



City of Port Moody

Report/Recommendation to Council

Date: April 27, 2022
Submitted by: Community Development Department – Policy Planning Division
Subject: Termination of Land Use Contract at Appleyard Court and Rezoning to RS3 and P1.

Purpose

To present Bylaw No. 3352 and Bylaw No. 3356 for consideration of first and second readings to repeal the Land Use Contract (LUC) at Appleyard Court and to rezone this LUC area to RS3 and P1.

Recommended Resolutions

THAT City of Port Moody Land Use Contract Termination Bylaw, 2022, No. 3352 (Appleyard Court) and City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 70, 2022, No. 3356 (Appleyard Court) (RS3 and P1) be read a first and second time as recommended in the report dated April 27, 2022 from the Community Development Department – Policy Planning Division regarding Termination of Land Use Contract at Appleyard Court and Rezoning to RS3 and P1;

AND THAT Bylaw No. 3352 and Bylaw No. 3356 be referred to a Public Hearing;

AND THAT the requirement to notify tenants and property owners within 140m of the perimeter boundary of the LUC area per Development Approval Procedures Bylaw, No. 2918 be waived.

Background

A land use contract (LUC) is a legislative tool that was used in the 1970s that encompasses a wide range of land uses and development components, until it was repealed in 1978. LUCs are site-specific contracts between the City and the property owner that are registered on title and operate as the governing land use tool for affected properties.

In May 2014, the *Local Government Act* was amended by Bill 17 to:

- automatically terminate all Land Use Contracts (LUCs) in BC on June 30, 2024;
- require municipalities to zone all lands subject to an LUC by June 30, 2022; and
- outline a process for local governments to undertake early termination of LUCs to ensure appropriate zoning is in place.

The new provincial legislation provides a process for the City to undertake early termination of LUCs to ensure that appropriate zoning is in place before the provincially-mandated deadline.

On March 12, 2019, Council endorsed an approach for the termination of land use contracts to minimize anticipated costs through a hybrid approach. This approach involves the following:

1. LUCs for properties with suitable underlying zoning being left to expire; and
2. other properties being rezoned (beginning 2020).

At the October 13, 2020 Special Council meeting, the following resolution was passed:

RC20/363

THAT staff be directed to reorder the Land Use Contract Terminations process to prioritize single-family lots, and areas of town that have experienced zoning issues (large homes, view corridors, etc.) in the recent past;

AND THAT this reordering be referred to the House Size and Siting Task Force for comment prior to returning to Council.

At the January 20, 2022, House Size and Siting Task Force meeting, staff recommended a proposed approach and schedule to address five remaining single-family LUC areas.

At the February 15, 2022, Special Council meeting, the following resolution was passed:

CW22/012

THAT staff be directed to proceed with the termination of the Land Use Contracts and rezoning of the properties at Walton Way/Benson Drive, Angela Drive and Appleyard Court as outlined in the report dated January 17, 2022, from the Community Development Department – Policy Planning Division regarding Single-Family Land Use Contracts.

Discussion

The existing use and siting permitted by the land use contract governing the properties at Appleyard Court do not match the current underlying zoning of RS1. The LUC provisions are most closely aligned with lot sizes, setbacks, height, and density provisions in the RS3 North Shore Single Detached Residential zone. As such, it is recommended to rezone the properties to RS3. In addition, there is one City-owned park parcel directly west of 766 Appleyard Court which is most appropriately rezoned to P1 Civic Institutional in keeping with its existing land use as park, including a playground.

Notification letters were mailed to Appleyard Court properties on February 18, 2022 notifying all property owners and tenants of the land use contract on the property, of the proposed rezoning to the RS3 zone, and an information meeting scheduled on March 9, 2022. Two participants attended the information meeting. Notification signs were posted on the property prior to the information meeting inviting public comments and providing an email contact for inquiries. The presentation was also posted on the City's LUC website.

A summary of the land use contract and affected properties is outlined in *Table 1*. The location map and Land Use Contract for Appleyard Court is included as **Attachment 1**. **Attachment 2** compares the provisions of the land use contract to proposed RS3 and P1 zoning.

Table 1: Summary of Appleyard Court LUC

Name:	Appleyard Court
Number of Properties:	51
Addresses:	701-784 Appleyard Court
Current Use:	Residential Dwelling Units
OCP Designation	Single Family Low Density and Park
Underlying Zoning	RS1
Proposed New Zoning	RS3 and P1
LUC Intent:	<p>LUC Bylaw No. 1347 (1977) allows 12 units per acre for a total of 40 units.</p> <p>LUC Bylaw No. 1390 (1978) includes subdivision plan and permits 51 lots for SF and area for public park.</p> <p>LUC Bylaw No. 2491 (2001) amends BL 1390 to include updated setbacks, lot coverage, building height.</p>

LUC Termination Bylaw and Rezoning Bylaw

To facilitate early termination of the LUC for Appleyard Court and to rezone the properties to RS3 and P1, City of Port Moody Land Use Contract Termination Bylaw, 2022, No. 3352 (Appleyard Court) is included as **Attachment 3** and draft City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 70, 2022, No. 3356 (Appleyard Court) (RS3 and P1) is included as **Attachment 4**.

Process to Address a Hardship Concern

If a property owner believes that the timing of the early LUC termination would cause hardship, an application can be made to the Board of Variance for consideration of an exemption under Section 533 of the *Local Government Act*. The Board of Variance may allow provisions of the LUC to continue to apply (no later than June 30, 2024). Application for exemption must be received within six months after the adoption of the LUC Termination Bylaw. Existing buildings and structures which were lawfully built will have legal non-conforming protection under Division 14 of the *Local Government Act*.

Should an LUC Termination Bylaw proceed, a letter is sent to each affected property owner advising them of this provision and the associated timelines.

Timeline and Next Steps

To rezone the properties at Appleyard Court to RS3 and P1, the City will follow its established rezoning process as well as provincial LUC termination requirements, which include:

- notification letter to property owners (February 18, 2022);
- information meeting (March 9, 2022);
- Council to consider first and second readings of LUC Termination Bylaw and the related Zoning Bylaw amendment to rezone the properties to RS3 and P1 (May 10, 2022);
- Public Hearing (date TBD);
- Council to consider third reading and adoption of the Zoning Amendment and LUC Termination Bylaws (date TBD), but will need to occur prior to June 30, 2022;
- notification of outcome to property owners (date TBD);
- one-year waiting period (LUC continues to be in effect during this waiting period);
- LUC Termination Bylaw and new zoning comes into effect after the one-year waiting period; and
- LUC notation is removed from property owner's Certificate of Title.

Notification Recommendation

Section 11 of the City's Development Approval Procedures Bylaw No. 2918 requires notification of a proposed rezoning to all owners and tenants in occupation of each parcel of land which is the subject of the proposed Bylaw and to all registered owners of property and tenants in occupation of property within 140m of the perimeter boundary of the parcel. Given that the rezoning of the LUC affected properties does not involve any new development on the site, staff propose that the notification requirement for properties within a 140m radius of the rezoning site be waived. Notification to the owners and tenants of the LUC properties would continue.

This approach is consistent with the notification process associated with the June 9, 2020 Public Hearing for the LUC termination and rezoning of Sentinel Hills, Inlet View, Eagle Point, Easthill, and Highland Park, as well as for a similar Public Hearing on October 12, 2020 for Balmoral Place.

Other Options

THAT the Land Use Contract associated with the properties at Appleyard Court be left to expire leaving the existing underlying zoning of RS1 in place until the provincial deadline of June 30, 2024.

Financial Implications

The costs associated with the Public Hearing notifications and the discharge of the Land Use Contract at the Land Title and Survey Authority will be covered by the land use contract termination operating budget, which is funded from the Council Strategic Priorities Reserve.

Communications and Civic Engagement Initiatives

If Bylaw No. 3352 and Bylaw No. 3356 proceed to a Public Hearing, notification will occur in accordance with the requirements set out in the City's Development Approval Procedures Bylaw, No. 2918 and the *Local Government Act*, with the exception of the notice to surrounding

areas within 140m of the perimeter boundary of the rezoning site, should this requirement be waived.

Council Strategic Plan Objectives

The information and recommendations contained in this report align with the Council 2019-2022 Strategic Plan Objectives of Exceptional Service and Community Evolution.

Attachments

1. Map of Appleyard Court and Land Use Contract.
2. Comparison of the Appleyard Court LUC and RS3 Zone.
3. Draft City of Port Moody Land Use Contract Termination Bylaw, 2022, No. 3352 (Appleyard Court)
4. Draft City of Port Moody Zoning Bylaw, 2018, No. 2937, Amendment Bylaw No. 70, 2022, No. 3356 (Appleyard Court) (RS3 and P1).

Report Author

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Report Approval Details

Document Title:	Termination of Land Use Contract at Appleyard Court and Rezoning to RS3 and P1.docx
Attachments:	<ul style="list-style-type: none">- Attachment 1 - Map of Appleyard Court and Land Use Contract.pdf- Attachment 2 - Comparison of Appleyard Court LUC and RS3 Zone.pdf- Attachment 3 - Land Use Contract Termination Bylaw, 2022, No. 3352 (Appleyard Court).pdf- Attachment 4 - Zoning Amendment Bylaw, 2022, No. 3356 (Appleyard Court) (RS3 and P1).pdf
Final Approval Date:	May 2, 2022

This report and all of its attachments were approved and signed as outlined below:

Mary De Paoli, Manager of Policy Planning - Apr 27, 2022 - 6:54 AM

Mary De Paoli for Kate Zanon, General Manager of Community Development - Apr 27, 2022 - 5:19 PM

Rosemary Lodge, Manager of Communications and Engagement - Apr 28, 2022 - 10:34 AM

Paul Rockwood, General Manager of Finance and Technology - Apr 28, 2022 - 3:54 PM

Tim Savoie, City Manager - May 2, 2022 - 12:42 PM