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**CITY OF KELOWNA**  
**MEMORANDUM**

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**Date:** February 10, 2004  
**File No.:** (3360-20)HRA03-0002

**To:** City Manager

**From:** Planning & Corporate Services Department

**Subject:**

APPLICATION NO. HRA03-0002                      OWNER: ROBERT S. CUMMINGS  
BENIGNA V. CUMMINGS

AT: 2034 PANDOSY STREET                      APPLICANT: AS ABOVE

PURPOSE: TO ENTER INTO A HERITAGE REVITALIZATION AGREEMENT  
WITH THE CITY OF KELOWNA, IN ORDER TO PERMIT THE  
ADDITION OF A SECOND DWELLING TO THE REAR OF THE  
SUBJECT PROPERTY

EXISTING ZONE: RU1 – LARGE LOT HOUSING

REPORT PREPARED BY: PAUL McVEY

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SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS

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1.0 RECOMMENDATION

THAT Council authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for Lot 16, Blk. 6, D.L. 14, O.D.Y.D., Plan 348, located at 2034 Pandosy Street, in the form of such Agreement attached as Schedule "A" to the report of the Planning & Corporate Services department dated February 10, 2004;

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

AND FURTHER THAT final adoption of the Heritage Revitalization Agreement authorizing bylaw be withheld until the applicant has executed the Heritage Revitalization Agreement and provided the necessary security and road dedication as identified in the Heritage Revitalization Agreement.

2.0 SUMMARY

The original applicant (Pauline Draper) had made application to rezone the subject property from the existing RU1 – large lot housing zone to the RU6 – Two Dwelling Housing zone in order to permit the addition of a second dwelling to the subject property. However, after a Public Hearing held on May 27, 2003, Council defeated the zone amending bylaw and directed staff to bring back an application for a Heritage Revitalization Agreement dealing with the proposed development on the subject property. The property has now been purchased by Mr. and Mrs. Cummings, and they

wish to complete the process for the Heritage Revitalization Agreement that was started by Pauline Draper.

The existing former Dr. J.W.N. Shepherd dwelling located adjacent to Pandosy Street will remain. The subject property is located within the Abbott Street Heritage Conservation area.

## 2.1 Community Heritage Commission

The above noted application was reviewed by the Community Heritage Commission at their Regular Meeting of March 4, 2003 and the following recommendations were passed;

THAT the Community Heritage Commission not support revised Heritage Alteration Permit Application No. HAP01-012 and Rezoning Application No. Z01-1050 - 2034 Pandosy Street, and

THAT the Community Heritage Commission recommend that the owner consider entering into a Heritage Revitalization Agreement with the City of Kelowna in order to address the form and character of a second house at 2034 Pandosy Street and the restoration of the existing heritage building.

## 2.2 Advisory Planning Commission

The above noted application (Z01-1050) was reviewed by the Advisory Planning Commission at the meeting of February 25, 2003 and the following recommendation was passed:

That the Advisory Planning Commission **not** support the application to rezone from the RU1-Large Lot Housing zone to the RU6-Two Dwelling Housing zone to permit the addition of a second dwelling on the subject property.

The APC feels that the homeowner should work with the Heritage Commission to reach an agreement on the appropriate use of land. Heritage designation of the house should be considered and the design of the new building should better conform to the heritage style of the other buildings in the area.

## 3.0 BACKGROUND

### 3.1 The Proposal

The subject property is located in the Central City, south of Highway 97 and west of Pandosy Street. The subject property is located within the Abbott Street Heritage Conservation area. The house that is located on the subject property is listed in the Kelowna Heritage Register. The Arts and Crafts Style house, constructed in 1914, was the family home of Dr. J.W.N. Shepherd, who was a pioneer dentist in Kelowna.

There have been several applications for the development of the subject property made in the recent past. In 1998 and 1999, applications were made to change the zoning and future land use designation of the subject property, as well as the two abutting properties to allow for a multiple unit residential development. The 1998 application was not supported by the Advisory Planning Commission nor the Community Heritage Commission, and the application was subsequently withdrawn. In 1999, the applicants (Mr. and Mrs. Draper) made application to replace the house on the subject property, as

well as the two abutting properties, with a total of three boarding or lodging houses. That application was defeated at Council in March of 2000.

In September 2001, the Drapers made an application to rezone the subject property to the RU6b zone to permit the development of the subject property with a 10 bedroom boarding home. However, that proposal was not supported by the Community Heritage Commission. The applicant chose not proceed with the application in that form and elected to revise the application.

That application was revised to rezone the subject property to the RU6 – Two Dwelling Housing zone in order to permit the construction of a second dwelling located at the rear of the property.

The rezoning application proceeded to a Public Hearing on May 27, 2003, after which, Council defeated the zone amending bylaw, and directed staff to bring back an application for a Heritage Revitalization Agreement at 2034 Pandosy Street for consideration. In the meantime, the property has been sold to Mr. and Mrs. Cummings, and they wish to carry on with the HRA process that was commenced by Pauline Draper.

This current application for a Heritage Revitalization Agreement proposes the same provisions as the previously proposed rezoning to the RU6 – Two Dwelling Housing zone, in order to permit the construction of a second dwelling at the rear of the subject property.

The new house is designed as a 1½ storey, 165 M<sup>2</sup>, three bedroom dwelling, that includes a bonus room over the garage. The exterior of the new dwelling is anticipated to be finished with wood shingle siding in a “light brown” colour, and detail trim elements in a “white” colour that will complement the form and character of the existing Shepherd House located at the front of the lot.

Access to the property will remain at the north end of the existing Shepherd House, with the driveway continuing past the existing house to provide vehicle access to the new proposed dwelling. This new driveway will also provide access to two new parking stalls that will be located in the area of the old deck located at the rear of the existing dwelling, which is to be removed. There are two existing parking stalls located in front of the existing dwelling that are anticipated to be decommissioned.

As part of the Heritage Revitalization Agreement, the applicant proposes to refinish the existing dwelling located adjacent to Pandosy Street. As part of the rehabilitation program of the existing Dr. J.W.N. Shepherd heritage dwelling, it is anticipated that the old deck at the rear of the house will be removed as the deck is in an advanced state of decay. It is also anticipated there will be refinishing of the existing dwelling which will comprise of new paint to the building trim in a “white” colour, and exterior walls in a “dark brown” colour, and the rehabilitation of the existing landscaping.

The draft conditions for a Heritage Revitalization Agreement are as follows;

1.0 The Proposal

The applicant wishes to use the subject property for the development of two single unit residences in separate dwellings, as if the property was zoned RU6 – Two Dwelling Housing zone as noted in City of Kelowna Zoning Bylaw 8000, as amended.

As well, the applicant also proposes the following works on the subject property:

Schedule 1a;

- (a) deconstruction of the old open deck located at the rear of the existing former Dr. J.W.N. Shepherd house as noted on Schedule 1a;
- (b) replace the roof of the existing former Dr. J.W.N. Shepherd house with heritage style roofing,
- (c) refinish the exterior of the former Dr. J.W.N. Shepherd house with a “dark brown” “heritage” coloured paint finishes,

Schedule 1b;

- (a) The dimensions and siting of the new dwelling to be constructed on the land be in general accordance with Schedule "A";
- (b) The exterior design and finish of the dwelling to be constructed on the land be in general accordance with Schedule "B";

Schedule 2;

Landscaping on the subject property to be in general accordance with the landscape plan attached hereto as Schedule 2, and forming part of this agreement.

Schedule 3;

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 described in Schedule 3 - “Required Works and Services”, attached hereto and forming part of this agreement.

The proposal as compared to the existing RU6 zoning requirements (as per the Heritage Revitalization Agreement) is as follows:

CRITERIA	PROPOSAL	RU6 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	1,671m <sup>2</sup>	700 m <sup>2</sup>
Site Width (m)	22.7 m	18 m
Site Depth (m)	73.8 m	30 m
Site Coverage (%)	19% buildings	40% Buildings 50% Bldgs, driveways & Parking
Total Floor Area (m <sup>2</sup> )	318 m <sup>2</sup>	
F.A.R.		
Storeys (#)	1 ½ storeys	2 ½ Storeys (9.5 m)
Setbacks (m)		
- Front	11.4 m	4.5 m 6.0 m to garage or carport
- Rear	10.6 m	The minimum site rear yard is 6.0 m for a 1 or 1½ storey portion of a building and 7.5 m for a 2 or 2½ storey portion of a building
- North Side	2.1 m	The minimum site side yard is 2.0 m for a 1 or 1½ storey portion of a building and 2.3 m for a 2 storey portion of a building
- South Side	3.0 m	The minimum site side yard is 2.0 m for a 1 or 1½ storey portion of a building and 2.3 m for a 2 storey portion of a building
Parking Stalls (#)	6 stalls proposed	2 per dwelling

Notes;

Existing dwelling	153 m <sup>2</sup>
Proposed new dwelling	165 m <sup>2</sup>
Total building area	318 m <sup>2</sup>

The existing home is to remain as is shown by the survey certificate, except for the removal of the deck addition located at the rear of the existing home.

### 3.2 Site Context

The subject property is located in the Central City, south of Highway 97, on the west side of Pandosy Street. It is located within the Abbott Street Heritage Conservation Area and is currently zoned RU1 – Large Lot Housing zone. The subject property is generally flat and level.

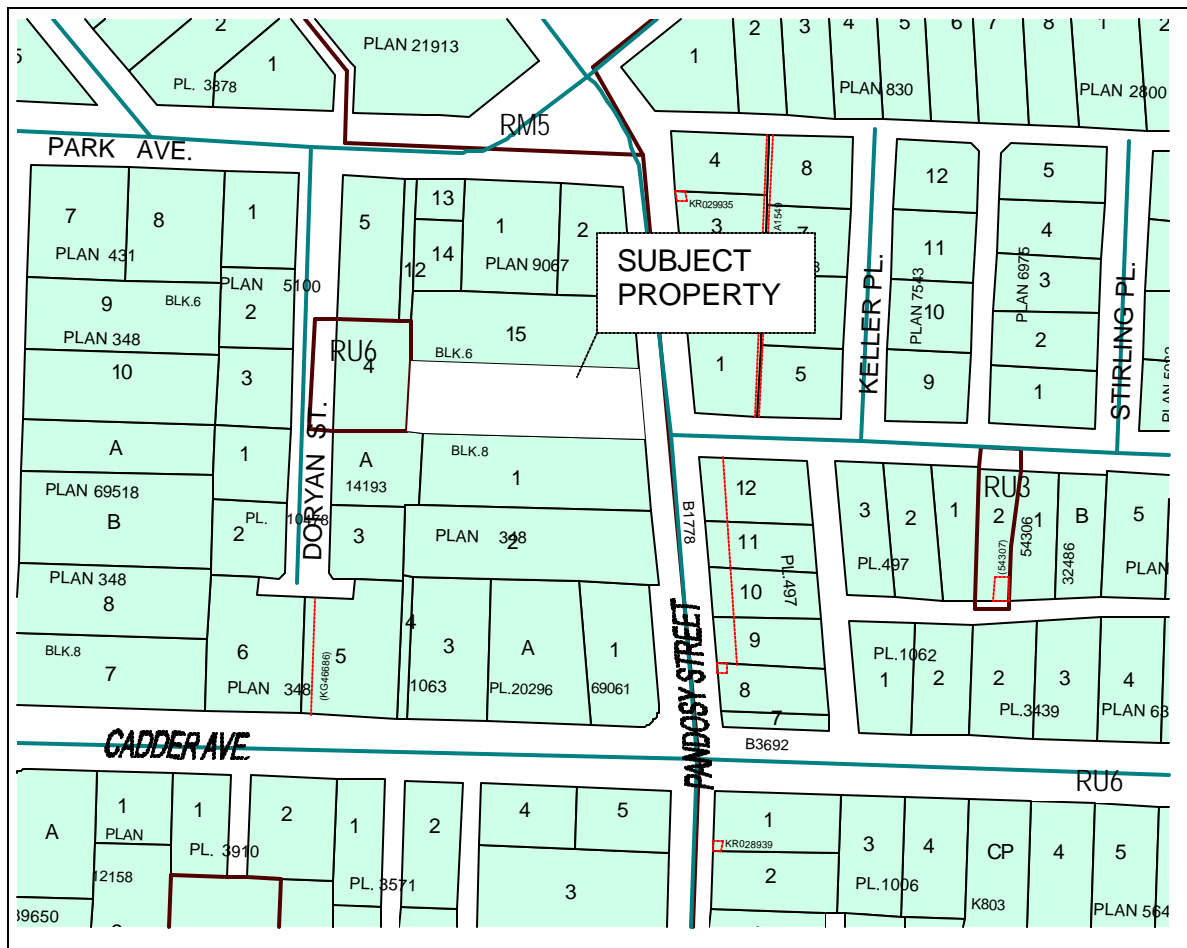
Adjacent zones and uses are, to the:

- North - RU1 – Large Lot Housing / single family housing
- East - RU6 – Two Dwelling Housing / Pandosy St, single family housing
- South - RU1 – Large Lot Housing/vacant, former site of Hewetson Schoolhouse
- West - RU1 – Large Lot Housing / single family housing

### 3.3 Proposed Development Potential

The proposed use of the property as if it was zoned the RU6 – Two Dwelling Housing zone as described in the HRA, permits duplex housing, semi-detached housing, and single detached housing as principal permitted uses, and bed and breakfast homes, care centres minor, group homes minor, home based business major and minor, and secondary suite as permitted secondary uses.

#### SUBJECT PROPERTY MAP



### 3.4 Current Development Policy

#### 3.4.1 Kelowna Official Community Plan

The proposal is generally consistent with the Single/Two Family Residential future land use designation of the Official Community Plan, which include such institutional uses such as child care and schools as supported future land uses.

The subject property is located within the Abbott Street Heritage Conservation Area.

### 3.4.2 City of Kelowna Strategic Plan (1992)

The proposal is consistent with the intent of the Strategic Plan which states:

"The City will, in its plans and policies concerning future urban development, place an emphasis on more efficiently using serviced land within existing urban areas through infill and will provide for an increased density of development within established urban areas through re-development of areas which are in transition.

### 3.4.3 Heritage Register

The dwelling located on the subject property is identified as the Dr. J.W.N. Shepherd house, the home of the first pioneer dentist in Kelowna. The house is described as an Arts and Craft Style house, and was constructed in 1914. There have been several additions made to the building since it was originally constructed.

### 3.4.4 Adaptive Reuse Guidelines for Heritage Buildings

The City of Kelowna Adaptive Reuse Guidelines for Heritage Buildings include the following statements;

#### **Objectives**

- To conserve Kelowna's residential heritage buildings listed in the Kelowna Heritage Register by enhancing their appearance and viability as functional buildings;

#### **Issues**

- Adaptive re-uses may generate additional traffic in residential areas that may detract from the desirable qualities of the neighbourhood.
- Buildings that have no residential component may be less secure than buildings that do.

#### **Location and Use of Heritage Property**

The following guidelines reinforce that there is an essential relationship between the proposed use in a heritage building and the location of the heritage property relative to the surrounding streets and the character of the neighbourhood. The type and intensity of a proposed adaptive re-use will be assessed according to which category of roadway will best be able to accommodate that particular use. The roadway categories are based on the Official Community Plan 20 Year Major Road Network Plan.

On major roads, a greater variety and intensity of uses can be supported without affecting the character of the area given the existing impacts of prevailing traffic volumes. The primary function of major roads is to provide for high volumes of intra-city travel through existing residential, commercial and industrial areas. The potential exists in these locations to allow adaptive re-uses normally considered not appropriate within

residential locations, provided controls are in place to limit scale and concentration of adaptive re-uses within a given area.

Adaptive re-uses that can be supported along major roads includes those uses that would typically be permitted in residential zones, such as home based businesses, bed and breakfast homes, care centres, secondary suites and group homes.

#### Site Specific Criteria

After consideration has been given to location, each adaptive re-use proposal must be assessed on its own merits as to whether the proposal would be appropriate within the context of the heritage building, the surrounding neighbourhood and adjacent property characteristics. In this regard, the following factors should be considered:

##### 1. Neighbourhood Resident Concerns

The concerns of neighbouring property owners should be considered. Identifying and, wherever possible, resolving these issues when developing the terms and conditions specific to an application is important. Applicants are encouraged to discuss their proposed adaptive re-use with neighbouring property owners.

##### 2. Residential Component

A residential component (group home, secondary suite, principal dwelling, etc.) should be provided.

##### 3. Design Standards

Any heritage building restorations, renovations or alterations must respect the heritage character of the building and its surrounding area.

##### 4. Scale

The size and intensity of the adaptive re-use component should be compatible with the surrounding neighbourhood.

##### 5. Parking / Access

Consideration must be given to on-site parking, access and traffic generation associated with adaptive re-use proposals. In order to limit the impact on adjacent properties, the required number of on-site parking spaces should conform to the Parking Schedule of the Zoning Bylaw.

#### 4.0 TECHNICAL COMMENTS (from Z01-1050)

The application has been circulated to various technical agencies and City departments and the following relevant comments have been submitted:

##### 4.1 Aquila Networks Canada

Aquila (Utilicorp) will provide underground electrical service.



4.2 B.C. Gas (Terasen Utilities Services)

Existing gas service to home may require alteration. Reference attached service drawings.

4.3 Fire Department

Fire department access and hydrants as per the BC Building Code and City of Kelowna Subdivision By-law.

4.4 Inspection Services Department

No concerns - existing parking is in the front yard.

4.5 Ministry of Transportation

The Ministry has no objections to the proposed rezoning.

4.6 Telus

Telus will provide underground facilities to this development. Developer will be required to supply and install as per Telus Policy

4.7 Works and Utilities Department

October 24, 2001

The Works & Utilities Department have the following requirements associated with this development application.

1. Domestic Water and Fire Protection

- (a) There is an existing 100-mm diameter water service to the proposed facility that may be retained. If a larger service is required it can be provided at the applicant's cost.
- (b) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The applicant must purchase from the City of Kelowna and install a water meter of sufficient size for the new 50mm diameter water service.
- (c) If there is to be landscaping on the site, the developer must also purchase an irrigation sewer credit meter from the City and prepare a meter setter at his cost.

2. Sanitary Sewer

- (a) There is an existing 100mm-diameter sanitary sewer service to the proposed facility that may be retained. If a larger service is required it can be provided at the applicant's cost.

3. Storm Drainage

- (a) There is no existing storm drainage service for this lot.
- (b) The developer must engage a consulting civil engineer to provide a storm water management plan for this site which meets the requirements of the City Storm Water Management Policy and Design Manual. The plan must accommodate the requirements to contain a 1 in 10-year storm event within pipes and identify overland drainage routes for a 100-year storm event with consideration for upstream water sources and downstream facility upgrading and/or provision of storm water retention facilities. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), storm water services for each lot created and/or on-site drainage containment and disposal systems. The on-site drainage system may be connected to the street drainage system with an overflow service at the developer's cost, with approval from the City drainage engineer.

4. Road Improvements

- (a) The Pandosy Street was upgraded recently to the ultimate curb alignment; but the sidewalk and boulevard require modifications. This includes removal and replacement of the existing sidewalk to the ultimate location and boulevard changes to match the new sidewalk alignment. It is necessary for the development to pay one-time cash payment of \$6,500.00 for this work. The City of Kelowna will complete this work at a later date.

5. Road Dedication and Subdivision Requirements

By registered plan to provide the following:

- (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. Electric Power and Telecommunication Services

The electrical and telecommunication services to this building as well as the local distribution wiring must be installed in an underground duct system, and the building must be connected by underground services. It is the developer's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for these services which would be at the applicant's cost.

7. Street Lighting

Ornamental street lighting including underground ducts must be installed on all roads fronting on the proposed development. The cost of this requirement is included in the roads upgrading item.

8. Engineering

Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the City Engineering Department for review and marked "*Issued for Construction*" by the City Engineer before construction may begin.

9. Geotechnical Report

Not required for building renovation purposes.

10. 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.

11. Levy Summary

(a)	<u>Levies</u>	Road Improvements	<u>\$6,500.00</u>
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	<b>Total Levies</b>		<b><u>\$6,500.00</u></b>
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12. Development Permit and Site Related Issues

(a) The development will be required to contain and dispose of site generated storm water on the site by installing a ground recharge system consisting of drywells and perforated pipe bedded in drain rock.

(b) Access and Manoeuvrability  
The site plan should illustrate the ability of an SU-9 vehicle to manoeuvre onto and off-site without requiring a reverse movement onto public roadways. If the development plan intends to accommodate larger vehicles, the site plan should be modified and illustrated accordingly.

13. Administration Charge

An administration charge will be assessed for processing of this application, review and approval of engineering designs and construction inspection. The administration charge is calculated as 3% of the total off-site construction costs, not including design. 7% GST will be added.

## 5.0 PLANNING AND CORPORATE SERVICES DEPARTMENT COMMENTS

The subject property has been the subject of several development proposals, which have not met with neighbourhood support.

The previous application by Pauline Draper (Z01-1050) to rezone the property to the RU6 – Two Dwelling Housing zone in order to permit the addition of a second dwelling to the subject property while retaining the existing dwelling was thought to represent a reasonable form of development of the subject property. The addition of the second dwelling would increase the level of development of the property while retaining the existing dwelling which has heritage significance and is listed in the Kelowna Heritage Register. As well, with the new development proposed for the rear yard, the visual impact on the road frontage is minimized, as recommended in the Abbott Street and Marshall Street Heritage Conservation Area Development Guidelines.

The Advisory Planning Commission and the Community Heritage Commission both recommended that the applicant pursue a Heritage Revitalization Agreement (HRA) to authorize the development of the second dwelling on the subject property, instead of rezoning the property to the RU6 – Two Dwelling Housing zone. The concern of the Planning and Corporate Services Department with the use of an HRA to facilitate this form of agreement, is that if there is a problem with the owner of the property not honouring the HRA, the underlying zone becomes the governing land use, and in this case, where the underlying zone is RU1 – Large Lot Housing, the second dwelling that was permitted by the HRA now becomes a legal non-conforming use in the RU1 zone.

However, after a negative Public Hearing, Council defeated the associated zone amending bylaw for an RU6 – Two Dwelling Housing rezoning proposal, and directed staff to bring back an application for a Heritage Revitalization Agreement dealing with the proposed development on the subject property.

In August 2003, new owners (Mr. and Mrs. Cummings) have purchased the subject property, and wish to proceed with the HRA process that was started by Pauline Draper, in the same form as proposed by Pauline Draper. The only change to the previous building program, is that the new owners propose the removal of the existing open deck which is in an advanced state of decay.

The proposed addition of a second dwelling to the subject property is not anticipated to have a major impact on the property or the existing heritage home, as the proposed new additional dwelling is designed with a lower building height than the existing dwelling located adjacent to the Pandosy Street frontage.

The use and servicing issues relating to the addition of a second dwelling to the subject property will be dealt with by a Heritage Revitalization Agreement. Staff recommend that Council consider the Heritage Revitalization Agreement application and forward it to a Public Hearing. Final adoption of the authorizing bylaw should be held until the applicant has executed the Heritage Revitalization Agreement and performed the bonding and subdivision requirements as identified by the Heritage Revitalization Agreement.

In light of the above, the Planning and Corporate Services Department supports this application and recommends for positive consideration by Council.

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Andrew Bruce  
Manager of Development Services

Approved for inclusion

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

PMc/pmc  
Attach.

**FACT SHEET**

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|---|--|
| 1. APPLICATION NO.:   | HRA03-0002   |
| 2. APPLICATION TYPE:  | Heritage Revitalization Agreement  |
| 3. OWNER:   | Robert Stewart Cummings<br>Benigna Valdez Cunnings   |
| . ADDRESS   | 1931 Abbott St.  |
| . CITY  | Kelowna, BC  |
| . POSTAL CODE   | V1Y 1B8  |
| 4. APPLICANT/CONTACT PERSON:                                      | Robert Stewart Cummings<br>Benigna Valdez Cunnings   |
| . ADDRESS   | 1931 Abbott St.  |
| . CITY  | Kelowna, BC  |
| . POSTAL CODE   | V1Y 1B8  |
| . TELEPHONE/FAX NO.:  | 763-9816   |
| 5. APPLICATION PROGRESS:  |  |
| Date of Application:  | September 27, 2001   |
| Date Application Complete:  | September 27, 2001   |
| Servicing Agreement Forwarded to Applicant:                       | January 2002   |
| Servicing Agreement Concluded:                                    | Pending  |
| Staff Report to Council:  | February 10, 2004  |
| 6. LEGAL DESCRIPTION:   | Lot 16, Blk 6, DL14, O.D.Y.D., Plan 348  |
| 7. SITE LOCATION:   | West Side of Pandosy Street,<br>between Cadder and Elliott   |
| 8. CIVIC ADDRESS:   | 2034 Pandosy Street  |
| 9. AREA OF SUBJECT PROPERTY:                                      | 1,671 m <sup>2</sup>   |
| 10. AREA OF PROPOSED REZONING:                                    | 1,671 m <sup>2</sup>   |
| 11. EXISTING ZONE CATEGORY:                                       | RU1 – Large Lot Housing  |
| 12. PROPOSED ZONE:  | RU1 – Large Lot Housing  |
| 13. PURPOSE OF THE APPLICATION:                                   | To Enter Into A Heritage<br>Revitalization Agreement With The<br>City Of Kelowna, In Order To Permit<br>The Addition Of A Second Dwelling<br>To The Rear Of The Subject Property |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.:                            | 02-081-19480   |
| NOTE: IF LANDS ARE WITHIN 800 m OF A<br>CONTROLLED ACCESS HIGHWAY |  |
| 15. DEVELOPMENT PERMIT MAP 13.2<br>IMPLICATIONS                   | N/A  |

Attachments

Subject Property Map  
4 pages of site elevations / diagrams  
14 pages of Heritage Revitalization Agreement