the Zoning Bylaw and are not impacted. A limited number of properties contain uses that will become non-conforming after 2024-JUN-30 as shown in the following table. Non-conforming uses in relation to terminated LUCS may continue in accordance with Section 533 of the *Local Government Act*.

LUC	Civic Address	City Plan Future Land Use Designation	Zone	Existing Uses Not Permitted in Zoning
1660	1681 Boundary Avenue & 1600 Dufferin Crescent	Secondary Urban Centre	R1	Multiple Family Dwelling
1708	Long Lake Heights (east of Rutherford Road)	Suburban Neighbourhood Park & Open Spaces Neighbourhood	R1 / R4 / R8 / R10 / CS1 / PRC1 / PRC2	Duplexes not currently permitted, however, to be addressed by proposed "Zoning Bylaw Amendment Bylaw 2024 No. 4500.223"
1806	398 Bruce Avenue	Neighbourhood	CC1	Office
1833	Boban Industrial Park Boban Drive / Mostar Road / Jordan Avenue	Light Industrial	I2	Recreational Facility use; propane storage (over 23,000 litres)
1844	500 Comox Street	Primary Urban Centre	DT12	RA475 (LUC Discharge Bylaw in Progress)

Staff have provided an analysis below for Council’s information and consideration of next steps.

DISCUSSION

LUC1708 – Non-Conforming Duplex Use

LUC1708, which encompasses approximately 544 parcels north of Long Lake and east of Rutherford Road (“Long Lake Heights”), permits “1 and 2 family residential use” (duplexes) – a use not permitted under the current Single Dwelling Residential (R1) zone. At its meeting of 2024-MAY-27, Council considered the first three readings of proposed Zoning Bylaw Amendment 4500.223 to implement the Increasing Housing Options initiatives and Provincial Small-Scale Multi-Unit Housing (SSMUH) legislation. If adopted, (anticipated prior to the termination of LUCs on 2024-JUN-30), the proposed bylaw would rezone the properties north of Long Lake, subject to LUC1708, from R1 to R5 (Three and Four Unit Residential) which would make the duplex use consistent with the proposed R5 zone.

LUC1660 – Non-Conforming Multiple Family Dwelling Use

LUC1660, applicable to 1681 Boundary Avenue and 1600 Dufferin Crescent, permitted “multi-family dwellings or apartments”. The subject properties each encompass a low-rise apartment, surface parking, and landscaping. The subject properties are currently zoned R1 in the Zoning Bylaw which does not permit multiple family dwellings, and as such, the use would become non-conforming following the termination of LUCs on 2024-JUN-30. Staff recommend addressing the non-conforming multiple family dwelling use by introducing a Comprehensive Development (CD) zone based on the permitted use, density, siting, and size as permitted by the LUC. The proposed CD zone would allow for the development potential secured in 1976 to remain in place and aligns with the Secondary Urban Centre future land use designation in City Plan. This ensures the current development and multiple family dwelling use remains consistent with the LUC in the current Zoning Bylaw as no redevelopment of the subject properties is proposed at this time.

LUC1806 – Non-Conforming Office Use

LUC1806, applicable to 398 Bruce Avenue, permitted “retail stores and offices”. The subject property currently includes an office use. The subject property is currently zoned CC1 in the Zoning Bylaw which permits “office” only as a site-specific use (which does not include 398 Bruce Avenue). As such, the use would become non-conforming following the termination of LUCs on 2024-JUN-30. Staff recommend addressing the non-conforming office use by introducing a zoning bylaw amendment to allow office use. This aligns with the Neighbourhood future land use designation in City Plan which supports “local-serving commercial”.

LUC1833 – Non-Conforming Industrial Uses

Staff have identified several uses which will be deemed non-conforming and are not proposed to be addressed at this time as the uses are not consistent with City Plan policies. Following the termination of LUCs on 2024-JUN-30, uses (or siting, size, or dimensions of a building and other structures) deemed non-conforming will be allowed to continue with limitations in accordance with Division 14 (Part 14 of the *Local Government Act*). Should a non-conforming use be discontinued for a period of six months, any subsequent use becomes subject to the Zoning Bylaw.

Consequential and Related Bylaw Amendments

A number of existing administrative bylaws include references to the LUCs. To date, Staff have identified that the following bylaws will need to be repealed or amended after 2024-JUN-30:

- Repeal “Land Use Contract Procedure Bylaw 1971 No. 1466”;
- Repeal all Land Use Contract Authorization Bylaws (1972 to 1977) and Land Use Contract Authorization Amendment Bylaws (1983 to 1984);
- Amend “Fees and Charges Bylaw 2021 No. 7336” (Schedule A, Current Planning Section Fees);
- Amend “Sign Bylaw 1987 No. 2850” (Section 5.1); and,
- Amend “Building Bylaw 2016 No. 7224” (Section 25.2).
- Abandon “Land Use Contract Discharge Bylaw 2022 No. 7355”

Following the termination of LUCs on 2024-JUN-30, Staff will include the above noted bylaw repeal or amendment actions in their work plan.

NEXT STEPS

Pending Council direction, Staff propose to bring forward a zoning bylaw amendment to address the multiple family dwelling use at 1681 Boundary Avenue and 1600 Dufferin Crescent (LUC1660) and the office use at 398 Bruce Avenue which will become non-conforming after 2024-JUN-30. It is anticipated the amending bylaw will be brought forward to Council in July 2024.

At this time, Staff are not recommending amendments to allow the existing non-conforming uses within LUC 1833, as these uses are not consistent with City Plan policies. Staff will be following up with property owners to advise of the LUC terminations and the allowances in the underlying zoning, as well as the provisions in the *Local Government Act* for continuation of non-conforming uses.

OPTIONS

1. That Council direct Staff to bring forward:
 1. a Zoning Bylaw amendment to rezone 1681 Boundary Avenue and 1600 Dufferin Crescent to align zoning with the existing multiple family dwelling use, and 398 Bruce Avenue to align zoning with the existing office use; and,
 2. any associated administrative bylaw amendments following the termination of Land Use Contracts on 2024-JUN-30.
 - Advantages of this option: The draft zoning bylaw amendment would align zoning with the existing use of the property as supported by City Plan policies and administrative bylaw amendments will be brought forward to address the termination of LUCs.
 - Disadvantages of this option: None identified.
 - Financial implications: None identified.
2. That Council provide alternative direction. |

SUMMARY POINTS

- Staff have completed a review of existing Land Use Contracts (LUCs) within the City of Nanaimo.
- Staff have determined majority of properties have uses consistent with the underlying zoning with some uses that will become non-conforming upon the termination of LUCs on 2024-JUN-30.
- Staff recommend addressing the non-conforming multiple family dwelling use at 1681 Boundary Avenue and 1600 Dufferin Crescent as well as the non-conforming office use at 398 Bruce Avenue through a zoning bylaw amendment to be addressed at an upcoming Council meeting.

ATTACHMENTS:

ATTACHMENT A: Land Use Contract Map |

Submitted by:

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Concurrence by:

Jeremy Holm
Director, Planning & Development |