

REPORT TO COUNCIL



Date: August 23rd, 2021

To: Council

From: City Manager

Department: Development Planning

Application: LUCT20-0018 **Owner:** 0897252 BC Ltd., Inc.No.
BC0897252

Address: 350 Gray Road **Applicant:** The City of Kelowna

Subject: Land Use Contract Termination

Existing OCP Designation: MXR – Mixed Use (Residential / Commercial)

Existing Zone: C4 – Urban Centre Commercial

1.0 Recommendation

THAT Land Use Contract Termination Application No. LUCT20-0018 to terminate LUC77-1058 from Lot A Section 23 Township 26 ODYD Plan 28897 located at 350 Gray Road, Kelowna, BC, 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 be forwarded to a Public Hearing for further consideration.

2.0 Purpose

To proceed with early termination of Land Use Contract 77-1058 and revert the parcel to the underlying C4 – Urban Centre Commercial zone.

3.0 Development Planning

Staff are recommending support for the proposed Land Use Contract Termination to terminate LUC77-1058 from the subject property. The current LUC affects one property at 350 Gray Road and restricts the property to the Zoning Bylaw no. 4500's C3 – Community Commercial zone with the ability to also operate a tire sales and repair shop. The underlying zone of C4 – Urban Centre Commercial is an appropriate zone because the property is located in the Rutland Urban Centre, however, the underlying zone doesn't allow for the existing use, so the business would become legal non-conforming. The business is permitted to continue operating, as long as their existing use doesn't cease operations for more than six months.

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.

Staff are recommending that the required Development Signs as part of Council Notification Policy No.367, be placed on the City’s boulevard to not offer any burden on the owners or tenants of the building.

4.3 Site Context

The subject property has a total area of 1052m² and is located on Gray Road. The property has been designated MXR – Mixed Use (Residential / Commercial) in the Official Community Plan and the surrounding area is also MXR.

Specifically, adjacent land uses are as follows:

Orientation	Zoning	Land Use
North	C4 – Urban Centre Commercial	Gas Bar
East	C4 – Urban Centre Commercial	General Retail
South	C4 – Urban Centre Commercial	Single-Family Dwelling(s)
West	C4 – Urban Centre Commercial	Vacant

Subject Property Map: 350 Gray 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.

5.2 Kelowna Official Community Plan (OCP)

Chapter 4: Future Land Use

Mixed Use (Residential / Commercial) (MXR). Developments that provide for commercial space on the ground floor or above, with additional potential for residential units above the ground floor. For Urban Centres other than the City Centre, building densities should decrease as the distance from the core of the Urban Centre increases. Other relevant policies include Policy 5.5.1 Building Height and Chapter 17 – Urban Centre definition. Maximum density at the centre of the core would be consistent with zoning as follows: City Centre – C7 zone; Rutland – C7 zone; Pandosy – C4 zone; Midtown – C6 zone; Capri/Landmark – C4 zone.

6.0 Application Chronology

Date of Application Received:	December 10 th , 2020
Date of Owner Notification:	December 18 th , 2020

Report prepared by: Tyler Caswell, Planner I

Reviewed by: Dean Strachan, Community Planning & Development Manager

Reviewed by: Terry Barton, Development Planning Department Manager