

REPORT TO COUNCIL



Date: October 7, 2019
To: Council
From: City Manager
Department: Development Planning – Suburban, Rural
Application: LUC19-0002 **Owner:** Hans and Krystyna Schubel
Address: 1222 Kyndree Court **Applicant:** Urban Options Planning & Permits
Subject: Land Use Contract Discharge Application

1.0 Recommendation

THAT Application No. LUC19-0002 to discharge LUC77-1023 from Lot A Section 8 Township 23 Osoyoos Division Yale District Plan 33589, located at 1222 Kyndree Court, Kelowna, BC, be considered by Council;

AND THAT the Land Use Contract Discharge be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To consider a Land Use Contract discharge to facilitate a proposed 2-lot subdivision.

3.0 Development Planning

Development Planning staff support the discharge of Land Use Contract LUC77-1023 to facilitate a proposed 2-lot subdivision of the subject property. In order to accomplish the proposed subdivision the Land Use Contract currently regulating this property will need to be discharged. The LUC will be discharged in accordance with Council Policy No. 282 (Strategy for Elimination of Remaining Land Use Contracts).

The underlying zone (RR3 – Rural Residential 3) fits with the established neighbourhood and is an appropriate zone for the existing land use.

4.0 Proposal

4.1 Background

The current LUC affects 12 properties in total and generally restricts the use to one single family dwelling per lot. In conformance with Council Policy No. 282, Staff will bring forward a bylaw terminating the Land Use Contract on the remaining adjacent parcels. This is a separate process from the discharge of an LUC, as termination eliminates the LUC one year after Council adoption whereas a discharge is immediate.

Land Use Contracts were a tool regularly used in the 1970s before it was eliminated on November 15, 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 infrastructure costs of developments.

Issues have arisen 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 or discharged through application.

4.2 Project Description

The applicant has proposed that the existing Land Use Contract (LUC77-1023) be discharged to facilitate the proposed 2-lot subdivision of the property. A Preliminary Layout Review (PLR) has been issued for the site and should Council support the proposed land use contract discharge, the applicant would be permitted to proceed with the proposed subdivision of the property.

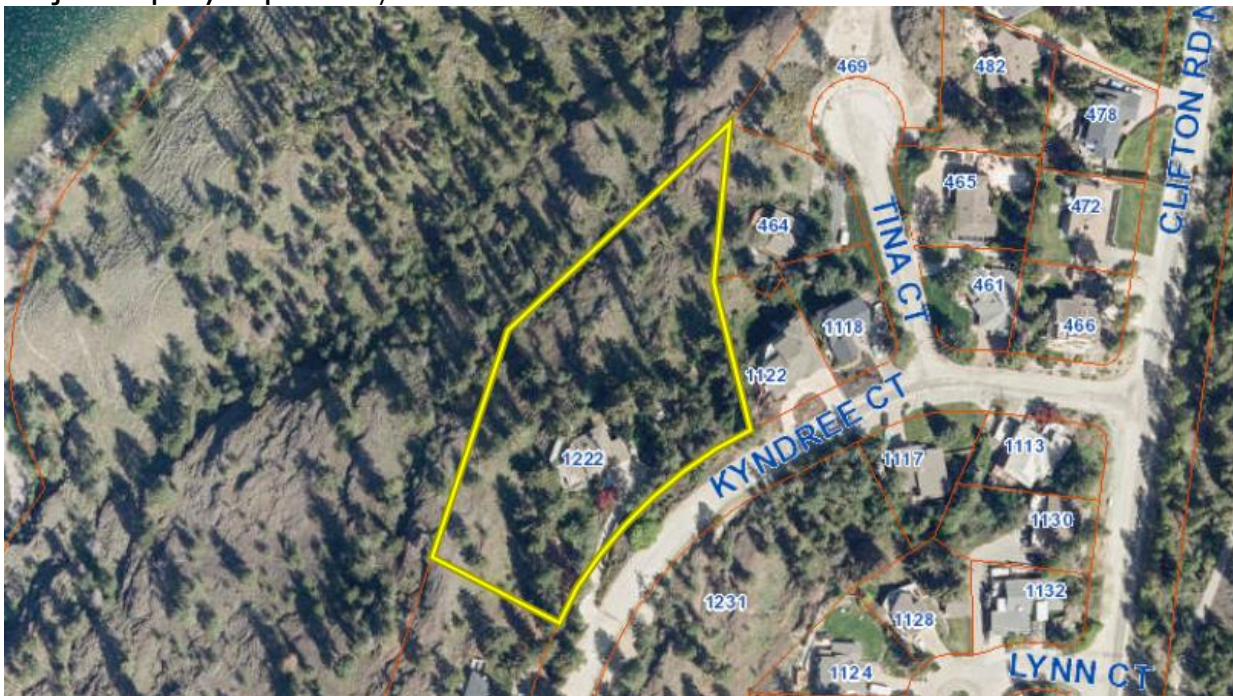
4.3 Site Context

The subject property is located in the Glenmore – Clifton – Dilworth City Sector near the intersection of Clifton Rd N and Kyndree Ct. The surrounding neighbourhood is comprised of A1 – Agricultural 1 and RR3 – Rural Residential 3 zone properties. Other surrounding zones include P3 – Parks and Open Space and RU1h – Large Lot Housing (Hillside Area).

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	A1 – Agricultural 1	Agricultural / Residential
East	A1 – Agricultural 1	Rural Residential
South	A1 – Agricultural 1	Rural Residential
West	A1 – Agricultural 1	Agricultural / Residential

Subject Property Map: 1222 Kyndree Court



5.0 Current Development Policies

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

Council Policy No. 282. Includes the following statement:

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

6.0 Application Chronology

Date of Application Received: June 26, 2019

Report prepared by: Andrew Ferguson, Planner I

Reviewed by: Laura Bentley, Urban Planning & Development Policy Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager

Attachments

Attachment A: Proposed Subdivision Plan