



October 8, 2020

NOTICE TO PROPERTY OWNERS/OCCUPIERS

Civic Addresses: Units 201 – 506 1449 1 Avenue NE (Orchard Terrace)
Units 302 – 806 1451 1 Avenue NE (Orchard Terrace)
130 – 230 15 Street NE (Orchard Terrace Single Family)
1450 – 1570 1 Avenue NE (Orchard Terrace Single Family Area)
1451 – 1531 Okanagan Avenue (Orchard Terrace Duplex Area)
4121 - 4241 45 ST SE (Industrial Park)
6821 Trans Canada Highway (Canoe Creek Estates)
2051, 2061 73 Ave NE & 2040 72 Ave NE (Captain's Cove Marina and Boat Storage)
8610 TCH NE
5121 50 Ave SW

Reference: Early Termination of Land Use Contracts N54304, P1971, N71309, N 74011, P1684 & P2310

As you may be aware, the title of your property references a Land Use Contract that was registered in the 1970's. The Land Use Contract (LUC) was a tool that the developer of the subject area and City used to negotiate how the property development would proceed. Typically these LUCs covered topics such as development fees and site servicing to be paid by the developer, land uses and building setbacks. The LUC bound both parties to the conditions within the contract and once the development was complete the LUC was usually discharged and removed from the land title. Some LUCs remain in force and continue to govern land uses notwithstanding subsequent City Zoning Bylaw regulations.

In 1985 the Province modernized development legislation and incorporated tools such as Development Permits, Development Variance Permits, Rezoning and Official Community Plan Amendment applications. These tools effectively replaced LUCs for any development proposals after 1985. The terms of remaining LUCs are still binding, however, and take precedence over newer land use regulation. In 2014, the Province imposed an expiry date of June 30, 2024 for all LUCs throughout the province. The Province also allowed for the early termination of LUCs. The early termination of an LUC requires 3 Readings of a bylaw and a Statutory Public Hearing in which public input is requested. Should the early termination process result in a new zoning or variances to accommodate existing buildings, then additional public input may be required.

The process of discharging LUCs is a City-wide project that is in the early stages.

The purpose of this initial letter is to inform you that you will be receiving further communication from the City on the next steps in the Early Termination of Land Use Contract process for the LUC that affects your property. The City will contact you for input on the termination of the LUC and whether subsequent rezoning or Development Variance Permits may accompany the LUC Termination Bylaw. Table 1. Land Use Contract – Early Termination List below lists the LUCs that are scheduled for the LUC Early Termination process and the expected order. Please note that given the review and notification processes involved it is likely that the process for #1 (Abacus/Orchard Terrace) and #2 (Greyfriars Rental Ltd.) will begin in 2020. Those listed as #3 (Canoe Creek Estates) to #6 (Fuller) will begin in 2021.

While the City is obligated under the legislation to address the termination of the LUCs, the benefit of the early termination process is that, rather than relying on existing rules, which may not adequately capture the provisions of the LUC, the City and landowners have an opportunity to consider the introduction of zoning that may better reflect currently permitted uses, setbacks and density. In some instances the existing development on the site (or development enacted by the terms of the LUC) is not consistent with current zoning regulations for setbacks or use, in which case the discharge of the LUC may result in non-conforming setbacks or uses. Staff anticipate holding information sessions for each LUC for owners to answer questions related to LUC termination.

Provincial legislation protects lawfully non-conforming uses of land or of a building or structure. This is informally known as “grandfathering.” Generally, owners may continue a use of land, or a building or other structure, that was lawful under a LUC before termination. This is despite non-conformance with the current zoning. Owners may lose these grandfathering protections in some situations a non-conforming use may no longer be permitted if it is discontinued for 6 continuous months. Owners are also limited in how they can alter or expand a non-conforming structure or repair it in the event of significant damage. Landowners are ultimately responsible for determining what is permitted on their land and may contact City staff for clarification.

At the October 5, 2020 Planning and Development Committee Meeting a staff report outlining general information related to LUCs, termination processes and existing LUCs in the City was presented. A copy of the staff report can be viewed via the City’s website (http://www.salmonarm.ca/AgendaCenter/ViewFile/Agenda/_10052020-632) if you would like more information on the LUC termination process. If you have any questions please feel free to contact me.

Yours truly,



Melinda Smyrl, MCIP, RPP
Planner

Table 1. Land Use Contract – Early Termination List & Order

Order	LUC Name	Affected Properties	LUC Contract Number	Permitted Uses Under LUC	Zoning Bylaw 2303, 1995 Map Schedule (Current Zoning)	Number of Affected Titles/ Properties
1	Abacus (Orchard Terrace & Area)	Plan 29598, Plan 4653, Plan 3311	N54304	18 SFD lots and 11 Multi Family Buildings	R1 – Single Family Residential	85
2	Greyfriars Rental Ltd. (Industrial Park 4121 – 4241 45 St SE)	Lots 1-3, Plan 29482 & Lots 1-3 Plan 36293	N71309	6 units, 2 buildings (4 units +2 units)	M1 – General Industrial Zone	6
3	Canoe Creek Estates	K299	P1971	101 Unit Mobile Home Park & One Single Family Dwelling for Strata Manager	R1 – Single Family Residential	102
4	Captain's Cove Marina	Lot 1, Plan 9386 Lot A, Plan 29586	P1684	Lot 1: C-5 Tourist Commercial Zone (1976) lodge, cabins, trailer, wash house and boar storage shed. Accessory: café, dining located within the lodge. Parcel A: boat storage and vehicular parking in conjunction with tourist/resort Marina.	Marina Lease Lot: P1 – Park and Recreation Zone Lot 1, Plan 9386: C-5 - Tourist/Recreation Commercial Zone Lot A Plan 29586: A2 – Rural Holding Zone	2
5	Fritzel	Lot A, Plan 5558	P2310	Frozen food processing plant	A1 – Agriculture Zone	1
6	Fuller	Lot A, Plan 5558	N74011	2 Single Family Dwellings only	A2 – Rural Holding Zone	2