

**DATE:** March 21, 2007  
**TO:** City Manager  
**FROM:** Planning & Development Services Department  
**APPLICATION NO.** Z07-0022      **APPLICANT:** Howard Davidson  
TA07-0003  
**AT:** 764 Bernard Avenue      **OWNER:** Dr. Howard Davidson Inc.  
**PURPOSE:** TO REZONE THE SUBJECT PROPERTY FROM THE RU6 – TWO DWELLING HOUSING ZONE TO THE CD10 – HERITAGE CULTURAL ZONE.  
TO AMEND ZONING BYLAW 8000 TO INCLUDE HEALTH SERVICES AS A PRINCIPAL USE WITHIN THE CD10 – HERITAGE CULTURAL ZONE, AND ADD REGULATIONS LIMITING THE SCALE OF THIS USE.  
**EXISTING ZONE:** RU6 – TWO DWELLING HOUSING ZONE  
**PROPOSED ZONE:** CD10 – HERITAGE CULTURAL ZONE  
**REPORT PREPARED BY:** NELSON WIGHT

THAT Rezoning Application No. Z07-0022 to amend City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 8, Block 12, District Lot 138, O.D.Y.D., Plan 202, located on Bernard Avenue, Kelowna, B.C. from the RU6 – Two Dwelling Housing zone to the CD10 – Heritage Cultural zone be considered by Council;

AND THAT Text Amendment Application No. TA07-0003, to amend the City of Kelowna Zoning Bylaw No. 8000, as outlined in Schedule "A" of the report of the Planning and Development Services Department, dated March 21, 2007, be considered by Council;

AND THAT the necessary amending bylaws be forwarded to a Public Hearing for further consideration.

This application seeks to rezone this property and amend the Zoning Bylaw to address a specific request of the applicant, which is to be able to operate a small medical practice in an existing residential building. The application contemplates:

1. Rezoning the property to the CD10 – Heritage Cultural zone, and
2. Changes to the CD10 zone to include HEALTH SERVICES as a principal use. This use is intended to accommodate a small medical practice, in a manner similar to the impact from a HOME-BASED BUSINESS, MAJOR use, which is permitted as a secondary use in the surrounding RU6 zone. Additional regulation within that zone would restrict the use, such that no more than two clients could attend the site at any one time.
3. Regulation of signage in the CD10 zone, specifically to allow free-standing signage in a manner that does not detract from the residential character of the area.

### 3.0 BACKGROUND

The applicant recently purchased the subject property at 764 Bernard Avenue, which is zoned RU6 – Two Dwelling Housing. Existing development includes a 150 m<sup>2</sup> (1,600 ft<sup>2</sup>) structure, which has a 50 m<sup>2</sup> suite area at the rear of the building. The front portion of the structure has been previously converted to accommodate a home-based business. There is a small bedroom in the attic as well.

The applicant intends to continue to rent out the suite portion, and run a small medical practice out of the front 100 m<sup>2</sup> portion of the building.

The table below shows this application's compliance with the requirements of the CD10 zone

CRITERIA	PROPOSAL	CD10 Requirements
Subdivision Regulations		
Lot Area	636 m <sup>2</sup> (0.16 ac)	460 m <sup>2</sup>
Lot Width	15.24 m	13.0 m
Lot Depth	41.8 m	30.0 m
Development Regulations		
Site Coverage	<40%	40%
Height (existing house)	1 ½ storeys	2 ½ storeys / 9.5 m
Front Yard (Bernard Ave.)	10 m	6.0 m
Side Yard (east)	2.0 m	1.8 m (1 to 1 ½ storey) 2.3 (2 or 2 ½ storey)
Side Yard (west)	4.0 m	1.8 m (1 to 1 ½ storey) 2.3 (2 or 2 ½ storey)
Rear Yard (north)	9.5 m	7.5 m
Other requirements		
Parking Stalls (#)	5 spaces <sup>A</sup>	Health Services: 5 per 100 m <sup>2</sup> Secondary Suite: 1 Total: 6
Private Open Space	meets requirements	30 m <sup>2</sup> of private open space per dwelling
Refuse and Recycling	(no details provided) <sup>B</sup>	Screening required Min. 3.0 m from abutting residential zones

<sup>A</sup> The applicant has applied to vary the required number of stalls from 6 stalls required to 5 stalls provided.

<sup>B</sup> The applicant will be required to provide details of any refuse or recycling bins proposed for the site, including proposed screening/landscaping.

#### **4.0 TEXT AMENDMENT**

Details of the proposed text amendment are provided in the attached Schedule “A”, but the following points outline the general intent:

- add HEALTH SERVICES as a principal use within the CD10 zone;
- restrict the use to no more than two clients at any one time, which is similar to the restriction for commercial activity in residential areas governed under the HOME-BASED BUSINESS, MAJOR use category;
- include in the CD10 zone regulation that allows limited free-standing signage

#### **5.0 TECHNICAL COMMENTS**

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

##### Fire Department

Fire department access, fire flows, and hydrants as per the BC Building Code and City of Kelowna Subdivision Bylaw.

##### Inspections Department

No concerns related to proposal for signage. Permit required for renovations. Building to meet building code requirements particularly regarding fire separation between residence and business, handicap access to building, washroom and floor area.

##### Works and Utilities Department

###### *Domestic Water and Fire Protection:*

This property is currently serviced with a 13mm-diameter copper water service. The Inspection Services Department must determine if the existing service is of sufficient size to provide adequate water for the existing structure and the proposed addition.

A larger service, if required, can be provided by the City at the owner's cost.

###### *Sanitary Sewer:*

Our records indicate that this property is serviced with a 100mm-diameter sanitary sewer service that should be adequate for the proposed application.

###### *Variance and Site Related Issues:*

The requested variance does not compromise Works and Utilities servicing requirements.

Adequate off-street parking must be provided. Access to the dust free surface area will be restricted to the rear lane.

#### **6.0 PLANNING AND DEVELOPMENT SERVICES COMMENTS**

##### Context

This block of Bernard Avenue from Richter Street to Ethel Street is unique, in that there are several heritage homes, which accommodate a mix of uses. The predominant use is residential, but there are some existing commercial uses within designated heritage buildings (uses in these cases are governed by existing Heritage Revitalization Agreements). Several other houses along this block accommodate home-based businesses as well. The Knowles Heritage house sits near the east end of this block, next to Knowles Park.

### Rezoning to CD10

The CD10 – Heritage Cultural zone is to provide a zone for the preservation of land and buildings, with heritage value, for low density residential uses and secondary commercial uses related to arts and cultural activities which are compatible with residential neighbourhoods. Although this building is not on the heritage register, it does have some heritage value.

Rezoning the subject property to the CD10 zone is considered an appropriate solution to accommodate this applicant, while recognizing the broader heritage character of the surrounding neighbourhood.

### Text Amendments

There are presently three sites within the City of Kelowna zoned to the C10 – Heritage Cultural zone: two are on the same block, and a third at the corner of Sutherland Avenue and Ethel Street (see attached CD10 Map).

The amendment to the CD10 zone to allow for the “health services” use is also deemed an appropriate fit with the intentions of that zone, as well as being compatible with the surrounding residential and limited commercial activity along this block of Bernard Avenue. The addition of this use is to be regulated in a manner consistent with the provisions for home-based businesses, which is an existing use within the RU6 zone.

Staff is also supportive of the amendment to the CD10 zone to allow small free-standing signage, similar to the historic character of some of the signs already on the street (e.g. two posts or hanging from a small post). Allowing this form of signage works well for the limited commercial activity on this block, provided that it is restricted in such a way that the residential character of the street is not compromised.

### Variance to Required Parking

The parking requirement for “health services” is 5 spaces per 100 m<sup>2</sup>. This standard is appropriate for that use in commercial zones, but does not adequately reflect the parking demand for the activity in this case, since it is limited to no more than two clients at any one time. Consequently, Staff is supportive of the variance, and will forward a report to Council in to deal specifically with this element of the proposal.

### Establishment of Heritage Conservation Area

Earlier this year, Staff brought forward a report to Council for a development variance permit for another property on this block, and in that report requested direction to evaluate the policy direction for this unique block of Bernard Avenue. At that meeting, Council passed the following resolution:

R111/07/01/23 THAT Council authorize staff to pursue design guidelines for this block of Bernard Avenue and report back to Council

Further to that direction, and in light of this recent application, Staff sees merit in examining the notion of creating a heritage conservation area along this block. Situations such as the present one demonstrate the benefits of such regulation, in that the City could better promote heritage preservation.

A decision to support this application could set a precedent for other properties along this block, and although Staff is generally supportive of that notion, there is no way to mandate the actual heritage preservation and enhancement of the housing stock that exists today. Although the expanded use potential benefits the property owner, there is no guarantee that these property owners will respect the heritage character with new development.

### Conclusion

The combination of applications to deal with this particular development proposal are considered by Staff to be a reasonable compromise to allow the project to proceed in this case. Consequently, Staff recommends support of the rezoning, text amendment, and development variance permit application.

Staff will continue to pursue creation of design guidelines for this area, at the time of the next OCP update, and re-examine the notion of creating a heritage conservation area for this block of Bernard Avenue. This approach would allow the City to regulate form and character, such that this valuable heritage character is maintained and enhanced for the future.

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Shelley Gambacort  
Acting Development Services Manager

Approved for inclusion

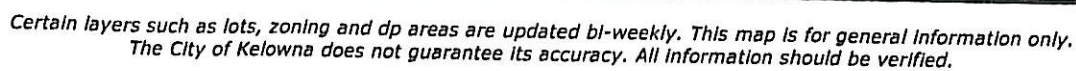
Mary Pynenburg, MRAIC MCIP  
Director of Planning & Development Services

NW/nw

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### **ATTACHMENTS**

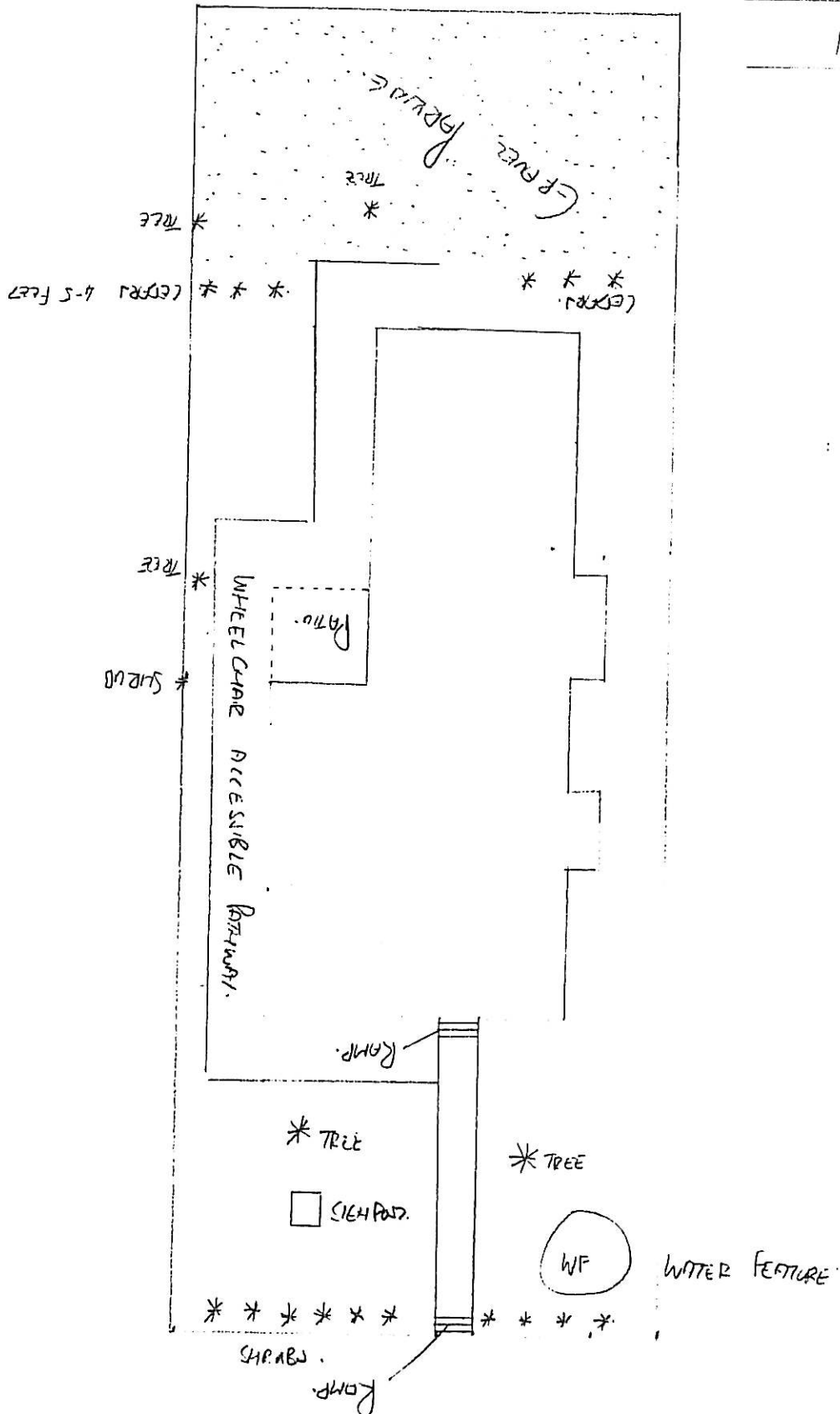
Location of subject property  
Site Plan / Landscaping  
Photos of Existing House (3 pages)  
Floor Plans (2 pages)  
Supplemental Information from Applicant (4 pages)  
CD10 Zones Sites within City of Kelowna  
Schedule "A"



ACCESS LANE, NORTH

LANDSCAPE PLAN

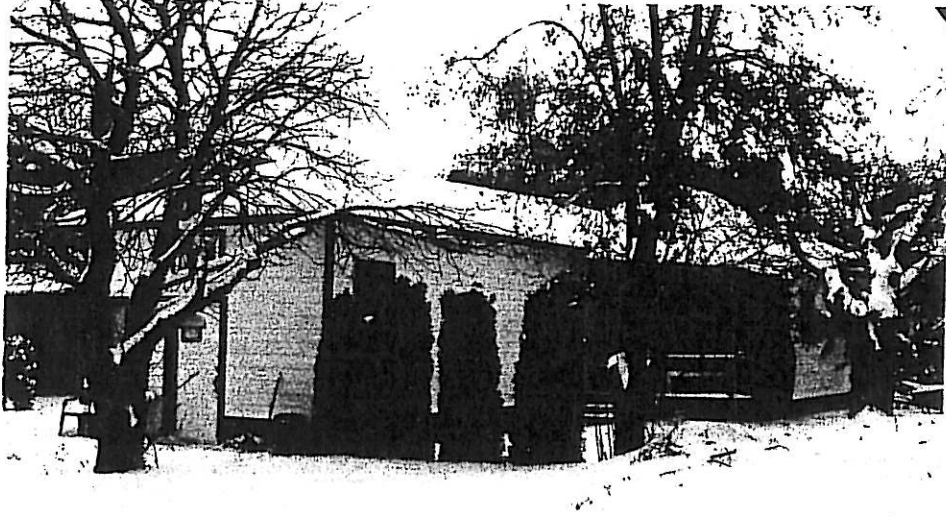
1:200



LEONARD AVE, SOUTH



North & West sides of property

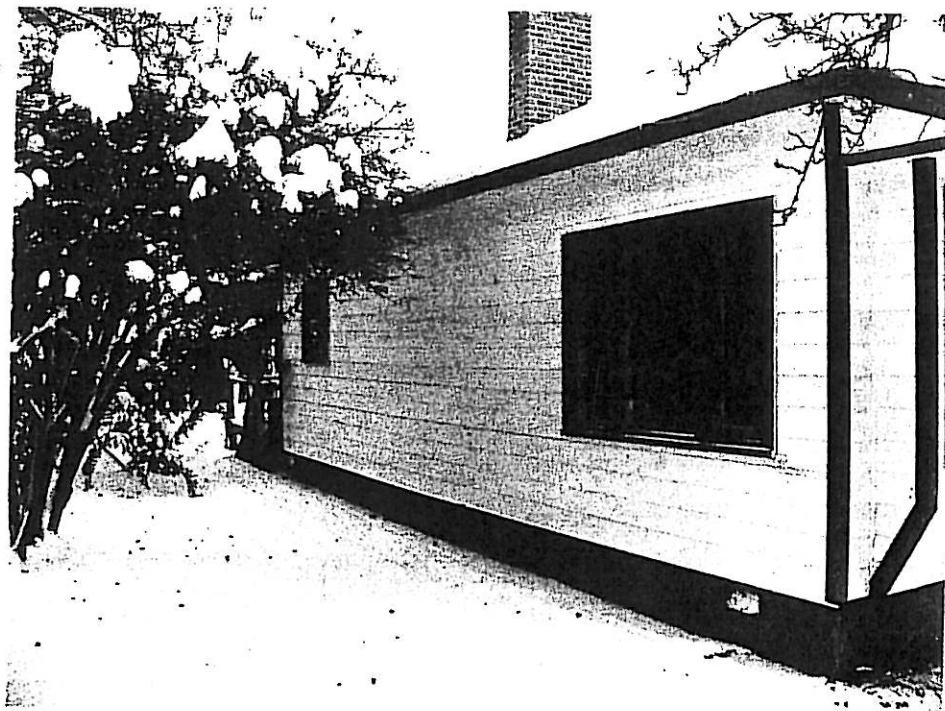


East side of property

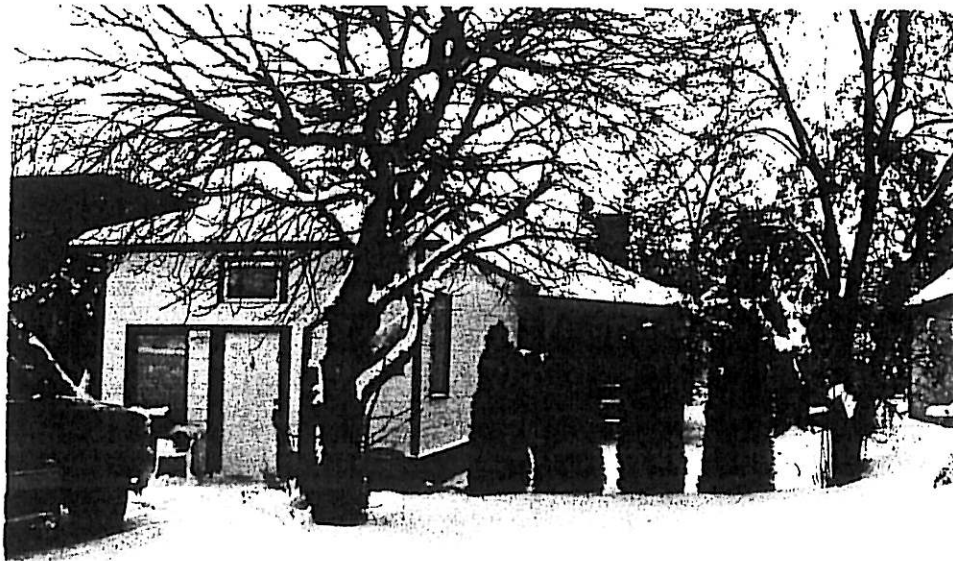




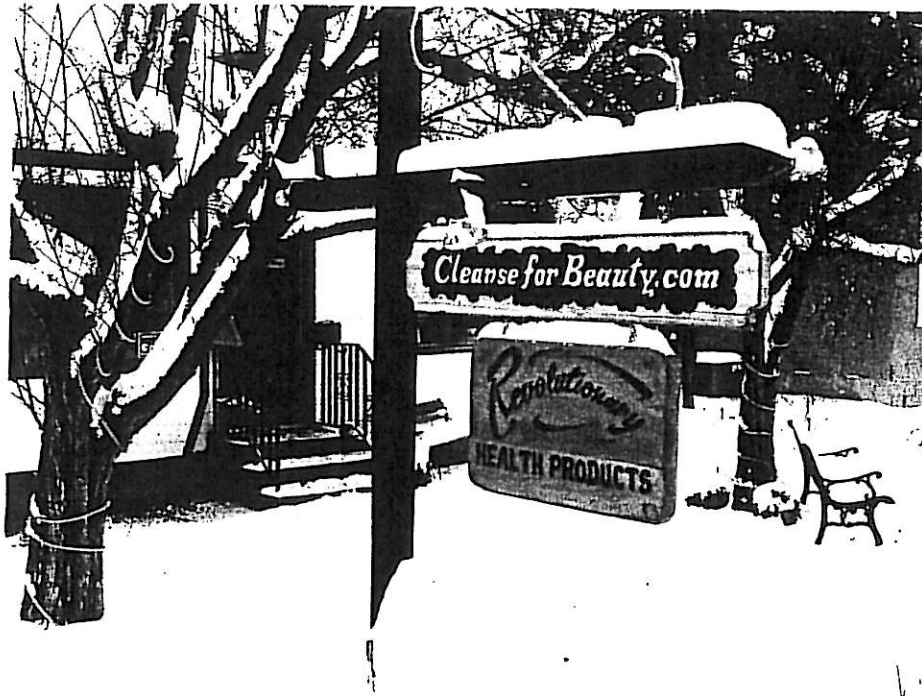
West side of property – note wheelchair accessible path runs along  
this side of the building



North side of property



Current signage view from Bernard Ave (South side)



View from Bernard Ave (South side)







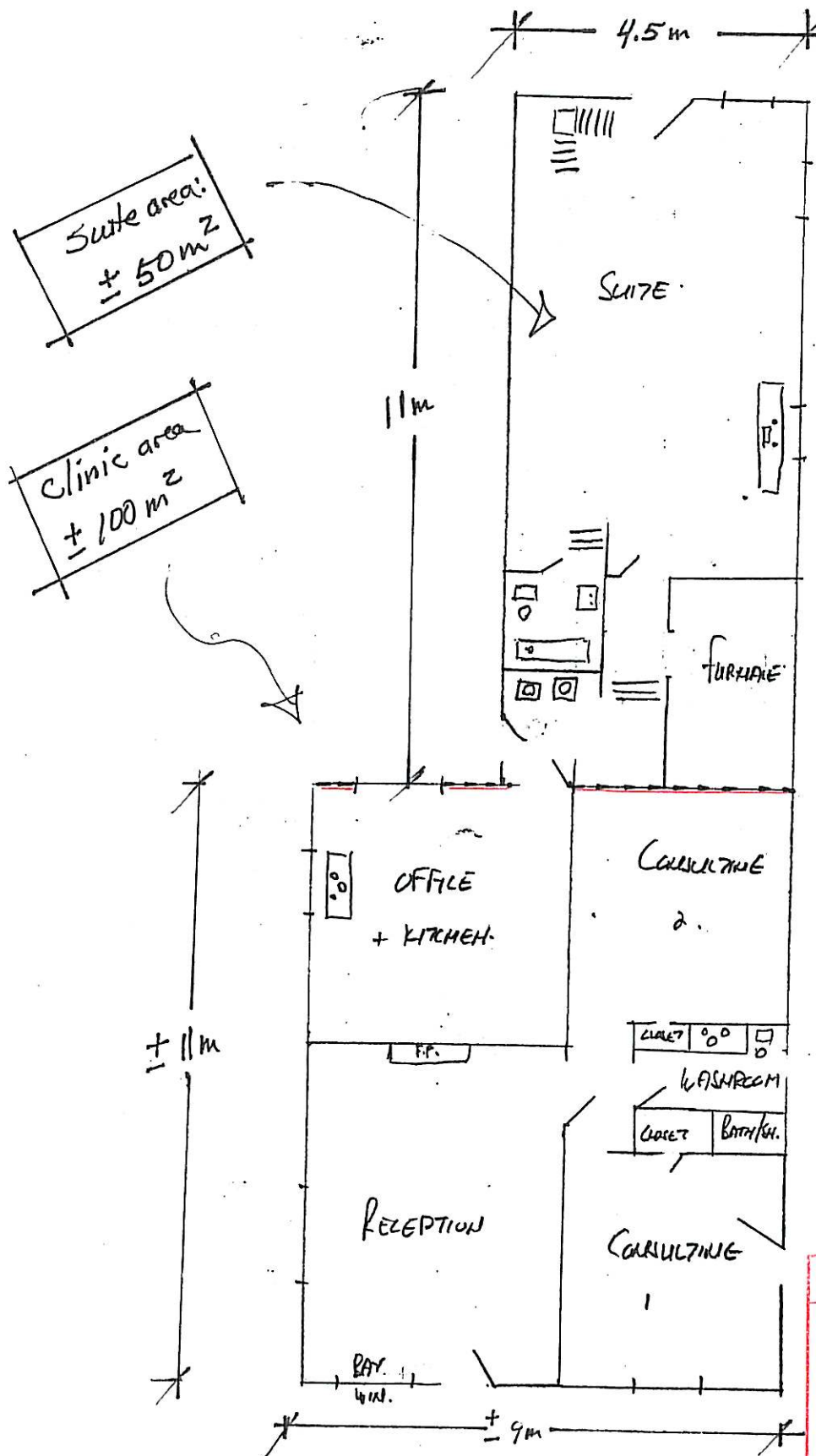


LANE (NORTH)

SCALE 1:100

FLOOR PLAN.

MAIN FLOOR.



TOTAL FLOOR AREA

APPROXIMATELY 135 SQUARE METRES.

BUSINESS TO OCCUPY

70 SQUARE METRES  
= 52% OF TOTAL FLOOR AREA.

FLOOR AREA FOR BUSINESS

IS ALL THE FLOOR AREA  
SOUTH OF INDICATED  
RED LINE.

INTERNAL RENOVATIONS PLANNED

- REMOVE CLOSETS FROM CONSULTING ROOMS + SO DONE WIDEN WASHROOM TO PROVIDE WHEELCHAIR ACCESSIBILITY.
- WIDEN DOORWAYS FROM RECEPTION TO CONSULTING ROOMS + WASHROOM TO ALLOW WHEELCHAIR ACCESSIBILITY.

**SCHEDULE A (1 of 1)**

This forms part of development

Permit # \_\_\_\_\_

Date \_\_\_\_\_

Signature \_\_\_\_\_

BERNARD AVE (SOUTH).

LANE (North)

SCALE 1:100

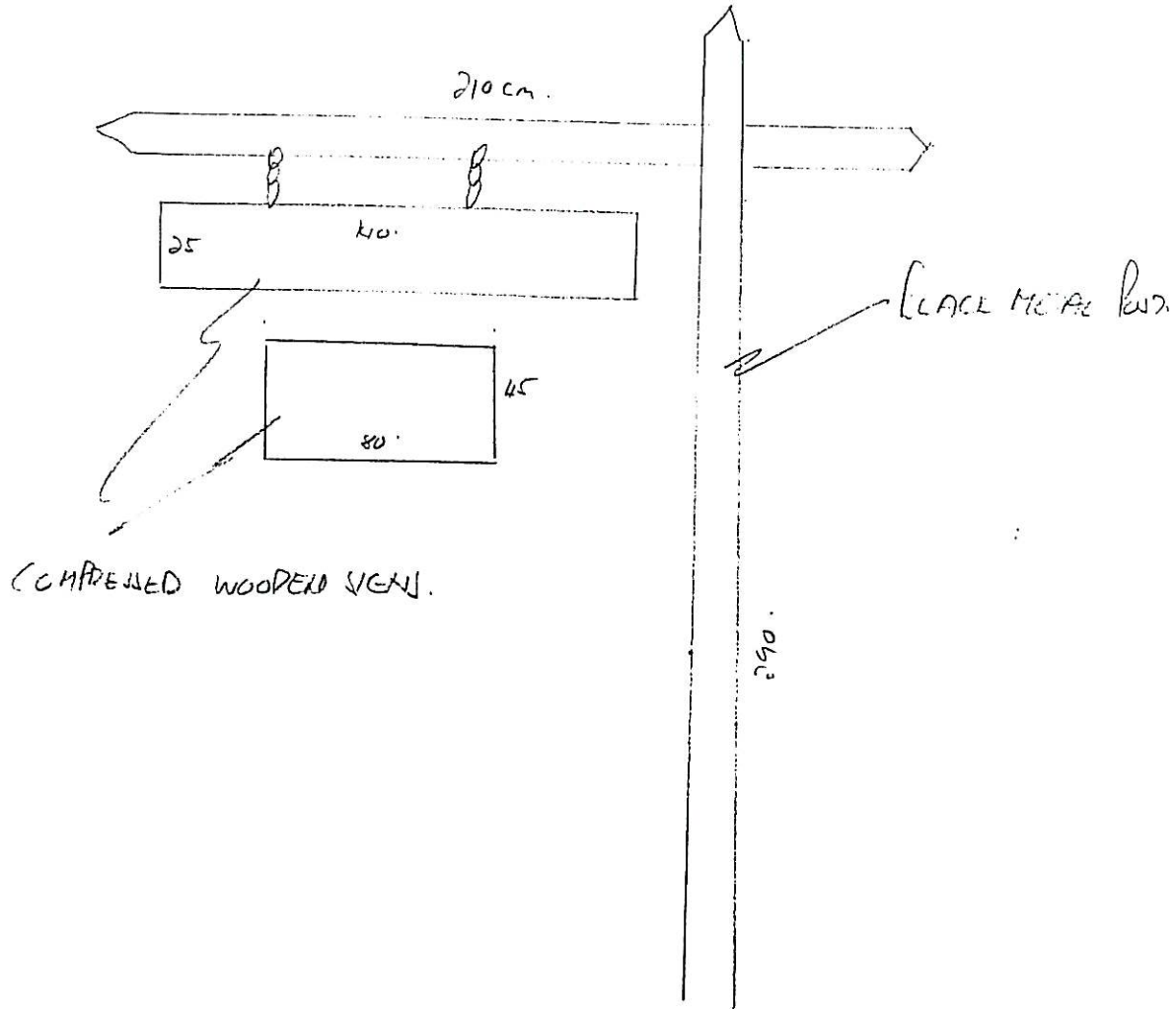
FLOOR PLAN.

TOP FLOOR.



BERNARD AVE (South)

SIGNAGE. (NOT TO SCALE - SEE INCLUDED PHOTOGRAPH)



NO SIGNIFICANT CHANGES PLANNED

SCHEDULE C (1 of 1)	
This forms part of development	
Permit #	
Date	
Signature	

Howard & Gil Davidson

1 December 2006

To city councilors, Kelowna City Council

**RE: Approval of variances on zoning & signage bylaws at 764 Bernard Ave  
to allow the establishment of a family practice by a community based  
family physician**

Thank-you for reviewing this application. I have been looking for an appropriate location for my medical practice for the past 18-24 months. I currently lease space in a shopping mall. I have found that a community based, less stark, not quite so "clinical environment" is a healthy place for people to see their physician in the context of long-term community based care where much of the work is longitudinal in nature & acute clinical care is not prominent.

This location on Bernard is ideal. It is close to amenities such as buses, pharmacies & is readily accessible to the public. The property itself can be converted to a medical practice without in any way detracting from the ambience of the area, maintaining the residential & historical feel of the area. There is adequate off street parking & minor renovations are needed to make the property both outside & inside accessible to disabled people.

I can provide excellent care in a comfortable environment for my patients from this home & at the same time maintain if not improve the general feel of this area of Kelowna.

I have spent a significant amount of time with the planning department at City Hall who have endorsed this proposal & it is on this basis that I have made an offer on this property.

I sincerely ask for your support & approval of this proposal as it will undoubtedly benefit the people of Kelowna.

Yours sincerely



Dr Howard Davidson

3905 Borland Rd, Kelowna, BC, V1W 4G9  
Telephone/Fax (250) 860-2953

e-mail: gil\_howard@shaw.ca



## **Landscaping plans for 764 Bernard Ave, Kelowna**

No major changes proposed to current landscaping.

Proposed changes include:

- (1) Widening of path along west side of the house to provide wheelchair accessibility.
- (2) Ramps down stairs from Bernard Ave sidewalk & up into the main entrance.
- (3) Gravel parking along the North side of the property which has lane access

Howard & Gil Davidson

28 November 2006

To whom it may concern

**RE: Use of 764 Bernard Ave as a medical practice**

I Melissa Krysko of 756 Bernard ave,  
being a neighbour to this property have no objection to the use of the above location for  
the purpose of a medical practice.

Yours truly,

Melissa Krysko

Howard & Gil Davidson

28 November 2006

To whom it may concern

**RE: Use of 764 Bernard Ave as a medical practice**

I Scott Davis of Nadhouse Creative Inc.  
being a neighbour to this property have no objection to the use of the above location for  
the purpose of a medical practice.

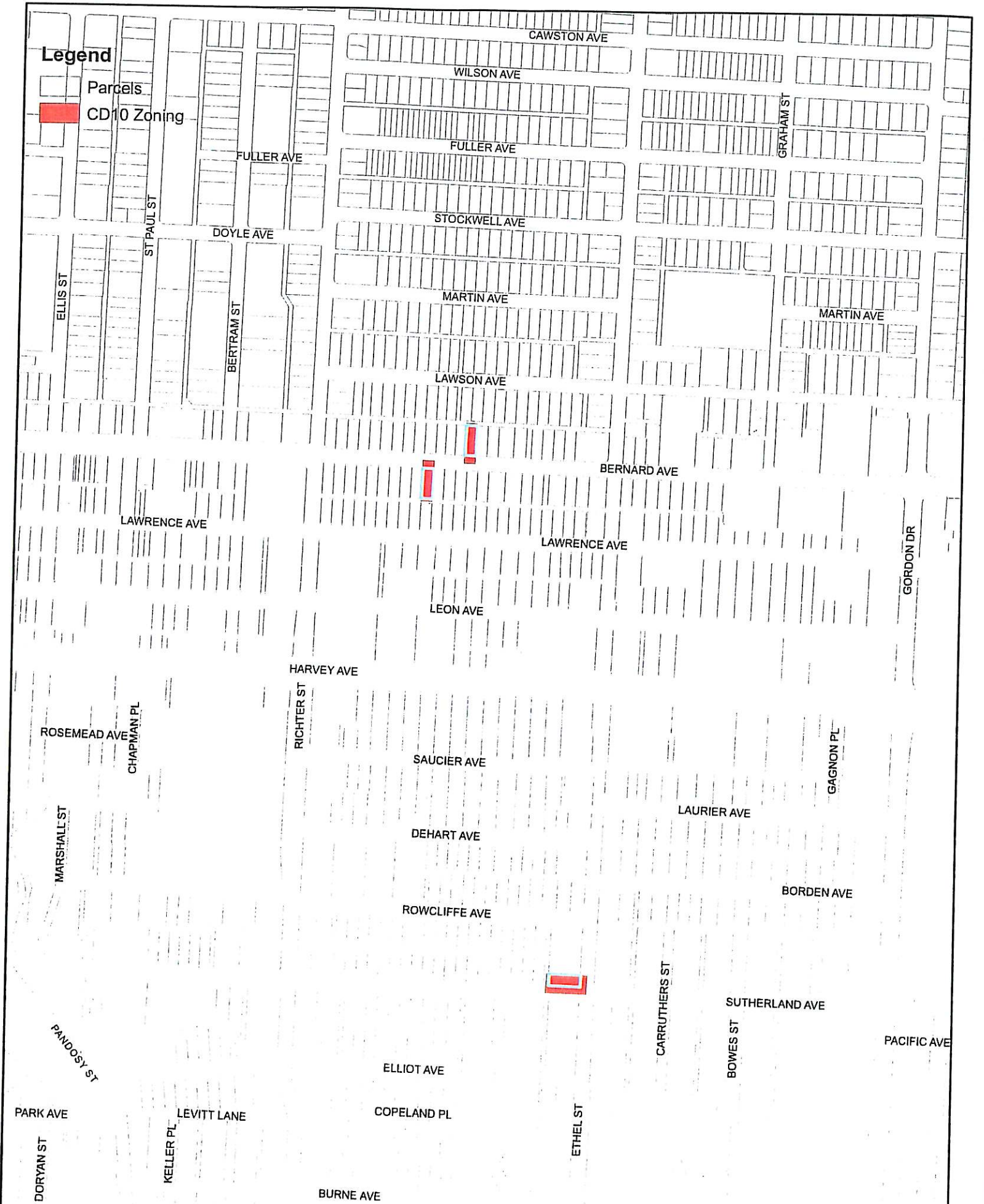
770 BERNARD AVE

Yours truly,



**Legend**

- Parcels
- CD10 Zoning



**CD10 Zoned Sites within City of Kelowna**

**SCHEDULE “A”**  
**Text Amendment No. TA07-0003**

**Re: CD10 – Heritage Cultural Zone**

<b>Proposed Amendments – Zoning Bylaw No. 8000</b> <b>CD10 Heritage Cultural Zone</b>			
The following changes are proposed for Schedule “B” Comprehensive Development Zones: CD10 – Heritage Cultural Zone			
Section 1.2	CD10 – Heritage Cultural zone (Principal Uses) – Add the following use:  <b>HEALTH SERVICES</b>		
Other Regulation Section 1.6 (e)	Add the following regulation and re-number as necessary:  The <b>HEALTH SERVICES</b> use shall not generate more than two (2) clients to the site from which the business is being operated at any given time.		
Other Regulation Section 1.6 (c)	Remove the following wording: “Signs shall be regulated as if the site is in an RU1 zone.”		
Other Regulation Section 1.6 (c)	Replace with the following wording:		
	1.6 (c) Signage permitted in this zone shall include the following		
	Identification	1 per lot	0.15 m <sup>2</sup> maximum area
	Free-Standing or Fascia	1 per lot	1.0 m <sup>2</sup> maximum area Low-watt, ground-oriented or pendant lighting only. Maximum 1.5 m above height measured from sidewalk elevation. Minimum 1.0 m setback from front property line. Sign must be of high-quality materials in heritage colours, and consistent with the architectural style of the home.