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CITY OF KELOWNA

MEMORANDUM

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**Date:** January 29, 2003

**File No.:** File No. LUC02-0001

**To:** City Manager

**From:** Planning & Development Services Department

**Purpose:** Discharge a Land Use Contract

**Owner(s):**

Buller, Gerald and Iris  
Korac, Milorad and Svetlana  
Lozinski, Neil and Nicole  
Bigsof, Alberto and Zeny  
Mayert, Donna  
Wu, Tat-Man and Yuet-Kwai  
Evanson, Jennifer  
Hill, Debora  
James D Malcolm

Brown, Ronald and Marion  
Elizabeth A Martin  
Bethany J Ehl/ Janis Palmer  
John B Carlson/ Trudie S Carlson  
Mark A Ferner  
Pierre G Piche/Amber L. Hunter  
Tereza J Patrick

**At:**

2675 Mappin Court  
2677 Mappin Court  
2681 Mappin Court  
2685 Mappin Court  
1074 Raymer Avenue  
1078 Raymer Avenue  
1082 Raymer Avenue  
1086 Raymer Avenue  
1090 Raymer Avenue  
1059 Quesnel Road  
1089 Quesnel Road  
2816 Gosnell Road  
2812 Gosnell Road  
2808 Gosnell Road

**Applicant/Contact Person:**

City of Kelowna

**Existing Zone:** LUC76-1028

**Proposed Zone:** RU2 – Medium Lot  
Housing

**Report Prepared by:** RYAN SMITH

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SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

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1.0 RECOMMENDATION

THAT Bylaw No.8961 (Rescind Land Use Contract Authorizing Bylaw No. 4320 – Marbee Investments Ltd.) be forwarded for reading consideration;

## 2.0 SUMMARY

Staff is recommending the complete discharge of Land Use Contract No.76-1028 from 16 lots.

## 3.0 BACKGROUND

### 3.1 The Proposal

Staff was approached by several of the subject property owners in December of 2002 regarding the discharge of the Land Use Contract covering 16 lots between Raymer Avenue, Mappin Court, Quesnel Road and Gosnell Road. Application to discharge this land use contract was subsequently made.

The land use contract in question was approved by council in 1977 for the development of the lots by the then registered owners Marbee Investments Ltd., Dorothy Joy Pashniak, Marvin and Beatrice Dick. The land-use contract stated that the lots be developed in accordance with City of Kelowna Zoning Bylaw No.4500 R-1(b) (High Density, Single Family residential) Zoning. The corresponding zoning under current City of Kelowna Bylaw No.8000 is RU2 – Medium Lot Housing.

Section 23 of the Land Use Contract states that:

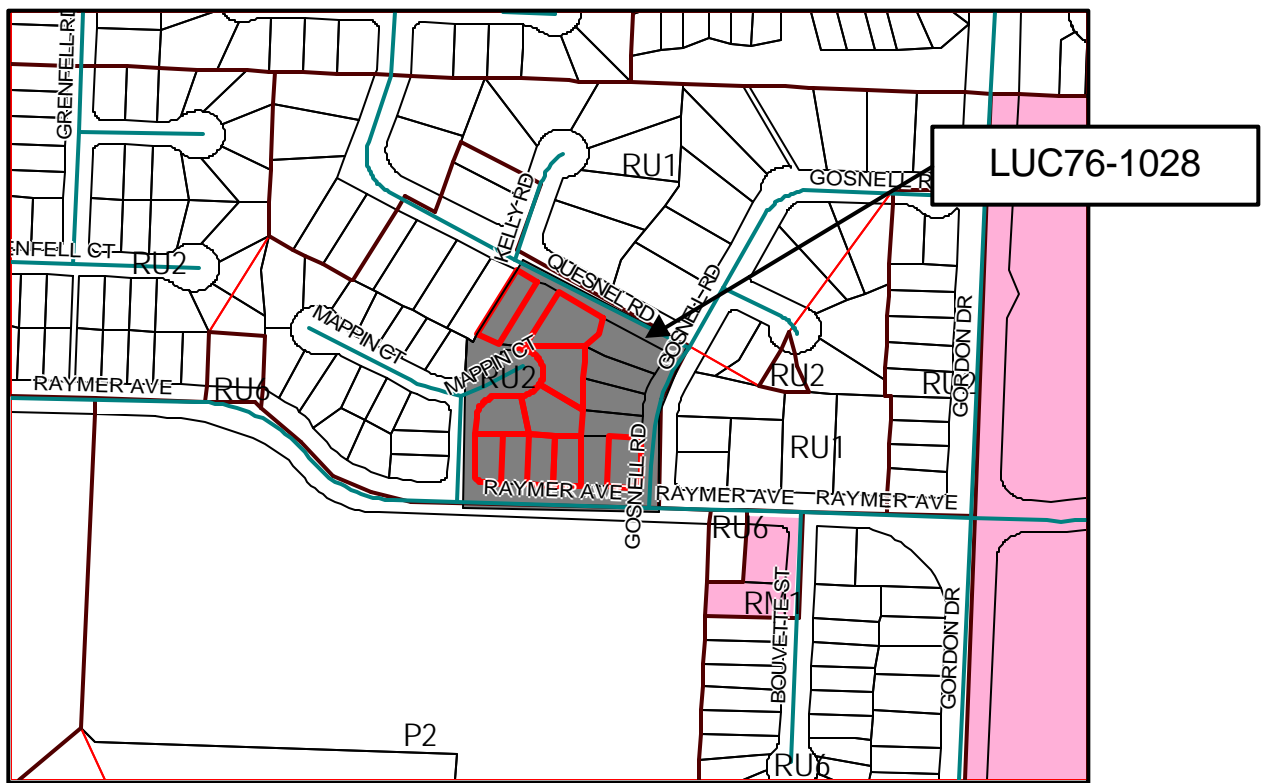
*Upon completion by the Developer of all the works required to be carried out by the developer under the terms hereof and the completion and occupancy of all of the buildings to be constructed on the land, the Municipality may discharge this Land Use Contract from the records of the Land Registry Office at the City of Kamloops.*

Staff has visited the site and all works required to have been completed under this Land Use Contract appear to have been completed.

### 3.2 Site Context

The subject land-use contract is located in the South Pandosy/KLO Sector. It extends from Raymer Avenue in the South, to Quesnel Road in the North, west to Mappin court, and East to Gosnell Road. It encompasses 16 properties.

- North - RU1 – Large Lot Housing – Single Family Dwelling
- East - RU1 – Large Lot Housing –Single Family Dwelling
- South - P2 – Education and Minor Institutional – Kelwona Senior Secondary
- West - RU2 – Medium Lot Housing – Single Family Dwelling



### 4.0 CURRENT DEVELOPMENT POLICY

#### 4.1 Council Strategy for the Elimination of Remaining Land Use Contracts

Council Policy:

- that a Land Use Contract be discharged for any contract where there has been a change in use or density from what was originally intended by the Land Use Contract;
- that where the City of Kelowna had entered into a Land Use Contract that contains a cancellation clause contingent on failure to develop and use the lands, the City proceed to discharge the Land Use Contract;

- that the City of Kelowna initiate proceedings to discharge Land Use Contracts that have provisions enabling the City to unilaterally 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 staff negotiate with owners of land under Land Use Contracts that only enabled the subdivision of land, to discharge contracts where the subdivision has been completed;
- that priority be given to terminate Land Use Contracts having a significant financial impact or those Land Use Contracts that enable development contrary to the fulfilment of community objectives.

#### 5.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Developments Services Department has no concerns with the complete discharge of the subject land use contract. All works required to be carried out by the developer have long-since been completed.

Andrew Bruce  
Current Planning Manager

Approved for inclusion

R.L. (Ron) Mattiussi, ACP, MCIP  
Director of Planning & Development Services

RWS.

**FACT SHEET**

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|-------------------------------------|---|
| <b>1. APPLICATION NO.:</b>          | LUC-0001  |
| <b>2. APPLICATION TYPE:</b>         | Partial Discharge of Land Use Contract  |
| <b>3. OWNERS:</b>                   | Buller, Gerald and Iris<br>Korac, Milorad and Svetlana<br>Lozinski, Neil and Nicole<br>Bigsot, Alberto and Zeny<br>Mayert, Donna<br>Wu, Tat-Man and Yuet-Kwai<br>Evanson, Jennifer<br>Hill, Debora<br>Brown, Ronald and Marion<br>Elizabeth A Martin<br>Bethany J Ehl/ Janis Palmer<br>John B Carlson/ Trudie S Carlson<br>Mark A Ferner<br>Pierre G Piche/Amber L. Hunter<br>Tereza J Patrick<br>James D Malcolm |
| <b>ADDRESS</b>                      | 2675 Mappin Court<br>2677 Mappin Court<br>2681 Mappin Court<br>2685 Mappin Court<br>1074 Raymer Avenue<br>1078 Raymer Avenue<br>1082 Raymer Avenue<br>1086 Raymer Avenue<br>1090 Raymer Avenue<br>1059 Quesnel Road<br>1089 Quesnel Road<br>2816 Gosnell Road<br>2812 Gosnell Road<br>2808 Gosnell Road   |
| <b>CITY/ POSTAL CODE</b>            | Kelowna, BC   |
| <b>4. APPLICANT/CONTACT PERSON:</b> | City of Kelowna   |
| <b>ADDRESS</b>                      |   |
| <b>CITY/ POSTAL CODE:</b>           |   |
| <b>TELEPHONE/FAX NO.:</b>           |   |
| <b>5. APPLICATION PROGRESS:</b>     |   |
| Date of Application:                | December 4, 2002  |
| Counci Consideration                | February 3, 2003  |

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| <b>6. LEGAL DESCRIPTION:</b>                        | Lot 1, District Lot 135, ODYD Plan 29776; Lot 2, District Lot 135, ODYD Plan 29776; Lot 3, District Lot 135, ODYD Plan 29776; Lot 4, District Lot 135, ODYD Plan 29776; Lot 5, District Lot 135, ODYD Plan 29776; Lot 6, District Lot 135, ODYD Plan 29776; Lot 7, District Lot 135, ODYD Plan 29776; Lot 8, District Lot 135, ODYD Plan 29776; Lot 9, District Lot 135, ODYD Plan 29776; Lot A, District Lot 135, ODYD Plan 30754; Lot B, District Lot 135, ODYD Plan 30754; Lot C, District Lot 135, ODYD Plan 30754; Lot D, District Lot 135, ODYD Plan 30754; Lot A, District Lot 135, ODYD Plan 35122; Lot B, District Lot 135, ODYD Plan 35122; Lot C, District Lot 135, ODYD Plan 35122 |
| <b>7. SITE LOCATION:</b>                            | The subject land-use contract is located in the South Pandosy/KLO Sector. It extends from Raymer Avenue in the South, to Quesnel Road in the North, west to Mappin court, and East to Gosnel Road. It encompasses 16 properties.   |
| <b>8. CIVIC ADDRESS:</b>                            | As Above.  |
| <b>9. AREA OF SUBJECT PROPERTY:</b>                 | N/A  |
| <b>10. AREA OF PROPOSED REZONING:</b>               | N/A  |
| <b>11. EXISTING ZONE CATEGORY:</b>                  | RU2- Medium Lot Housing (LUC 76-1028)  |
| <b>12. PROPOSED ZONE:</b>                           | RU2- Medium Lot Housing  |
| <b>13. PURPOSE OF THE APPLICATION:</b>              | To discharge the Land Use Contract   |
| <b>14. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS</b> | N/A  |

**Attachments**

- Subject Property Map