
CITY OF KELOWNA

MEMORANDUM

Date: October 16, 2002
File No.: HRA02-0001

To: City Manager

From: Planning and Development Services Department

Subject:

APPLICATION NO. HRA02-0001 OWNERS: Doctors Andrew Luoma,
Michael Humer and Bill
Nelems
AT: 2178 PANDOSY STREET APPLICANT: MQLN ARCHITECTS (BRIAN
QUIRING)

PURPOSE: TO ENTER INTO A HERITAGE REVITALIZATION AGREEMENT TO
FACILITATE THE USE OF THE SUBJECT PROPERTY AS A MEDICAL
OFFICE FOR THREE PHYSICIANS

EXISTING ZONE: RU1 – LARGE LOT HOUSING

REPORT PREPARED BY: RYAN SMITH

SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

1.0 RECOMMENDATION

THAT Council authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for the property Lot 3, Twp. 25, Sec. 13 & 24, ODYD, Plan 7535, located on Pandosy Street, in the form of such agreement attached to and forming part of this bylaw as "Schedule A";

AND THAT the Heritage Revitalization Agreement be forwarded to a Public Hearing;

AND THAT final adoption of the Heritage Revitalization Agreement be considered subject the submission of a report from an equivalency engineer approved by the Inspection Services Department addressing outstanding building code issues and all Works and Utilities requirements be must be completed to the departments satisfaction.

2.0 SUMMARY

The applicant wishes to enter into a Heritage Revitalization Agreement with the City of Kelowna in order to be allowed to use the subject property for a medical office to be used by a total of three physicians and three support staff. The proposal has been revised to designate a residential component to occupy the second story of the residence. The subject property, which is known as the Annie Stirling House, is listed in the Kelowna Heritage Register.

3.0 COMMUNITY HERITAGE COMMISSION

At the September 4 meeting of the Community Heritage Commission it was resolved that:

THAT the Community Heritage Commission supports Application No. HRA02-0001 - 2178 Pandosy Street to allow the subject heritage building to be used as a medical office, with the condition that the following four items are dealt with:

- The neighbors need to be contacted in respect to the changed use and parking and that they are aware that the parking and traffic pattern will change in the area.
- The residential component is not spelled out in the documents. The committee should have this and should be included in the information sent to Council.
- The ownership status needs to be updated and confirmed.
- The patients know where the access is in advance of their arrival.

4.0 ADVISORY PLANNING COMMISSION

At the September 4 meeting of the Advisory Planning Commission it was resolved that:

THAT the Advisory Planning Commission supports Heritage Revitalization Agreement application no. HRA02-0001, 2178 Pandosy Street, Lot 3, Plan 7535, Sections 13 & 24, Twp. 25, ODYD, McDonell Quiring Lunde Neumann Architects (Brian Quiring), to enter into a Heritage Revitalization Agreement to allow for the proposed medical office within the existing building, subject to the provision of appropriate signage directing clients to the parking off the lane.

* Note: Since review by the CHC and APC the applicant has confirmed that a residential component will be included in the proposal.

5.0 BACKGROUND

5.1 The Proposal

The Annie Stirling House, built in 1910 for the mother of T.W. Stirling, a prominent Kelowna fruit grower and investor, is located on the west side of Pandosy Street, north of Royal Avenue. The house is an example of a mixture of Tudor Revival and Arts and Crafts influences. It appears that the house has undergone few alterations, such as the addition of a sunroom in 1924 and the enclosure of a porch in 1955.

The owners of the site wish to use the house as a medical office for three physicians and three support staff. The three physicians will rotate and only one physician would be practicing on site at any given time. The patient volume anticipated for the property is eight to twelve patients per

day, with no more than three patients on site at the same time. The office would act as a video conferencing facility to see patients in other BC communities. Furthermore, all patient records would be stored on site. The applicant has reconsidered the initial proposal and is now planning to introduce a residential component on the upper floor of the house (to include kitchen of main floor).

The applicant is not proposing to alter the exterior of the building. Initially, he considered the addition of a ramp for patients in wheelchairs or scooters; however, it was decided not to construct the ramp, since wheelchair bound patients will be seen at the hospital. The applicant wishes to only make those changes in the interior of the house that would be required to use the building for the medical office. Patients will most likely only use the main floor, where the current den will serve as the examination room. The dining room will remain as is and be used as a boardroom, whereas the family room would be used for the above mentioned video-conferences. Storage of files will take place in the downstairs bedroom, which currently has no window. The upstairs of the house (and main floor kitchen) will be used as a residential dwelling space for one of the physicians. The applicant has indicated that the new owners of the house have purchased much of the furniture from the previous owners.

The site has four parking stalls accessed from the rear lane, which would be used by patients. Physicians and support staff would utilize the Kelowna General Hospital parking facility. The future owners are committed to maintaining and, if required, improving the house and the landscaping. The only exterior physical changes would be the addition of a paved walkway from the front gate to the house, as well as two signs. Two-inch high brass lettering will be added to the gate at Pandosy Street, and the sign at the rear would consist of a masonry base, brass lettering and low intensity lighting.

The property in its current state meets all zoning requirements of the RU1 - Large Lot Housing zone. The property has four parking stalls and therefore does not meet bylaw requirements for the proposed health services use. To meet the bylaw for health services on the ground and office space on the second floor, a total of 15 stalls would be required. The applicant proposes to enter into the Heritage Revitalization Agreement to address the shortfall of parking. An HRA can stipulate conditions and regulations different from those required by the Zoning Bylaw.

3.2 Site Context

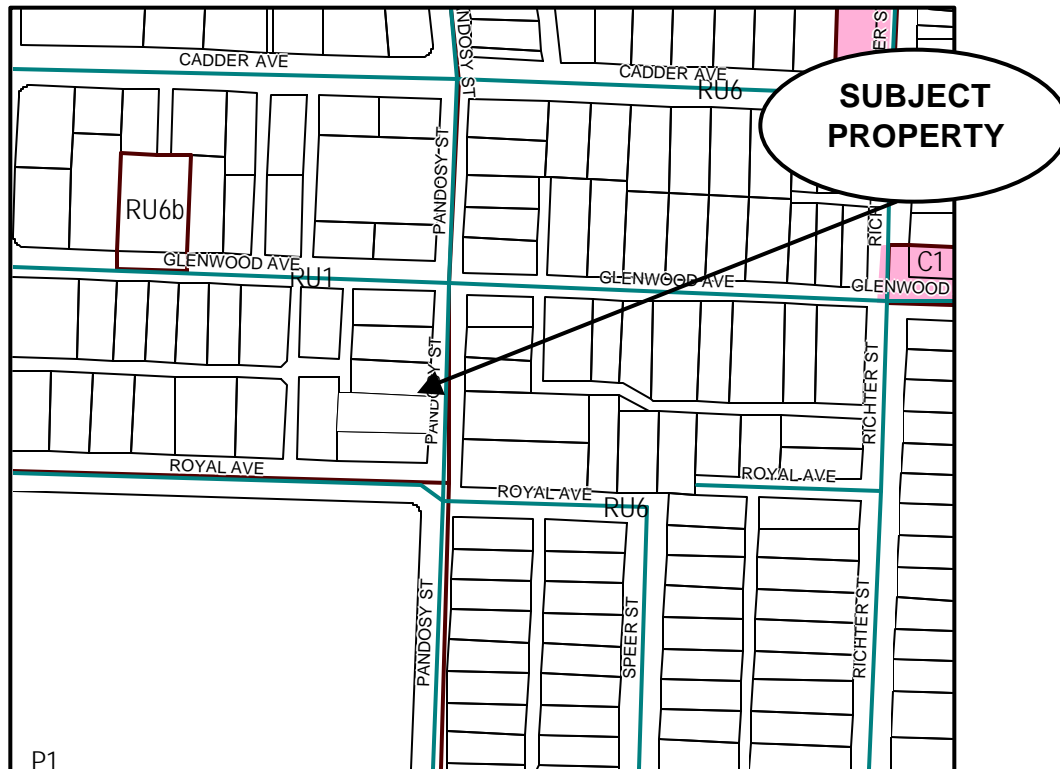
The subject property is located in the Abbott Street Heritage Conservation Area, on the west side of Pandosy Street just north of Royal Avenue. The area north of Royal Avenue is predominantly used for single detached or two-dwelling housing. South of Royal Avenue, the area west of Pandosy Street is used by the hospital, with single and two unit residential uses to the east.

Adjacent zones and uses are, to the:

- North - RU1 – Large Lot Housing – Single Detached Dwelling
- East - RU6 – Two Dwelling Housing - Single Detached Dwelling
- South - RU1 – Large Lot Housing – Single Detached Dwelling
- West - RU1 – Large Lot Housing – Single Detached Dwelling

5.3 Site Location Map

Subject Property: 2178 Pandosy Street



5.3 Existing Development Potential

The property is zoned RU1 – Large Lot Housing, a zone intended for single detached housing and compatible secondary uses on larger serviced urban lots. It is furthermore in the Kelowna Heritage Register,

5.4 Current Development Policy

5.4.1 Kelowna Official Community Plan

The Official Community Plan suggests the consideration of Heritage Revitalization Agreements for the adaptive re-use and the continuing protection of heritage properties. The proposed use of the building for a medical office meets some of the adaptive re-use guidelines, such as the maximum number of employees in the building at any given time, which should not exceed four. The applicant also does not propose any changes that would compromise the residential character of the building. However, a number of re-use guidelines are not met by the proposal such as signage and parking. The applicants are proposing two signs, one at the driveway entrance and one on the Pandosy fence and gate.

5.4.2 Kelowna Strategic Plan (1992)

One of the objectives of the Strategic Plan is to encourage the preservation of important heritage buildings and areas within the City. Heritage Revitalization Agreements help meet this objective by allowing the adaptive re-use and thus the preservation of properties with heritage value.

6.0 TECHNICAL COMMENTS

6.1 Works & Utilities

6.1.1 Domestic Water and Fire Protection

- (a) This parcel is serviced with a 19mm copper domestic water service, which can be retained if it is of sufficient size. If a larger service is required it can be provided at owner's cost.

6.1.2 Sanitary Sewer

- (a) This property is serviced from a sewer main on Royal Avenue. Our records indicate that the existing 100mm service encroaches slightly onto Lot 1 Plan 7535 and runs through Lot 4 Plan 7535. We have no record of an easement in place over the service to protect the owner of Lot 3 Plan 7535.
- (b) Realign the service on Royal Avenue, abandon and cap the section of pipe encroaching onto Lot 1.
- (c) Obtain a Section 219 agreement with the owner of Lot 4 and reconnect the service to Lot 3.
- (d) Alternatively, a new service can be provided from Pandosy Street at the applicant's cost. The existing service must then be capped at the property line on Royal Avenue.
- (e) All the works within the road right-of-way related to the sewer service are to be done by city crew at the developer's cost. No Servicing Agreement will be required.

6.1.3 Storm Drainage

- (a) There is no existing storm drainage for this lot.
- (b) An overflow service can be provided at the developer's cost.

6.1.4 Road Improvements

- (a) Pandosy Street was upgraded recently to the ultimate curb alignment. Frontage improvements including a new sidewalk were completed. No further upgrades are required at this time.

6.1.5 Road Dedication and Subdivision Requirements

- (a) Dedicate 3.20 meter widening of Pandosy Street fronting this property.
- (b) Grant Statutory right-of-way(s) if required for utility services.

6.6.6 Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

6.6.7 Site Related Issues

- (a) The development will be required to contain and dispose of site generated storm water by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.
- (b) The proposed signage at the driveway entrance must be within the property line boundaries.

6.2 Inspection Services

There are a number of upgrades required to convert this home into an office building. The Building Code makes some exception for Heritage buildings if the building is sprinklered with fast responds heads and supervised (i.e. connected to monitoring agency). The lower floor ceiling is required to be drywalled with ½" Type X gypsum.

If the building is not sprinklered the following upgrading is required:

- The lower floor ceiling shall be drywall with 5/8" Type X gypsum.
- The open stair to the second floor shall be separated at the bottom of the stairs with rated partitions and a rated door.
- A second exit is required from the second floor offices.
- The firebox of the fireplace required repair.

The applicant has expressed concerns to staff that the upgrades to the home required by the building code to conform to the proposed commercial guidelines would ruin the interior of the home. The applicant is currently seeking an equivalency report as another means of addressing the requirements of the Inspection Services Department. Final adoption of this Heritage Revitalization Agreement will be subject to the approval of an equivalency report by the Inspection Services Department that addresses the above-mentioned requirements.

7.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department has concerns with the proposed use of the house as a medical office. There is concern that the parking provided on the property will prove to be insufficient for clients and employees of the facility.

Although there is one existing medical office in a heritage home in the vicinity of the subject property (at Cadder Avenue and Pandosy Street), the Planning and Development Services Department has generally discouraged the expansion of hospital related uses into the residential area surrounding the hospital.

The current adaptive re-use guidelines do not provide any specific direction for staff to consider or reject a medical office. However the South Central Neighbourhood Structure Plan discourages the expansion of hospital into the surrounding neighbourhood. The applicant has revised the initial proposal to incorporate a residential component on the second floor of the house as per Adaptive Re-Use Guidelines and the Community Heritage Commission's recommendation.

Given the applicant's commitment to include a residential component, the Planning and Development Services Department is prepared to support the proposed Heritage Revitalization Agreement. Staff encourages the applicant to consider voluntary heritage designation of the property should council approve the Heritage Revitalization Agreement.

Andrew Bruce
Current Planning Manager

Approved for inclusion

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

RWS
Attach.

FACT SHEET

- | | | |
|-----|--|--|
| 1. | APPLICATION NO.: | HRA02-0001 |
| 2. | APPLICATION TYPE: | Heritage Revitalization Agreement |
| 3. | OWNER: | Doctors Andrew Luoma, Michael Humer and Bill Nelems |
| | . ADDRESS | |
| | . CITY | |
| | . POSTAL CODE | |
| 4. | APPLICANT/CONTACT PERSON: | MQLN Architects / Brian Quiring |
| | . ADDRESS | 102 – 3301 24 th Avenue |
| | . CITY | Vernon, BC |
| | . POSTAL CODE | V1T 9S8 |
| | . TELEPHONE/FAX NO.: | 250-542-1199 |
| 5. | APPLICATION PROGRESS: | |
| | Date of Application: | July 17, 2002 |
| | Date Application Complete: | July 26, 2002 |
| | Servicing Agreement Forwarded to Applicant: | N/A |
| | Servicing Agreement Concluded: | N/A |
| | Staff Report to CHC: | September 4, 2002 |
| | Staff Report to APC: | September 4, 2002 |
| 6. | LEGAL DESCRIPTION: | Lot 3, D.L. 14, ODYD, Plan 7535 |
| 7. | SITE LOCATION: | On the west side of Pandosy Street, north of the intersection of Pandosy Street and Royal Avenue |
| 8. | CIVIC ADDRESS: | 2178 Pandosy Street
Kelowna, BC |
| 9. | AREA OF SUBJECT PROPERTY: | 850m ² |
| 10. | EXISTING ZONE CATEGORY: | RU1 – Large Lot Housing |
| 11. | PURPOSE OF THE APPLICATION: | To enter into a Heritage Revitalization Agreement to allow the use of the existing building for a medical office |
| 13. | MIN. OF TRANS./HIGHWAYS FILES NO.:
NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY | N/A |
| 14. | DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS | N/A |

ATTACHMENTS

(not attached to the electronic version of the report)

- Location Map
- Site Plan
- Photographs of house
- Photographs of interior
- Proposed signage

SCHEDULE "A"
HERITAGE REVITALIZATION AGREEMENT

DOCUMENT APPROVAL			
Document No. HRA02-0001			
Cir	Department	Date	Init.
AB	Planning		
SM	Wrks. & Util.		
JW	Insp. Serv.		
DS	City Clerks		

THIS AGREEMENT dated as of the 16th day of October, 2002.

BETWEEN:

CITY OF KELOWNA, a Municipal Corporation having offices at
1435 Water Street, Kelowna, British Columbia V1Y 1J4

(herein called the "CITY")

AND:

The Kelowna Thoracic Surgical Group Ltd.
4678 Westridge Drive
Kelowna, BC
V1W 3A8

(herein called the "OWNER")

WHEREAS a local government may, by bylaw, enter into a Heritage Revitalization Agreement with the Owner of property identified as having heritage value, pursuant to Section 966 of the *Local Government Act*,

AND WHEREAS the Owner owns certain real property on which is situated a building of heritage value, pursuant to the Heritage Register, which property and building are located at 2178 Pandosy Street, Kelowna, British Columbia and legally described as:

Parcel Identifier: 005-468-281
Lot 3, Twp. 25, Sec. 13-24, O.D.Y.D., Plan 7535

(herein called the "Heritage Lands")

AND WHEREAS the Owner has presented to the City a proposal for the use, development and preservation of the Heritage Lands and has voluntarily and without any requirement by the City, entered into this agreement pursuant to Section 966 of the *Local Government Act*,

AND WHEREAS the Heritage Lands is subject to Section 54(2) of the *Highway Act* and accordingly the approval of the Minister of Transportation & Highways is required pursuant to Section 966(6)(b) of the *Local Government Act*,

AND WHEREAS a local government must hold a Public Hearing on the matter before entering into or amending a Heritage Revitalization Agreement if the agreement or amendment would permit a change to the use or density of use that is not otherwise authorized by the applicable zoning of the Heritage Lands and for these purposes Section 890 through 894 of the *Local Government Act* apply;

AND WHEREAS within thirty days after entering into or amending a Heritage Revitalization Agreement the local government must file a notice in the Land Title Office in accordance with Section 976 of the *Local Government Act* and give notice to the Minister responsible for the *Heritage Conservation Act* in accordance with Section 977 of the *Local Government Act*;

NOW THEREFORE in consideration of the mutual promises contained in this agreement and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties agree as follows:

1.0 Heritage Revitalization

1.1 The parties agree that the Heritage Lands has heritage value, deserving of protection and conservation and the Owner specifically agrees to maintain, preserve and protect the heritage character of the building located on the Heritage Lands.

1.2 The parties agree that the Heritage Lands may, notwithstanding the RU1 – Large Lot Housing zoning on the Heritage Lands, be used for the following permitted uses within the Heritage Building on the identified Heritage Lands:

- (a) One residential unit;
- (b) Medical Office Space Provided that:
 - (i) one residential unit is provided,
 - (ii) The number of doctors operating from the Heritage Building is limited to a maximum of three;
 - (iii) The number of support staff operating from the Heritage Building is limited to a maximum of three;
 - (iv) The doctors' and support staffs' hours at the Heritage Building are primarily limited to the hours between 8:00 a.m. and 5:00 p.m. Monday through Friday, inclusive;
 - (v) The number of clients' visiting the doctors' office daily does not exceed a maximum of 12 nor a maximum of 3 at any one time;
- (c) Video Conferencing space provided that:
 - (i) one residential unit is provided,
 - (ii) use is limited to the doctors and staff of the doctors' office operating from the Heritage Building, and the doctors' clients; and
 - (iii) use is limited to between 8:00 a.m. and 10:00 p.m. Monday through Friday, inclusive.
- (d) The maximum floor area of the office space and video conferencing space be limited to the lesser of 307m² or 68% of the floor area of the principle dwelling.

- 1.3 The parties agree that, except as varied or supplemented by the provisions of this agreement, all bylaws and regulations of the City and all laws of any authority having jurisdiction shall apply to the Heritage Lands.

- 1.4 Variances to the following sections of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement:

Section 8 - Parking and Loading; Table 8.1 - Parking Schedule.

The minimum number of required parking spaces for Single Detached Housing be varied from two spaces per dwelling unit, to no spaces per dwelling unit. And the number of spaces required for the Health Services use of the house be varied from 15 spaces required to 4 existing.

Section 8 - Parking and Loading; Table 8.2 - Loading Schedule.

The minimum loading spaces for commercial uses be varied from one space per 1,900 m² Gross Floor Area required, to no loading space required.

- 1.5 Variance to the following section of City of Kelowna Sign Bylaw No. 8235 be granted through this agreement:

Section 6 – Specific Zone Regulations: Residential Zones.

To permit one free-standing sign on the Heritage Lands in the RU1 – Large Lot Housing zone, at a maximum height of 2.1 metres, measured from grade at the sidewalk, a maximum width of 0.6 metres, and a maximum sign area of 1.3 m² at the driveway entrance to the property;

AND To permit signage with a maximum area not to exceed 1.6m in height and 0.76m² in area on the front gate of the property.

2.0 Proposed Development

- 2.1 The Owner agrees to undertake maintain landscaping on the subject property in general accordance with the landscape plan attached hereto as Schedule 1, and forming part of this agreement.

(herein after called the “Landscaping Works”)

- 2.2 The Owner agrees to provide and pay for all servicing required by the proposed development of the Heritage Lands and to provide required bonding for same, including, but not limited to: domestic water and fire protection, sanitary sewer, storm drainage, road improvements, road dedications and statutory rights-of-way for utility servicing, power and telecommunication services and street lighting all as noted below - “Works and Utilities Requirements”, and forming part of this agreement.

(herein after called the “Works and Utilities Requirements”)

Works & Utilities Requirements

2.2.1 Domestic Water and Fire Protection

- (a) This parcel is serviced with a 19mm copper domestic water service, which can be retained if it is of sufficient size. If a larger service is required it can be provided at owner's cost.

2.2.2 Sanitary Sewer

- (a) This property is serviced from a sewer main on Royal Avenue. Our records indicate that the existing 100mm service encroaches slightly onto Lot 1 Plan 7535 and runs through Lot 4 Plan 7535. We have not record of an easement in place over the service to protect the owner of Lot 3 Plan 7535.
- (b) Realign the service on Royal Avenue, abandon and cap the section of pipe encroaching onto Lot 1.
- (c) Obtain a Section 219 agreement with the owner of Lot 4 and reconnect the service to Lot 3.
- (d) Alternatively, a new service can be provided from Pandosy Street at the applicant's cost. The existing service must then be capped at the property line on Royal Avenue.
- (e) All the works within the road right-of-way related to the sewer service are to be done by city crew at the developer's cost. No Servicing Agreement will be required.

2.2.3 Storm Drainage

- (a) There is no existing storm drainage for this lot.
- (b) An overflow service can be provided at the developer's cost.

2.2.4 Road Improvements

- (a) Pandosy Street was upgraded recently to the ultimate curb alignment. Frontage improvements including a new sidewalk were completed. No further upgrades are required at this time.

2.2.5 Road Dedication and Subdivision Requirements

- (a) Dedicate 3.20 metre widening of Pandosy Street fronting this property.
- (b) Grant Statutory right-of-way(s) if required for utility services.

2.2.6 Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

Site Related Issues

- (a) The development will be required to contain and dispose of site generated storm water by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.
- (b) The proposed signage at the driveway entrance must be within the property line boundaries.

- 2.3 The Owner agrees to provide and pay for all structural upgrades required for the proposed Adaptive Re-use of the subject Heritage House to meet the British Columbia Building Code and to provide any required bonding for same as noted below - "Inspection Services Requirements", and forming part of this agreement.

Inspection Services Requirements

- 2.3.1 There are a number of upgrades required to convert this home into an office building. The Building Code makes some exception for Heritage buildings if the building is sprinklered with fast responds heads and supervised (i.e. connected to monitoring agency). The lower floor ceiling is required to be drywalled with ½" Type X gypsum.
- 2.3.2 If the building is not sprinklered the following upgrading is required:
- (a) The lower floor ceiling shall be drywall with 5/8" Type X gypsum.
 - (b) The open stair to the second floor shall be separated at the bottom of the stairs with rated partitions and a rated door.
 - (c) A second exit is required from the second floor offices.
 - (d) The firebox of the fireplace required repair.
- 2.3.3 Final adoption of this Heritage Revitalization Agreement will be subject to the completion of items 2.3.1-2.3.2 or approval of an equivalency report submitted by the applicant to the Inspection Services Department that finds/suggests a suitable alternative to the above-mentioned requirements.

3.0 Commencement and Completion

- 3.1 The Owner agrees to commence the Restoration Works, Landscaping Works, and Servicing Works forthwith upon adoption of City of Kelowna Heritage Revitalization Agreement Authorization Bylaw No. 8602 and to complete the Works no later than October 16th, 2003.

4.0 Damage or Destruction

- 4.1 In the event that the Heritage Building is damaged, the parties agree as follows:

- (a) The Owner may repair the Heritage Building in which event the Owner shall forthwith commence the repair work and complete same within one year of the date of damage;

OR, in the event that the Heritage Building is destroyed,

- (b) The City will, by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 890 through 894 of the *Local Government Act*, cancel this agreement whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

5.0 Breach

- 5.1 In the event that the Owner is in breach of any term of this Agreement, the City may give the Owner notice in writing of the breach and the Owner shall remedy the breach within 30 days of receipt of the notice. In the event that the Owner fails to remedy the breach within the time allotted by the notice, the City may by bylaw and after conducting a Public Hearing in the manner prescribed by Sections 890 through 894 of the *Local Government Act* cancel this Agreement whereupon all use and occupation of the Heritage Lands shall thenceforth be in accordance with the zoning bylaws of the City and in accordance with all other bylaws or regulations of the City or any other laws of authority having jurisdiction.

6.0 Amendment

- 6.1 The parties acknowledge and agree that this Agreement may only be amended by one of the following means:
- (a) By bylaw with the consent of the parties provided that a Public Hearing shall be held if an amendment would permit a change to use or density of use on site or;
 - (b) By Heritage Alteration Permit (HAP), issued pursuant to Section 972 of the *Local Government Act*.

7.0 Representations

- 7.1 It is mutually understood and agreed upon between the parties that the City has made no representations, covenants, warranties, promises or agreements expressed or implied, other than those expressly contained in this Agreement.

8.0 Statutory Functions

- 8.1 Except as expressly varied or supplemented herein, this Agreement shall not prejudice or affect the rights and powers of the City in the exercise of its statutory functions and responsibilities including, but not limited to, the *Local Government Act* and its rights and powers under any enactments, bylaws, order or regulations, all of which, except as expressly varied or supplemented herein, are applicable to the Heritage Lands.

9.0 Enurement

- 9.1 This Agreement enures to the benefit of and is binding upon the parties hereto and their respective heirs, executors, administrators, successors and assigns.

10.0 Other Documents

- 10.1 The Owner agrees at the request of the City, to execute and deliver or cause to be executed and delivered all such further agreements, documents and instruments and to do and perform or cause to be done and performed all such acts and things as may be required in the opinion of the City to give full effect to the intent of this Agreement.

11.0 Notices

11.1 Any notice required to be given pursuant to this Agreement shall be in writing and shall either be delivered mailed by registered mail as follows:

(a) To the City:

City of Kelowna
1435 Water Street
Kelowna, B.C. V1Y 1J4

ATTENTION: City Clerk

(b) To the Owner:

The Kelowna Thoracic Surgical Group Ltd.
4678 Westridge Drive
Kelowna, BC
V1W 3A8

Or, to such other address to which a party hereto may from time to time advise in writing.

12.0 No Partnership or Agency

12.1 The parties agree that nothing contained herein creates a relationship between the parties of partnership, joint venture or agency.

IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA
by its authorized signatories

(E. Walter Gray, Mayor)

(David L. Shipclark, City Clerk)

Dr. Bill Nelems
Signed by DR. BILL NELEMS in
the presence of:

Witness (print name)

DR. BILL NELEMS

Address

Occupation

Dr. Michael Humer
Signed by DR. MICHAEL HUMER in
the presence of:

Witness (print name)

DR. MICHAEL HUMER

Address

Occupation

Dr. Andrew Luoma
Signed by DR. ANDREW LUOMA in
the presence of:

Witness (print name)

DR. ANDREW LUOMA

Address

Occupation