

# Memo



**Date:** March 1, 2011  
**To:** City Manager  
**From:** Land Use Management, Community Sustainability (BD)  
**Application:** HRA10-0002      **Owner:** 0828609 BC Ltd., Inc.  
**Address:** 862 Bernard Ave.      **Applicant:** William T. Clarke  
**Subject:** Heritage Revitalization Agreement / Rental Housing Agreement

Existing OCP Designation: Multi-Residential Low Density

Existing Zone: RU6 - Two Dwelling Housing

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## 1.0 Recommendation

THAT Council consider Bylaw No. 10495, which would authorize the City of Kelowna to enter into a Heritage Revitalization Agreement for the property Lot 22, Block 12, Section 30, Township 26 ODYD Plan 202 on Bernard Avenue, Kelowna, BC, in the form attached to the report from the Land Use Management Department dated March 1, 2011 as Schedule "A";

AND THAT Council forward Bylaw No. 10494 authorizing a Housing Agreement between the City of Kelowna and 0828609 BC Ltd., Inc. No. BC0828609 (William T. Clarke), which requires the owners to designate one (1) dwelling unit for *purpose-built rental housing* on Lot 22, Block 12, Section 30, Township 26 ODYD Plan 202 located at 862 Bernard Avenue, Kelowna, BC, for reading consideration;

AND THAT the Heritage Revitalization Agreement Authorization Bylaw No. 10495 be prepared and forwarded to a Public Hearing for further consideration;

AND THAT the applicant be required to post a Landscape Performance Security bond with the City in the form of a "Letter of Credit" or cash in the amount of 125% of the estimated value of the landscaping, as determined by a professional landscaper.

## 2.0 Purpose

This application proposes to refurbish the heritage house located at 862 Bernard Avenue through the mechanism of a Heritage Revitalization Agreement (HRA). The applicant is proposing to reconfigure the existing single family dwelling to accommodate a law office and proposes to construct an accessory building that will contain a residential dwelling unit to satisfy the residential requirement. The applicant seeks to enter into a Housing agreement with the City of Kelowna for a purpose built rental unit on the subject property.

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In order to facilitate the proposal, the applicant is seeking the following variances within the HRA framework:

1. To increase the permitted commercial space as noted in the “Adaptive Re-use Guidelines for Residential Heritage Buildings” from 85m<sup>2</sup> permitted to 172m<sup>2</sup> proposed.
2. To legitimize a west side yard setback for the principal building from 2.0m required to 0.8m proposed (existing).
3. To vary the minimum required separation between buildings from 4.5m to 3.86m proposed.
4. To vary required parking stalls from 7 required to 5 proposed.

### 3.0 Land Use Management

The subject property is located within the City Centre Urban area in a residential area. There are other properties along this block of Bernard Avenue that have pursued Heritage Revitalization Agreement’s for adaptive reuses. In 1997 the subject property was granted an HRA, however it was never enacted and repealed in 1998.

The OCP supports the use of Heritage Revitalization Agreements as a means of facilitating the adaptive re-use and continuing protection of heritage buildings. The proposal is also generally compatible with the City of Kelowna’s Adaptive Re-use Guidelines for Residential Heritage Buildings.

The proposed upgrades to the exterior and interior of the building are expected to have a positive impact for the longevity of the building and will contribute to the maintenance of the heritage characteristics for this section of Bernard Avenue. Converting the building to an office and constructing a residential unit in an accessory building is consistent with other properties that have been granted a Heritage Revitalization Agreement.

The design of the accessory building both compliments the existing heritage building and is a suitable transition to the neighbouring residence. As a condition, the applicant will enter into a rental housing agreement for the residential component in accordance with the guidelines set by the City.

The Heritage Re-adaptive Use Guidelines are met in the following areas:

- the business will be operated during the recommended times
- the site will have a residential component
- letters of support were received from neighbours
- restoration plans respect the heritage character of the building
- signage is modest in size
- the existing landscape will be enhanced from the current state

The Guidelines are not met in the following areas:

- The proposal contributes to the concentration of adaptive re-uses on Bernard Avenue
- The scale of the commercial use exceeds the guidelines
- A variance for parking is required

The request to legitimize the west side yard from 2.0m to 0.8m stems from the fact that this building was constructed prior to current zoning regulations. The parking calculations are based on a new commercial building requirement and as this is a reuse of a residential site with limited access and lot size, meeting the requirements is a challenge. A variance to the separation of the buildings is required due to the existing heritage dwelling siting. In order to meet the rear and side yard requirements the distance between the dwellings needs to be reduced. This separation is based on BC Building Code requirements, and can be mitigated with the use of higher fire retardant materials in the new building.

#### 4.0 Proposal

##### 4.1 Project Description

The subject property is included on the City of Kelowna's Heritage Register and is located on Bernard Avenue between Richter and Ethel Streets. Built in 1905, the home was occupied and owned by a number of prominent business owners and most significantly was the home of W.A.C. Bennett and the birth home of Bill Bennett, both past Premiers of British Columbia.

Through the Heritage Revitalization Agreement, the applicant is proposing to refurbish the interior of the heritage house and convert it from residential use to law offices. The interior is anticipated to be reconfigured for clerical use, office work areas, a file storage room, a staff kitchenette and a signing room on the main floor and 3 individual offices on the second floor. The design of the proposed accessory building mimics the roof lines of the existing building and will incorporate the same colour palette.

External changes are proposed to include:

- Restoration of all wood windows as well as adding storm windows to match
- Restoration of the stone cellar room to make it a functional room of the building
- Re-landscaping the property by constructing a heritage style garden in the front yard
- Installation of lighted pathways to the front of the building and to the back accessory dwelling
- Addition of a wheelchair ramp to reach the veranda from the rear of the site
- Installation of grass crete for 3 of the parking stalls off the alley
- Upgrading the addition on the east side of the building by constructing a new foundation, adjusting the roofline, insulating and replacing the siding to match the remainder of the building

Proposed interior renovations include:

- Rewiring of all electrical to code standard
- Overhauling all plumbing and heating systems
- Reconfiguration of the interior space to be suitable to a law office use
- Re-insulation of all walls
- Refurbishing all ceilings
- Refinishing and exposing existing hand-cut plank fir floor
- Restoration of the existing stairwell railings and mouldings
- Repainting the interior of the building
- Repairing, insulating and building a new foundation for a 1930's addition on the east side of the building
- Widening of the entrance doorway to make it wheelchair accessible

The entire heritage house is proposed to be converted office space for a small law office. The applicant has indicated that the hours of operation of the office would be 8:30am-4:30pm Monday to Friday and that 5.5 employees will be engaged in the business. The guidelines recommend that the number of employees to not exceed 4 persons. One of the support staff intends to reside in the proposed residential unit. Given that one employee will reside at the site, only four full time and one part time employees will be travelling to and from the office.

Parking is located off the alley at the rear of the subject property. The Zoning Bylaw requires a total of 7 spaces, however only 5 are provided (3 outdoor and 2 within a garage). Given that Bernard Avenue will eventually have parking restrictions, on-street parking may not be available and the functionality of the property with reduced parking is questionable. The applicant has indicated that the nature of the business is such that it is unlikely all lawyers will be present at the same time. Further it was noted that they have very few client meetings in their office space and rationalize that the proposed parking will meet their business needs.

A landscape plan is proposed to enhance the historical character of the property. The proposal includes the removal of the three existing mature trees which have become hazardous, and replacing them with other large tree species to recreate the mature canopy on the site. The proposed replacement species are a maple tree at the sidewalk, a scarlet oak on the east side and a dogwood for the west side of the front yard. The smallest calliper of tree is 15cm which is generally larger than the size of many street trees approved for other projects. A flower garden on both property lines is anticipated to enhance the existing heritage home. A mixture of yellow and blue perennial plants are interspaced between a variety of hydrangea and other flowering shrubs.

#### 4.2 Site Context

The subject property is located in the Downtown Urban Town Centre, on the north side of Bernard Avenue between Richter Street and Ethel Street. The neighbourhood is generally characterized by single detached residential dwellings; however, there are four other addresses on the block that have Heritage Revitalization Agreements in place.

Adjacent zones and uses are:

<i>Direction</i>	<i>Zoning Designation</i>	<i>Land Use</i>
North	RU6 - Two-Dwelling Housing	Residential
East	RU6 - Two-Dwelling Housing	Residential
South	RU6 - Two-Dwelling Housing	Residential
West	RU6 - Two-Dwelling Housing	Residential



4.4 Subject Property: 862 Bernard Ave.



4.5 Zoning Analysis

Zoning Bylaw No. 8000		
CRITERIA	PROPOSAL	RU6 zone requirements
Subdivision Regulations		
Lot Area	637 m <sup>2</sup>	400 m <sup>2</sup>
Lot Width	15.24 m	13 m
Lot Depth	41.8 m	30 m
Development Regulations for existing Heritage Building		
Site Coverage (buildings, driveway and parking)	39.7 %	50 %
Commercial /residential floor area	Commercial: 172 m <sup>2</sup> ① Residential: 52.76 m <sup>2</sup>	Commercial: 85 m <sup>2</sup> Residential: 90 m <sup>2</sup>
Floor Area Ratio	30.6%	Lessor of 90 m <sup>2</sup> or 75% of total floor area of principal building
Height	1.5 storey/ 6.7 m	9.5m
Front Yard	15.0 m	4.5 m

Side Yard (west)	0.8 m ②	2.0 m
Side Yard (east)	2.6 m	2.0 m (1 - 1 ½ storey)
Rear Yard	12.1 m	6.0 m (1 - 1 ½ storey)
Development Regulations for proposed Accessory Building with Suite		
Height	4.5 m / 1.5 storey	4.5 m
Front Yard	33.52 m	4.5 m or 6.0 m to a garage
Side Yard (west)	3.05 m	2.0 m (1 - 1 ½ storey)
Side Yard (east)	6.1 m	2.0 m (1 - 1 ½ storey)
Rear Yard	1.5 m	1.5m
Separation (Distance Between Houses)	3.86 m ③	5 m
Other Requirements		
Parking Stalls (#)	Residential: 2 spaces Office use: 3 spaces (1 for persons with disabilities) <b>Total provided: 5 stalls ④</b>	Residential: 2 spaces Office use: 2.5/ 100m <sup>2</sup> GFA = 5 stalls  <b>Total required: 7 stalls</b>
Bicycle parking	Class I: 1 spot Class II: 1 spot  <b>Total provided:&gt; 2</b>	Class I: 1 per 10 employees or 0.2/100m <sup>2</sup> GFA Class II: 0.6 per 100m <sup>2</sup> GFA <b>Total required: 2</b>
Other Requirements		
Loading	None required	1 / 1,900 m <sup>2</sup> GFA
Signage	Meets requirements	Non-illuminated nameplate not exceeding 2.5 sq.ft.

#### Variances Sought:

- ① To vary the permitted commercial space as noted in the “Adaptive re-use Guidelines for Residential Heritage Buildings” from 85m<sup>2</sup> permitted to 172m<sup>2</sup> proposed.
- ② To legitimize the existing west side yard set back for the principal building from 2.0 m required to 0.8 m proposed.
- ③ To vary the minimum required separation between buildings from 4.5m to 3.86 m proposed.
- ④ To vary required parking stalls from 7 required to 5 proposed.

#### 4.6 Heritage Register

As detailed in the Heritage Register, this two-storey wood heritage home was built in 1905 and is referred to as the H.C. Cooper House. The heritage significance of the house is not for the builder but its' later renters, W.A.C. Bennett and his wife who resided here for only 2 years. The house also has value as it represents the early period of community development at the time of

Kelowna's incorporation in 1905 and for being one of many heritage homes along the Bernard Avenue corridor.

The house has a simple vernacular design with a steep gabled roof and entrance and porch on the front of the building a characteristic of many farmhouses of the period. The site has had a number of additions, the first being a stone cellar with a wood shed roof that was built on the northeast side of the house that is thought to be built shortly after the construction of the principal dwelling. In the 1920's, an addition to the rear of the house was constructed that attached the stone cellar to the home. This addition included space of a new kitchen area, a rear hallway and an indoor washroom. The east side enclosed porch was likely added around the same time to act as a mud room for the family and a screened sleeping porch for the summers. A garage was added to the site in 1928 and was removed in the 1980's.

The house benefited from the City's heritage conservation program and received a grant for external renovations in 1995. The house has been continuously residential in use since it was built and until now was never converted to commercial use.

## 5.0 CURRENT DEVELOPMENT POLICY

### 5.1 Kelowna Official Community Plan

The subject property is designated Multi-residential Low Density by Kelowna's Official Community Plan. The Multi-Unit Residential low density designation covers townhouses, garden apartments, apartments, buildings containing three or more residential units and complementary uses that are integral components of urban neighbourhoods would also be permitted (OCP, Chapter 19).

As it is a goal of the City of Kelowna to respect our heritage and preserve special features of our past for the benefit of present and future generations, the adaptive re-use of heritage buildings is considered appropriate within any future land use designation.

### 5.2 Adaptive Re-use Guidelines

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:

#### 5.2.1 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. *In this case, letters of support have been submitted to Staff from neighbours on either side of the subject property and across the street. It is note that the letter from Kelowna South-Central Association of Neighbourhoods (KSAN) was mixed in its support.*

### 5.2.2 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. *A suite will be constructed in an accessory building at the rear portion of the site.*

### 5.2.3 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. *The Policy and Planning Department note that there are 4 HRA's as well as 3 properties zoned CD10 on this block. However they are supportive of the work to restore the heritage character of the house and that the residential component must be upheld.*

### 5.2.4 Design Standards

Any heritage building restorations, renovations or alterations must respect the heritage character of the building and its surrounding area. *The proposed restorations will increase the life of the building's heritage features. As noted in the owner's letter of rationale, extensive updates are proposed for plumbing, electrical and insulation of the building.*

### 5.2.5 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. *At 172 m<sup>2</sup> the proposed development exceeds the recommended amount of commercial space. A total of 5.5 employees will utilize the space, 1 will reside in the residential dwelling.*

### 5.2.6 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. *A conforming non-illuminated sign is proposed for the site.*

### 5.2.7 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. *Access to parking is off the alley to the north of the site. For the adaptive reuse 2 residential and 5 office stalls are required, however, only 5 are being proposed and a variance is being sought. Bernard Avenue is designated as a major arterial road in the 20 year Transportation plan.*

### 5.2.8 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. *Hours of operation will be 8:30 - 4:30, Monday through Friday at this site.*

### 5.2.9 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. *The applicant has proposed extensive landscape upgrades.*

## 6.0 TECHNICAL COMMENTS

### 6.1 Building and Permitting

- 1) A separate Building Permit is required for the restoration work to existing building and for the residential accessory building.
- 2) Development cost charges apply for the new structure and are required to be paid prior to release of the Building Permit.
- 3) Structural Floor loading of the existing building to be determined for the change of use (house to commercial).
- 4) Drawings are not complete enough to comment on for new single family dwelling at the back of the lot. Require revised drawings for comment.

### 6.2 Shaw Cable

No Comment

### 6.3 Fire Department

An unobstructed and easily distinguishable fire-fighter access path, of 1100 mm, from the street to the secondary detached building entrance is required.

If a fence is ever constructed between the dwellings a gate with a clear width of 1100mm is required for emergency access. Any gate is to open with out special knowledge. Additional visible address is required for both dwellings from Bernard Ave.

### 6.4 Terasen



Please be advised that Terasen Gas' facilities will not be adversely affected. Therefore, Terasen Gas has no objection to the proposal to preserve and rehabilitate the existing heritage house at the subject property.

#### 6.5 Development Engineering

*Domestic Water:* This property is currently serviced with a 19mm-diameter copper water service. The service will be adequate for this application. Metered water from the main residence must be extended to supply the proposed accessory.

*Sanitary Sewer:* Our records indicate that this property is currently serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber (IC). The service is adequate for the proposed application.

*Site Access and Development Related Issues:* On-site parking modules must meet bylaw requirements.

Direct the roof drains into on-site rock pits. This will help dissipate the roof drain water and prevent additional concentrated flows onto the rear lane.

Provide a designated, unobstructed Emergency Access Path from the frontage road to the main entrance of the proposed accessory building.

*Electric Power and Telecommunication Services:* It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.

### 7.0 Application Chronology

Date of Application Received: September 21, 2010

#### Advisory Planning Commission

The above noted application was reviewed by the Advisory Planning Commission at the meeting on January 18, 2011 and the following recommendation was passed:

THAT the Advisory Planning Commission support Heritage Revitalization Agreement Application No. HRA10-0002, for 862 Bernard Avenue to permit changes to the use and layout of the existing heritage structure and to construct an additional accessory building with a dwelling unit; and to vary the required distance between the buildings from 4.5 m required to 3.86 m proposed. To vary the required parking stalls from 7 required to 5 proposed.

#### Anecdotal Comment:

The Advisory Planning Commission supports this HRA application subject to the applicant entering into a Housing Agreement that limits the rental rate of the proposed carriage house/secondary suite to ensure its rental affordability in perpetuity. Additionally, the HRA must reference a condition to ensure that the mature trees on the site to be replaced with sizable or comparable trees, preferably of the Sugar Maple species.

#### Community Heritage Commission

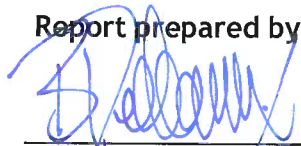
The above noted application was reviewed by the Community Heritage Commission at the meeting on February 3, 2011 and the following recommendations were passed:



THAT the Community Heritage Commission support Heritage Revitalization Agreement Application No. HRA10-0002, for 862 Bernard Avenue, to permit changes to the use and layout of the existing heritage structure and to construct an additional accessory building with a dwelling unit; to vary the required distance between the buildings from 4.5 m required to 3.86 m proposed; to vary the required parking stalls from 7 required to 5 proposed.

*The applicant will install a commemorative placard on the site noting that this was the home of W.A.C. Bennett and the birth home of Bill Bennett, both past Premiers of British Columbia.*

**Report prepared by:**



Birte Decloux, Urban Land Use Planner

**Reviewed by:**



Danielle Noble Manager, Urban Land Use Management

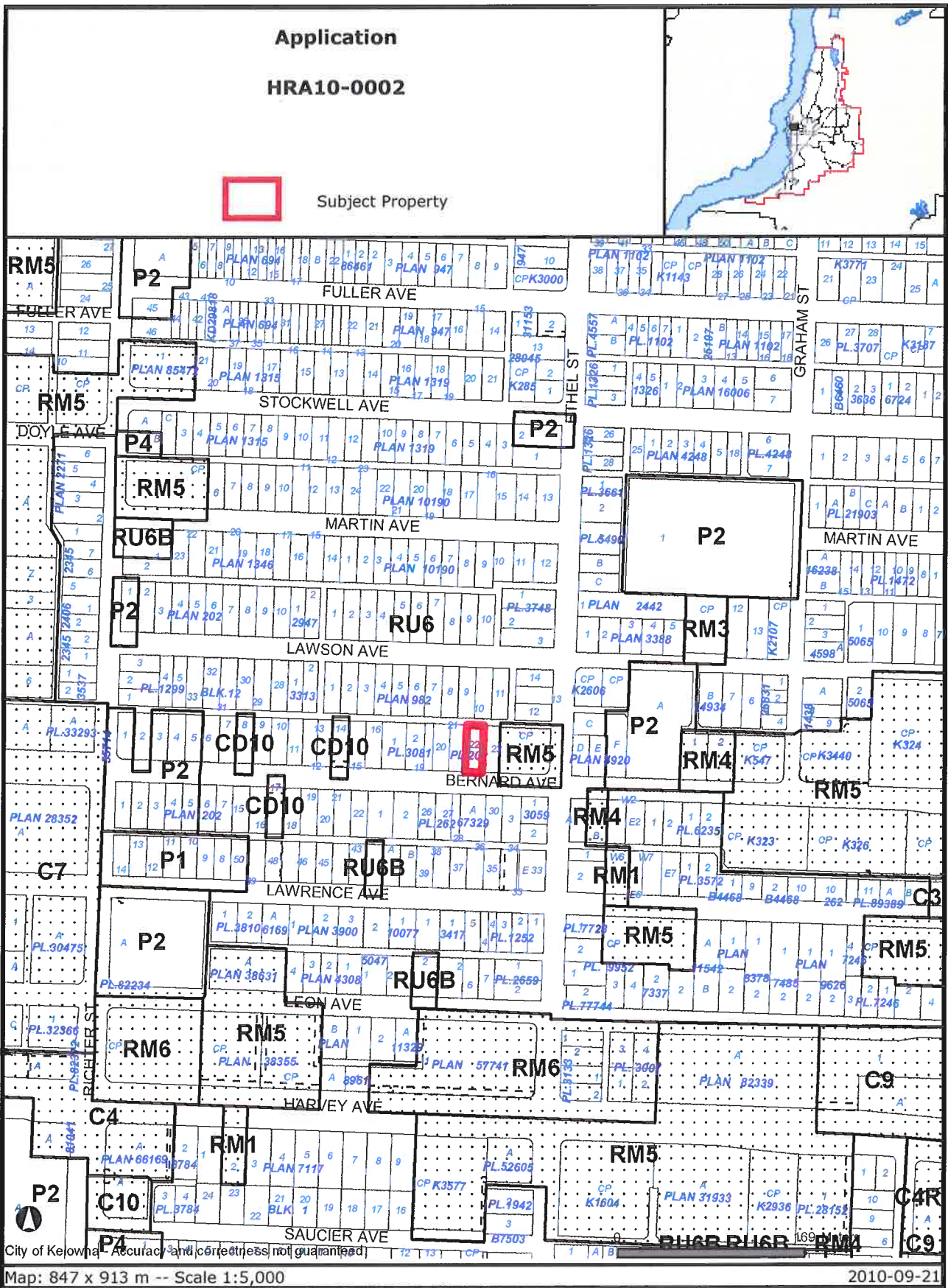
**Approved for Inclusion:**



Shelley Gambacort, Director, Land Use Management

**Attachments:**

Site Plan  
Conceptual Elevations  
Landscape Plan  
Plant List  
Current photo  
Accessory Building plans  
Colour board for Accessory Building  
Letter of Rationale  
Statement of Significance  
Heritage Conservation Report  
Heritage map  
Heritage Revitalization Agreement  
Affordable Rental Housing Agreement



Certain layers such as lots, zoning and dp areas are updated bi-weekly. This map is for general information only. The City of Kelowna does not guarantee its accuracy. All information should be verified.





2011/01/10



This forms part of development Permit # **HRA10-0002**

**ADAPTIVE RE-USE GUIDELINES FOR RESIDENTIAL HERITAGE BUILDINGS:**

(NOTE: 1993 HERITAGE INVENTORY 'B' 52-42 POINT KELOWNA HERITAGE REGISTER - BUILT 1905 H.C. COOPER HOUSE)

- RESIDENT SUPPORT - SEE ATTACHED
- RESIDENTIAL COMPONENT - SUITE PROVIDED IN ACCESSORY BLDG.
- CONTRADICTION - MAINTAIN EXIST. CHARACTER
- DESIGN STD. - MAINTAINS HERITAGE + HERITAGE ELEMENTS.
- SCALE - SIZE + INTENSITY COMPATIBLE W/ NEIGHBOURHOOD + OFFICE IN EXIST. HERITAGE BLDGS.
- EX. 4 EMPLOYEES ON MAJOR ROAD - A PROVIDED
- EX. 400-RES. FLOOR AREA L/W MAX. 232 SQ.M. 2500 S.F. PROVIDED TO 4% 1852 S.F. OF 30.6 A S.F. FLOOR AREAS (172 SQ.M. OR 284.6 SQ.M.) 2 BLDGS.
- SIGNAGE - NON-ILLUMINATED NAME PLATE 0.23 SQ.M. 2.5 S.F. ON POST.
- PARKING - REAR SUITE - 1 STALL 3/8 STALLS OFFICES AT 2.5/100M<sup>2</sup> GFA. TOTAL REAR 5 STALLS (W/O 150 S.F./13.9 M<sup>2</sup> SPOR. RM.) PROVIDED 5 " (SEE PLAN)
- HOURS OF OPERATION 8:30 TO 4:30 MON. TO FRI.
- SCREENING - PARKING AREA W/ NON-ROUND FENCING + LANDSCAPING OF EDWARDSIAN PERIOD CAR VERISCAPINGS.
- NOT CONFORMING TO GUIDELINE.

**REVISED PLANS**

**DEC. 09 2010**

**CITY OF KELOWNA Land Use Management**

CONTINUOUS REBAR 3" CLEAR OF BOTTOM (ON UNDIST. SOILS) 24 DEEP. VERTICAL BARS TO M. VERTICAL BARS AT 18" O.C. TIED TO HORIZ. REBAR. PROVIDE 1/2" DIA. ANCHOR BOLTS AT 180° O.C. AT EXIST. WALLS: BASE PLATE + FOAM GASKET ON CONC.

**OTHER ZONING REGS. CONT'D:**

**SEC. 6 - ACCESSORY BLDG.:**  
 - MAX. 14% LOT 89.18 m<sup>2</sup> 960 SF.  
 - PROVIDED 14% LOT 59.83 m<sup>2</sup> 644 SF.  
 - YARD PROT. 0.5m, 1.6' TO E - SEE BELOW

**SEC. 7 - MAX. FENCE HT. 2.0m, 6'5" W/O BARBED WIRE**

**SEC. 8 - PARKING 5 STALLS (SEE PLAN)**

**OTHER REGS. - SEC. 9.5 SEC. SUITE**  
 - MAX. 75% TOTAL USE. FLOOR AREAS 90m<sup>2</sup>  
 - PROVIDED 33% AT 61.31 m<sup>2</sup> (MAX.)  
 - MIN. BLDG. SEPARATION 5.0m, 16.4' REAR.  
 - PROVIDED BUILDING SEPARATION 3.06 M. 12'-0" S/W D.V.P.

**REAR YARD: 1.5m, 4'-9" PROVIDED**  
 - W. SIDEYARD 3.05m / E. SIDEYARD M. PROVIDED  
 - LOCATED IN REAR YARD: CN. LIGHTED PATHWAY.

**Zoning: RU 6 C/W PROPOSED H.R.A.**

**USES: LAW OFFICE CN. HERITAGE REVITALIZATION AGREEMENT (H.R.A.)**

**SECONDARY SUITE IN ACCESSORY BUILDING.**

**SUB-DIV. REGS. - EXISTING CONFORMING**

**DEV. REGS. - MAX. SITE COV. BLDGS ONLY 40% 254.8 m<sup>2</sup> 2743 SQ.FT. PROVIDED 27.6% 175.9 m<sup>2</sup> 1891 SQ.FT.**

**MAX. SITE COV. BLDGS. + PARKING ETC. 50% 318.5 m<sup>2</sup> 3428 SQ.FT. PROVIDED 39.7% 252.7 m<sup>2</sup> 2720 SQ.FT.**

**MAX. HT. HOUSE 9.5m, 31.2' 2 1/2 STOREYS AND ACCESSORY BLDG. 4.5m, 14.76 FT. PROVIDED HT. 4.9m, 22 FT. 2 STOREYS 4.5m, 14.76 FT.**

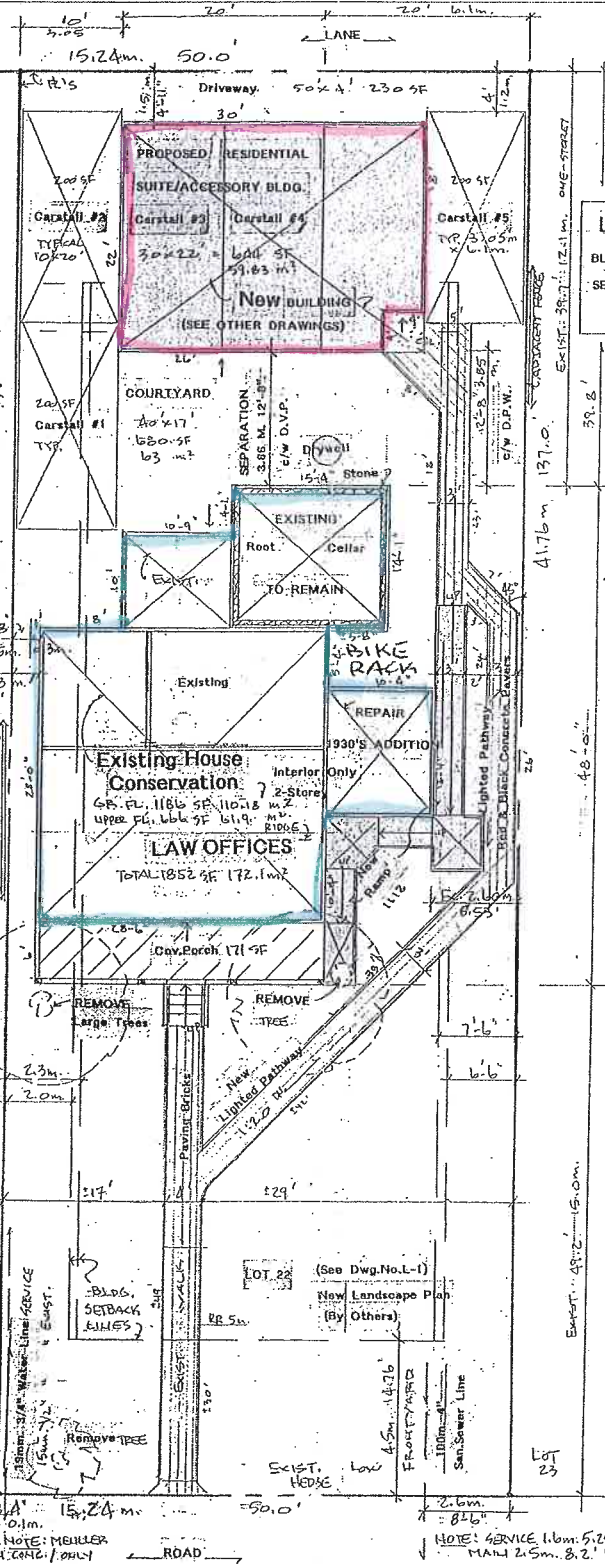
**MIN. REAR YARD HOUSE 4.5m, 14.76' PROVIDED 15.0m, 49.2'**

**MIN. REAR YARD 6.0m, 19.68', 7.5m, 24.6' (ONE/TWO STOREY) PROVIDED 12.1m, 39.8' 11.5m, 37.8' ( " " )**

**MIN. 30m<sup>2</sup> 323 SF. PRIVATE OPEN SPACE PER DWELLING REQUIRED PROVIDED 430m<sup>2</sup> 460 SF. ( " " ) (COURTYARD)**

**MIN. HOUSE SIDEYARD 2.0m, 6.57', 2.0m, 7'-7" (ONE/TWO STOREYS) PROVIDED " EAST 2.6m, 8'-7" / 5.7m, 18'-10" ( " " ) WEST 0.8m, 2'-8" (TWO STOREY) PROVIDED " " " "**

**EXISTING NON-COMFORMING CN. B.C.B.C. (06) LIMITING DISTANCE - ZERO PROTRUSIONS ALLOWED AT 1.2m, 4'**



**Legal: LOT 22**  
 BLOCK 12 PLAN 202  
 SEC. 30 TP. 26  
 O.D.Y.D.

DATE: \_\_\_\_\_  
 MARK: \_\_\_\_\_  
 REVIEW: \_\_\_\_\_  
 DATE: \_\_\_\_\_

Peter J. Chatavayi, B. Arch.  
 368 Cadder Avenue  
 Kelowna, B.C., V1Y 5N1  
 Tel. 763-4334 Fax  
 House Plans & Design

NOTE: 1. SEE H.R.A. CASE DATA; 2. SEE B.C. B.C. CODE.  
 1. MECH. (UNAC), PLUMBING & ELECTRICAL BY CONTRACTORS. 4. SEE PERMITS.

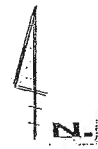
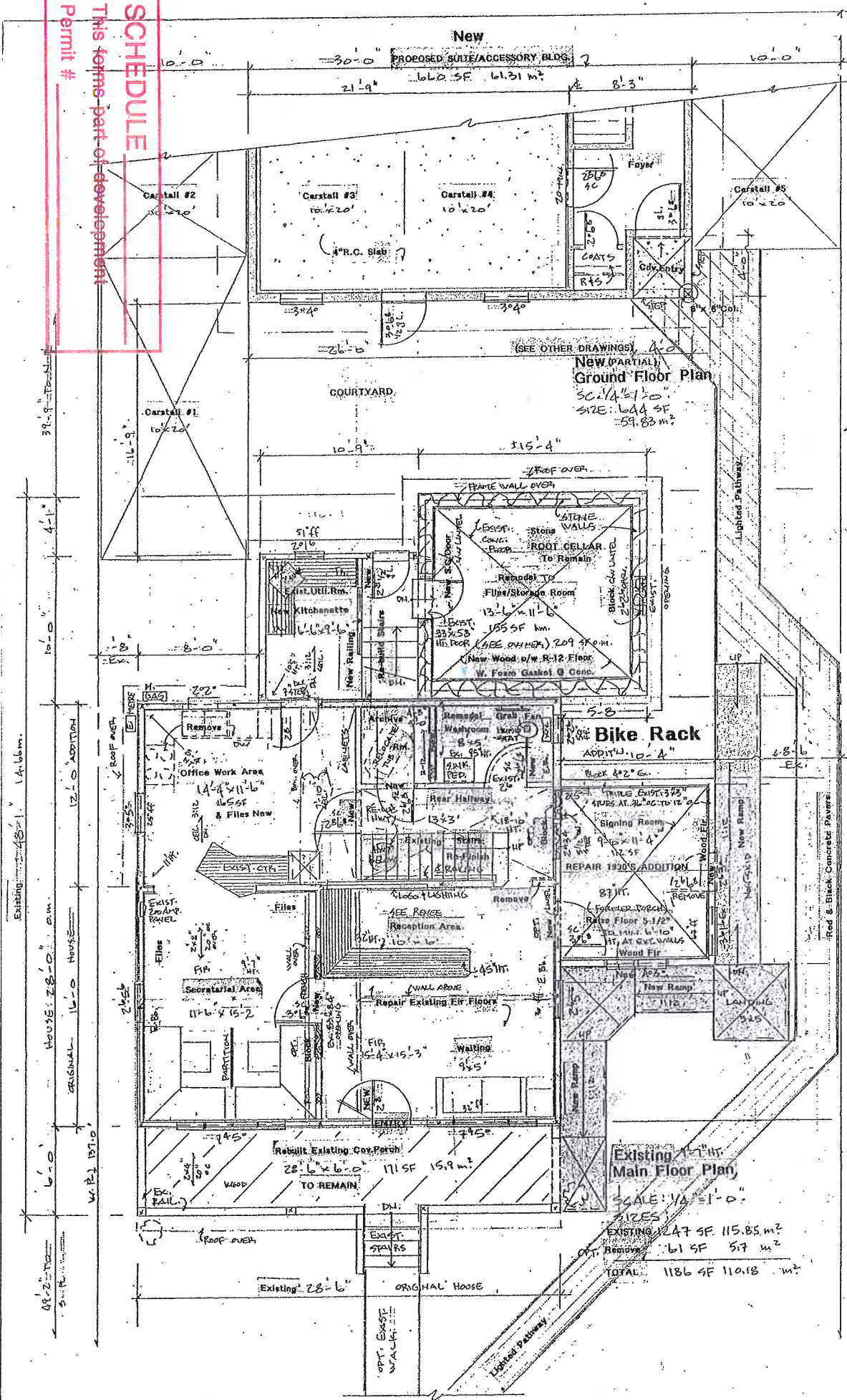
**W.T. Clarke et al. Courtyard Law Office**  
 382 BERNARD AVE., KELOWNA, B.C. V1Y 8B5

SCALE: A.S. 50mm/1"  
 DATE: NOV. 24, 2010.  
 DWG. P.T.C.

**Site Plan**  
 SCALE: 1/8" = 1'-0"  
 LOT AREA: 637.0 m<sup>2</sup>, 0.0637 Ha  
 6857 SQ.FT., 0.159 AC.  
 REF. GENHE & ASSOC., B.C.L.S.,  
 1995 SURVEYOR'S CERTIFICATE  
 TEL. 763-5711 KELOWNA

DATE: NOV. 24, 2010.  
 DWG. NO. H-1 OF 2

**SCHEDULE**  
 This forms part of development  
 Permit # \_\_\_\_\_



Work Order: \_\_\_\_\_

BUDG. 22'-0"

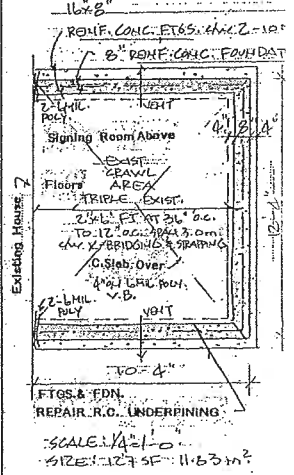
SEPARATION c/w D.V.P. 3.86m, 12'-6"

14'-0"

5'-5-4"

25'-0"

10'-0"

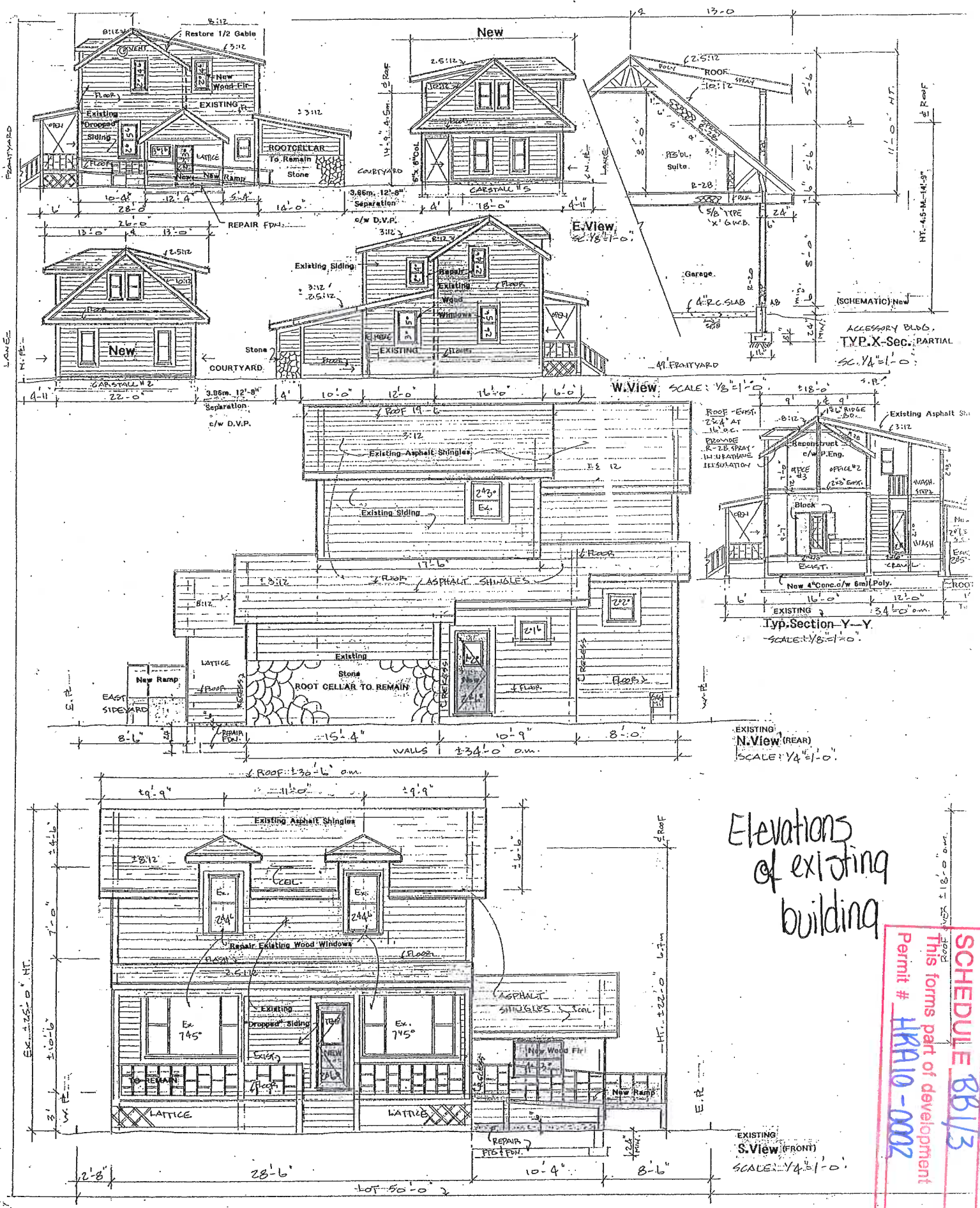


Legend: WALLS	
	Existing
	Remove
	Block
	NEW (SHADED)

EXISTING 1247 SF 115.85 m<sup>2</sup>  
 REMOVE 61 SF 5.7 m<sup>2</sup>  
 TOTAL 1186 SF 110.18 m<sup>2</sup>

DWG. H-1A





Elevations  
of existing  
building

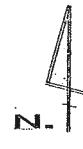
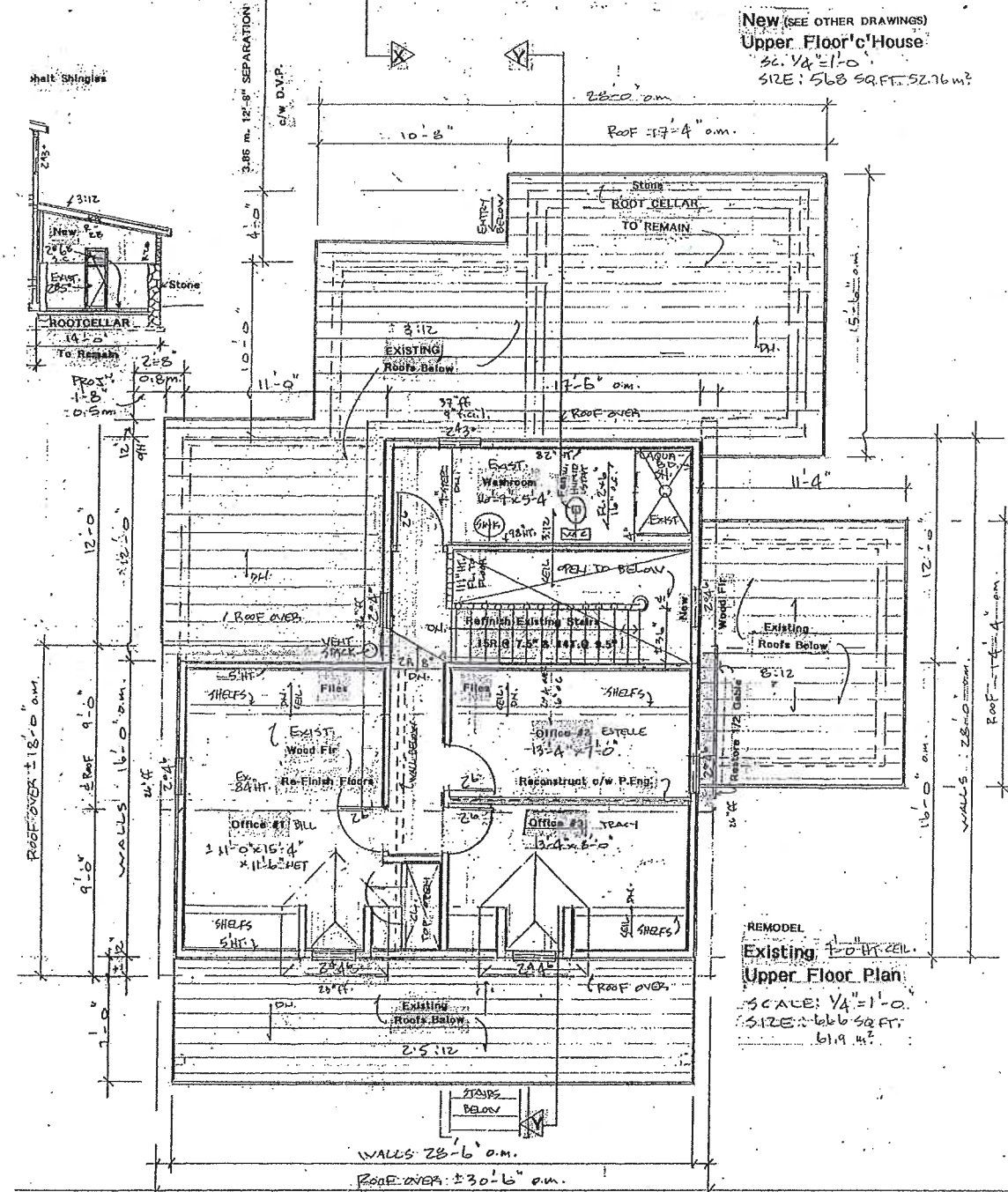
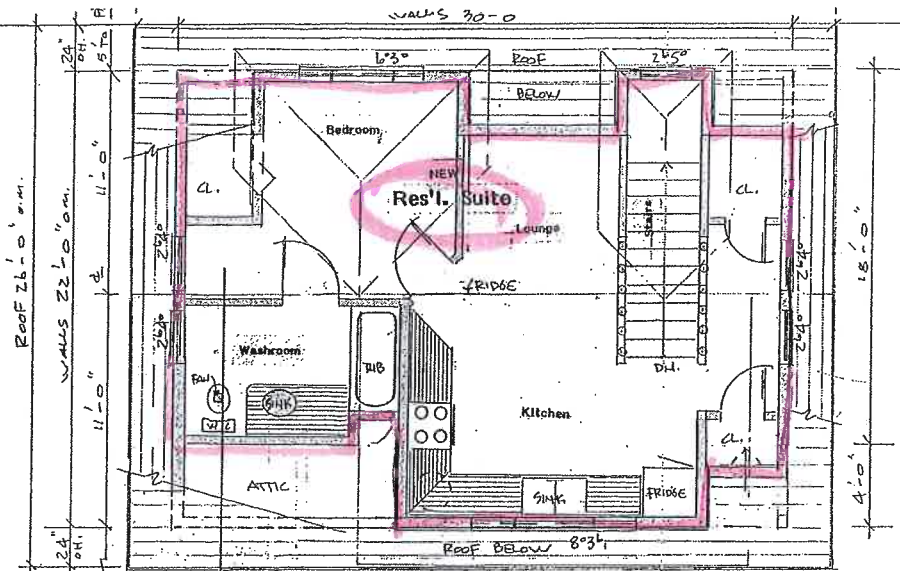
**SCHEDULE BB/3**  
 This forms part of development  
 Permit # **HR10-002**

EXISTING  
**S. View (FRONT)**  
 SCALE: 1/4" = 1'-0"

DWG. H-2a.



**SCHEDULE**  
 This forms part of development Permit # \_\_\_\_\_



DATE	REVISIONS

PETER J. CHATAWAY, B. ARCH.  
 368 CADDEN AVENUE  
 KELOWNA, B.C. V1Y 5N1  
 TEL: 763-8854 FAX  
 HOUSE PLANS & DESIGN

NOTES:  
 1. SEE OTHER DRAWINGS FOR DETAILS.  
 2. VERIFY ALL DIMENSIONS AND NOTES ON SITE.

W.T. Clarke - et al - Courtyard - LAW OFFICE  
 882 BERNARD AVE., KELOWNNA, B.C. V1Y 6P5  
 SCALE: A.S. SHOWN  
 DATE: NOV. 24, 2010. DWS: PJC  
 FORWARDED 10/10/2010

RECEIVED  
 H.R.A. APPROVAL  
 DWS: PJC  
 H-2  
 DE-2



C177

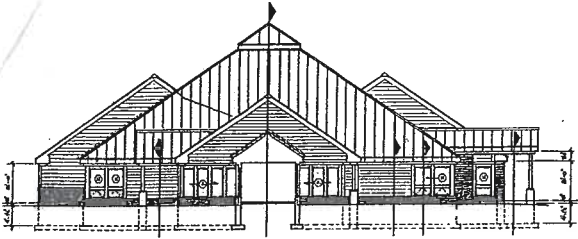
**Peter J. Chataway, B.Sc., B.Arch.**

**HOUSE PLANS AND DESIGN**

**368 Cadder Ave., Kelowna, B.C. V1Y 5N1**

Office: 763-1334

Home: (250) 763-5367



NOV. 4, 2010.

## Colour Board

**W.T.Clarke et al** ACCESSORY BUILDING C/W SUITE-862 BERNARD AVE.

**Roof :** Mid-tone Black Asphalt Shingles

To Match House



**Walls :**



VC-30  
Hastings Red\*

Acrylic Latex

Soft Gloss Finish

**Trim :**



VC-4  
Harris Cream

Low Lustre

Acrylic Latex

**Sash :** B.Moore VC-35 Gloss Black  "Impervex" High Gloss

**Other :** COLUMN TO MATCH TRIM

**REVISED PLANS**

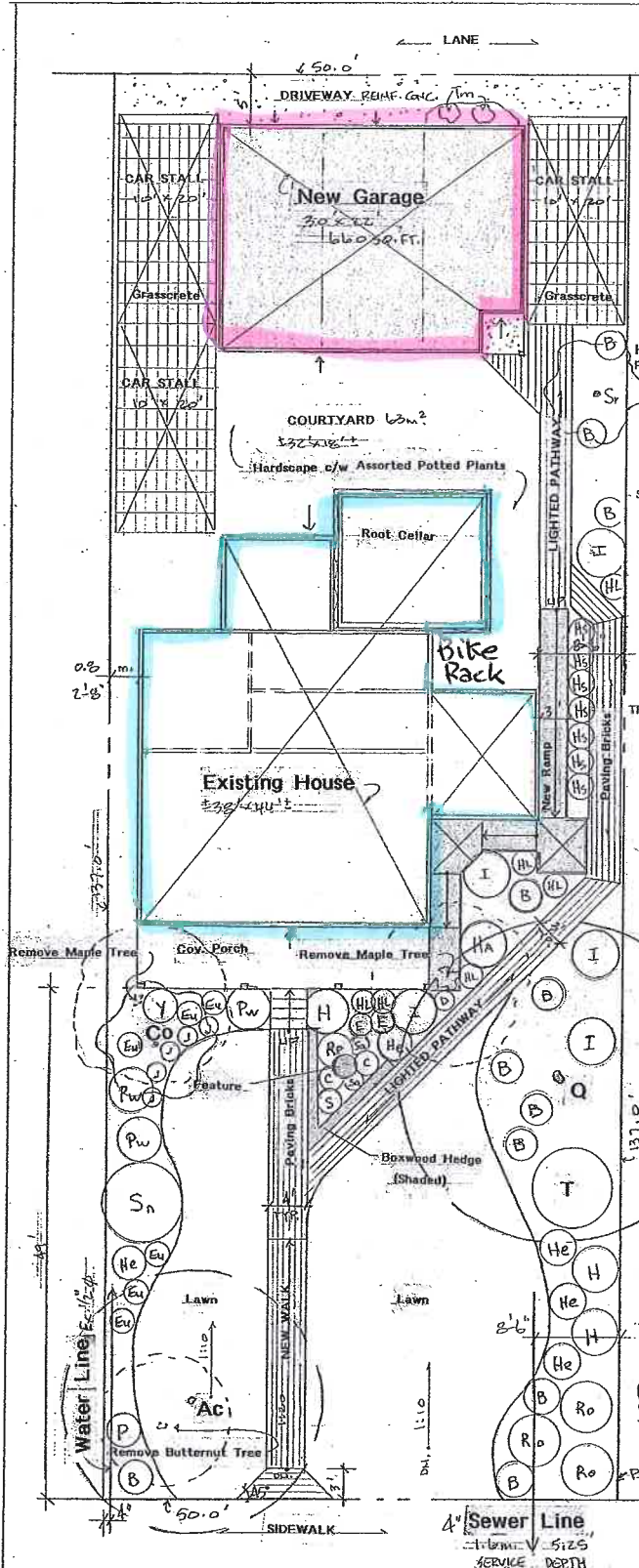
DEC 09 2010

CITY OF KELOWNA  
Land Use Management

SCHEDULE BB3/3  
This forms part of development  
Permit # HRA10-0002



**Legal:**  
 LOT 22, BUK 12  
 PLAN 202  
 SEC 30, TR 26  
 CID 20



**Plant List :**

Key	Quantity	Name
<b>PERENNIALS</b>		
C	2	Coreopsis grandiflora 'Baby Sun'
D	1	Doronicum
E	2	Eryngium planum 'Blue Diamond'
HL	6	Heliopsis helianthoides 'Summer Sun'
Hs	7	Hosta
J	5	Brunnera 'Jack Frost'
S	1	Sedum telephium 'Matrona'
Sa	2	Salvia 'Victoria Blue'
<b>SHRUBS</b>		
B	24	Buxus 'Green Velvet'
Eu	6	Euonymus japonica 'Microphylla'
H	3	Hydrangea paniculata 'Grandiflora'
HA	1	Hydrangea arborescens 'Abelwo'
He	5	Hydrangea macrophylla 'Endless Summer'
I	5	Ilex meserveae
P	1	Pyracantha
Pw	3	Hydrangea paniculata 'DVPpinky'
Ro	3	Rhododendron Azalea 'Rosy Lights'
Rp	1	Rosa
Sn	2	Sambucus nigra 'Eva'
Tm	2	Taxus media
<b>TREES</b>		
Ac	1	Acer saccharum 'Baista'
Co	1	Cornus kousa 'Satomi'
O	1	Quercus coccolinea
T	1	Tsuga canadensis 'Sargentii'
	3	REMOVE

WHITE KNIGHT LANDSCAPERS  
 855 BERNARD AVE.  
 KELOWNA, BC, V1Y 6P6  
 TEL. 250-762-0003



4" Sewer Line  
 11" MIN. SIZE  
 SERVICE DEPTH

**Site Plan**

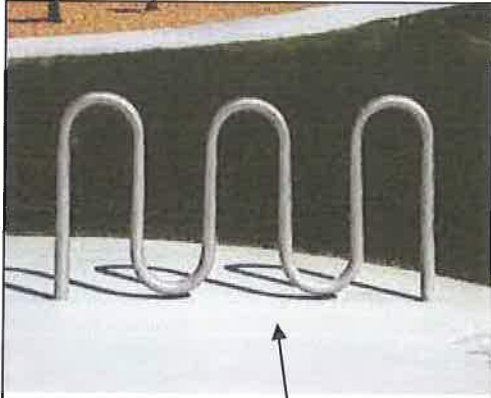
SCALE: 1/8" = 1'-0"  
 LOT AREA: 637.0 m² 6857 SQ. FT.

**SCHEDULE** 02/13  
 This forms part of development  
 Permit # **FR10-0002**

revised H.R.A. Appl'n.	<b>Landscape Plan Courtyard Law Office</b>		DRAWING NO.
	882 BERNARD AVE., KELOWNA, B.C.		<b>L-1</b>
	DESIGN: Keith Hewitt, Esq.	DATE: NOV. 4, 2010.	OF 1.
	Ref.: Peter J. Chataway, B. Arch TEL: 250-763-1334		

Samples for:

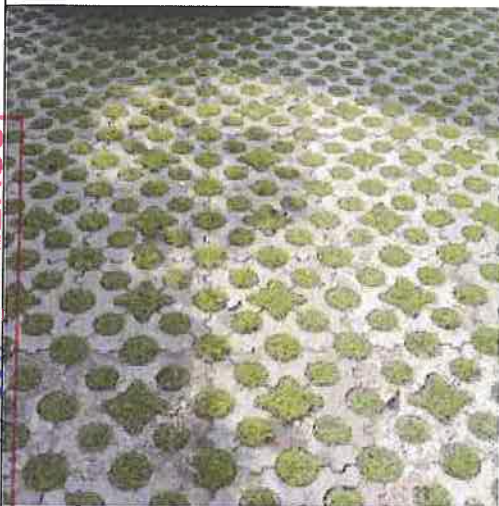
HRA10-0002  
862 Bernard Avenue



Proposed type of  
Bicycle parking rack



Grass Crete proposed for  
outdoor parking stalls.



**SCHEDULE** 09/15  
This forms part of development  
Permit # HRA10-0002

# COURTYARD LAW OFFICE

862 Bernard Avenue  
Kelowna, BC

## PLANT LIST

Key	Quantity	Name	Common Name	Colour	Size
<b>PERENNIALS</b>					
C	2	Coreopsis grandiflora 'Baby Sun'	Baby Sun Coreopsis	Yellow	11cm
D	1	Doronicum	Little Leo Leopard's Band	Yellow	11cm
E	2	Eryngium planum 'Blue Diamond'	Blue Diamond Sea Holly	Blue	15cm
HL	6	Heliopsis helianthoides 'Summer Sun'	Summer Sun Sunflower	Yellow	11cm
Hs	7	Hosta	Hosta / varied	Lavender	15cm
J	5	Brunnera 'Jack Frost'	Jack Frost Brunnera	Blue	15cm
S	1	Sedum teliphium 'Matrona'	Matrona Autumn Stonecrop	Pink	11cm
Sa	2	Salvia 'Victoria Blue'	Victoria Blue Salvia	Blue	9cm
<b>SHRUBS</b>					
B	24	Buxus 'Green Velvet'	Green Velvet Boxwood	Green	#2
Eu	6	Euonymous japonica 'Microphylla'	Boxleaf Euonymous	Green	#2
H	3	Hydrangea paniculata 'Grandiflora'	Pee Gee Hydrangea	White	#2
HA	1	Hydrangea arborescens 'Abetwo'	Incrediball Hydrangea	White	#2
He	5	Hydrangea macrophylla 'Endless Summer'	Endless Summer Hydrangea	Pink	#2
I	5	Ilex meservae	Blue Boy/Girl Holly	Red	#2
P	1	Pyracantha	Firethorn	Orange	#2
Pw	3	Hydrangea paniculata 'DVPpinky'	Pinky Winky Hydrangea	Pink	#2
Ro	3	Rhododendron Azalea 'Rosy Lights'	Rosy Lights Azalea	Pink	#2
Rp	1	Rosa	Rose	Pink	#2
Sn	2	Sambucus nigra 'Eva'	Black Lace Elderberry	Pink	#2
T	2	Taxus media	Hill's Yew	Green	#5
<b>TREES</b>					
Ac	1	Acer saccharum 'Bailsta'	Fall Fiesta Maple	Green	#10/25cm
Co	1	Cornus kousa 'Satomi'	Satomi Dogwood	Pink	#10/15cm
Q	1	Quercus coccinea	Scarlet Oak	Green	#5/15cm
T	1	Tsuga canadensis 'Sargentii'	Sargent's Hemlock	Green	#5

SCHEDULE 003/5  
 This forms part of development  
 Permit # HPA10-0002

WHITE KNIGHT LANDSCAPERS  
855 BERNARD AVE.  
KELOWNA, BC, V1Y 6P6

October, 2010

SCALE 1" = 8'





# COURTYARD LAW OFFICES

Independent Lawyers\*\*

William T. Clarke<sup>†</sup> B.A., LL.B. Shaun C. Langin<sup>†</sup>, B.A., LL.B. Tracey Brice-Nicolson<sup>††</sup> B.A. (Hons.) LL.B.

8 December 2010

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

**REVISED PLANS**

**DEC 09 2010**

**CITY OF KELOWNA  
Land Use Management**

**RE: 862 Bernard Avenue, Kelowna, B.C.**

I have been requested to write a letter regarding the renovations and improvements that I wish to make to the property in order to aid in negotiating a heritage revitalization agreement that permits the Courtyard Law Offices to operate from the premises. To that end I will discuss each component individually:

## **1. Historical Significance**

As I was raised in a single parent family in Kelowna since the age of 9 years old, I have come to see great development and expansion that has allowed our city to become a regional influence in the interior of British Columbia. Throughout that period I have also learned the importance of "balance", as it is possible to have sustainable growth that does not unduly detract from the surroundings. To that end I believe that buildings such as those located on Bernard Avenue not only bring an aesthetic beauty to the city, but also have a sentimental value regarding our heritage. In basic terms one should not forget our past as it plays an importance in interpreting and creating our future.

It also is important that I mention that I am a graduate of our local university and have been informed that I was the first graduating class of the same in 1992, having obtained a Bachelor of Arts with a concentration in History. I do not believe I can overemphasize the importance of obtaining a degree in that regard and how it has shaped me in my own appreciation for our local history.

In 2007, Meg Shaw, Q.C. (as she then was, and now Judge Shaw of the Okanagan Provincial Court), and I commenced looking for a heritage home to operate our law firm, but upon her elevation to the bench, that dream was put on hold. In 2010, I was contacted by a local realtor that informed me that this property was available. From the outset I was informed by the city that there are no guarantees, but that they would be willing to work with me to see if the project was possible. In August 2010, the property was purchased on a "wing and a prayer".

Personally, I fell in love with the property upon first viewing it. I have come to know two of the neighbours very well, and call one of them (Anita Harnett) a friend. I have been mocked by my

---

100 - 1461 St. Paul Street, Kelowna, BC, Canada V1Y 2E4

Telephone: (250) 762-2252 Facsimile: (250) 762-2246

<sup>†</sup>Family Law Mediator <sup>††</sup>Law Corporation

\*\*Not an Association or Partnership

friends as I shovel the walkway when it snows, raked the leaves when they fall, and installed LED Christmas lights, when I could easily pay someone to do the same as it is a business property. They are wrong as it is not just that to me. I am fully aware that the provincially known Bennett family resided in the home at one time, and since I have attended their garden parties in the past, I am sure they will be pleased when they see the results and attend for one of my many tours. To say the least I am house-proud as even my family has "camped" in the house on the weekends.

## **2. Property Restoration**

I would begin by saying that I have been blessed with able finances due to my practice of law, and with that the ability to restore the property and perhaps enhance it to the point of pride. To help, guide and instruct me, I have enlisted the services of Peter Chataway, architect extraordinaire, who has painstakingly provided blueprint drafts and advice throughout this entire process.

### *Landscaping*

One of the hallmarks of a building constructed pre-1906 is the garden. To that end I have not only had the pleasure of researching the Edwardian-style gardens myself, but have also contracted Mr. Keith Hewitt, who has provided a landscaping design that I think will not only be pleasing to the eye, but also environmentally sustainable as I believe water consumption is a concern in our semi-arid desert location. Please find enclosed with the application his landscape plan.

Additionally, Mr. Shawn Stanger, who operates the business known as "The Tree Man", has also acquired many bricks that will construct a red brick pathway from the sidewalk, which has a black border trim. You will note that this compliments the heritage palette that the house is already painted. Thought had been given to repainting the home, but it is unique, beautiful, complimentary to the neighbourhood, and saves further on an environmental aspect.

Furthermore, the landscaping will extend into the backyard and be complimentary with the front of the property, with greenspace. It is my hope that additional greenery may be achieved in that the parking in the backyard that is not under the carriage house, actually be kept as grass with paving stones upon which the vehicles will rest.

Finally, the trees. One of the most beautiful parts about the home is the fact that the front yard has trees. There were cedar hedges at the front, but they were removed as they were old, neglected and highly intensive water-eaters. It is proposed that area be turned into a floral garden, or perhaps a very low hedge. I stress low, as I wish the house to be seen. There is a diseased European Ash tree on the front left of the property that all landscapers, and an arborist states must go due to its condition. The problem then comes to the two sugar maple trees that flank the front veranda. In speaking with the arborist (Steven Brewer of Precision Tree Service), the architect, and insurance agent, it is their suggestion that the trees be removed as they are not only hazardous to the neighbours property but are also encroaching upon the house itself and will grow further into the house. They have stated that if they were to be removed that I could replace the trees with the identical kind of tree, but place them more central to the yard on either side of the path. They assure me that they will grow to be grand and still provide shade in the summer for the house and not detract from the property. I rely upon their advice regarding the same, and hope that I can find trees that are already somewhat large and mature.

### *Accessibility*

While my practice does not consist of many physically challenged clients, the ones that I have are dear to me and have taught me how to look from their point of view both figuratively and literally. I have incorporated into the plans a wheel chair accessible ramp that will allow people with mobility difficulties to attend to the property and not be challenged. Of equal importance is how that system is incorporated into the property as I hoped that it would not detract from the look of the property.

### *Windows*

Upon original inspection of the home, it was very obvious that something had to be done about the windows. While we are uncertain as to when they were last attended, it must have been a long time. The windows on the vast majority of the main floor appear to be original as they still exhibit signs of imperfection in the pouring of the glass. I was expecting that they would have to be removed and replaced, but I was wrong. I have already expended a small fortune in having each individual window removed, scraped, sanded, primed, painted and replaced. This was accomplished by the carpenter, Cameron Butler, who is a very young individual and just making his name in Kelowna. I fully endorse his work and will provide him a written letter of reference at any point.

Furthermore, as I am very concerned about energy efficiency and heat loss, Glenmore Millworks has also constructed storm windows that will apparently be even more efficient in combination with the original windows than if we purchased new windows and had them installed.

### *Flooring*

I was very pleased when I was informed by Istvan Iskum of European Hardwood Flooring that the original hardwood floors could in fact be restored. They are throughout the entire house from stem to stern, including underneath the 2" shag carpet that covered the second floor and stairway. He has been contracted to completely refinish the floors and preserve the same colouration scheme as originally stained. Moreover, when we pulled the shag carpet from the stairway he was very excited to tell me that they were hand-cut planks of fir, and were also in great condition.

### *Second Floor*

The three bedrooms on the second floor are proposed to house the offices. They were originally intended as bedrooms and have shown great wear over the years being subjected to the elements due to the lack of insulation. The three rooms will be completely renovated, having already removed the wallboard and adding insulation, with the ceilings also being completely refurbished. A structural engineer was also contracted for the purpose of assessing and designing the ceiling work, and has approved of the same. Where possible the mouldings will be preserved, or replaced with similar design. We have been able to save the original "pocket closet" in one of the rooms, despite interference of a 2.5' diameter wasp nest. The construction work for this project was completed by the carpenter, Mr. Dennis King. I will be responsible for all painting inside the home as I find I have a talent for the same and do wish to leave my mark.

As the home is heated entirely by electricity, new convective and radiant heaters will be installed to circulate the air. The "knob and tube" wiring has been removed with addition of new electrical lines, performed the licensed electrician, Mr. Chris MacDonald. I would pause to mention that upon lifting the carpet from the second floor, the original flow-through heating vent was exposed and will

also be refurbished in order to have it remain and be utilized.

### *Signing Room*

To the right of the home there is a room which has been "boarded-up" to create a sitting room. It lacks a foundation and was not built with much consideration. This is the room that I am wishing to turn into a small signing room where I may interview clients. Mr. Chataway has designed plans for the walls to be restored with full insulation and a property footing and foundation to be created. The floor will also be made level with the house so that the room will also be accessible for wheelchair access. Finally, Glenmore Millworks has also stated they will be able to build a woodframed window for the front of the room that will be in keeping with the other windows that face Bernard. I have also been told by all carpenters that the siding can be replaced with siding that will match the rest of the house.

Additionally, above the signing room we are planning to match the original roof line that was in existence prior to the addition of the rear of the second floor. This will then also match the roof line on the left portion of the home.

### *Interior doorways*

As a sign of its original construction, the doorways of the home are all rather small. The entrance to the hallway will be widened, as well as the signing room to allow for wheelchair accessibility. Where possible the mouldings will be preserved, or replaced with similar design.

### *Bathroom & Plumbing*

The original bathroom on the main floor will also have its entrance widened so as to accommodate wheelchair access, in addition to appropriate handles grips and lifting aids. The original clawfoot bathtub will then be moved into the carriage home to continue the theme of heritage. The fixtures have all been replaced throughout the years and do not match, but will be replaced with high-efficiency low-flow fixtures and two button toilet so as to further conserve on water usage. Mr. Ralf Slotta has already conducted plumbing on the heritage home regarding insulating pipes, and his services will be used in the future.

As I have already commenced small-scale solar power generation on my own property, the plan currently is to have the carriage house become partially off-grid, by the installation of both active and passive solar panels on the southern slope facing room. This will aid in the generation of electricity to power any air cooling units in the summertime, as well as hot water generation. If this is successful, Mr. Slotta informs me that with the city's permission the same can be done for the main home as well.

### *Electrical*

The home is currently fitted with incandescent lighting, and poorly done at that. Mr. Macdonald has been contracted to install high-efficiency lighting that will leave less of a carbon-footprint. I have also installed both hardwired and soft-wired timing switches in the home, to ensure that electricity is frugally used.

As stated previously, the inefficient baseboard heaters will also be replaced with high efficiency

convective heaters to circulate the air, in addition to overhead fans for cooling in the summer.

***The Stone Room***

In the back of the house is an old room which was constructed with rock and cement. While it is uncertain as to when it was created, it actually has come to be somewhat of an accent piece on the property. To that end I am wishing to restore the room to the point of using it once again. The walls and the ceiling will be fully restored and re-insulated, while the exterior will be restored as much of the cement has fallen away over the years.

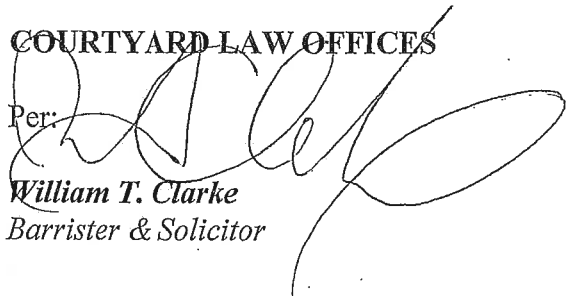
I believe I have covered the extent to which my "passionate letter" can be complete, and thank you for your attention to this matter, and if there are any further questions that you may have, please feel free to contact our office at (250)762-2252.

Yours truly,

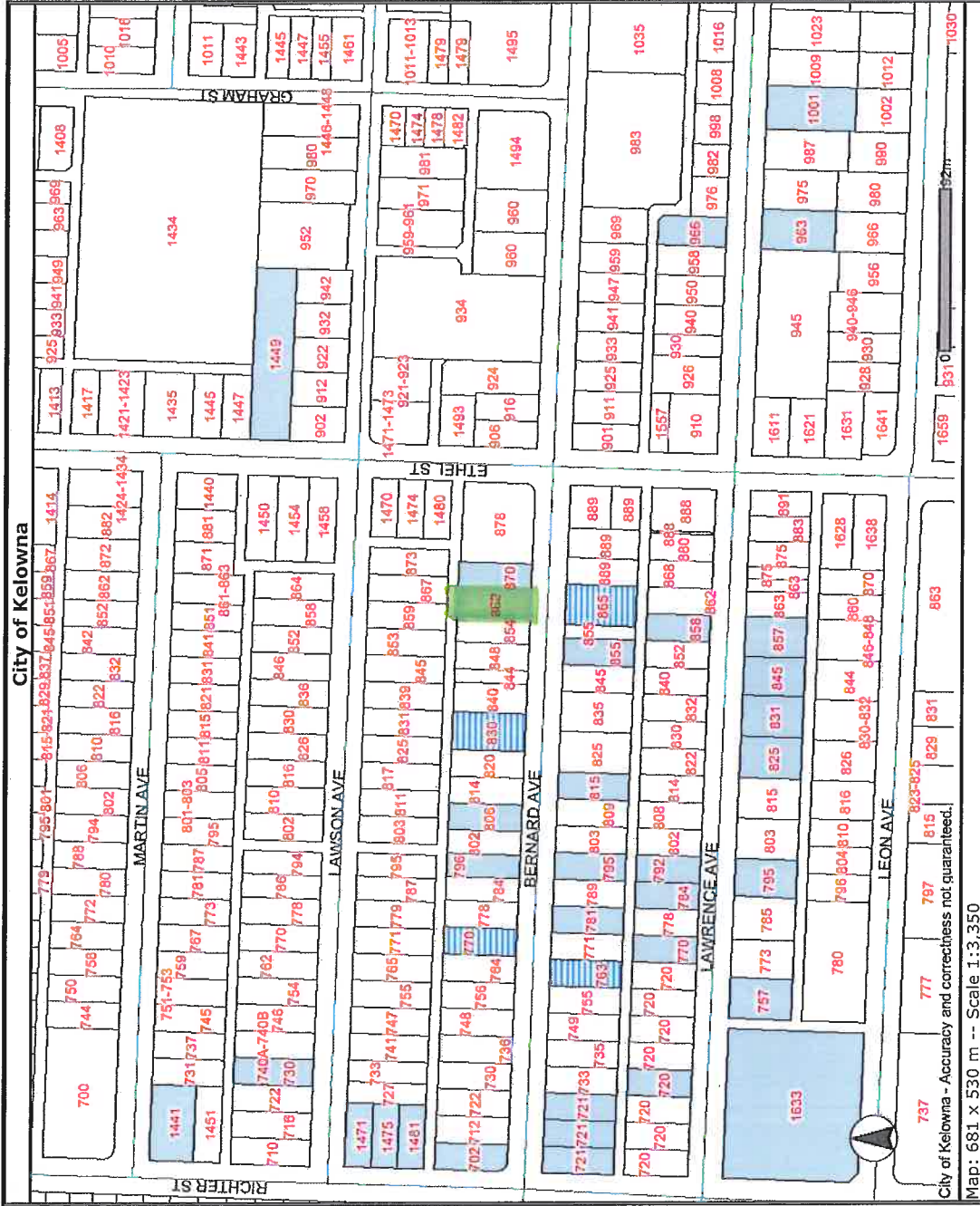
**COURTYARD LAW OFFICES**

Per:

***William T. Clarke***  
*Barrister & Solicitor*

A large, stylized handwritten signature in black ink, which appears to be 'William T. Clarke', is written over the printed name and extends upwards into the 'Per:' line.





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

*Map noting properties on Heritage Registrar in blue and with HRA's with hatch lines.*





## Heritage Building

### 862 Bernard Ave - H.C. Cooper House

**Place Description:** The historic place is the two-storey, wood H.C. Cooper House, built in 1905 and located at 862 Bernard Avenue in Kelowna's North Central neighbourhood.

**Heritage Value:** The heritage value of the H.C. Cooper house arises from its association with a series of occupants who were prominent in civic and commercial affairs in the community, including W.A.C. Bennett. It also has value for its representation of the early period of community development at the time of Kelowna's incorporation in 1905, and for being one of many notable heritage buildings along the Bernard Avenue corridor, east of the downtown core area, which have benefited from the City's heritage conservation program.

The house was built in 1905 by H.C. Cooper, who had arrived in Kelowna from Vernon a year earlier, when he bought the saddlery and harness business of G.A. Thompson, at the corner of Bernard Avenue and Water Street. Cooper is listed as the owner in the tax roll in 1906, but evidently did not remain long in Kelowna. In the following year the house was owned by William A. Schole, bookkeeper for Morrison Thompson Hardware. From 1907 to 1912 the owner was J.N. Long.

In the 1930s and 1940s, grocer Harold J. Waldron owned this house. He rented it from 1930 to 1932 to W.A.C. and May Bennett. W.A.C. Bennett later became the renowned Premier of British Columbia. Their son Bill, who was also to become Premier of British Columbia, was born while they lived here. The Bennetts moved further up Bernard Avenue to the foot of Glenmore hill in 1932, and in 1936 they bought F.R.E. Dehart's 'Brookside Manor' on Ethel Street.

Francis J. and Joan Gourlie occupied this house in 1948. Francis was a lineman for the City. In 1956 it was occupied by Charles J. and Rosabel Gable, he being a helper at S.M. Simpson Ltd.

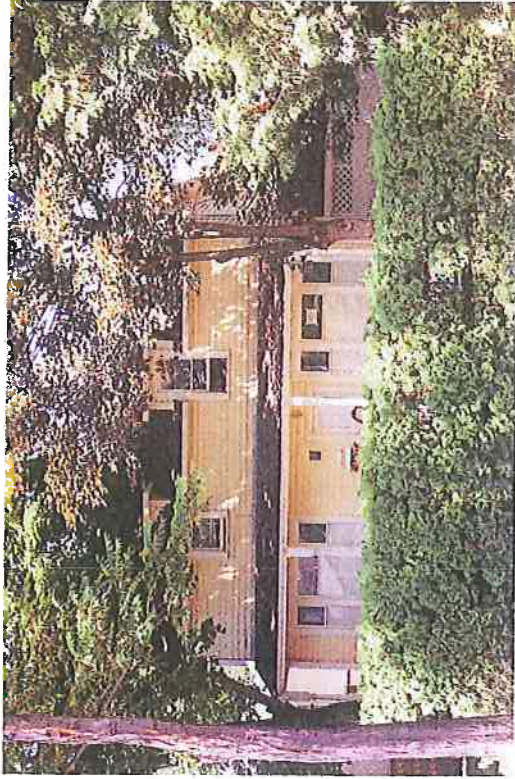
Then-owner Jody Good received a \$988 grant for external conservation work in January 1995 from the Kelowna Heritage Foundation. In 1997 the house was subject of Heritage Revitalization Agreement Authorization Bylaw 8025 (Z96-1015). It has value for having been one of the first houses in Kelowna to be conserved through a municipal grant and be protected by a HRA. The house has been continuously residential since it was built, in contrast to many others in the neighbourhood that have been converted to commercial use.

The house also has value for the simplicity of its vernacular design, with a steep gabled roof and the entrance and porch on the long side, characteristic of many farmhouses of the period. This represents its having been built during the first period of Kelowna's urban development, when the North Central neighbourhood was still considered a rural a

#### Character Defining Elements:

- Location on Bernard Avenue, forming part of Kelowna's North Central Neighbourhood
- Residential form, scale and massing, expressed by one-and-one-half-storey height and rectangular plan
- Medium-pitched, gabled roof, with the entrance and porch along in the long side, facing the street
- Two symmetrical, flat-roofed dormers on the second floor
- Medium-pitch shed roof over the continuous porch
- Corbelled-brick chimney
- Second-floor symmetrical fenestration, with 1-over-1, double-hung, wood casement windows with plain, wide wood trim
- Ground floor asymmetrical fenestration, with fixed glazing and plain wood sash with plain, wide, wood trim
- Wood shingle walls

- Open raised porch, full width of house with plain, painted-wood posts supporting roof, with decorative, painted-wood open balustrade, and simple, painted-wood handrail
- Wood steps to entrance porch
- Tall mature trees in front yard, with lawn and tall, continuous evergreen hedge at the street





**FINAL DRAFT**  
**HERITAGE CONSERVATION REPORT**  
**862 Bernard Avenue**



**Kelowna, BC**  
**January 2011**  
**Lorri Dauncey, MA, BA, Dip**



## Table of Contents

### Objective

### Standards & Guidelines for the Conservation of Historic Places in Canada

#### Understand the Historic Place

1. Description
2. Planning Context
3. Evolution of Place

#### Evaluate Significance

1. Heritage Values
2. Character-Defining Elements

#### Assess Potential Impacts

1. Requirements for Retaining Significance
2. Client Requirements
3. Physical Condition Survey
4. External Factors

#### Develop Conservation Policies

#### Conclusion

#### *Appendices:*

BC Land Surveyors' Certificate of Location, July 1995  
City of Kelowna's Statement of Significance for the Cooper House  
Table of Owners/Renters  
Renovation Plans, 1995 (part of Building permit #4266)  
Landscape plan, 2010  
Building Plans for the Adaptive Re-use, 2010 (Peter Chataway)

*CD of Photographs of the Building (Fall 2010)*

#### *Sources*

## Objective

The main objective of this report is to compile research and building documentation for the H.C. Cooper House located at 862 Bernard Avenue in Kelowna, BC. This report will become a record of the building in 2010. It should be used to guide future conservation work and may also be used in the City of Kelowna's Heritage Designation process. This report will also provide guidance in conserving the heritage value of this Kelowna Heritage Register building and will help to ensure that the physical life of the building is extended as much as possible.

The H.C. Cooper House is currently undergoing a rehabilitation of the exterior and the interior in order to accommodate its new use as law offices. The residential use of the property will be partially regained when a new carriage house is built at the rear of the lot containing a suite.

The original materials and character-defining elements should be preserved, repaired and/or replaced, using the nationally, provincially and locally recognized heritage conservation standards and guidelines in any future conservation work.

*Uses that are economically, socially or symbolically viable are the best guarantee of the long-term survival of a historic place. (Source: Standards and Guidelines for the Conservation of Historic Places in Canada, p.3)*

## Standards and Guidelines for the Conservation of Historic Places in Canada

The Canadian Conservation Standards and Guidelines must be followed as closely as possible to ensure the heritage value of the H. C. Cooper House is preserved in any future conservation work. The Government of Canada, in collaboration with the provinces and territories, has developed the **Historic Places Initiative** that will help to conserve Canada's historic places. This program has created the **Canadian Register of Historic Places** and the **Standards and Guidelines for the Conservation of Historic Places in Canada**. These standards and guidelines are based on universally recognized conservation principles and identify good practice versus bad practice. (Refer to Appendix 1: Standards and Guidelines for the Conservation of Historic Places in Canada: the four major principles, the three types of treatments, and the 14 standards and guidelines)

## Understand the Historic Place

Understanding the historic place is necessary to being able to make values-based decisions for its conservation. This first stage is intended to give a clear understanding of what the place is, what its current context is (in terms of physical and planning issues) and how it has evolved over time.

### 1. Description:

Street Address: 862 Bernard Avenue, Kelowna, BC

Legal Description: Lot 22, Block 12, Section 30, Township 26, Osoyoos Division Yale District, Plan 202

Area: North Central Neighbourhood as identified in Kelowna's Official Community Plan (OCP)

This historic place is comprised of the original 1905 house with later additions, the early stone cellar structure and the flat, narrow, small lot with its mature landscaping and fencing. Photographic documentation completed in fall 2010 of the house (exterior and interior), the cellar and the lot have been included as part of this report.

**House:** The H.C. Cooper House, a two-storey wood frame building, was built in 1905. The rectangular shaped house has its long side facing the street (south side), with a front covered verandah and two symmetrical hip roofed dormers on the second floor. The covered verandah has a shed roof supported by six decorative columns. There are projecting eaves and trim along all edges and corners of the house. The house has a medium-pitched gabled roof, which has been altered at the east corner of the back of the house (north side). The ground floor front windows have asymmetrical fenestrations and are single-hung. The rest of the original windows have symmetrical fenestrations and are single-hung. There have been a number of additions over the years, as seen in the shed style roofs at the back of the house. These additions have added space on the ground floor and on the second floor and now contain the stone cellar, which was originally built as a stand-alone structure. There is an early enclosed porch on the east side of the house that serves as an entrance. There is also a rear entrance into the newer utility room, next to the stone cellar (north side).

The house has a dirt floor crawl space with access from the exterior on each side of the building. The building's foundation is made up of wood and concrete piers (traditional post and beam construction), with some of the wood piers being supported by large wood members with wood shims in some areas. Some concrete piers have also been added to give support to the foundation. The exterior of the foundation has been finished with wood skirting. (Source: Professional Assurance Inspections, *Inspection Report on 862 Bernard Avenue, Kelowna, BC, July 2, 2010, pp. 3 & 7*)

**Stone Cellar:** The one-storey stone cellar, an original or early structure on the site, is located at the rear north-east corner of the house. The structure is made up of one-foot thick stone lower walls with partial wood walls and a shed roof built on top of the stone. The shed roof is now part of the house roof at the back (north side). The entrance into the cellar is on the west wall, which is now only accessible through the utility room. There are two small openings on the east wood wall of the structure. A newer concrete slab is sunken to about one foot below the outside grade.



**Lot and Landscaping:** The flat lot is 50' (41.76 m) wide by 137.13' (15.24 m) deep for a total area of 6,857 square feet (637 square meters). (Refer to Appendix 2: BC Land Surveyors' Certificate of Location, July 1995) The small size and shape is fairly typical on this street and in this neighbourhood. The front yard has a number of large mature trees. These include a very large tree on each corner of the front porch. There was a mature hedge that grew at the front of the lot, along the sidewalk, which has recently been removed. Also, there is one or two trees towards the front of the lot, that are part of the trees planted along the upper Bernard Avenue boulevard. The walk leads directly from the public sidewalk on Bernard to the front steps that lead up to the porch and into the house. The fencing on the west property line is low decorative cinder blocks in the front and higher plain cinder blocks at the back of the lot. The east side of the property has a low black metal fence in the front and a wood privacy fence at the back. The wood fence continues beside the narrow gravel parking spot on the east side of the lot and along the alleyway. The back yard, which is grassed, has no other structures.

## **2. Planning Context:**

### *Cultural context:*

The H.C. Cooper House is located in Kelowna's north end, specifically in the upper Bernard Avenue and Lawrence Avenue neighbourhood. KSAN (Kelowna South-Central Association of Neighbourhoods), a non-profit society, was established in 1993 when area residents grew concerned about development and growth pressures in Kelowna's inner-city. Since then, KSAN has been an active participant in many initiatives aimed at growing responsibly while maintaining character and quality-of-life for residents. Some of KSAN's most active members live in the Bernard-Lawrence area and have taken on many initiatives in this area including: produced a full-colour walking tour brochure highlighting 28 (out of 29) Heritage Register buildings located in the Bernard-Lawrence neighbourhood; took on the restoration of the Knowles House in 2000 (located across the street from the Cooper House); since 1983 have lobbied to create a heritage conservation area for this neighbourhood similar to the Abbott Street and Marshall Street Heritage Conservation Areas. This neighbourhood, while rich in heritage resources, has not been successful in convincing the city to identify these streets as a heritage conservation area. Recently, as part of the update to the OCP 2030, new Character Areas, are being considered for this and other older neighbourhoods, in which there will be design controls on the form and character of new construction and redevelopment. Development will need to be done in a form that recognizes and wherever possible replicates the character of the existing neighbourhood. (Source: KSAN website [www.ksan-kelowna.ca](http://www.ksan-kelowna.ca)) A growing number of the houses in this area, especially on Bernard Avenue, have undergone an adaptive re-use. The Leckie House (781 Bernard Avenue) housed the Hambleton Galleries for many years, before being used once again as a residence. The Dehart house (770 Bernard) has been used for various small businesses including its present use as a doctor's office. The Knowles House (865 Bernard Avenue) is used by the Alzheimer Society of BC and for KSAN's meetings. Most recently, the Muirhead House (763 Bernard Avenue) sells country cottage furniture and décor. Many of the houses have retained a residential component through a suite in the house or by building a carriage house.

*Formal recognition status:*

The H.C. Cooper House is listed in the 1983 Kelowna Heritage Inventory, is on the Kelowna Heritage Register (c. 1997) and has a Statement of Significance (SOS). The Kelowna Heritage Register was established under Section 954 of the Local Government Act. Like all of Kelowna's Heritage Register Buildings, it has been put on the Provincial and National Heritage Registers.

*Legal protection status:*

In February 1997, the H.C. Cooper House was the subject of Heritage Revitalization Agreement Authorization Bylaw 8025 (Z96-1015). This HRA allowed for the adaptive re-use of the building as a hairdressing salon with an associated antique sales and tea room and a residential suite on the second floor. At the time, the site was zoned R-2 (Two-Family Residential), called now RU6. The HRA was cancelled in July 1998 for breach of contract (Bylaw #8243).

The current owner is in the process of applying for a new Heritage Revitalization Agreement (HRA) for the site. The owner is proposing the adaptive re-use of the building as a law office and to construct a new accessory building (a carriage house with a suite) in the back to retain a residential component.

*Zoning status and regulations:*

The H.C. Cooper House is zoned RU6 (two dwelling housing). This allows for development of a maximum of two dwelling units on this site including the residential secondary suite.

This neighbourhood is currently zoned RU6. In the future, the newly updated OCP 2030, is proposing down-zoning changes to this (and other) areas that will remove the higher density multi-family uses from the Future Land Use map.

*Official Community Plan (OCP):*

Kelowna's existing (2010) Official Community Plan (OCP) contains information about the neighbourhood of the H.C. Cooper House. The North Central Area Plan, within Kelowna's OCP, states:

*"The North Central Area Plan will support the continued presence of existing commercial and institutional uses as well as a gradual move toward medium to high-density residential development in selected areas presently zoned for single unit housing. Design considerations to integrate development into the character of the neighbourhood will be implemented to assist in the preservation and enhancement of heritage values."* (Source: Kelowna's Official Community Plan, 1993, chapter 19, p. 10)

Proposed new Character Areas in the draft Official Community Plan 2030 promises to offer some new guidelines for the 'form and character' of new development in many of Kelowna's older neighbourhoods. Recent changes to the Local Government Act have finally allowed cities the ability to shape the design and siting of single and two-family homes (in character areas). The planning tool is a Development Permit (DP) with defined Design Guidelines. There will also be proposed zoning changes in this (and other) areas that will remove higher density zoning from the Future Land Use map. The new OCP is expected to receive final endorsement from Council early in 2011.

### **3. Evolution of Place**

#### **Context**

The township of Kelowna was laid out in 1892. A one hundred foot wide avenue was created, extending eastward from the lake, in which Kelowna's original commercial development began. This road named Bernard Avenue, had its earliest growth confined to the western two blocks on both the north and south sides. Between 1898 and 1904, several new buildings were constructed and with them new businesses established. This included G.A. Thompson Saddlery and Harness Shop, which was located on the south-east corner of Bernard and Water Street. This early business, started by G.A. Thompson, was bought by H.C. Cooper in 1904 when he arrived in Kelowna from Vernon.

Kelowna was incorporated as a city in 1905 with a population of 600 people. Bernard Avenue continued to develop with new buildings and businesses opening up, mainly along the south side of the road. Many of the city's early residents, through civic involvement or commerce had helped shape Kelowna, built houses along upper Bernard Avenue and along Lawrence Avenue (east of Richter Street). This neighbourhood was close to the downtown businesses and its many amenities and services. As this neighbourhood was in close proximity to the downtown, it was one of the early residential areas to have access to electric power (ie. electricity came to downtown Kelowna in 1909) and other services, unlike many outlying areas that did not get power until many years later.

In 1905, H.C. Cooper built one of the first houses in this newly subdivided area (Refer to: Subdivision Plan #202, Kelowna Archives-*If available*). H.C. Cooper did not stay long in Kelowna, as he sold the house to William A. Schole, a bookkeeper for Morrison Thompson Hardware the following year. Again, the house changed hands, when it was purchased by J.N. Long in 1907 who owned it until 1912. Long was an irrigation district surveyor, who may have worked with Frank Groves in the 1890s.

Like the lot that Cooper built his house on, most of the lots in the area were fairly narrow and small. The Bernard and Lawrence Avenue neighbourhood continued to develop with more houses being built. Some of the early residents who built their homes in the area included many of Kelowna's business and civic leaders. David Leckie (city councillor and owner of Leckie Hardware in the Leckie Block on Bernard Avenue) built his house in 1906 at 781 Bernard Avenue, on the opposite side of the street and closer to Richter Street. In 1907, Frank DeHart (Mayor of Kelowna in 1909 and manager of Okanagan Fruit & Land Co.) also built his house closer to Richter Street, on the north side of Bernard Avenue (770 Bernard Avenue). J.B. Knowles (owned Knowles Jewellers on Bernard Avenue and was a city councillor) built his house at 865 Bernard Avenue across the street from Cooper's house in 1907/1908. The neighbourhood continued to grow until the 1913 depression and the subsequent First World War, which put an end to the rapid growth in the area and in the city.





(Courtesy Kelowna Museum Archives: Photo No. KM8125 Pan Photo, c.1910 (cropped))

By the 1920s, there were all kinds of services in the city, including schools, light and power, banks, churches, telephone and competitive stores. By 1923, a new wave of growth had begun, lasting until the depression of the 1930s. In 1925, the Canadian National Railway (CNR) linked Kelowna to the outside world, facilitating the increased shipment of fruit and other goods. During the 1930s and 1940s, Harold J. (Harry) Waldron bought the Cooper House to rent out. Harold and Charlotte Waldron's residence was at 1457 St. Paul Street. Harold owned Waldron Grocery on Ellis Street, which was an English style grocery store that made home deliveries. He ran his grocery business from around 1916 into the late 1940s. Into the late 1930s, this neighbourhood continued to attract people who were active in helping to shape early Kelowna. With the economic downturn caused by the 1930s depression and the subsequent second World War, many of the houses (especially the larger houses) took in boarders in order to help survive financially. The Cooper House continued to house single families or couples, unlike many of the bigger houses in the neighbourhood, which were used as rooming houses. The house, although two-storeys, is not large and had only two small bedrooms and one medium size bedroom on the second floor. The living area is small, although it has expanded over time. This is typical of most of the smaller houses in the area.

One of Kelowna's most remarkable citizens was the late William Andrew Cecil (W.A.C.) Bennett (September 6, 1900 – February 23, 1979), the hardware merchant who became British Columbia's Social Credit Premier in 1952 and ruled the province for 20 continuous and productive years. W.A.C. Bennett was and remains the longest-serving premier in British Columbia history. Before becoming premier, Bennett came to Kelowna, where he bought Leckie Hardware (started in 1912) on Bernard Avenue in 1930 and renamed it Bennett Hardware. Cecil and May Bennett with their first two children, Anita and R.J., rented the H.C. Cooper House in the summer of 1930. William Richards (Bill) Bennett, who also became the premier of BC, was born on August 18, 1932, while the family lived in the Cooper House. As the house was too small for the growing family, the Bennett's moved further up Bernard Avenue to the foot of the Glenmore hill. In 1936, the family purchased 'Brookside Manor', F.R.E. DeHart's property on Ethel Street.

Bill Bennett, following in his father's political footsteps, was first elected as a South Okanagan MLA in September, 1973, representing the Social Credit Party. He became premier of BC in December, 1975 and served until 1986. In 2007, Bennett was awarded the Order of British Columbia, B.C.'s highest award for achievement. The 2009 replacement bridge across Okanagan Lake in Kelowna is named in his honour.

In 1939, Kelowna like the rest of the world woke up to the Second World War. Again the men (and later many women) went off to fight and the folks at home tried to cope with the orchards and the work of pruning, spraying, irrigating and harvesting that still had to be done. The government of British Columbia had given considerable thought to the resettlement of the returning veterans. One of the members of the Resettlement Committee was W.A.C. Bennett. Lands and homes were made available to the veterans, many of whom returned with a whole new outlook, having seen the world outside.

In 1946, Francis J. (Bud) and Joan Gourlie bought the H.C. Cooper House. Francis was an electrical lineman for the City of Kelowna. He was a hockey player from Cranbrook, who continued to play hockey in the 1940s to the 1960s. Joan Gourlie's parents, lived across the street in the Knowles House. Joan's father was Harold Abbott Blakesborough, a long time city engineer. The Gourlies owned the house until September 1952, when they moved to Richter Street. The Cooper House was owned by Charles J. and Rosabel Gable from 1954 until 1981. Charles Gable worked at the S. M. Simpson Saw Mill on Manhattan Point in Kelowna.

The opening of a link to the coast via the Hope Princeton Highway spelled the end to Kelowna's small town days especially when the Okanagan Lake floating bridge was built. The floating bridge, opened by Premier W.A.C. Bennett and Princess Margaret on July 19, 1958 paved the way for unlimited expansion of Kelowna. This was followed by the opening of the Kelowna Airport in 1960 and two years later, the opening of the Rogers Pass highway through the Rocky Mountains to Alberta. These modern transportation modes brought more and more people to the Okanagan Valley, especially from the prairies. The population of Kelowna almost doubled between 1941 (5,154) and 1959 (10,000). By 1966, Kelowna's population had risen to 17,006 people. Many things contributed to this growth, the magnificent climate and scenery being one of the most obvious ones. In 1973, the Government of B.C. decreed that Kelowna and its outlying regions should amalgamate making the city one of the largest (area wise) in B.C. and bringing the population up to approximately 50,000

Upper Bernard Avenue, like many inner city neighbourhoods, became a less desirable place to live with the expansion into the suburbs beginning in the 1950s and 1960s. However, this changed in the late 1980s and early 1990s when these inner city areas again became more attractive to live in. This is reflected in this neighbourhood with the revitalization of many of these buildings as homes and the reuse of some of these buildings for commercial and/or office use. People began to see the value of these character buildings as homes, as businesses and as a character neighbourhood. The H.C. Cooper House was one of the early heritage buildings on the 1983 Kelowna Heritage Inventory that received a grant of almost \$1,000 for conservation work in January 1995 (KHF created in 1991). The house was also one of the earliest buildings in Kelowna to have a Heritage Revitalization Agreement approved (Bylaw 8025; Z96-1015) in 1997. This HRA was to turn the house into a hair studio with a residential suite on the

second floor. The construction was never completed, so the HRA was revoked in 1998/1999 and the house remained in residential use up until the present day.

### ***Chronology of the historic site***

The H.C. Cooper House, built in 1905, was one of the earliest houses constructed in the area. The original two-storey house (28' 6" x 16') had an open verandah with a shed roof at the front of the house. At the rear of the house (north-east side), a shed roof structure was built to house the staircase that led to the three bedrooms on the second floor. The original staircase area may have been only as wide as the staircase on the main floor as well as on the second floor. In the 1983 Heritage Inventory photographs of the rear of the house, it appears that the second floor adjunct is the width of the staircase. (refer to: 1983 Heritage Inventory Photo of north side of house) This may indicate the original width of this structure. A small adjunct with a single hung window and shed roof on the second floor, likely was original as it let light into the staircase and second floor hallway. There was at least one chimney in the house, more likely there were two chimneys. There was an exterior brick chimney that was located at the rear of the house and was built from the ground up past the roof. The chimney would have been used for heating both floors of the house. There may have been a second chimney that heated the other side of the house.

An early stone cellar (15' x 14') with a wood shed roof was built at the northeast side of the house. This small structure was free standing when it was built. It is likely that the cellar was constructed soon after the house was built, as most houses had a root cellar for food storage. This structure may have also been used as a sawdust and coal-bin space. There are a couple of openings in the wood upper wall (east side) that may have been used for a chute. More recently, the floor has been filled in and a concrete pad poured. This space has since been used for storage. Over the years, the space between the house and the cellar has been filled in with additions to the house.

Subsequent additions to the house provided the space needed for the families who lived there. There have been numerous rear and side (east) additions and changes made to the house overtime. The earliest changes were likely in the 1920s, when the economic climate had improved after the First World War.

An addition (12' wide x 28' 6" long) was built at the rear of the house at this time. This addition was one-storey with a shed roof. The addition at the northeast end was built along side of part of the south wall of the stone cellar. The addition incorporated the original staircase adjunct (northeast end) into the expansion. The top part of the staircase kept its narrow width and second floor adjunct with its single hung window (one pane of glass in each sash) that looked out at the back of the lot. (refer to: 1983 Heritage Inventory Photo of north side of house) The addition included space for a new kitchen area (northwest end), space for a rear hallway next to the staircase (and storage under the stairs) and an indoor washroom that was accessed from the staircase and hall area. The expanded staircase and storage area was finished with wainscoting and trims that appear to be from this time-period. A four pane vertical fixed window and door was likely installed as part of this renovation.



The washroom had a small vertical casement window installed on the east wall. The washroom addition was of a similar time-period to other houses on the block, which were also expanded with the addition of indoor plumbing and electricity.

The new kitchen area included a small square single hung window (with an upper and lower single pane sash) on the north wall, likely above the kitchen sink. A second larger vertical single hung window (with two vertical panes in each of the upper and lower sashes) was installed in the west wall. This window varies slightly in size and has four panes of glass versus the two panes in the original windows in the house. The original exterior chimney located at the rear of the house (northwest end), became part of the kitchen addition. The brick chimney is visible in the 1983 Heritage Inventory photographs. (refer to: 1983 Heritage Inventory Photo of north side of house)

The east side enclosed porch area was likely added around the same time-period as the 1920s addition. This could have been a practical mudroom entrance for the family. Alternatively, this may have been a screened in sleeping porch for the family, used during the hot Okanagan summers. The doorway into the main house (staircase area) is very narrow and looks like it was put in when the porch was added.

The 1983 Kelowna Heritage Inventory has a photograph of an early garage (identified as being built in 1928) located at the back of the property (off the lane) in the northwest corner. The structure has a shed roof (sloping down towards the lane) with horizontal wood siding and a fairly large opening in the middle of the wall is visible. (refer to: 1983 Kelowna Heritage Inventory photo of the structure) The garage was torn down sometime after 1983. It is mentioned in the 1997 Heritage Building Information form as a alteration, however it is not listed as an associated building. This may indicate that the garage was gone by this time. The 1995 renovation plans has a structure drawn in on the same location and has called the structure a 'storage shed'. This is likely the 1928 garage structure. (refer to: 1995 Building Renovation Plans)

A utility room was added to the northwest corner of the house, behind the kitchen, again providing a modernization of the house for family uses. This addition incorporated the west wall of the stone cellar. The utility room is visible in the 1983 Heritage Inventory photographs. (refer to: 1983 Kelowna Heritage Inventory photo of the back of the house) The 1997 Heritage Building Information form records under alterations documented: 1962 repairs to fire damage. It is possible that the utility room may have been added after this time, as part of the repairs to the house.

In June 1995, plans were drawn up as part of Building Permit #4266 for renovations on the house. These plans indicate a number of alterations and upgrades that were proposed and approved on the house. These changes include the following. (refer to: 1995 Renovation Building Plans)

- \*The house's foundation was reinforced and repaired in various areas. The utility room was 'rebuilt' on concrete pads/footings, as the existing addition was not on a foundation.

- \*The front existing porch was 'rebuilt'. The front porch was put on concrete pads to stabilize the porch. The tongue and groove wood decking was likely replaced at this time. The tongue and groove wood ceiling looks like it may have original materials. The posts holding up the shed

roof are original. The deck railings look to be original/early, as they look to be the same style as seen in the 1983 Heritage Inventory photographs. The stairs that lead up to the deck were replaced at this time.

\*a 24" wide skirting was put around the house's foundation.

\*A second storey addition for an upstairs washroom was built at the rear of the building, above the main floor washroom. The addition has a shed roof and a new window (the window installed on the west end of the north wall, instead of the east end as indicated in the building drawings) on the north wall of the washroom. The original/early single hung window was removed and looks to be relocated on the west wall of the hall leading from the stairs to the new washroom. As part of this addition, the roof line on the east side of the house (north gable on the east end) was removed and replaced with a new lower pitched gable. Also the height of the main floor shed roof that now extends out from the house has increased. This height increase can be seen in a comparison between the 1983 Inventory photos and current photos.

\*The roof was repaired, insulated and 'reshaked' (or more likely the roof was finished with wood shingles, which appear to be what is on the house in the 1997 photograph used in the house's SOS)

\*The exterior brick chimney at the rear of the house was likely removed during this renovation.

It is likely that the house was repainted as part of the 1995 renovations. The colour scheme would have been the light (lemon) yellow siding with the white trim and details, as seen in the 1997 Heritage Building Information.

### ***Historic Colour Schemes***

The present and some of the past paint colours of the exterior of the Cooper house was observed and recorded during the building documentation. A number of past colour schemes were observed and have also been compiled into the following chart. This is not an exact match of historic colours, but is meant to record the general colour schemes that the house had been painted. The vernacular styling of the building as well as popular colours of the times and personal taste is reflected in the colours schemes. Colour sampling may be done in the future to determine original and early colour schemes of the H.C. Cooper House. (Refer to: Appendix # Colour schemes for the H.C. Cooper House)

### **Evaluate Significance**

Understanding the heritage values and significance of an historic place helps to guide the development of policies/strategies in the conservation report. The purpose of conservation is to retain the heritage values of an historic place while change happens.

#### ***1. Heritage Values:***

The H.C. Cooper House has a current Statement of Significance (SOS) that was written for the building as part of the Kelowna Heritage Register update in the early 2000s. The SOS has been reviewed after researching (including interviews with local historians) and documenting the building. The following is the Heritage Values from the ***City of Kelowna Statement of Significance for the H. C. Cooper House with***

**suggested changes, edits and comments in bold.** (Refer to Appendix : 862 Bernard Avenue, H.C. Cooper House, SOS)

*The heritage value of the H.C. Cooper House arises from its association with a series of occupants who were prominent in civic and commercial affairs in the community, including W.A.C. Bennett. It also has value for its representation of the early period of community development at the time of Kelowna's incorporation in 1905, and for being one of many notable heritage buildings along the Bernard Avenue corridor, east of the downtown core area, which have benefited from the City's heritage conservation program.*

*The house was built in 1905 (earliest or one of earliest homes built in newly subdivided area) by H.C. Cooper, who had arrived in Kelowna from Vernon a year earlier, when he bought the saddlery and harness business of G.A. Thompson, at the corner of Bernard Avenue and Water Street. Cooper is listed as the owner in the tax roll in 1906, but evidently did not remain long in Kelowna. In the following year the house was owned by William A. Schole, bookkeeper for Morrison Thompson Hardware . (could not verify this information). From 1907 to 1912 the owner was J.N. Long. (could not verify this information)*

*In the 1930s and 1940s (late 1920s to 1946), grocer Harold J. Waldron owned this house. **Harold Waldron owned Waldron Grocery on Ellis Street which was in business from 1916 into the late 1940s.** He rented it from 1930 to 1932 to W.A.C. and May Bennett. W.A.C. Bennett later became the renowned Premier of British Columbia. Their son Bill, who was also to become Premier of British Columbia, was born while they lived here. The Bennetts moved further up Bernard Avenue to the foot of Glenmore hill in 1932, and in 1936 they bought F.R.E. DeHart's 'Brookside Manor' on Ethel Street.*

*Francis J. and Joan Gourlie occupied this house in 1948 (1946 to 1952). Francis was an electric lineman for the City. In 1956 it was occupied by Charles J. and Rosabel Gable, he being a helper at the S.M. Simpson Ltd. **Saw Mill.***

*Then-owner Jody Good received a \$988 grant for external conservation work in January 1995 from the Kelowna Heritage Foundation (created in 1991). In 1997, the house was subject of Heritage Revitalization Agreement Authorization Bylaw 8025 (Z96-1015). It has value for having been one of the first (early) houses in Kelowna to be conserved through a municipal grant (receive a heritage municipal grant) and be protected by a HRA. **The HRA was cancelled in 1998 as the homeowner did not meet the conditions of the HRA.** The house has been continuously residential since it was built, in contrast to many (some) others in the neighbourhood that have been converted to commercial use. **The current homeowner (2010/2011) is working with the city on a new HRA as part of a rehabilitation of the building into its new use as law offices. A residential component will remain with the construction of a new carriage house at the back of the lot. The Cooper House is part of the neighbourhood evolution towards the mix of commercial and residential uses within the same lot.***

*The house also has value for the simplicity of its vernacular design, with a steep gabled roof and the entrance and porch on the long side, characteristic of many farmhouses of the period. This represents its having been built during the first period of Kelowna's urban development, when the North Central neighbourhood was still considered a rural area.*

(Source: 862 Bernard Avenue's Statement of Significance, City of Kelowna Heritage Register)

The SOS seems to contain most of the relevant elements that comprise the heritage value of the H.C. Cooper House, with a few updates and changes needed (as indicated above). Additional heritage values may also be included in an updated SOS for the building. These include the following:

- \*The building contributes to the streetscape and neighbourhood, especially being set far back on the lot from the street.
- \*Like many of the homes in the neighbourhood, the Cooper House's occupants/owners were prominent in civic and commercial affairs in the community.
- \*The house is representative of the early period of community development at the time of Kelowna's incorporation in 1905.
- \*The changes in the house reflect the evolution of the neighbourhood.
- \*The house is constructed with rough-sawn, local fir and light-framing materials, which reflects the vernacular nature of the building's design.
- \*The house is one of many notable heritage buildings along the Bernard Avenue corridor, east of the downtown core area, which have benefited from the City's heritage conservation program.

## **2. Character-Defining Elements:**

The following is the Character Defining Elements from the *City of Kelowna Statement of Significance for the H. C. Cooper House with suggested changes, edits and comments in bold*. (Refer to Appendix : 862 Bernard Avenue, H.C. Cooper House, SOS)

- **Location and setback from Bernard Avenue, forming part of Kelowna's North Central Neighbourhood**
- Residential form, scale and massing, expressed by one-and-one-half-storey height (**Note: not one-and-one half-storey height, but TWO-STOREY HEIGHT**) and rectangular plan
- Medium-pitched, gabled roof, with the entrance and porch along in the long side, facing the street
- Two symmetrical, flat-roofed (**Note: not flat-roof but HIP ROOF**) dormers on the second floor
- Medium-pitch shed roof over the continuous porch
- Corbelled-brick chimney (**Note: chimney removed in 1990s, so no longer a CDE**)
- Second-floor symmetrical fenestration, with 1-over-1, double-hung, wood casement windows with plain, wide wood trim (**Note: not double-hung or casement windows, but SINGLE-HUNG WINDOWS**)



- *Ground floor asymmetrical fenestration, with fixed glazing (Note: not fixed glazing, but **SINGLE-HUNG WINDOWS THAT OPEN**) and plain(remove plain) wood sash with plain, wide, wood trim*
- *Wood shingle walls (Note: not wood shingle walls, BUT **WOOD HORIZONTAL DROP SIDING WALLS**)*
- *Open raised porch, full width of house with plain, painted-wood posts supporting roof, with decorative, painted-wood open balustrade, and simple, painted-wood handrail (Note: not handrail, but **TOP RAIL**)*
- *Wood steps to entrance porch*
- *Tall mature trees in front yard, with lawn and tall, continuous evergreen hedge at the street (Note: Removed with new landscape plan\*)*

(Source: 862 Bernard Avenue's Statement of Significance, City of Kelowna Heritage Register)

The SOS seems to contain most of the relevant character defining elements of the H.C. Cooper House. However, major changes and updates are needed, as there are a number of errors, as indicated in the above notes. Additional character defining elements may also be included in an updated SOS for the building. These include the following:

- The **stone cellar** located at the rear of the building. Even though the structure is now accessed through the utility room of the house, it is a separate building with its own foundation. Its roof has been incorporated as part of the house's shed roof on the main floor.
- The **enclosed porch addition** on the east side of the house is an important addition that provides an important function in houses in the Okanagan (as a sleeping porch in the hot Okanagan summers and use as a mudroom during cold and wet weather).

## Assess Potential Impacts

There are a number of factors that could have an impact on the values of an historic place. These go beyond simply considering the physical acts of preservation, rehabilitation or restoration of the physical fabric of the building. Other factors may include accessibility, code compliance, environmental control upgrades, fire detection and suppression systems, maintenance program and security features.

### ***1. Requirements for retaining significance***

The character defining elements (that have been identified in the SOS and the additional ones recommended and amended in this report) are important to conserve in order to retain the significance of the historic place. The heritage value and sustainable use of the place is affected by its present circumstances, which will affect how the heritage value is retained.

- Physical form of the building (form, scale and massing): It is important that any additions and/or

alterations to the physical form of the building not negatively affect this form and its view from the street (front of the house).

-Roof and dormers, front porch, wood windows, detailing such as the decorative porch posts, wood siding: The physical fabric and details must be retained through repair and replacement where necessary with like materials.

-Zoning: The zoning of the neighbourhood and for the property. The zoning RU2 allows up to two (2) residential units on the property, which has been identified in the OCP. This allows for carriage houses, which already have been and are still being built in this upper Bernard Avenue area.

-Physical layout of lot: As the lots in this area are fairly narrow and long, new development has tended to be at the rear, up to this point. Any new additions to the building and the construction of a carriage house would also be at the rear (north end of the lot), i.e. access to back lane.

-Past renovations: The house has undergone a number of alterations and renovations in the past. These show the evolution of the building and the changing needs of the owners. The 1995 addition of the second floor bathroom at the rear of the house, changed the roof line. All the earlier shed roof additions were removed and replaced with a new large shed roof, where the pitch has been reduced. The original northeast gable roof-line has been removed completely.

## **2. Client Requirements**

-Office Space: wheel chair access (exterior) and washroom adapted, additional car parking stalls, residential kitchen removed, kitchenette provided, new landscape plan, layout and uses of rooms revised

-Security system:

-Heating and cooling systems: air, retain baseboard heating, upgraded ventilation systems in washrooms

-Carriage house: residential suite above parking

## **3. Physical Condition Survey**

(refer to: Professional Assurance Inspections, *Inspection Report on 862 Bernard Avenue*, July 2, 2010)

It is important to document and evaluate the existing condition of any heritage building as part of a heritage conservation plan. The condition of the significant physical elements of the building have been recorded (through photographic documentation) and assessed in the report. As this report is meant to document the H.C. Cooper House and provide guidance in future conservation work, this section is a brief synopsis and is not meant to be a complete condition report\* on the building.

(\*Note: The scope of this report does not include a condition report that assess all of the physical materials and elements of the building(s) or to record every defect. Instead, it is a summary of the condition of the significant materials of the exterior of the building. A priority of the strategies/interventions of the noted materials and elements that are necessary will be identified.)

The assessment of the condition of the significant materials and the elements of the H. C. Cooper House will also help to determine the appropriate intervention necessary to ensure that the heritage value is preserved and protected. Minimal intervention should be emphasized in which repair of original materials and elements will be recommended. Replacement of elements will only be recommended if the material is too deteriorated to repair. *Repair rather than replace character-defining elements. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements.* (Source: Standards and Guidelines for the Conservation of Historic Places in Canada, p. 7)

The H. C. Cooper House currently undergoing some repair and maintenance work in the interior of the building in order to accommodate the proposed new use as law offices. The H.C. Cooper House is in good to very good condition. It has been well-maintained over the years. The building has recently undergone a number of upgrades by the previous owner (Duane Habuzza). These upgrades included: the electrical service, new roof, new gutters and new front steps.

#### **Exterior cladding:**

The exterior cladding on the building is wood horizontal drop siding, between 5" and 5 1/8" wide exposure. The profile is 1 1/4" flat top (exposed) and then two beads (1/2" to 3/4" width in total) and then a flat 3 1/4" to 3 1/2" (thicker on lower section of siding) (Refer to Appendix #: drawing of typical drop siding)

The siding appears to be in good condition with many thick layers of paint evident. The building has been well-maintained through regularly painting the exterior. The building was most recently painted within the last 5 years, however the paint is starting to fail in some areas. On the newer additions, the siding is similar to the original but is wider. The building ideally needs new painting again to ensure ongoing maintenance of the house.

#### **Mouldings, trims and fascia boards:**

The mouldings and fascia boards are plain wide boards (mouldings range between 5" and 6" wide).

The wood mouldings, trims and fascia boards on the house are in good condition. Some of these wood elements have been repaired with replicated mouldings, trims and fascia boards.

#### **Windows and doors:**

*Windows:* The original windows are one over one single hung (with the sash cords, pulley systems and the weights in order). The original single pane glazing was been replaced in some of the windows, including the lower sashes in the two sets of main floor windows at the front of the house. Original or early glazing still exists in the upper sashes of most of these windows. Like many older homes, the windows had been painted shut, but are now all operable. The west Kitchen window and second floor hall window are two over two single hung windows.

The original wood vertical sliding sash windows are in good to very good condition. The windows were recently repaired, painted, and returned to good working order (fall 2010). The window sashes have

been painted a high gloss black which is in keeping with an appropriate colour scheme for the building. Storms were recently manufactured by Glenmore Millworks for all the windows in the house.

*Doors:* The front door is an older wood panel door with a single glazed window insert on the top section of the door. The handle and plate are plain with an antique brass finish. The door may be original or a replacement from another older house.

The other exterior doors are newer. The doorway and window on the east side of the house in the original wall by the staircase are older. The newer east enclosed porch has now hidden the doorway and window from the exterior. The door has been removed and the very narrow doorway left open. The four pane window has been left, but will be modified in the adaptive re-use of the building.

#### **Covered verandah:**

The front porch (28'-6" x 6'), original to the house, has a shed roof extending from the house along the entire south side of the building. The roof is supported by fairly plain turned wood posts on each corner of the roof, as well as two more posts at equal distances along the front edge of the porch. The raised porch is about 30" above the ground, with five steps leading up to the porch deck. The stairs are located in line with the front door. The decorative open balustrade and handrail may be original or may be a modern replacement (can be seen in the 1983 Heritage Inventory photos of the building). The porch ceiling is made with painted wood tongue and groove boards (3 1/8" - 3 1/4" wide). The porch wood floorboards are 5 1/2" - 5 7/8" wide and 5/8" thick. There is a fascia board above the lattice to close off the space under the porch. This is not original, but was replaced in the 1995 renovations.

The porch is in very good condition. The original materials have been well maintained over the years through repair and paint. The decking has been replaced with new wood decking in the 1995 renovations, as this area would have a significant amount of wear and tear over the years. The steps have also been replaced a number of times (most recently in 2009/2010), in the same location. The porch roof has newer asphalt shingles, as does the rest of the roof. There are new black gutters and downspouts on the house.

#### **New roof and chimneys:**

*Roof:* The house has a medium-pitched east-west ridge gabled roof with the front entrance and covered porch along the south side. There are also two symmetrical hip-roofed dormers on the second floor on the front of the house. There is a medium-pitched shed roof over the continuous porch. The back (northeast side) of the house has shed roof additions. There is also an enclosed porch on the east side of the house with a gable roof.

The current roof is in good condition. The original medium-pitched gabled roof would have been finished with either cedar shingles or cedar shakes. The 1983 Heritage Inventory identifies the house as having a cedar shingle roof. The 1995 Renovation Building Drawings also identifies that the roof needs to be replaced with wood shakes. The house has recently been re-roofed with black/dark grey asphalt shingles. This roof is about three to five years old.



*Chimney:* The original chimney(s) have been removed from the house. There is evidence of one chimney at the back of the house on the west side in the kitchen area. There likely would have been at least two original chimneys in the house, a second one may have been on the east end of the house for the main floor living room. In the 1983 Heritage Inventory photos (refer to photo #) of the back of the house, the original chimney can be seen on the west end of the back (north side) of the house, where the kitchen is located. The chimney was likely built on the outside wall and when the main floor kitchen addition was built at the back, it was incorporated into the interior of the kitchen, while still exposed on the exterior of the back wall on the second storey. The “corbelled-brick chimney” has been identified as a character defining element in the SOS (c.2000). The chimney is not drawn in the 1995 renovation plans, so may have already been removed. The chimney was not identified in the 1997 early register form on Heritage Building Information.

**Enclosed Porch:**

The enclosed porch, which may have been built as a screened-in porch, was added to the east side of the house likely in the 1920s. This addition (12'-4" x 10'-4") has a medium pitch gable roof (ridge runs north south). The bottom section of the walls are have drop siding, like the rest of the house. The top section has lattice work over top of the filled in section (partial plywood walls which may have filled in the original screening).

The enclosed porch addition is in good condition and like the rest of the house, the exterior has been well maintained. The room needs to be insulated and repaired for re-use as an interior functioning space.

**Stone cellar:**

The cellar (13'-6" x 11'-6") has walls constructed of stone that are about 6'-8" tall and at least 1' thick. The structure has a newer foundation (about 1' high from the floor to where the stone wall begins) and a newer poured concrete floor. Originally, this structure could have been used as a cold space for food storage. It may have also been used for sawdust, coal or wood storage, as there are two small doors on the east side of the structure that may have been used as a coal chute or access point. The stone structure supports wood frame walls and a shed roof. In the 1995 renovations the height of the structure was increased, likely when the shed roof was extended, so that it became one large shed roof, attached to the main floor shed roof with a low pitch. The doorway into the building is on the west wall, in which there are two steps down into the room. The structure, once accessible from the outside, is now within the 1995 utility room. Although the stone structure has not been identified as a character defining element in the SOS, it is probably original to the 1905 house and adds value to the heritage.

The cellar is in fair condition. It has had some repairs to the caulking between the large stones that make up the walls. These repairs have been poorly done and should be redone. The room needs to be insulated and repaired for re-use as an interior functioning space.

**New landscaping:**

The house has mature landscaping in the front yard with a very large tree on each corner of the porch and a couple of trees up front, planted by the city as part of the boulevard. There was a mature hedge along the front sidewalk as well. The SOS for the building identifies the "Tall mature trees in the front yard, with lawn and tall, continuous evergreen hedge at the street" as a character defining element for the site.

As part of a new landscape plan, the hedge has been already removed and the large trees will also be as well. The two trees on each side of the porch are encroaching on the building (against the porch's corner posts), are partially hanging over the house and the neighbour's yard, and have parts of the trees that are either dying or in poor condition. (Refer to: Landscape report?) The new landscape plan will introduce an Edwardian period perennial type of garden, lawn, shrubs and trees to replace the last large trees on the site.

**Interior:**

There are a number of original and early features of the interior of the house that still exist and should be conserved. As this report focuses on the exterior of the building, these interior features will only be listed and photographed as part of this report.

These include: the original fir flooring on both the main and second floors (in the original house and early additions); some base mouldings, door and window trims (some original, early, reused); interior wood panel doors; high ceilings on main floor in original house; staircase and area finished with wainscotting.

*Wood Flooring:* The original 1905 house has 3 ¼" tongue and groove fir flooring, that is in fair to good condition. The flooring will be conserved through repair and refinishing as needed.

*Mouldings and Trim:* There are some original door, window and base mouldings. Some of the mouldings have been moved around and/or replaced. The original fir baseboards are 9 ½" high. There are two styles including mouldings that are 5 ¼" wide in a plain board style; the baseboards are a more intricate style. (refer to: photos) Trims on the windows and doors look like they have been replaced where there were alterations to the interior. (ie opened up door between two rooms on main floor in original section of house)

*Staircase and storage area:* This area has early 2 ¼" v-groove vertical wainscotting around the walls in this area. Staircase is older and narrow. The ceiling has been opened up with the 1995 change of the roof to accommodate the extension of the second floor addition for a bathroom.

**Maintenance Plan**

Like many heritage buildings, conservation measures are necessary because building maintenance has been inadequate. A maintenance plan should be established to protect the building and its heritage

value and the conservation work already completed for the future. An annual inspection (at least) is required to ensure the quick identification and rectification of maintenance and conservation matters.

#### *Annual Maintenance Required*

An annual inspection should take place to check the following elements to ensure that they are in good condition and working properly. Regular maintenance and repairs should be done as required, using good heritage conservation practices.

#### **Exterior**

- \***Roof** (flashing, shingles, downspouts, gutters and soffits to ensure shedding water properly)
- \***Siding and fascia boards**
- \***Window sashes and frames and sills**
- \***Exterior doors, frames and sills**
- \***Wood front porch**
- \***Foundations**
- \***Grounds** (vegetation debris should be removed from grounds and away from building regularly to ensure moisture, insects and fire hazard are minimal)

#### **Interior**

- \***Floors and staircase**
- \* **Mechanical, electrical and plumbing systems (including smoke alarm system)**

#### **Future Actions Required**

In addition to annual maintenance required for the H.C. Cooper House, there are a number of future actions required.

#### **Exterior**

\***Preparation and painting wood siding and shingles, trims, windows and doors:** The H.C. Cooper House will need painting every four to seven years, depending on the quality of the paint used, how well the surfaces were prepared before painting and the orientation of the surface to sunlight and wind.

\***Roof:** In about twenty-five years when a new roof is needed, a cedar shingle roof would be more appropriate (similar to the original roof).

\***Window sashes:** The window sashes and frames will need to be maintained and repaired over the years in order to keep them in good working order. They should undergo regular maintenance.

\***Wood elements (ie siding and fascia boards, window and door mouldings, frames and sills):** These wood elements are particularly susceptible to deterioration, weathering, and wear and tear because of their location and surface exposure to sunlight and wind. Some of these elements may need to be replaced (replicated) periodically.

\***Covered Verandah:** The deck will likely need to be replaced every twenty or so years. It should be replaced with a new wood deck and railing that is similar to the original or existing deck.

#### **Interior**

\***Smoke alarm system:** This system should be evaluated and updated periodically to ensure that the

Cooper House has the best protection possible.

**\*Floors and stairs:** The wood floors and stairs will need to be maintained and re-finished when necessary.

**4. External Factors:**

There are a number of external factors that may impact the H.C. Cooper House. These include the following factors:

- The neighbours, the community residential association (KSAN) and other interest groups: What they want to either not see or see happen in their neighbourhood in new uses, types of development, etc.
- The City of Kelowna (planning, commission, council): How staff, committees and council interpret what type of development is appropriate in the area (i.e. HRA, New Character Areas in OCP 2030)
- Greening/sustainability: What initiatives are appropriate in a heritage house, ie replacement of original working wood windows for new double glazed "energy efficient window systems".

**Develop Conservation Policies (NOTE: I AM STILL WORKING ON THIS SECTION)**

The policies and strategies will guide the mitigation of the potential impacts identified, with reference to the Standards and Guidelines for the Conservation of Historic Places in Canada and any specific guidelines for the character-defining element being considered. These policies will be prioritized.

Proposed Intervention (action)	Character Defining Element (what is being impacted by intervention)	Conservation Policy (statement of intent)
Remove the two trees that have grown against the porch	The trees are growing against the verandah posts and causing damage and risk to the building.	Remove and replace with an appropriate tree species.
Maintenance of exterior: repair, prep and painting of exterior wood siding	Wood siding, trims, sashes, verandah, etc.	There will be regular on-going maintenance of the building to ensure that the building's materials survive as long as possible.
Wheel chair access to building through east side enclosed porch	Wheelchair access may impact on the east side enclosed porch, which is a recommended addition as a CDE	The exterior of the building, i.e. the east enclosed porch, will be impacted as little as possible with the addition of wheel chair access into the house.
Apply for Heritage Designation for the building and site	Future actions to the exterior will have to be approved by the city	To ensure the conservation of this important heritage building, the house and site will designated in the near future



## Conclusion

The rehabilitation and adaptive re-use of the H.C. Cooper House for its proposed new use as law offices is underway. In the near future, the owner is planning on building a new character carriage house. This will help maintain the ongoing use of the lot by creating a new residential unit.

**It is recommended that the owner pursue municipal designation for the H. C. Cooper House, in order to ensure that the house is protected long into the future.** The owners have and will invest a significant amount of time, resources and interest in this building. It is important to protect this building for both future generations and for the neighbourhood and the community benefits.

## **Appendix #: Standards and Guidelines for the Conservation of Significant Heritage Buildings: the four major principles, the three types of treatments, and the 14 standards and guidelines**

The four major principles are:

**1. Understanding:** *A comprehensive understanding of a historic place is acquired through documentary and oral research as well as physical investigation. Such research and analysis will lead to the identification of the heritage value of the historic place and the character-defining elements that embody its heritage value. (Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, p.2)*

**2. Planning:** *A mechanism establishing the connection between a comprehensive understanding of a place and interventions that respect its heritage value...Planning must reflect all factors affecting the future of a historic place, including the owner's needs, resources and external constraints. (Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, p.3)*

**3. Using:** *Use (ie. occupancy) may be part of its heritage value, in which case, it must be maintained. Otherwise, a new use compatible with the defined heritage value should be considered. Uses that are economically, socially or symbolically viable are the best guarantee of the long-term survival of a historic place. (Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, p.3)*

**4. Intervening:** *Intervention at a historic place must respect its heritage value and character-defining elements. It is always better to preserve than to repair and better to repair than replace. Any additions must respect the spirit and substance of the old. This "minimal intervention" approach is the foundation of good conservation practice. (Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, p.3)*

These conservation standards and guidelines consider three types of treatment:

- \***preservation** (protecting, maintaining and/or stabilizing the materials, form and integrity of a historic place);
- \***rehabilitation** (repairing, alterations and/or additions to make possible a continuing or compatible use of a historic place);
- \***restoration** (revealing, recovering or representing the state of a historic place at a particular period in its history).

The primary objective of the project and its heritage value will determine the best treatment, ensure that its heritage value is protected and that its physical life is extended. (Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, p.5)

There are 14 standards and guidelines that are fundamental to the conservation of heritage resources in order to protect the value and extend the physical life of a historic place.

### *General Guidelines (all projects)*

1. *Conserve the heritage value of a historic place. Do not remove, replace, or substantially alter its intact or repairable character-defining elements. Do not move a part of a historic place if its current location is a character-defining element.*

2. *Conserve changes to a historic place which, over time, have become character-defining elements in their own right.*
3. *Conserve heritage value by adopting an approach calling for minimal intervention.*
4. *Recognize each historic place as a physical record of its time, place and use. Do not create a false sense of historical development by adding elements from other historic places or other properties or by combining features of the same property that never coexisted.*
5. *Find a use for a historic place that requires minimal or no change to its character-defining elements.*
6. *Protect and, if necessary, stabilize a historic place until any subsequent intervention is undertaken. Protect and preserve archaeological resources in place. Where there is potential for disturbance of archaeological resources, take mitigation measures to limit damage and loss of information.*
7. *Evaluate the existing condition of character-defining elements to determine the appropriate intervention needed. Use the gentlest means possible for any intervention. Respect heritage value when undertaking an intervention.*
8. *Maintain character-defining elements on an ongoing basis. Repair character-defining elements by reinforcing their materials using recognized conservation methods. Replace in kind any extensively deteriorated or missing parts of character-defining elements, where there are surviving prototypes.*
9. *Make any intervention needed to preserve character-defining elements physically and visually compatible with the historic place, and identifiable upon close inspection. Document any intervention for future reference.*

*Additional Standards Relating to Rehabilitation*

10. *Repair rather than replace character-defining elements. Where character-defining elements are too severely deteriorated to repair, and where sufficient physical evidence exists, replace them with new elements that match the forms, materials and detailing of sound versions of the same elements. Where there is insufficient physical evidence, make the form, material and detailing of the new elements compatible with the character of the historic place.*
11. *Conserve the heritage value and character-defining elements when creating any new additions to a historic place or any related new construction. Make the new work physically and visually compatible with, subordinate to and distinguishable from the historic place.*
12. *Create any new additions or related new construction so that the essential form and integrity of a historic place will not be impaired if the new work is removed in the future.*

*Additional Standards Relating to Restoration*

13. *Repair rather than replace character-defining elements from the restoration period. Where character-defining elements are too severely deteriorated to repair and where sufficient physical evidence exists, replace them with the new elements that match the forms, materials and detailing of sound versions of the same elements.*
14. *Replace missing features from the restoration period with new features whose forms, materials and detailing are based on sufficient physical, documentary and/or oral evidence.*

(Source: Standards and Guidelines for the Conservation of Significant Heritage Buildings, pp. 6-7)

**Appendix #: BC Land Surveyors' Certificate of Location, July 1995**



**Appendix #: Owners/Renter of 862 Bernard Avenue**

<b>Date</b>	<b>Owner/Renter</b>	<b>Occupation</b>
August 2010 - Present	W. (Bill) Clarke	Lawyer
2007 - 2010	Duane Habuza (did not live in house)	Businessman
July 1995 – c. 2000 (?)	Durban and Wallick	
1993 - 1995	Jody and Jane Good	Civil Engineer/Student
June 1992 - Sept 1993	Antonio Urbani	
1985 - 1992	Kelowna & District Credit Union (??)	
1954- 1981	Charles and Rosabel Gable	Mill worker at S. M. Simpson Ltd.
1946-1952	Francis and Joan Gourlie	Electric Lineman for the City of Kelowna
1930-1932	W.A.C. and May Bennett (renter)	Businessman and later became Premier of BC
1930s-c.1946	Harold J. and Charlotte Waldron (likely did not live in house, but used as rental property)	Grocer (owned Waldron's Grocery )
1907 – 1912	J. N. Long	
1907	William A. Schole	Bookkeeper for Morrison Thompson Hardware
1905-1906	H. C. Cooper	Saddlery & harness business

**Sources: Title Search (June 1995); City of Kelowna SOS; Kelowna Archives**

**Appendix # : Colour Schemes for the H.C. Cooper House**

<b>DATE</b>	<b>DROP SIDING</b>	<b>TRIM</b>	<b>WINDOW SASHES</b>	<b>FRONT PORCH</b>	<b>COMMENTS</b>
<b>1905/early</b>	Light yellow-beige	TBD	TBD	TBD	This colour was observed on the east side of the building in the c.1920s enclosed porch on the original siding on the house. The current rehabilitation exposed this area.
<b>1983</b>	Gold	Brown	Likely brown	Brown posts gold/cream railings & details	This colour scheme was recorded in the 1983 Heritage Inventory and photographs
<b>1995/96</b>	Light yellow (lemon)	White	White	White posts/White railings & details	This colour scheme is evident in the photographs in the 1997 Heritage Building Information sheet for the Heritage Register and in the SOS (same photo used)
<b>2005 to present</b>	Red	Putty green	Black	Black posts/putty green railings & details	This current colour scheme is recorded in the 2010 photo documentation of the house.

## Appendix #: 862 Bernard Ave - H.C. Cooper House Statement of Significance

Place            The historic place is the two-storey, wood H.C. Cooper House, built in 1905 and located at  
Description: 862 Bernard Avenue in Kelowna's North Central neighbourhood.

Heritage        The heritage value of the H.C. Cooper House arises from its association with a series of  
Value:           occupants who were prominent in civic and commercial affairs in the community,  
                     including W.A.C. Bennett. It also has value for its representation of the early period of  
                     community development at the time of Kelowna's incorporation in 1905, and for being  
                     one of many notable heritage buildings along the Bernard Avenue corridor, east of the  
                     downtown core area, which have benefited from the City's heritage conservation  
                     program.

The house was built in 1905 by H.C. Cooper, who had arrived in Kelowna from Vernon a year earlier, when he bought the saddlery and harness business of G.A. Thompson, at the corner of Bernard Avenue and Water Street. Cooper is listed as the owner in the tax roll in 1906, but evidently did not remain long in Kelowna. In the following year the house was owned by William A. Schole, bookkeeper for Morrison Thompson Hardware. From 1907 to 1912 the owner was J.N. Long.

In the 1930s and 1940s, grocer Harold J. Waldron owned this house. He rented it from 1930 to 1932 to W.A.C. and May Bennett. W.A.C. Bennett later became the renowned Premier of British Columbia. Their son Bill, who was also to become Premier of British Columbia, was born while they lived here. The Bennetts moved further up Bernard Avenue to the foot of Glenmore hill in 1932, and in 1936 they bought F.R.E. DeHart's 'Brookside Manor' on Ethel Street.

Francis J. and Joan Gourlie occupied this house in 1948. Francis was a lineman for the City. In 1956 it was occupied by Charles J. and Rosabel Gable, he being a helper at S.M. Simpson Ltd.

Then-owner Jody Good received a \$988 grant for external conservation work in January 1995 from the Kelowna Heritage Foundation. In 1997 the house was subject of Heritage Revitalization Agreement Authorization Bylaw 8025 (Z96-1015). It has value for having been one of the first houses in Kelowna to be conserved through a municipal grant and be protected by a HRA. The house has been continuously residential since it was built, in contrast to many others in the neighbourhood that have been converted to commercial use.

The house also has value for the simplicity of its vernacular design, with a steep gabled roof and the entrance and porch on the long side, characteristic of many farmhouses of

the period. This represents its having been built during the first period of Kelowna's urban development, when the North Central neighbourhood was still considered a rural area.

- Character
- Defining Elements:
- Location on Bernard Avenue, forming part of Kelowna's North Central Neighbourhood
  - Residential form, scale and massing, expressed by one-and-one-half-storey height and rectangular plan
  - Medium-pitched, gabled roof, with the entrance and porch along in the long side, facing the street
  - Two symmetrical, flat-roofed dormers on the second floor
  - Medium-pitch shed roof over the continuous porch
  - Corbelled-brick chimney
  - Second-floor symmetrical fenestration, with 1-over-1, double-hung, wood casement windows with plain, wide wood trim
  - Ground floor asymmetrical fenestration, with fixed glazing and plain wood sash with plain, wide, wood trim
  - Wood shingle walls
  - Open raised porch, full width of house with plain, painted-wood posts supporting roof, with decorative, painted-wood open balustrade, and simple, painted-wood handrail
  - Wood steps to entrance porch
  - Tall mature trees in front yard, with lawn and tall, continuous evergreen hedge at the street



**Appendix# : CITY OF KELOWNA, BYLAW NO. 7776: Heritage Designation Bylaw  
REVISED: November 16, 2009**

**CONSOLIDATED FOR CONVENIENCE TO INCLUDE:  
BYLAW NOS. 8206, 8324, 8527, 8748, 10206 and 10263**

**A bylaw to delegate Council's powers and to establish  
application procedures in respect of bylaws, agreements  
and permits under Part 27, Heritage Conservation of the  
Local Government Act**

The Municipal **Council** of the City of Kelowna, in open meeting assembled, enacts as follows:

**1.0 TITLE**

1.1 This Bylaw may be cited as "Heritage Procedures Bylaw No. 7776."

**6.0 HERITAGE DESIGNATION**

6.1 The registered **owner** of real property within the City of Kelowna, or his agent authorized in writing may apply for Heritage Designation Protection pursuant to Section 967 of the Local Government Act.

**BL8748 replaced Subsection 6.2 with the following:**

6.2 Every application for a **Heritage Designation Bylaw** shall be made on an approved form, signed by the applicant and accompanied by the following:

- (a) the application fee outlined in Development Application Fees Bylaw No. 8034 as amended or replaced from time to time;
- (b) the use of the property;
- (c) photographs of each elevation of the property;
- (d) information on the heritage significance and architectural merit of the property;
- (e) site plan of the property;
- (f) elevation drawings showing the architectural features, characteristics and colours of the exterior of the building;
- (g) details of affixed interior building features or fixtures proposed to be subject to protection; and
- (h) details of any landscape features proposed to be subject to protection.

*Consolidated* Bylaw No. 7776 – Page 5.

6.3 An application for Heritage Designation shall be forwarded to the **Community Heritage Commission** for review, after which upon completion, a recommendation will be forwarded to Municipal **Council**.

## Sources

City of Kelowna. Heritage Register. 862 Bernard Statement of Significance, c. 2000.

Iredale, Jennifer. "Upgrading Windows in Heritage Buildings." *Heritage BC Quarterly*, Victoria, Spring 2008, pp 1-2.

Murphy, Bill. *Your Old House - Wood Windows*. Victoria Heritage Foundation, 2000.




Parks Canada. **Standards and Guidelines for the Conservation of Historic Places in Canada**. The Government of Canada, in collaboration with provincial and territorial governments, 2004.

Professional Assurance Inspections. *Inspection Report on 862 Bernard Avenue*. July 2, 2010.

David Lovell for KSAN. Bernard – *Lawrence Neighbourhood Walking Tour Brochure*. 2005

Kelowna's Official Community Plan, 1993, chapter 19, p10)

**SCHEDULE "A"**  
**HERITAGE REVITALIZATION AGREEMENT**

DOCUMENT APPROVAL			
Document No. HRA10-0002			
Cir	Department	Date	Init.
	LUM	11/03/04	
	Dev. Eng.	11/02/04	
	Bldg & Permit	11/03/04	
	City Clerks		

THIS AGREEMENT dated as of the \_\_\_ day of March, 2011

BETWEEN:

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

(herein called the "CITY")

OF THE FIRST PART

AND: 0828609 BC Ltd., Inc. No. BC0828609  
(William T. Clarke)  
862 Bernard Avenue  
Kelowna, BC, V1Y 6P5

(herein called the "OWNER")

OF THE SECOND PART

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 City's Heritage Register, which property and building are located at 862 Bernard Avenue, Kelowna, British Columbia and legally described as:

Parcel Identifier: 002-066-718  
Lot 22, Block 12, Section 30, Township 26, ODYD, Plan 202

(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 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 have heritage value, deserving of protection and conservation and the Owner specifically agrees to restore, maintain, preserve and protect the heritage character of the buildings located on the Heritage Lands in accordance with attached Schedules "AA", "BB", & "CC".

1.2 The parties agree that the Heritage Lands may, notwithstanding the RU6 - Two Dwelling Housing zoning on the Heritage Lands, be used for the following permitted uses:

(a) The adaptive reuse of the house to an office building provided that:

- i. The reorganization and rehabilitation of the interior of the existing heritage home for an office commercial use with consideration that the space could be reverted to a single family dwelling;
- ii. The maximum floor area of the commercial space be limited to 172m<sup>2</sup>;
- iii. The hours of operation for all commercial enterprises located on the subject property shall take place between 8:30am - 4:30pm, Monday through Friday;
- iv. The number of staff operating from the Heritage Building is limited to a maximum of 5.5 employees that reside off-site;
- v. Five on-site parking stalls shall be provided. Two of the residential on-site parking stalls will be within the garage of the accessory building;
- vi. One residential unit shall be located within a newly constructed accessory building;
- vii. A housing agreement (Bylaw No. 10494) has been secured to ensure the affordability of the rental residential unit;
- viii. The replacement trees be the species specified in the landscape plant list (Fall Fiesta Maple, Scarlett Oak and a Satomi Dogwood) and have a minimum caliper of 15cm;
- viv. The business sign be limited to one non-illuminated nameplate not to exceed 2.5 square feet in area;
- vv. A commemorative placard noting that this was the birth home of Bill Bennett be installed on the site.



SCHEDULE "A" - Page 3.

- (b) The Owner will apply for all necessary building permits and complete the heritage revitalization works to the Heritage Building detailed in Schedule "BB1" attached to this agreement at the satisfaction of the City of Kelowna's Building and Permitting Branch prior to substantial completion of the entire development.
- 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 and the Heritage Building.
- 1.4 Where a Heritage Alteration Permit is required, the discretion to approve, refuse, or revise such permit is delegated by Council to the Director of Land Use Management.
- 2.0 Conservation and Maintenance of Existing Development.**
- 2.1 The owner agrees not to alter the exterior of the heritage building except pursuant to a heritage alteration permit issued by the City, and in accordance with this agreement.
- 2.2 The owner agrees to restore the exterior of the Heritage Building on the Heritage Lands in general accordance with the design proposal attached hereto as Schedules "BB(1-3)", and forming part of this agreement, which restoration shall include, but not be restricted to the following:
- a) Performing cosmetic upgrades to the exterior of the existing Heritage Building which will increase the life of the building's heritage features as shown on Schedule "BB (1-3)";
- 2.3 If original features must be replaced, the new material shall be similar or identical to the original. Where original features were removed through earlier renovations or alterations and the replacements were not in keeping with the original style of the building, any subsequent replacement of these features shall complement the building's heritage style.
- 3.0 Proposed Development**
- 3.1 The parties agree that variances to the following subsections of Section 13 - Urban Residential Zones & Section 8 - Parking and Loading of City of Kelowna Zoning Bylaw No. 8000 be granted through this agreement:

**Zoning Bylaw No. 8000 - 13.10.6 Development Regulations:**

Section 13.6.6 (c) - Development Regulation - Side Yard Setback

To legitimize the west side yard set back from 2.0m required to 0.8m proposed (existing) as shown in Schedule "AA" attached to this agreement.

Section 13.6.6 (g) - Development Regulations - Separation distance between buildings

To vary the minimum required separation between the buildings from 4.5m required to 3.86m proposed, as shown in Schedule "AA" attached to this agreement.

**Zoning Bylaw No. 8000 - Table 8.1 - Parking Schedule:**

Section 8.1 - Parking Schedule - Commercial Offices and Apartments

To vary the parking requirement from 7 stalls required to 5 stalls proposed as shown in Schedule "AA" attached to this agreement.

SCHEDULE "A" - Page 4.

- 3.2 The Owner agrees to undertake and maintain landscaping on the subject property in general accordance with the landscape plans attached hereto as Schedule "CC (1- 3)" and forming part of this agreement.

(herein after called the "Landscaping Works")

- 3.3 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 noted in section 4.0 of this agreement.

(herein after called the "Development Engineering Department Requirements")

4.0 **Development Engineering Requirements**

4.1 Domestic Water

This property is currently serviced with a 19mm-diameter copper water service. The service will be adequate for this application. Metered water from the main residence must be extended to supply the proposed accessory.

4.2 Sanitary Sewer

Our records indicate that this property is currently serviced with a 100mm-diameter sanitary sewer service complete with inspection chamber (IC). The service is adequate for the proposed application.

4.3 Site Access and Development Related Issues

On-site parking modules must meet bylaw requirements.  
Direct the roof drains into on-site rock pits. This will help dissipate the roof drain water and prevent additional concentrated flows onto the rear lane.  
Provide a designated, unobstructed Emergency Access Path from the frontage road to the main entrance of the proposed accessory building.

4.4 Electric Power and Telecommunication Services

It is the applicant's responsibility to make a servicing application with the respective electric power, telephone and cable transmission companies to arrange for service upgrades to these services which would be at the applicant's cost.

5.0 **Building and Permitting**

- 1) Development cost charges apply for the new structure and are required to be paid prior to release of the Building Permit.
- 2) Structural Floor loading of the existing building to be determined for the charge of use (house to commercial).
- 3) Drawings are not complete enough to comment on for new accessory building containing a suite at the back of the lot. Require revised drawings for comment.

**6.0 Fire Department**

An unobstructed and easily distinguishable fire fighter access path, of 1100 mm, from the street to the secondary detached building entrance is required.

If a fence is ever constructed between the dwellings a gate with a clear width of 1100mm is required for emergency access. Any gate is to open with out special knowledge. Additional visible address is required for both dwellings from Bernard Ave.

**7.0 Commencement and Completion**

7.1 The Owner agrees to commence the Restoration Works, Landscaping Works, and Works and Utilities Requirements forthwith upon adoption of City of Kelowna Heritage Revitalization Agreement Authorization Bylaw No. 10495 and to complete all such Works no later than March 1, 2012.

**8.0 Damage or Destruction**

8.1 In the event that no more than 75% of 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 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.

**9.0 Breach**

9.1 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.

**10.0 Amendment**

10.1 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*.

**11.0 Representations**

11.1 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.

**12.0 Statutory Functions**

12.1 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.

**13.0 Enurement**

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

**14.0 Other Documents**

14.1 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.

**15.0 Notices**

15.1 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:

0828609 BC Ltd., Inc. No. BC0828609  
(William T. Clarke)  
862 Bernard Avenue  
Kalona, BC, V1Y 6P5

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

**16.0 No Partnership or Agency**

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



SCHEDULE "A" - Page 7.

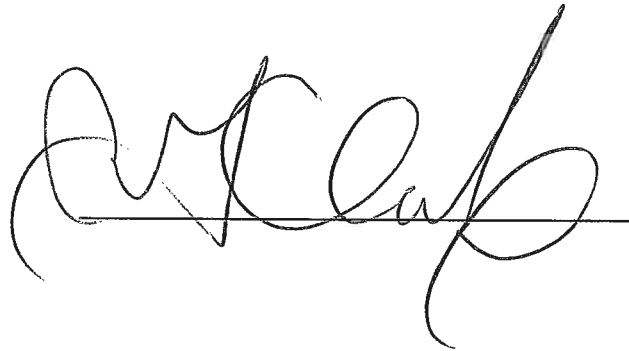
IN WITNESS WHEREOF this Agreement has been executed by the parties hereto on the day and year first above written.

CITY OF KELOWNA  
By its authorized signatories

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

0828609 BC Ltd., Inc. No. BC0828609  
Signed by WILLIAM T. CLARKE



\_\_\_\_\_  
Handwritten signature of William T. Clarke

In the presence of:

Birte Vecloux

Witness (print name)

City Hall

Address

Urban Planner

Occupation



\_\_\_\_\_  
Handwritten signature of witness

Witness (Signature)

**AFFORDABLE RENTAL HOUSING AGREEMENT**

THIS AGREEMENT dated for reference \_\_\_\_ March, 2011 affects:

**LEGAL DESCRIPTION OF PROPERTY SUBJECT TO THE AGREEMENT:**

Parcel Identifier: 002-066-718

Lot 22, Block 12, Section 30, Township 26, ODYD, Plan 202

("Lands")

And is

**BETWEEN:**

0828609 BC Ltd., Inc. No. BC0828609  
(William T. Clarke)  
862 Bernard Avenue  
Kelowna, BC, V1Y 6P5  
("Owner")

**AND:**

**CITY OF KELOWNA**, a local government incorporated pursuant to the *Community Charter* and having its offices at 1435 Water Street, Kelowna, B.C. V1Y 1J4

("City")

**GIVEN THAT:**

- A. The Owner has applied to the City for rezoning of the Lands to permit the construction of a housing complex that will include some affordable rental housing units, in accordance with the City's definitions, on certain lands more particularly described in this Agreement;
- B. The City may, pursuant to section 905(1) of the *Local Government Act*, enter into an agreement with an owner of land that includes terms and conditions regarding the occupancy, tenure, and availability of the housing units on the land or construction on land;
- C. The Owner and the City wish to enter into this Agreement to provide for affordable rental housing on the terms and conditions set out in this Agreement, and agree that this Agreement is a housing agreement under s. 905 of the *Local Government Act*; and
- D. The City has, by bylaw, authorized the execution of this Agreement and the Owner has duly authorized the execution of this Agreement;

This Agreement is evidence that in consideration of \$1.00 paid by the City to the Owner (the receipt of which is acknowledged by the Owner) and in consideration of the promises exchanged below, the City and Owner agree, as a housing agreement between the Owner and the City under s. 905(1) of the *Local Government Act*, as follows:

**ARTICLE 1  
INTERPRETATION**

**1.1 Definitions -**

"Affordable Rental" is the affordable rental rate published periodically by the City, being a calculation of average rents for Kelowna, using data from the annual Canada Mortgage and Housing Corporation ("CMHC") Rental Market Report as set out in Schedule "B";

"Affordable Rental Unit" means a Dwelling Unit that is available for rent at an Affordable Rental rate;

"Caregiver" means an individual who provides assistance with the performance of the personal functions and activities necessary for daily living that a person is unable to perform efficiently for himself or herself;

"City" means the City of Kelowna;

"Dwelling Unit" means accommodation providing sleeping rooms, washrooms, and no more than one kitchen, intended for domestic use, and used or intended to be used permanently or semi permanently for a Household. This use does not include a room in a hotel or a motel.

"Gross Annual Income" means the sum of all taxable incomes, being the amount identified as taxable income on the most recent income tax return (line 260 of the income tax T1 General Form), of all individuals 15 years and older that reside in the Household.

"Household" means

- (a) a person;
- (b) two or more persons related by blood, marriage, or adoption; or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities;
- (c) a group of not more than five persons, including boarders, who are not related by blood, marriage, or adoption, or associated through foster care, all living together in one dwelling unit as a single household using common cooking facilities; or
- (d) a combination of (b) and (c), provided that the combined total does not include more than 3 persons unrelated by blood, marriage or adoption or associated through foster care; all living together in one dwelling unit as a single household using common cooking facilities.

In addition, a household may also include up to one Caregiver or nanny;

"Land" means the land described herein;

"LTO" means the Kamloops Land Title Office or its successor;

"Maximum Allowable Income" means, in respect of an Affordable Rental Dwelling Unit, the threshold income level calculated according to the formula set out in Schedule "B";

"Official Community Plan" means the City of Kelowna Official Community Plan Bylaw No. 7600, or its successor bylaw;

"Owner" means the registered owner of the Lands from time to time and any parcels into which the Lands are subdivided;

"Special Needs Individual" means an individual with physical or mental disabilities or illness who has special needs respecting the design and construction of a Dwelling Unit occupied by that individual, and includes any individual who is confined to a wheelchair;

"Special Needs Dwelling Unit" means a dwelling designed to accommodate the needs of a Special Needs Individual, which unit may or may not also be an Affordable Rental Unit;

"Tenancy Agreement" means a tenancy agreement as defined in, and subject to, the *Residential Tenancy Act*; and

"Tenant" means a Household occupying an Affordable Rental Unit pursuant to a Tenancy Agreement, and that has a Gross Annual Income equal to or lesser than the Maximum Allowable Income.

**1.2 Interpretation** - In this Agreement:

- (a) reference to the singular includes a reference to the plural, and vice versa, unless the context requires otherwise;
- (b) article and section headings have been inserted for ease of reference only and are not to be used in interpreting this Agreement;
- (c) reference to a particular numbered section or article, or to a particular lettered Schedule, is a reference to the correspondingly numbered or lettered article, section or Schedule of this Agreement;
- (d) if a word or expression is defined in this Agreement, other parts of speech and grammatical forms of the same word or expression have corresponding meanings;
- (e) the word "enactment" has the meaning given in the *Interpretation Act* on the reference date of this Agreement;
- (f) reference to any enactment includes any regulations, orders or directives made under the authority of that enactment;
- (g) reference to any enactment is a reference to that enactment as consolidated, revised, amended, re-enacted or replaced, unless otherwise expressly provided;
- (h) the provisions of s. 25 of the *Interpretation Act* with respect to the calculation of time apply;
- (i) time is of the essence;
- (j) all provisions are to be interpreted as always speaking;
- (k) reference to a "party" is a reference to a party to this Agreement and to their respective successors, assigns, trustees, administrators and receivers;



- (l) reference to a "day", "month", "quarter" or "year" is a reference to a calendar day, calendar month, calendar quarter or calendar year, as the case may be, unless otherwise expressly provided;
- (m) the definitions given in the City of Kelowna Zoning Bylaw No. 8000, or its successor bylaw, and the Official Community Plan apply for the purposes of this Agreement; and
- (n) any act, decision, determination, consideration, consent or exercise of discretion by a party, or other person, as provided in this Agreement must be performed, made or exercised acting reasonably.

**1.3 Purpose of Agreement** - The Owner and the City agree that:

- (a) this Agreement is intended to serve the public interest by providing for occupancy of a certain number of Dwelling Units, of the kinds provided for in this Agreement, that are in demand in the City of Kelowna but that are not readily available;
- (b) performance of this Agreement by the Owner is a condition, as contemplated by s. 904 of the *Local Government Act*, of the Owner becoming entitled to certain density bonuses respecting development of the Land, which density bonuses the Owner acknowledges are a benefit to the Owner; and
- (c) damages are not an adequate remedy to the City in respect of any breach of this Agreement by the Owner, such that the Owner agrees the City should be entitled to an order for specific performance, injunction or other specific relief respecting any breach of this Agreement by the Owner.

**ARTICLE 2  
HOUSING AGREEMENT AND LAND USE RESTRICTIONS**

**2.0 Land Use Restrictions** - The Owner and the City herby covenant and agree as follows:

- (a) The Land must be used only in accordance with this Agreement;
- (b) The Owner will design, construct and maintain a maximum of one residential units on the Land;
- (c) The residential unit shall be an Affordable Rental Unit in accordance with this agreement.

**ARTICLE 3  
HOUSING AGREEMENT AND TRANSFER RESTRICTIONS**

**3.0 Purchaser Qualifications** - The City and the Owner agree as follows:

- (a) the Owner must not sell or transfer, or agree to sell or transfer, any interest in any building containing an Affordable Rental Unit other than a full interest in the fee simple title to an agency or individual that will continue to ensure that the identified affordable rental dwelling unit(s) are available in accordance with this Agreement.

**3.1 Mortgages and Mortgage Insurers** – In the event that the building containing one or more Affordable

Rental Unit(s) is subject to a mortgage or charge in favour of a lender insured by a mortgage insurer, as further defined in Schedule "C" (attached), the terms of Schedule "C" shall govern.

#### ARTICLE 4 AFFORDABLE RENTAL UNITS

#### 4.0 Use and Occupancy For Affordable Rental Unit - The Owner agrees with the City as follows:

- (a) the Owner must rent or lease an Affordable Rental Unit on the Land only to a Tenant whose Household has a Gross Annual Income equal to or lesser than the Maximum Allowable Income, on a month-to-month basis or by a lease agreement not to exceed three years, including any rights of renewal;
- (b) the rent payable for an Affordable Rental Unit must be calculated as set out in Schedule "B" to this Agreement;
- (c) the Owner agrees that since the determination of Affordable Rental includes consideration, fees or charges for use of limited common property, utilities and other utility services, no further consideration, charges, or fees may be levied or collected by or on behalf of the Owner as part of the rent for a Affordable Rental Unit under this section for use of limited common property, sanitary sewer, storm sewer, or water utilities for or in respect of the Dwelling Unit or any fees or charges for gas or electrical utilities provided to the Dwelling Unit;
- (d) the Owner must specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to the Affordable Rental Unit, and attach a copy of this Agreement to every Tenancy Agreement;
- (e) the Owner will deliver a copy of the Tenancy Agreement for each Affordable Rental Unit to the City upon demand; and
- (f) the Owner will terminate any Tenancy Agreement where the Tenant users or occupies, or allows the use or occupation of the Dwelling Unit in breach of this Agreement, such termination to be in accordance with the terms of the Tenancy Agreement and the *Residential Tenancy Act* (British Columbia).

#### 4.1 Prospective Tenants – The Owner will be solely responsible for screening prospective Tenants to determine whether or not they qualify for Affordable Rental and whether or not their households have Gross Annual Incomes equal to or lesser than the Maximum Allowable Income, in accordance with this Agreement. For greater certainty, the Owner agrees that the City is not responsible for, and makes no representation to the Owner regarding, the suitability of any prospective Tenant.

#### 4.2 Use and Occupancy for Special Needs Dwelling Unit - The Owner agrees with the City as follows:

- (a) the Owner must rent or lease a Special Needs Dwelling Unit on the Land only to a Special Needs Individual whose Household has a Gross Annual Income equal to or lesser than the Maximum Allowable Income, on a month-to-month basis or by a lease agreement not to exceed three years, including any rights of renewal;
- (b) the rent payable for a Special Needs Dwelling Unit must be calculated as set out in Schedule "B" to this Agreement;

- (c) the Owner agrees that since the determination of Affordable Rental includes consideration, fees or charges for use of limited common property, utilities and other utility services, no further consideration, charges, or fees may be levied or collected by or on behalf of the Owner as part of the rent for a Special Needs Dwelling Unit under this section for use of limited common property, sanitary sewer, storm sewer, or water utilities for or in respect of the Dwelling Unit or any fees or charges for gas or electrical utilities provided to the Dwelling Unit;
- (d) the Owner must specify in every Tenancy Agreement the existence of this Agreement and the occupancy restrictions applicable to the Special Needs Dwelling Unit, and attach a copy of this Agreement to every Tenancy Agreement;
- (e) the Owner will deliver a copy of the Tenancy Agreement for each Special Needs Dwelling Unit to the City upon demand; and
- (f) the Owner will terminate any Tenancy Agreement where the Tenant users or occupies, or allows the use or occupation of the Dwelling Unit in breach of this Agreement, such termination to be in accordance with the terms of the Tenancy Agreement and the *Residential Tenancy Act* (British Columbia).

**4.3 Damages and Rent Charge** - The Owner agrees with the City as follows:

- (a) **Rental Restriction** - the Gross Annual Income of all individuals who occupy the Affordable Rental Unit or the Special Needs Dwelling Unit must not exceed the amount set out in Schedule "B" to this Agreement;
- (b) **Damages for Breach** - for each day an Affordable Rental Unit or Special Needs Dwelling Unit is occupied in breach of this Agreement, the Owner must pay the City \$100.00 for each day on which the breach has occurred, as liquidated damages and not as a penalty, due and payable at the offices of the City on the last day of the calendar month in which the breach occurred, but the City agrees that this section applies only if the City has given 60 days' written notice to the Owner of occupancy of the Affordable Rental Unit or Special Needs Dwelling Unit in breach of this Agreement and the Owner has not cured that breach before expiry of that 60 days;
- (c) **Statutory Declaration** – When making an application for a business license or a renewal of a business license pursuant to the City's Business License Bylaw No. 7878, or its successor, the Owner must deliver to the City a statutory declaration, substantially in the form attached as Schedule A, sworn by the Owner, or a knowledgeable director, officer or employee of any corporate Owner, under oath before a commissioner for taking affidavits in British Columbia, containing all of the information required to complete the statutory declaration. Additionally, the City may request the Owner deliver to the City such a statutory declaration no more than four times in any year. The Owner must submit such a statutory declaration a minimum of once a year; and
- (d) **Tenant Income Tax Information** - By June 1<sup>st</sup> of each year an Affordable Rental Unit or Special Needs Dwelling Unit is occupied, the Owner will send the Community Planning Manager of the City the most recent income tax return information for the Household that occupies that unit. Should a Tenant object to giving his or her Household's income tax return information to the Owner, the Tenant may send it directly to the Community Planning Manager of the City.

**ARTICLE 5  
GENERAL**

- 5.1 Notice of Housing Agreement** - For clarity, the Owner acknowledges and agrees that:
- (a) this Agreement constitutes a housing agreement entered into under s. 905 of the *Local Government Act*;
  - (b) the City is requiring the Owner to file a notice of housing agreement in the LTO against title to the Land; and
  - (c) once such a notice is filed, this Agreement binds all persons who acquire an interest in the Land.
- 5.2 No Effect On Laws or Powers** - This Agreement does not
- (a) affect or limit the discretion, rights, duties or powers of the City under any enactment or at common law, including in relation to the use or subdivision of land,
  - (b) impose on the City any legal duty or obligation, including any duty of care or contractual or other legal duty or obligation, to enforce this Agreement,
  - (c) affect or limit any enactment relating to the use or subdivision of land, or
  - (d) relieve the Owner from complying with any enactment, including in relation to the use or subdivision of land.
- 5.3 Management** – The Owner covenants and agrees that it will furnish good and efficient management of the Dwelling Units and will permit representatives of the City to inspect the Affordable Rental Units and Special Needs Dwelling Units at any reasonable time, subject to the notice provisions of the *Residential Tenancy Act*. The Owner further covenants and agrees that it will maintain the Affordable Rental Units and Special Needs Dwelling Units in a satisfactory state of repair and fit for habitation and will comply with all laws, including health and safety standards applicable to the Land. Notwithstanding the foregoing, the Owner acknowledges and agrees that the City, in its absolute discretion, may require the Owner, at the Owner's expense, to hire a person or company with the skill and expertise to manage the Affordable Rental Units and Special Needs Dwelling Units.
- 5.4 Notice** - Any notice which may be or is required to be given under this Agreement must be in writing and either be delivered or sent by facsimile transmission. Any notice which is delivered is to be considered to have been given on the first day after it is dispatched for delivery. Any notice which is sent by fax transmission is to be considered to have been given on the first business day after it is sent. If a party changes its address or facsimile number, or both, it must promptly give notice of its new address or facsimile number, or both, to the other party as provided in this section.
- 5.5 Agreement Runs With the Land** - Every obligation and covenant of the Owner in this Agreement constitutes both a contractual obligation and a covenant granted by the Owner to the City in respect of the Land and this Agreement burdens the Land and runs with it and binds the Owner's successors in title and binds every parcel into which it is consolidated or subdivided by any means, including by subdivision or by strata plan under the *Strata Property Act*.

- 5.6 Limitation on Owner's Obligations** - The Owner is only liable for breaches of this Agreement that occur while the Owner is the registered owner of the Land.
- 5.7 Release** – The Owner by this Agreement releases and forever discharges the City and each of its elected officials, officers, directors, employees and agents, and its and their heirs, executors, administrators, personal representatives, successors, and assigns, from and against all claims, demands, damages, actions, or causes of action by reason of or arising out of advice or direction respecting the ownership, lease, operation or management of the Land or the Dwelling Units which has been or at any time after the commencement of this Agreement may be given to the Owner by all or any of them. This clause will survive the termination of this Agreement.
- 5.8 Joint Venture** – Nothing in this Agreement will constitute the Owner as the agent, joint venturer, or partner of the City or give the Owner any authority to bind the City in any way.
- 5.9 Waiver** - An alleged waiver of any breach of this Agreement is effective only if it is an express waiver in writing of the breach. A waiver of a breach of this Agreement does not operate as a waiver of any other breach of this Agreement.
- 5.10 Further Acts** - The Owner shall do everything reasonably necessary to give effect to the intent of this Agreement, including execution of further instruments.
- 5.11 Severance** - If any part of this Agreement is held to be invalid, illegal or unenforceable by a court having the jurisdiction to do so, that part is to be considered to have been severed from the rest of this Agreement and the rest of this Agreement remains in force unaffected by that holding or by the severance of that part.
- 5.12 Equitable Remedies** – The Owner acknowledges and agrees that damages would be an inadequate remedy for the City for breach of this Agreement and that the public interest strongly favours specific performance, injunctive relief (mandatory or otherwise), or other equitable relief, as the only adequate remedy for a default under this Agreement.
- 5.13 No Other Agreements** - This Agreement is the entire agreement between the parties regarding its subject and it terminates and supersedes all other agreements and arrangements regarding its subject.
- 5.14 Amendment** - This Agreement may be discharged, amended or affected only by an instrument duly executed by both the Owner and the City.
- 5.15 Enurement** - This Agreement binds the parties to it and their respective successors, heirs, executors and administrators. Reference in this Agreement to the "City" is a reference also to the elected and appointed officials, employees and agents of the City.
- 5.16 Deed and Contract** - By executing and delivering this Agreement each of the parties intends to create both a contract and a deed executed and delivered under seal.



IN WITNESS WHEREOF the parties hereunto have executed this Agreement on the date and year first above written.

SIGNED, SEALED & DELIVERED in )  
the presence of: )

[Handwritten Signature] )  
Signature of Witness )

Brite Pedoux )  
Print Name )

City Hall, Kelowna )  
Address )

Urban Planner )  
Occupation )

OWNER  
by its authorized signatories:

[Handwritten Signature]  
Print Name: William T. Clarke

\_\_\_\_\_  
Print Name: \_\_\_\_\_

SIGNED, SEALED & DELIVERED in )  
the presence of: )

\_\_\_\_\_  
Signature of Witness )

\_\_\_\_\_  
Print Name )

\_\_\_\_\_  
Address )

\_\_\_\_\_  
Occupation )

CITY OF KELOWNA  
by its authorized signatories:

\_\_\_\_\_  
Mayor

\_\_\_\_\_  
City Clerk

**SCHEDULE A**  
**[AFFORDABLE RENTAL UNITS]**

CANADA	)	IN THE MATTER OF A HOUSING
	)	AGREEMENT WITH THE CITY OF
PROVINCE OF BRITISH COLUMBIA	)	KELOWNA ("Housing Agreement")
	)	for the land legally described as Lot
	)	22, Block 12, Section 30, Township
	)	26, ODYD, Plan 202 located at 862
	)	Bernard Ave. Kelowna, BC
	)	
	)	
	)	
	)	

I, \_\_\_\_\_, of \_\_\_\_\_, do solemnly declare:

1. This declaration is made with respect to the Dwelling Unit ("Unit") legally or otherwise described as follows:  
Lot 22, Block 12, Section 30, Township 26, ODYD, Plan 202 located at 862 Bernard Ave. Kelowna, BC
2. That I am the Owner of the Unit and make this declaration to the best of my personal knowledge.
3. This declaration is made pursuant to the Housing Agreement in respect of the Unit.
4. The average affordable rent for Kelowna from the most recent annual Canada Mortgage and Housing Corporation (CMHC) Rental Market Report for an apartment of the Unit's size is \$\_\_\_\_\_ per month, including the cost of heat, water, and electricity;
5. The rent charged each month for the Unit is as follows:
  - (a) the monthly rent on the date 365 days before the date of this statutory declaration was \$\_\_\_\_\_ per month;
  - (b) the monthly rent on the date of this statutory declaration is: \$\_\_\_\_\_; and
  - (c) the proposed or actual monthly rent that will be payable on the date that is 90 days after the date of this statutory declaration is \$\_\_\_\_\_.
6. For the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ the Unit was occupied by the following persons, whose names and addresses appear below, and in accordance with the Housing Agreement:

[INSERT NAMES AND AGES OF ALL OCCUPANTS WITH ADDRESS OF UNIT].

- 7. The gross annual income of all individuals aged 15 and over who reside in the Unit is equal to or less than the maximum allowable income \$\_\_\_\_\_, being the average affordable rent set out in Clause 4 above multiplied by 40.
  
- 8. I make this solemn declaration conscientiously believing it to be true and knowing that it is of the same force and effect as if made under oath and pursuant to the *Canada Evidence Act*.

SWORN BEFORE ME at the City of \_\_\_\_\_ )  
\_\_\_\_\_ in the \_\_\_\_\_ )  
\_\_\_\_\_, this \_\_\_\_ day of \_\_\_\_ )  
\_\_\_\_\_, \_\_\_\_ )

\_\_\_\_\_  
) **Signature of person making declaration**

\_\_\_\_\_  
)  
A Commissioner for taking affidavits for  
British Columbia )

**SCHEDULE B**  
**[AFFORDABLE RENTAL CALCULATIONS]**

The "Affordable Rental" rate is based on the premise that households that spend 30% of their income on basic shelter costs to afford rents equivalent to the average rents published annually by Canada Mortgage and Housing Corporation (CMHC) for Kelowna are facing a housing shortage. This is the direction behind the City of Kelowna Official Community Plan, Bylaw 7600 (policy 8.1.16). This Housing Agreement is a method of creating affordable housing for such households.

The City of Kelowna will publish the Average Monthly Rents for different sizes of Affordable Rental Dwelling Units periodically, which will be the average rents for Kelowna from the annual CMHC Rental Market Report.

The Owner may not permit a Household whose Gross Annual Income is greater than the Maximum Annual Income, as calculated according to the formula below, to occupy an Affordable Rental Dwelling Unit. Gross Annual Income is aggregated taxable income (line 260 of income tax T1 General Form) of all residents 15 years and older residing in the Dwelling Unit. The Maximum Allowable Income is calculated based on the Dwelling Unit size by number of bedrooms that the Household rents. Rent, for affordability purposes, must include heat, electricity and water.

The formula to calculate the Maximum Annual Income permitted for a Household to occupy an Affordable Rental Dwelling Unit is as follows:

$$\text{Maximum Annual Income} = \text{Average Monthly Rent (CMHC)} \times 40$$

This is an abbreviated version of:

$$(\text{Maximum Annual Income} \times 30\%) = (\text{Average Monthly Rent} \times 12 \text{ months})$$

**SAMPLE:**

Average Monthly Rents of All Private Apartments in the City of Kelowna, 2008  
(Canada Mortgage and Housing Corporation Market Rental Survey- City of Kelowna)

	Bachelor	One Bedroom	Two Bedroom	Three Bedroom +
Average Monthly Rent	\$624	\$800	\$961	\$1,069

The Maximum Annual Income Calculations for 2008:

- 1 Bedroom Unit  
Maximum Annual Income = \$800 X 40 = \$24,960
- 2 Bedroom Unit  
Maximum annual income = \$961 X 40 = \$32,000
- 3 Bedroom Unit  
Maximum annual income = \$1,069 X 40 = \$38,440

**SCHEDULE C**  
**MORTGAGE and MORTGAGE INSURER AGREEMENT TERMS**

In the event that an Owner, of a property containing one or more Affordable Rental Unit(s) to which this Housing Agreement pertains, enters into a mortgage in respect of the property in question, the Owner, the Lender, the Mortgage Insurer, and the City agree to the following terms:

In this Agreement:

**"Lender"** means a mortgagee or holder of a financial charge (the "Charge") that is registered against the title to the Property;

**"Mortgage Insurer"** means Canada Mortgage and Housing Corporation or another company or organization that has an interest in the Charge and that has entered into a mortgage default insurance agreement or other mortgage loan insurance arrangement with a Lender; and

**"Owner"** means the current Owner of the Property

**"Property"** means the Affordable Rental Units and any real property upon which they are located, identified in the Housing Agreement attached hereto.

In the event of default by the Owner under the Charge, where a Lender or Mortgage Insurer holding a Charge on the Property, notifies the City that the Owner is in default under its Charge, the City shall have a sixty (60) day period beginning on the date of such notice to take such steps as the City deems necessary to preserve the Housing Agreement. Following the sixty (60) day period, if the Owner's default is not cured, the Lender or Mortgage Insurer can enforce the rights under the Charge, including the right to foreclose or sell the Property. Upon sale or foreclosure of the Owner's Property by the Lender or Mortgage Insurer, the Housing Agreement shall cease to apply to the Property and shall be discharged from the title to the Property by the City. Notwithstanding the foregoing, if the proceeds of sale from the Lender or Mortgage Insurer exceed the loss under the Charge including all costs and expenses incurred, as determined by the Lender or Mortgage Insurer, such excess amount shall be paid to the City, subject to any prior encumbrances or applicable provincial or federal legislation.

**END OF DOCUMENT**