

REPORT TO COUNCIL



Date: July 24th, 2017

RIM No. 1250-40

To: City Manager

From: Community Planning Department (JR)

Application: LUC17-0001

Owner: Dennis G & Denise C Campbell

Address: 482 Clifton Road

Applicant: Stafford McKergow

Subject: Land Use Contract Discharge

Existing OCP Designation: S2RES – Single Two Unit Residential

Existing Zone: LUC 76-1087

Proposed Zone: RR3 – Rural Residential 3

1.0 Recommendation

THAT Application No. LUC17-0001 to discharge LUC76-1087 from Lot 4 Section 8 Township 23 ODYD Plan KAP28178 Except Plan KAP57178, located at 482 Clifton Road, 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 discharge the Land Use Contract LUC76-1087 from the subject parcel to facilitate subdivision of one lot into two lots.

3.0 Community Planning

The applicant is proposing to subdivide one residential lot into two lots. However, the parcel is currently under the regulation of a Land Use Contracts (LUC) which does not permit the subdivision of the lot. LUC76-1087 was created in 1977. The LUC permitted the completion of a subdivision of the land to a maximum of 23 parcels within the Clifton area of Kelowna in strict accordance to Attachment 'B'. Therefore, further subdividing is not permitted. The LUC stipulates that the provisions of Zoning Bylaw No. 4500 R1 – Single Family Residential – Low Density regulations will apply to the development of the land. Community Planning staff supports the request to discharge the LUC to enact the underlying zoning of RR3 – Rural Residential 3 as it complies with the 2014 amendment of the Local Government Act. The LUC will be discharged in accordance with Council Policy No. 282 (Strategy for Elimination of Remaining Land Use Contracts).

Development Engineering has confirmed that the subdivision has no implication on municipal servicing.

In conformance with Council Policy #282, Staff will bring a bylaw terminating the Land Use Contract from the remainder 22 parcels within the Clifton Area of Kelowna (LUCT17-0002). This is a separate process from the discharge of an LUC, as termination eliminates the LUC one year after adoption whereas a discharge is immediate.

4.0 Proposal

4.1 Background

The province first experimented with contract zoning in 1971. The Land Use Contract was a tool that entered into use 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.

However, 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. However, due to this requirement of the Local Government Act, staff are recommending whenever a property owner applies to change land uses within an LUC, that staff initiate the process to eliminate the whole LUC. This approach will help alleviate the future work load of eliminating and rezoning all LUC's at one time.

In addition, local governments must provide notice to each owner that the termination of land use contract is occurring 1 year after adoption and must provide notice of what the new zoning regulations are that apply to the land.

4.2 Project Description

The applicant is proposing to subdivide one lot into two lots which is an allowable within the RR3 – Rural Residential Zone. The existing LUC needs to be discharged prior to supporting the subdivision.

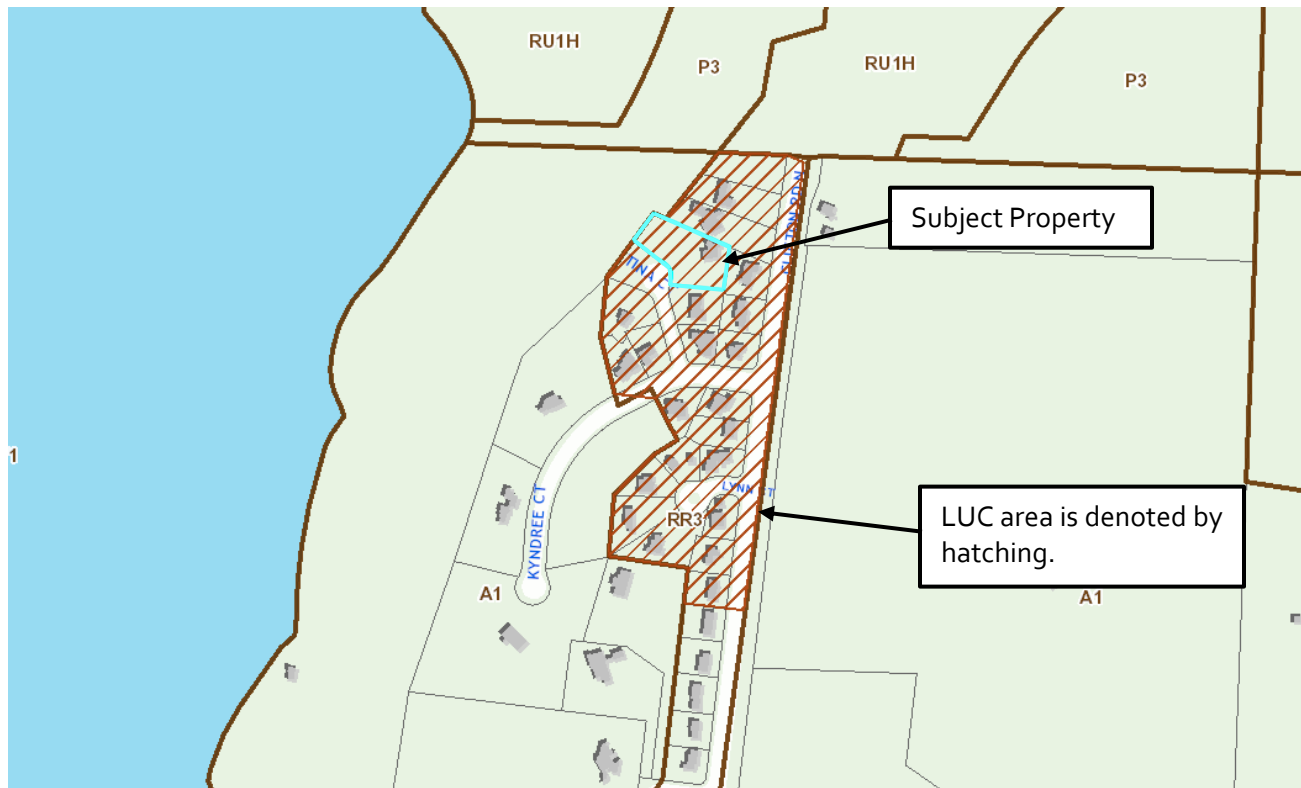
4.3 Site Context

The subject property has a total area of 3153 m² and is located in the Clifton area of Kelowna. The property is designated S2RES – Single / Two Unit Residential in the Official Community Plan and the surrounding area is a residential subdivision. The LUC applies to 23 parcels which front onto Tina Court, Kyndree Court, Lynn Court and Clifton Road North.

Adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	LUC 76-1087 RR ₃ – Rural Residential 3	Single Family Residential
East	LUC 76-1087 RR ₃ – Rural Residential 3	Single Family Residential
South	LUC 76-1087 RR ₃ – Rural Residential 3	Single Family Residential
West	A1 – Agricultural 1	Single Family Residential

Subject Property Map: 482 Clifton Road North



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.

¹ 5.5.2 Development Process – Compact Urban Form

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

- That a Land Use Contract be discharged for any contract where there has been a change in use or density from what it was originally intended by the Land Use Contract;
- That the City of Kelowna initiate proceedings to discharge the contracts subject to consultation with affected owners of the land and subject to prior approval by council with regard to affected contracts;
- That priority be given to terminate Land Use Contracts having a significant financial impact or those Land Use Contract that enable development contrary to the fulfilment of community objectives.

6.0 **Technical Comments**

6.1 Development Engineering Department

- See Attachment A

7.0 **Application Chronology**

Date of Application Received: May 18, 2017

Date Public Consultation Completed: June 21, 2017

Prepared by: Jenna Ratzlaff, Planner

Reviewed by: Terry Barton, Urban Planning Manager

Reviewed by: Ryan Smith, Community Planning Department Manager

Attachments:

Attachment A: Development Engineering Memorandum

Attachment B: Land Use Contract 76-1087