
CITY OF KELOWNA

MEMORANDUM

Date: September 29, 2003

To: City Manager

From: Planning & Corporate Services Department

Purpose: Discharge a Land Use Contract

File No.: LUC03-0003 **Owner(s):** Simple Pursuits Inc.

At: 1889 Spall Road **Applicant(s) :** Scott Brown

Existing Zone: LUC76-1028 **Proposed Zone:** C10- Service Commercial

Report Prepared by: RYAN SMITH

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Council consider Discharge Land Use Contract No.76-1109 Bylaw No.9098;

AND THAT Bylaw No.9098 be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the Land Use Contract discharge bylaw be held pending confirmation by the applicant that currently pending tenancies are in place.

2.0 SUMMARY

The applicant is seeking the discharge of Land Use Contract # LUC76-1109.

3.0 BACKGROUND

3.1 The Proposal

The applicant is proposing the discharge of the land use contract which currently governs the development of the subject property located at 1889 Spall Road.

The applicant has commenced construction on a new commercial building on the subject property. The existing land use contract was intended to accomodate the old C7 – Service Commercial zone (Zoning Bylaw No.4500) as well as the Okanagan Mainline Real Estate Board which has relocated to a new site.

The applicants have been successful finding a new tenant who fits under the current land use contract. The applicants have also entered into several other lease agreements that would be permitted uses in the underlying C-10 Service Commercial zone.

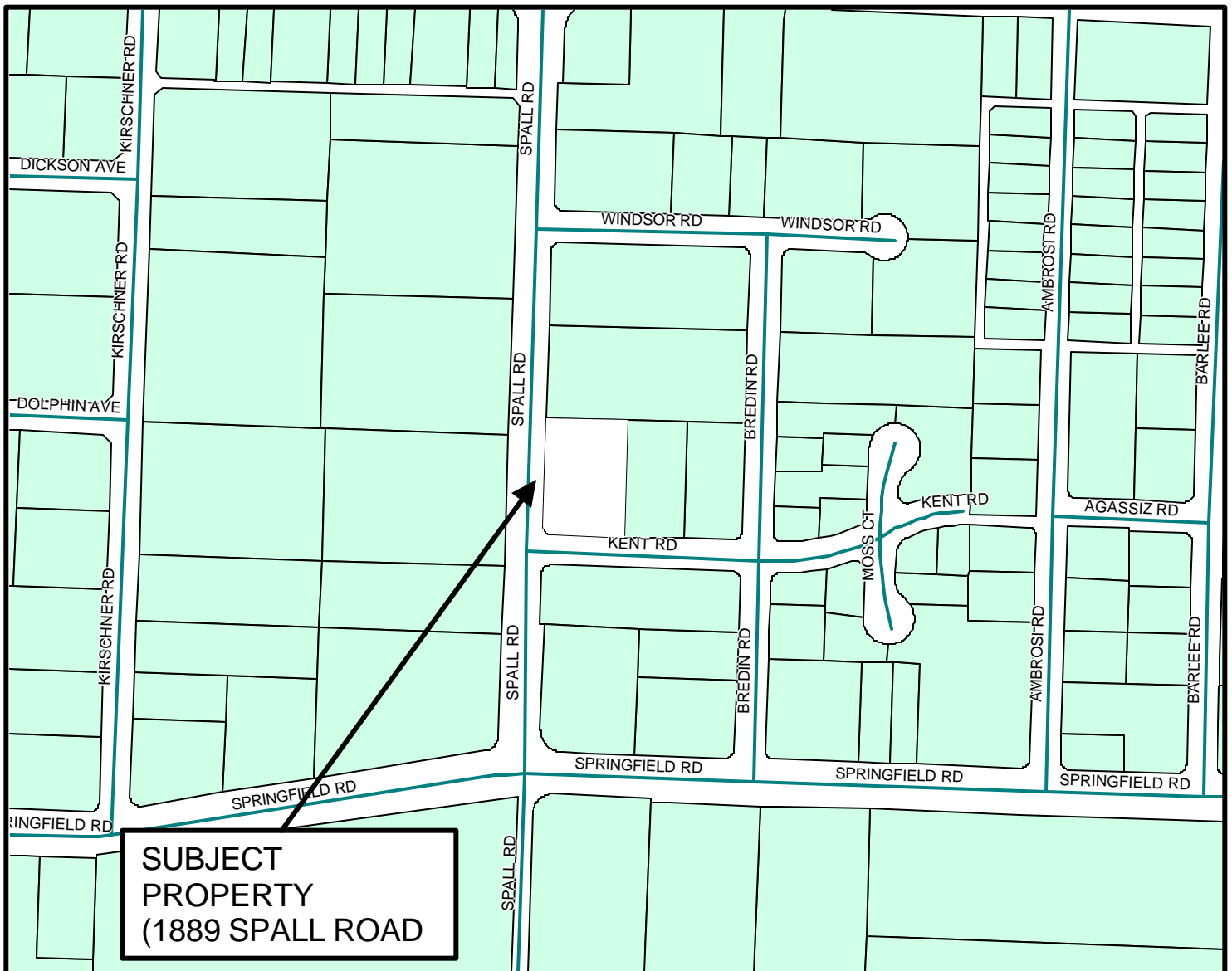
The applicants are proposing to discharge the subject land use contract after their first tenant (who will conform to the LUC) moves into the building. As the remainder of the building's tenants will be Service Commercial in nature, the applicant would like to discharge the land use contract so as to accommodate these uses. The tenant moving into the new building under the land use contract will be grandfathered under the new C10- Service Commercial zoning.

3.2 Site Context

The subject land-use contract is located on the east side of Spall Road between Kent Road and Windsor Road.

North - C10 – Service Commercial
East - C10 – Service Commercial
South - C10 – Service Commercial
West - C10 – Service Commercial

3.3 Subject Property Map



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 CORPORATE SERVICES DEPARTMENT

The Planning and Developments Services Department has no concerns with the complete discharge of the subject land use contract. The Okanagan Mainline Real Estate Board is no longer the owner of this property and has relocated their offices elsewhere. Staff feel that this land use contract has served its purpose and that the arrangement which the applicant is proposing with regards to its discharge is not unreasonable.

Andrew Bruce
Development Services Manager

Approved for inclusion

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

RM/AB/rs

FACT SHEET

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|-----------------------------------------------------|------------------------------------------------------------------------------------------------------------|
| 1. APPLICATION NO.: | LUC-0001 |
| 2. APPLICATION TYPE: | Land Use Contract Discharge |
| 3. OWNERS: | Simple Pursuits Inc. |
| · ADDRESS | Box 20123 |
| · CITY/ POSTAL CODE | Kelowna, BC, V1Y 9H2 |
| 4. APPLICANT/CONTACT PERSON: | Scott Brown |
| · ADDRESS | 304-1912 Enterprise Way |
| · CITY/ POSTAL CODE: | Kelowna, BC, V1Y 9S9 |
| · TELEPHONE/FAX NO.: | 868-9999 |
| 5. APPLICATION PROGRESS: | |
| Date of Application: | September 23, 2003 |
| Council Consideration | |
| 6. LEGAL DESCRIPTION: | Lot A, District Lot 129, ODYD Plan 20633 |
| 7. SITE LOCATION: | The subject land-use contract is located on the east side of Spall Road between Kent Road and Windor Road. |
| 8. CIVIC ADDRESS: | 1889 Spall Road |
| 9. AREA OF SUBJECT PROPERTY: | 4031m ² |
| 10. AREA OF PROPOSED REZONING: | N/A |
| 11. EXISTING ZONE CATEGORY: | Land Use Contract (C7 –Town Centre Commercial) |
| 12. PROPOSED ZONE: | C10-Service Commercial |
| 13. PURPOSE OF THE APPLICATION: | To discharge the Land Use Contract |
| 14. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | N/A |

Attachments

- Subject Property Map
- Land Use Contract
- Colour Rendering of Building to be Constructed