

REPORT TO COUNCIL



Date: April 12, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0014 / Z20-0101

Owner: British Columbia Telephone
Company, Inc.No. 1801A

Address: 4346 Lakeshore Road

Applicant: The City of Kelowna

Subject: Land Use Contract Termination and Rezoning Application

Existing OCP Designation: S2RES – Single/Two Unit Residential

Existing Zone: RU1 – Large Lot Housing

Proposed Zone: P4 – Utilities

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0101 to terminate LUC76-1090 from Lot A District Lot 167 ODYD Plan 27865, located at 4346 Lakeshore Road, Kelowna, B.C., be considered by Council;

AND THAT Rezoning Application No. Z20-0101 to amend the City of Kelowna Zoning Bylaw no. 8000 by changing the zoning classification of Lot A District Lot 167 ODYD Plan 27865, located at 4346 Lakeshore Road, Kelowna, B.C., from the RU1 – Large Lot Housing zone to the P4 – Utilities zone be considered by Council;

AND THAT the notice sign requirements under Council Policy No. 367 be altered to allow for placement on the City of Kelowna's Boulevard;

AND FURTHER THAT the Land Use Contract Termination Bylaw and Rezoning Bylaw be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To consider an application to proceed with early termination of Land Use Contract LUC76-1090 and to rezone the subject property.

3.0 Development Planning

Staff are recommending the Land Use Contract (LUC76-1090) be terminated and for the subject property to be rezoned. The underlying zone is RU1 – Large Lot Housing and is not appropriate for the current land use. The current use is utility services as it's being occupied by TELUS Mobility (formerly BC Telephone Company). The Land Use Contract affects one property and allows the subject property to be used as a telephone exchange and not otherwise. The RU1 – Large Lot Housing zone does not allow for the use of utilities or telephone exchange, so Staff are proposing to rezone the subject property to P4 – Utilities zone, as this is the most appropriate zone.

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. The municipality must also send an additional letter within 30 days of adoption, informing the owners and providing information about the Board of Variance. Due to the file being Staff initiated, Staff suggest the Council Policy #367 development signage requirements be altered to allow for the development signs to be placed on the City of Kelowna's boulevard, rather than on the subject property.

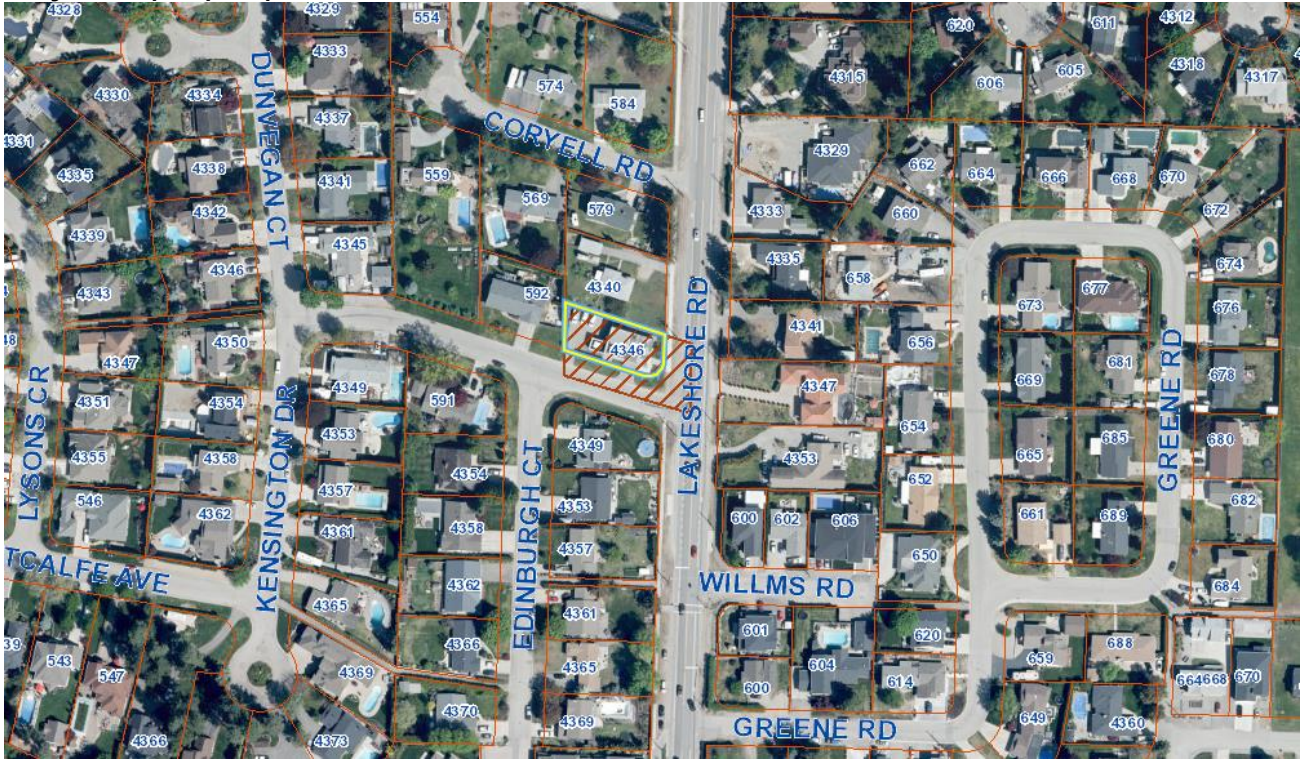
4.3 Site Context

The subject property has a total area of 769m² and is located on the corner of Lakeshore Road and Kensington Drive. The property is designated S2RES – Single/Two Unit Residential and the surrounding area is entirely residential.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	RU1 – Large Lot Housing	Single – Family Dwelling
East	RU1 – Large Lot Housing and RU6 – Two Dwelling Housing	Single – Family Dwelling(s)
South	RU1 – Large Lot Housing	Single – Family Dwelling
West	RU1 – Large Lot Housing	Single – Family Dwelling

Subject Property Map: 4346 Lakeshore Road



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 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: December 9th, 2020
Date of Owner Notification: December 18th, 2020

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Approved for Inclusion: Terry Barton, Development Planning Department Manager