

**City of Kelowna
Public Hearing
AGENDA**



Tuesday, August 29, 2017
6:00 pm
Council Chamber
City Hall, 1435 Water Street

Pages

1. Call to Order

THE CHAIR WILL CALL THE HEARING TO ORDER:

1. (a) The purpose of this Hearing is to consider certain bylaws which, if adopted, shall amend *Kelowna 2030 - Official Community Plan* Bylaw No. 10500 and Zoning Bylaw No. 8000.

(b) All persons who believe that their interest in property is affected by the proposed bylaws shall be afforded a reason-able opportunity to be heard or to present written submissions respecting matters contained in the bylaws that are the subject of this hearing. This Hearing is open to the public and all representations to Council form part of the public record. A live audio feed may be broadcast and recorded by Castanet.

(c) All information, correspondence, petitions or reports that have been received concerning the subject bylaws have been made available to the public. The correspondence and petitions received after August 16, 2017 (date of notification) are available for inspection during the course of this hearing and are located on the information table in the foyer of the Council Chamber.

(d) Council debate on the proposed bylaws is scheduled to take place during the Regular Council meeting after the conclusion of this Hearing. It should be noted, however, that for some items a final decision may not be able to be reached tonight.

(e) It must be emphasized that Council will not receive any representation from the applicant or members of the public after conclusion of this Public Hearing.

2. Notification of Meeting

The City Clerk will provide information as to how the Hearing was publicized.

3. Individual Bylaw Submissions

3.1 Bennett Rd and Paly Rd Land Use Contract Termination - LUCT16-0002 (BL11404) 4 - 10

To consider an application to terminate Land Use Contracts LUC76-1088 & LUC78-1024 and revert the 68 subject parcels within the McKinley Area of Kelowna to the underlying zone of RR3-Rural Residential 3.

3.2 Clifton Rd N, Lynn Ct, Tina Ct and Kyndree Ct, LUCT17-0002 (BL11451) - Various Owners 11 - 15

To consider an application for the early termination of Land Use Contract LUC76-1087 and revert the parcels within the Clifton Road North Area of Kelowna to the underlying RR3 – Rural Residential 3 zone.

4. Termination

5. Procedure on each Bylaw Submission

- (a) Brief description of the application by City Staff (Land Use Management);
- (b) The Chair will request that the City Clerk indicate all information, correspondence, petitions or reports received for the record.
- (c) The applicant is requested to make representation to Council regarding the project and is encouraged to limit their presentation to 15 minutes.
- (d) The Chair will call for representation from the public in attendance as follows:
 - (i) The microphone at the public podium has been provided for any person(s) wishing to make representation at the Hearing.
 - (ii) The Chair will recognize ONLY speakers at the podium.
 - (iii) Speakers are encouraged to limit their remarks to 5 minutes, however, if they have additional information they may address Council again after all other members of the public have been heard a first time.
- (e) Once the public has had an opportunity to comment, the applicant is given an opportunity to respond to any questions raised. The applicant is requested to keep the response to a total of 10 minutes maximum.
- (f) Questions by staff by members of Council must be asked before the Public Hearing is closed and not during debate of the bylaw at the Regular Meeting, unless for clarification.
- (g) Final calls for representation (ask three times). Unless Council directs that the Public Hearing on the bylaw in question be held open, the Chair shall state to the gallery that the Public Hearing on the Bylaw is closed.

Note: Any applicant or member of the public may use visual aids (e.g. photographs, sketches,

slideshows, etc.) to assist in their presentation or questions. The computer and ELMO document camera at the public podium are available. Please ask staff for assistance prior to your item if required.

Community Planning Staff is supportive of terminating two Land Use Contracts that apply to 70 subject parcels within the McKinley Area of Kelowna. Application was made for LUC16-0002 to the City to have the two LUC's discharged from 1945 Bennett Road. As outlined in the Land Use Contract Termination Strategy Report to Council dated September 12, 2016, if application is made to request a Land Use Contract Discharge from a specific property, Staff will use the opportunity to bring forth the accompanying Land Use Contract Termination Report when the land use contract applies to additional properties.

Currently, there are approximately 73 Land Use Contracts still in force. Staff are recommending terminating as many land use contracts as possible before the Provincial imposed deadline of 2024 because performing all the public hearings related to zoning changes and notifications at once would be overwhelming. Further, land use contracts have had special privileges which they have enjoyed for many decades. These special privileges include: not contributing to DCCs, guaranteed land uses, and being exempt from Development Permits which guide form and character. The earlier the land use contracts can be terminated the better for infrastructure financing related to DCCs and better site planning through Development Permits.

4.0 Proposal

British Columbia first experimented with contract zoning in 1971. The Land Use Contract was a tool regularly used in the 1970's and was eliminated on November 15th 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. From 1978 to 2014, municipalities or the owners of the land could not unilaterally discharge, cancel, or modify the land use contract without the other party's consent. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th 2024. Land use contracts will remain in force until that date. This provides property owners with ten years to complete any development authorized by their land use contract unless the LUC is terminated prior to that date. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land.

Land Use Contract terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one year grace period as outlined by the Local Government Act.

4.1 Project Description

The City is seeking to terminate the two Land Use Contracts from 69 additional subject properties as outlined in 'Schedule A'. The properties do have appropriate zoning regulations in place and will revert to the underlying zone of RR3 – Rural Residential 3.

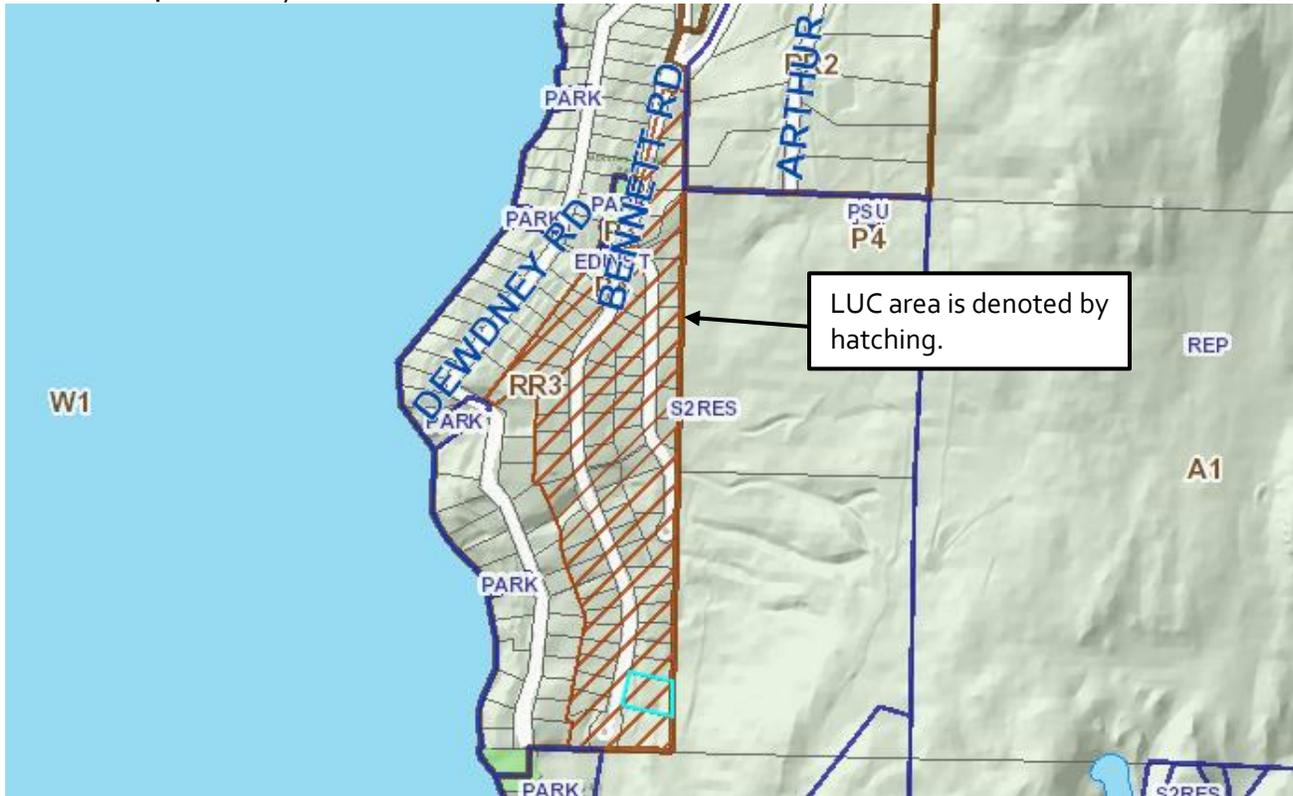
4.2 Site Context

The subject LUC's are located in the McKinley area of Kelowna and applies to 70 parcels which front onto Bennett Road and Paly Road.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RR3 – Rural Residential 3	Single Family Residential
East	RR2 – Rural Residential 2 A1 – Agricultural 1	Agriculture
South	A1 – Agricultural 1	Single Family Residential
West	RR3 – Rural Residential 3	Single Family Residential

LUC Area Map: McKinley



5.0 Current Development Policies

5.1 Kelowna Official Community Plan (OCP)

Development Process

Compact Urban Form.¹ Develop a compact urban form that maximizes the use of existing infrastructure and contributes to energy efficient settlement patterns. This will be done by increasing densities (approximately 75 - 100 people and/or jobs located within a 400 metre walking distance of transit stops is required to support the level of transit service) through development, conversion, and re-development within Urban Centres (see Map 5.3) in particular and existing areas as per the provisions of the Generalized Future Land Use Map 4.1.

5.2 Land Use Contract Termination Strategy Report to Council dated September 12, 2016

That Staff bring a package of Land Use Contract Terminations to Council approximately every quarter between 2017 and 2022. It is more cost effective from the notification perspective if the Land Use Contracts are bundled together.

¹ City of Kelowna Official Community Plan, Policy 5.2.3 (Development Process Chapter).

Report prepared by: Lydia Korolchuk, Planner
Reviewed by: Terry Barton, Urban Planning Manager
Approved for Inclusion: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment A: Site Plan
Attachment B: LUC Termination Letter to Owners
Schedule A: Properties within LUC76-1088 & LUC78-1024.

Schedule A: Legal Description LUCT16-0002

No.	Legal Description	Address
1	Lot B Section 17 Township 23 ODYD Plan No. 55322	2060 Bennett Rd
2	Lot A Section 17 Township 23 ODYD Plan No. 55322	2070 Bennett Rd
3	Lot 6 Section 17 Township 23 ODYD Plan No. 33033	2106 Bennett Rd
4	Lot 14 Section 17 Township 23 ODYD Plan No. 31701	2105 Paly Rd
5	Lot 27 Section 17 Township 23 ODYD Plan No. 31701	2160 Paly Rd
6	Lot 12 Section 17 Township 23 ODYD Plan No. 33033	2030 Bennett Rd
7	Lot 11 Section 17 Township 23 ODYD Plan No. 33033	2056 Bennett Rd
8	Lot 10 Section 17 Township 23 ODYD Plan No. 31701	2145 Paly Rd
9	Lot 11 Section 17 Township 23 ODYD Plan No. 31701	2135 Paly Rd
10	Lot 18 Section 17 Township 23 ODYD Plan No. 31701	1970 Paly Rd
11	Lot 19 Section 17 Township 23 ODYD Plan No. 31701	1980 Paly Rd
12	Lot 20 Section 17 Township 23 ODYD Plan No. 31701	1990 Paly Rd
13	Lot 25 Section 17 Township 23 ODYD Plan No. 31701	2040 Paly Rd
14	Lot 26 Section 17 Township 23 ODYD Plan No. 31701	2155 Paly Rd
15	Lot 9 Section 17 Township 23 ODYD Plan No. 31701	2157 Paly Rd
16	Lot 12 Section 17 Township 23 ODYD Plan No. 31701	2125 Paly Rd
17	Lot 13 Section 17 Township 23 ODYD Plan No. 31701	2115 Paly Rd
18	Lot 15 Section 17 Township 23 ODYD Plan No. 31701	1940 Paly Rd
19	Lot 16 Section 17 Township 23 ODYD Plan No. 31701	1950 Paly Rd
20	Lot 21 Section 17 Township 23 ODYD Plan No. 31701	2000 Paly Rd
21	Lot 22 Section 17 Township 23 ODYD Plan No. 31701	2010 Paly Rd
22	Lot 23 Section 17 Township 23 ODYD Plan No. 31701	2020 Paly Rd

23	Lot 24 Section 17 Township 23 ODYD Plan No. 31701	2030 Paly Rd
24	Lot 6 Section 17 Township 23 ODYD Plan No. 31701	2179 Paly Rd
25	Lot 7 Section 17 Township 23 ODYD Plan No. 31701	2175 Paly Rd
26	Lot 8 Section 17 Township 23 ODYD Plan No. 31701	2165 Paly Rd
27	Lot 46 Section 17 Township 23 ODYD Plan No. 31701	1945 Bennett Rd
28	Lot 45 Section 17 Township 23 ODYD Plan No. 31701	1904 Paly Rd
29	Lot 41 Section 17 Township 23 ODYD Plan No. 31701	1928 Paly Rd
30	Lot 40 Section 17 Township 23 ODYD Plan No. 31701	1934 Paly Rd
31	Lot 31 Section 17 Township 23 ODYD Plan No. 31701	2105 Bennett Rd
32	Lot 39 Section 17 Township 23 ODYD Plan No. 31701	2015 Bennett Rd
33	Lot 38 Section 17 Township 23 ODYD Plan No. 31701	2025 Bennett Rd
34	Lot 37 Section 17 Township 23 ODYD Plan No. 31701	2035 Bennett Rd
35	Lot 36 Section 17 Township 23 ODYD Plan No. 31701	2045 Bennett Rd
36	Lot 35 Section 17 Township 23 ODYD Plan No. 31701	2055 Bennett Rd
37	Lot 5 Section 17 Township 23 ODYD Plan No. 31701	2185 Paly Rd
38	Lot 44 Section 17 Township 23 ODYD Plan No. 31701	1910 Paly Rd
39	Lot 43 Section 17 Township 23 ODYD Plan No. 31701	1916 Paly Rd
40	Lot 42 Section 17 Township 23 ODYD Plan No. 31701	1922 Paly Rd
41	Lot 29 Section 17 Township 23 ODYD Plan No. 31701	2125 Bennett Rd
42	Lot 28 Section 17 Township 23 ODYD Plan No. 31701	2135 Bennett Rd
43	Lot 4 Section 17 Township 23 ODYD Plan No. 31701	2195 Bennett Rd
44	Lot 34 Section 17 Township 23 ODYD Plan No. 31701	2065 Bennett Rd
45	Lot 33 Section 17 Township 23 ODYD Plan No. 31701	2085 Bennett Rd

46	Lot 32 Section 17 Township 23 ODYD Plan No. 31701	2095 Bennett Rd
47	Lot 14 Section 17 Township 23 ODYD Plan No. 33033	2010 Bennett Rd
48	Lot 5 Section 17 Township 23 ODYD Plan No. 33033	2110 Bennett Rd
49	Lot 17 Section 17 Township 23 ODYD Plan No. 33033	1980 Bennett Rd
50	Lot 4 Section 17 Township 23 ODYD Plan No. 33033	2120 Bennett Rd
51	Lot 7 Section 17 Township 23 ODYD Plan No. 33033	2090 Bennett Rd
52	Lot 15 Section 17 Township 23 ODYD Plan No. 33033	2000 Bennett Rd
53	Lot 3 Section 17 Township 23 ODYD Plan No. 33033	2130 Bennett Rd
54	Lot 20 Section 17 Township 23 ODYD Plan No. 33033	1950 Bennett Rd
55	Lot 21 Section 17 Township 23 ODYD Plan No. 33033	1942 Bennett Rd
56	Lot 19 Section 17 Township 23 ODYD Plan No. 33033	1960 Bennett Rd
57	Lot 18 Section 17 Township 23 ODYD Plan No. 33033	1970 Bennett Rd
58	Lot 8 Section 20 Township 23 ODYD Plan No. 33033	2080 Bennett Rd
59	Lot 3 Section 20 Township 23 ODYD Plan No. 31701	2201 Bennett Rd
60	Lot 2 Section 20 Township 23 ODYD Plan No. 31701	2225 Bennett Rd
61	Lot 1 Section 17 Township 23 ODYD Plan No. 31701	2245 Bennett Rd
62	Lot 30 Section 17 Township 23 ODYD Plan No. 31701	2115 Bennett Rd
63	Lot 2 Section 17 Township 23 ODYD Plan No. 33033	2140 Bennett Rd
64	Lot 13 Section 17 Township 23 ODYD Plan No. 33033	2020 Bennett Rd
65	Lot 1 Section 17 Township 23 ODYD Plan No. 33033	2150 Bennett Rd
66	Lot 22 Section 17 Township 23 ODYD Plan No. 33033	1938 Bennett Rd
67	Lot 23 Section 17 Township 23 ODYD Plan No. 33033	2034 Bennett Rd
68	Lot 16 Section 17 Township 23 ODYD Plan No. 33033	1990 Bennett Rd

REPORT TO COUNCIL



Date: July 24th, 2017

RIM No. 1250-40

To: City Manager

From: Community Planning Department (JR)

Application: LUCT 17-0002 **Owner:** Multiple Properties

Address: Multiple Addresses **Applicant:** The City of Kelowna

Affected Streets: Clifton Road North, Lynn Court, Tina Court, & Kyndree Court

Subject: Land Use Contract Termination (LUC 76-1087)

Existing OCP Designation: S2RES – Single / Two Unit Residential

Existing Zone: RR3 – Rural Residential 3

1.0 Recommendation

WHEREAS the BC Provincial Government has mandated that all Land Use Contracts under the jurisdiction of a local government and in the Province of British Columbia be terminated by 2024;

AND WHEREAS the BC Provincial Government has provided a legislated process for the early termination of land use contracts when the local government has adopted a zoning bylaw that will apply to the land at the time the termination bylaw comes into force;

THEREFORE, BE IT RESOLVED THAT as the underlying RR3 – Rural Residential 3 zone in the City of Kelowna Zoning Bylaw No. 8000 applies to all subject properties under Land Use Contract LUC76-1087;

THAT Application No. LUCT17-0002 to terminate LUC76-1087 from properties identified in Schedule 'A', located on Clifton Road North, Lynn Court, Tina Court & Kyndree Court, Kelowna, BC, be considered by Council.

AND THAT the Land Use Contract Termination Bylaw be forwarded to a Public Hearing for further consideration;

2.0 Purpose

To consider an application for the early termination of Land Use Contract LUC76-1087 and revert the parcels within the Clifton Road North Area of Kelowna to the underlying RR3 – Rural Residential 3 zone.

3.0 Community Planning

Staff are bringing forth and are recommending support for this Land Use Contract (LUC76-1087) to be terminated for the subject properties. The current LUC affects twenty-three properties on Clifton Road North, Tina Court, Kyndree Court and Lynn Court. The Land Use Contract currently restricts the use of each property to one single family dwelling.

The underlying zoning (RR3 – Rural Residential 3) fits with the established neighbourhood and is an appropriate zone for the existing properties. RR3 zone is similar to the Land Use Contract except it does permit secondary suites and potential subdivisions (pending properties meeting the City’s subdivision regulations).

4.0 Proposal

4.1 Background

Land Use Contracts were a tool regularly used in the 1970’s before it was eliminated on November 15th 1978. The purpose of the tool was to allow local governments to arrive at agreements with specific developers to grant development rights over and above what was allowed under current zoning. This was typically done in exchange for commitments by developers to help finance the infrastructure costs of development.

Issues have arisen, specifically with the continued application of land use contracts as they supersede any subsequent bylaw dealing with land use and development including: Zoning Bylaws, Development Cost Charge Bylaws, and Development Permits. The Local Government Act was amended in 2014 stating all land use contracts in the province will be terminated as of June 30th 2024. Land use contracts will remain in force until that date unless terminated early by the municipality. By June 20th 2022, local governments must have appropriate zoning regulations in place to replace land use contracts upon their termination. However, LUC terminations (unlike LUC discharges) do not apply when Council adopts the bylaw. Terminations require a one-year grace period as outlined by the Local Government Act.

4.2 Notification

Local governments must provide notice to each owner that the termination of land use contract is occurring and must provide notice of what the new zoning regulations apply to the land. After adoption of the LUC Termination, the City will send notices to all affected properties that the termination will come into affect one year after Council approval.

Staff are recommending Council Notification Policy #367 including early notification and development signage be waived for all Land Use Contract terminations. The standard development notification, as outlined above, as well as a letter from the Planning Department will be sent to properties affected by the LUC termination.

4.3 Site Context

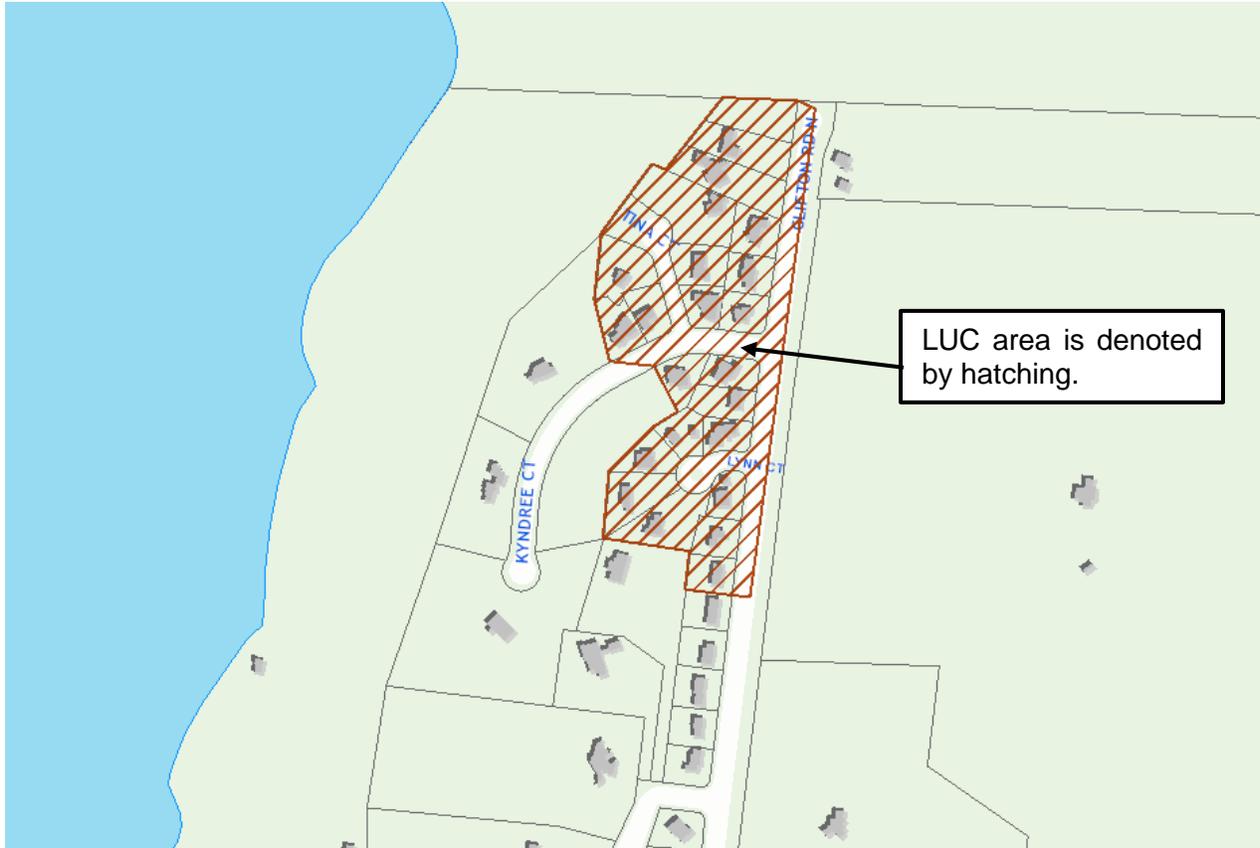
The subject properties have a total area of 45,229 m² and are located at the end of Clifton Road North. The properties are designated S2RES – Single / Two Unit Residential in the Official Community Plan and the surrounding area is agricultural and single family residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
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North	RU ₁ H – Large Lot Housing Hillside	Vacant
East	A ₁ – Agriculture 1	Single Family Dwelling
South	RR ₃ – Rural Residential 3	Single Family Dwelling
West	A ₁ – Agriculture 1	Single Family Dwelling

Subject Property Map: Clifton Road North



5.0 Current Development Policies

5.1 Council Policy No. 282 – Strategy for Elimination of Remaining Land Use Contracts

Council Policy No. 282.¹ Includes the following statement:

That the City of Kelowna initiate proceedings to discharge the contacts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts.

Prepared by: Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

¹ City of Kelowna Council Policy 282 Strategy for Elimination of Remaining Land Use Contracts.

Attachments:

Schedule 'A'

Schedule 'A'

Address (Clifton Road N)	Owners	Lot	Section	Township	District	Plan	Underlying Zone
436	Naomi S & Troy D Mack	23	8	23		KAP28178	RR3
442	Krzysztof W Debek & Izabela Glowinska	22	8	23		KAP28178	RR3
446	Craig T Finley	9	8	23		KAP28178	RR3
472	David L Jankulak & Sandra C Lamb	7	8	23		KAP28178	RR3
478	Shylon T Mathew	5	8	23		KAP28178	RR3
484	James T & Susan B Mclean	3	8	23		KAP28178	RR3
490	Andrew B Oland & Leona V Baxter	2	8	23		KAP28178	RR3
496	David Gelpke & Winifred D Helpard	1	8	23		KAP28178	RR3

Address (Lynn Court)	Owners	Lot	Section	Township	District	Plan	Underlying Zone
1112	Brian W Joubert & Becky A Parisotto	21	8	23		KAP28178	RR3
1116	Jacqueline & Kirk A Thompson	20	8	23		KAP28178	RR3
1120	Barry E Stonehouse	19	8	23		KAP28178	RR3
1124	Jason T & Shandell D Shumka	18	8	23		KAP28178	RR3
1128	William J, Merenick	17	8	23		KAP28178	RR3
1130	Douglas A Lincoln & Laurel L Greton	15	8	23		KAP28178	RR3
1132	Timothy J O'Hanlon & Alanna M Rittich	16	8	23		KAP28178	RR3

Address (Kyndree Court)	Owners	Lot	Section	Township	District	Plan	Underlying Zone
1113	James A & Debra B Carter	14	8	23		KAP28178	RR3
1117	Eileen L & John H Verwey	13	8	23		KAP28178	RR3
1118	Jacques A Landry & Lael Parrott	11	8	23		KAP28178	RR3
1122	Blanche E Hertay	B	8	23		KAP70761	RR3

Address (Tina Court)	Owners	Lot	Section	Township	District	Plan	Underlying Zone
461	Kenneth J & Norma B Fox	8	8	23		KAP28178	RR3
464	Aaron D & Wendy L Bolton	A	8	23		KAP70761	RR3
465	Shirley L Fritsch	A	8	23		KAP57178	RR3