

# Memo



**Date:** September 29<sup>th</sup>, 2010  
**File:** 6800-20  
**To:** City Manager  
**From:** M. Stanborough, Planner Specialist, Policy & Planning  
**Subject:** Heritage Revitalization Agreements Update

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## **Recommendation:**

THAT Council direct staff to review the Heritage Revitalization Agreement program in its entirety to ensure that the program is protecting the residential character of neighbourhoods while preserving heritage properties;

AND THAT Council direct staff to investigate compliance with existing Heritage Revitalization Agreements in the Bernard/Lawrence area;

AND FURTHER THAT Council direct staff not to support additional Heritage Revitalization Agreements in the Bernard/Lawrence area until staff report back on the review of the Heritage Revitalization Agreement program.

## **Purpose:**

To make the best use of Heritage Revitalization Agreements throughout Kelowna while protecting the residential character of significant heritage neighbourhoods.

## **Background:**

In accordance with section 966 of the Local Government Act, "A local government may, by bylaw, enter into a heritage revitalization agreement ... with the owner of a heritage property."

Heritage Revitalization Agreements (HRA's) are intended to aid in the preservation of heritage buildings by allowing them to be used for purposes that would not otherwise be allowed. The additional revenue obtained from these adaptive re-uses can then be used to help restore and maintain a heritage building. In Kelowna, properties listed on the Heritage Register have been identified as properties having heritage value.

A Heritage Revitalization Agreement is a voluntary written agreement negotiated by the City of Kelowna and the owner of a heritage building. The agreement outlines the duties, obligations and benefits negotiated by both parties. An HRA may vary or supplement provisions related to zoning, DCC's, subdivision and development requirements. In exchange for the variances or supplemental provisions, the property owner agrees to steps that will protect and/or enhance a heritage register property. Applications of HRA's are reviewed by the Community Heritage Commission and the Advisory Planning Commission prior to Council consideration. If approved by Council, the HRA is registered in the Land Titles Office and carries forward with the land.

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In Kelowna, there are currently thirteen HRA's on title (see Appendix A for summary of existing HRA's). Eight of these HRA's address commercial use in properties that are zoned residential. This adaptive reuse of residential heritage properties is the most common inquiry that staff receives about HRA's. In 2002, the Long Range Planner responsible for heritage presented a report to Council on revisions to the Guidelines for Adaptive Re-use of Residential Heritage Buildings. In this report staff explained that the existing Guidelines were revised in order "to encourage greater flexibility when considering appropriate adaptive re-uses." However, in order to ensure that these uses are appropriate given their relationship with their surrounding neighbourhood and adjacent properties, the Guidelines were also revised to be more specific regarding the size of the use, parking, hours of operation and signage. The staff report summarized that "The Guidelines have been developed to achieve an equitable balance between the preservation of heritage buildings and maintaining the integrity and character of residential neighbourhoods, as well as Urban Centres." Council endorsed the revised guidelines on June 24<sup>th</sup>, 2002.

Given the on-going interest of the public regarding HRA applications, staff has recently reviewed all existing HRA bylaws and the Guidelines for Adaptive Re-use of Residential Heritage Buildings. In reviewing the Guidelines (see Appendix B) staff determined that the majority of recommendations are sufficient to allow for applicability of an HRA. However, one of the major concerns highlighted in the Guidelines is the impact on the neighbourhood, as seen in the first three points in the guidelines:

#### 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 reuse with neighbouring property owners.

#### 2. Residential Component

A residential component (secondary suite, principal dwelling, etc.) should be provided in conjunction with a non-residential use in order to minimize impacts on the residential character of a neighbourhood. For security purposes, incorporating a residential component is particularly important where a high concentration of adaptive re-uses occurs along a particular block.

#### 3. Concentration of Adaptive Re-Uses

Careful consideration must be given to avoid a concentration of adaptive re-uses in any given area. In this regard, consideration should be given to maintaining the existing neighbourhood character. In addition, consideration should be given to whether or not permitting an adaptive re-use or a concentration of adaptive re-uses would limit the ability to redevelop the area to higher density uses supported in the OCP.

During their research staff heard concerns regarding the impact of commercial in the Bernard/Lawrence area, and found that there is a strong commercial element along Bernard (see Appendix C). In August, staff presented this information to the Community Heritage Commission. At that time the Community Heritage Commission recommended that, "Council direct staff to withhold support for Heritage Revitalization Agreements in the Bernard/Lawrence area so staff can review the circumstances, working with the community and Bylaw Services to determine how

to best move forward with the continued revitalization of the area.” At this time it was recognized that a review may have to include the impact of businesses licences as well as Heritage Revitalization Agreements in the neighbourhood, but that staff would first investigate the impact and compliance of existing HRA’s.

Policy and Planning staff has discussed this issue with Bylaw Services, and would be able to conduct inspections of the heritage properties with a bylaw officer starting in November. The Local Government Act allows a local government or its delegate to inspect protected heritage properties for the purposes of “assessing the heritage value, heritage character or the need for conservation of real property.” This inspection would help determine if the properties are being taken care of as required by the existing HRA agreement, and if the residential component is incorporated into the overall use of the property.

It is anticipated that this review would be completed by early 2011. Currently, staff are beginning the process of negotiating terms and conditions for an HRA along Bernard Avenue, but it is anticipated that the review of the HRA program would be completed before this HRA would come before Council.

**External Agency/Public Comments:**

Recently, staff gave a presentation to the Kelowna South-central Association of Neighbourhoods (KSAN) as part of the community consultation for the draft Official Community Plan. The presentation was regarding the changes to future land use and impacts on the south-central neighbourhood. At this presentation the representatives from KSAN were pleased with the direction of the draft OCP, but expressed concern as to the on-going impact of commercial in the Bernard/Lawrence heritage neighbourhood; four of the eight residential adaptive reuse HRA properties are along one block of Bernard. Residents of the area expressed concern that the residential component of the HRA was not part of the current use of the building (each of the 4 HRA bylaws requires a residential component).

**Internal Circulation:**

Stephen Fleming, City Clerk  
Shelley Gambacort, Director, Land Use Planning

**Legal/Statutory Authority:**

Local Government Act, sections 956, 957 and 966

**Existing Policy:**

*Official Community Plan*, policy 6.1.20 **Encouraging Urban Centre Location**. Work with the Chamber of Commerce, Economic Development Commission, the Downtown Kelowna Association and the local business community to encourage new commercial enterprises to locate within designated Urban Centres.

*Official Community Plan*, policy 16.1.2 **Incentives**. Pursue opportunities for financial and other incentives to be administered by the City to encourage the retention, restoration and maintenance of heritage buildings.

**Personnel Implications:**

Policy and Planning staff to work with Bylaw Services to inspect buildings in the Bernard/Lawrence Avenue area starting November 2010, as per Bylaw officer’s availability.

**Community & Media Relations Comments:**

Communicate Council’s decision to key stakeholders.

**Considerations not applicable to this report:**

Legal/statutory Procedural Requirements:

Alternate Recommendation:

Financial/Budgetary Considerations:

Submitted by:



M. Stanborough, Planner Specialist, Policy and Planning

Approved for inclusion:



S. Bagh, Director, Policy and Planning

cc: Deputy City Clerk



## Appendix A

### Summary of Properties Reviewed:

2094 Abbott Street (1993) - HRA allows for the subdivision of the site to two properties. 2094 Abbott Street is protected through Heritage Designation, as well by being in the Abbott Street Conservation Area. 2096 is not a heritage property. HRA requires moderate conservation work.

763 Bernard Ave. (2007) - HRA states 200 sq. m. for retail (2100 square feet), basement residential, carriage house over garage residential, one free standing sign not exceeding 0.23sq. m. (2.5 sq. ft.). HRA requires minimal conservation work.

770 Bernard Ave. (2009) - HRA states one residential unit, approximately 55% of floor space for office, a maximum of 4 staff, one free-standing sign not to exceed 0.23 sq. m. (2.5 sq. ft.). HRA requires minimum conservation work.

830 Bernard Ave. (2000) - HRA states one residential unit, three lawyers can use the site, a maximum of five support staff, maximum floor area 235m<sup>2</sup> (2530 sq. ft.) or 78% of the floor area of the principle dwelling. Parking varied to 1 for the residential space, with no loading, and no specification of parking for lawyers. HRA allows one free-standing sign with a maximum sign area of 0.8 sq. m. (8.6 sq. ft.). HRA requires significant conservation work.

865 Bernard Ave. (2000) - HRA states that two offices spaces are allowed, with a maximum of two employees, or two volunteers, or one employee and one volunteer, with a board meeting space, all that may only be used by non-profits. One residential unit is also required. The HRA varies the sign bylaw allowing one free-standing sign for a maximum sign area of 0.6 m. sq. (6.5 sq. ft.) As well, no loading space is required. The HRA requires minimum conservation work.

911 Borden Ave. (2009) - HRA states that the first two floors may be used for commercial, limited to 217 sq. m (2335 sq. ft.), with a maximum of 4 employees. Seven on-site parking stalls provided. The third floor and an accessory building will provide residential use. The HRA allows for a parking variance from 8 to 7 stalls. The HRA requires significant conservation work.

486 Cadder Ave. (1996) - HRA states a medical doctor's office (no min./max. area specified) for one doctor and two support staff, and one residence. HRA makes reference to parking area with five parking stalls. The HRA provides no variance for signage. HRA requires moderate conservation work.

1177 Ellis Street (previously 520 Clement Ave) (2010) - HRA states that the heritage property may be used for principal and secondary uses permitted by the City of Kelowna Zoning Bylaw No. 8000, C4 Town Centre Commercial Zone, and allows for liquor primary and liquor sales. HRA requires significant conservation work.

1869 Marshall Ave. (2007) - HRA states a variance of the zoning to RM5, varies parking to 5 stalls, but does not provide a sign variance. HRA requires moderate conservation work.

2032-34 Pandosy St. (2004) - HRA for use of land as RU6 with carriage house. HRA does not provide a sign variance or parking variance. HRA requires moderate conservation work.

2124 Pandosy St. (2004) - HRA states five residential units will be allowed, limited to sizes as specified in the HRA, with no dwelling units in the basement. HRA does not provide a sign variance or parking variance. HRA requires significant conservation work.

2178 Pandosy St. (2002) - HRA states one residential unit, maximum of three doctors, three support staff, no more than 12 clients per day, or three at any one time. Maximum area for office and video conferencing space is limited to the lesser of 307 sq. m. (3305 sq. ft) or 68% of the floor area of the principle dwelling. Parking varied from commercial requirements from 15 spaces to 4 existing, and 0 (zero) for the dwelling unit. Variance of sign bylaw to allow for 1 free-standing sign with a maximum area of 1.3 sq. m. (14 sq. ft.), and one sign on the front gate of the property of 0.76 m. sq. (8 sq. ft.). HRA requires no conservation work.

770-772 Rutland Rd. (2005) - HRA states that 8 residential units will be allowed. HRA does not provide a sign variance or parking variance. HRA requires moderate conservation work.

## Appendix B

### City of Kelowna Adaptive Re-use Guidelines for Residential Heritage Buildings

The Kelowna Official Community Plan recommends the use of Heritage Revitalization Agreements to allow for the adaptive re-use and continuing protection of heritage buildings. Entering into a Heritage Revitalization Agreement with the City of Kelowna allows owners of heritage buildings to use their building for purposes that would not otherwise be allowed. The additional revenue obtained from these adaptive re-uses can then be used to help restore and maintain their heritage building. In turn, the community benefits from the conservation of Kelowna's built heritage.

*Please note: changing a residential building to a commercial use may require modifications so as to meet the requirements of the BC Building Code.*

#### Objectives related to permitting the adaptive re-use of residential heritage buildings

- To conserve Kelowna's residential heritage buildings listed in the Kelowna Heritage Register by enhancing their appearance and viability as functional buildings;
- To retain the desirable qualities of older residential neighbourhoods such as heritage houses, mature landscaping and pedestrian oriented street environments;
- To favourably consider a limited range of uses which would achieve the adaptive re-use of heritage buildings and at the same time, would preserve the prevailing character of neighbourhoods by limiting impacts such as high amount of traffic, noise, smell, etc.;
- To ensure that allowing adaptive re-uses within heritage buildings does not have a negative impact on the viability of existing commercial areas within Town Centre areas.

#### Considering the relationship between the location and use of heritage properties

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 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.

For the purpose of these guidelines, roads not identified as major roads on the 20 Year Major Road Network Plan will be considered local roads. Adaptive re-uses that can be supported along local roads also include 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. The difference would be that the scale and conditions of such uses could be expanded, to a lesser degree than on major roads, under a Heritage Revitalization Agreement.

### 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 reuse with neighbouring property owners.

#### 2. Residential Component

A residential component (secondary suite, principal dwelling, etc.) should be provided in conjunction with a non-residential use in order to minimize impacts on the residential character of a neighbourhood. For security purposes, incorporating a residential component is particularly important where a high concentration of adaptive re-uses occurs along a particular block.

#### 3. Concentration of Adaptive Re-Uses

Careful consideration must be given to avoid a concentration of adaptive re-uses in any given area. In this regard, consideration should be given to maintaining the existing neighbourhood character. In addition, consideration should be given to whether or not permitting an adaptive re-use or a concentration of adaptive re-uses would limit the ability to redevelop the area to higher density uses supported in the OCP.

#### 4. Design Standards

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

#### 5. Scale

The size and intensity of the adaptive re-use component should be compatible with the surrounding neighbourhood and able to be readily accommodated within an existing heritage building. The requirements of a specific use, and the available floor area in the existing building, will limit the extent and nature of the adaptive re-use proposal.

It is recommended that the number of employees not exceed four non-resident employees at any given time for adaptive re-uses along major roads and two non-resident employees at any given time for adaptive re-uses along local roads. In addition to this, it is recommended that, as a guideline, the non-residential floor area not exceed 85 m<sup>2</sup> (915 sq. ft.) for adaptive re-uses along major roads and 60 m<sup>2</sup> (645 sq. ft.) for adaptive re-uses along local roads.



## 6. Signage

Signage should be limited to one non-illuminated nameplate not to exceed 2.5 square feet in area and shall be placed within, flat against or hanging from the dwelling unit. Along major roads, signs of this size and dimension may be hung from a free standing post.

## 7. Parking / Access

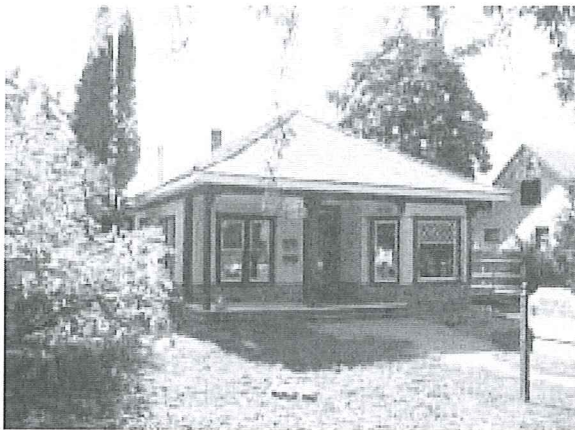
Consideration must be given to on-site parking, access and traffic generation associated with adaptive re-use proposals. In order to limit the impact on adjacent properties, the required number of on-site parking spaces should conform to the Parking Schedule of the Zoning Bylaw.

## 8. Hours of Operation

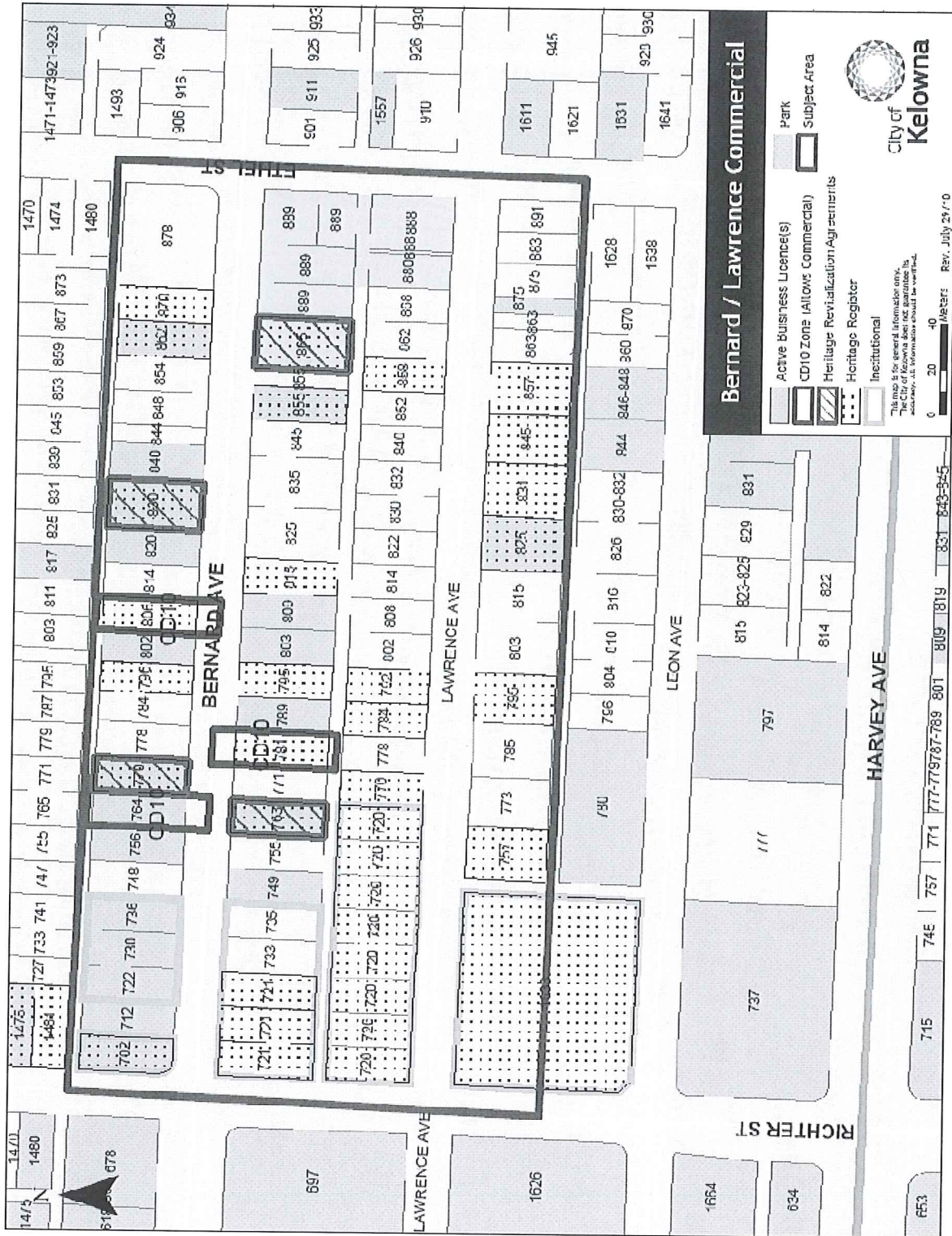
No generation of vehicular traffic or parking of vehicles in excess of that permitted for the zone in which the adaptive re-use is located should be permitted during non-regular working hours. Generally, working hours should be limited to daytime hours, Monday through Friday.

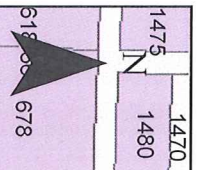
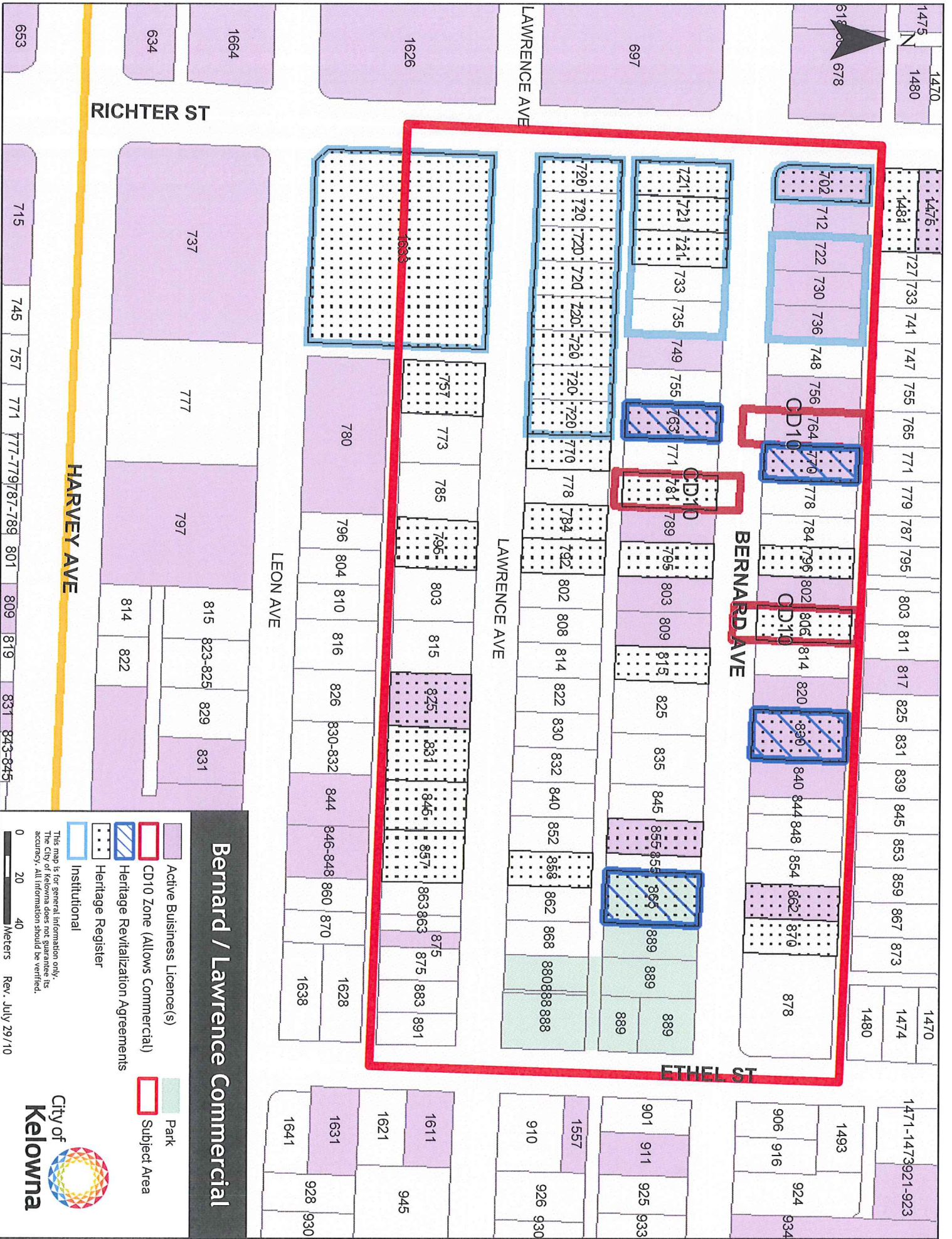
## 9. Screening

Screening helps lessen the impact of an adaptive re-use in a residential area. In this regard, outdoor storage and parking areas associated with an adaptive re-use should be well screened with fencing and landscaping which are compatible in design with the heritage building and which form a year round dense screen.



# Appendix C





RICHTER ST

HARVEY AVE

LAWRENCE AVE

BERNARD AVE

ETHEL ST

### Bernard / Lawrence Commercial

- Active Business Licence(s)
- CD10 Zone (Allows Commercial)
- Heritage Revitalization Agreements
- Heritage Register
- Institutional
- Park
- Subject Area

This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.



City of Kelowna  
Rev. July 29/10