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

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**Date:** October 1, 2003  
**File No.:** Z03-0048/HAP03-0011

**To:** City Manager

**From:** Planning and Development Services Department

**Subject:**

APPLICATION NO. Z03-0048/  
HAP03-0011  
AT: 124 Lake Avenue

OWNER: Jan Dommasch

APPLICANT: Peter J. Chataway

PURPOSE: TO REZONE THE PROPERTY FROM RU1-LARGE LOT HOUSING TO RU1s-LARGE LOT HOUSING WITH SECONDARY SUITE TO ALLOW FOR THE CONSTRUCTION OF A NEW SINGLE FAMILY DWELLING AND THE USE OF THE EXISTING DWELLING AS A SECONDARY SUITE

EXISTING ZONE: RU1 – LARGE LOT HOUSING

PROPOSED ZONE: RU1s ZONE – LARGE LOT HOUSING WITH SECONDARY SUITE

REPORT PREPARED BY: RYAN SMITH

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**SEE ATTACHED FACT SHEET FOR COMPLETE APPLICATION DETAILS**

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**1.0 RECOMMENDATION**

THAT Rezoning Application No. Z03-0048 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 13, Section 24, Township 25, ODYD Plan 6424, located on Lake Avenue, Kelowna, B.C. from the RU1 – Large Lot Housing zone to the RU1s – Large Lot Housing with Secondary Suite zone be considered by Council;

AND THAT the zone amending bylaw be forwarded to a Public Hearing for further consideration;

AND THAT final adoption of the zoning bylaw be considered in conjunction with Council's consideration of Heritage Alteration Permit HAP03-0011.

AND THAT final adoption of the zone-amending bylaw be withheld pending approval of the Ministry of Water, Land and Air Protection.

AND THAT final adoption of the zone-amending bylaw be withheld subject to the completion of the requirements of the Ministry of Water, Land and Air Protection.

## 2.0 SUMMARY

The applicants seek to rezone the subject property from the RU1 – Large Lot Housing to the RU1s – Large Lot Housing with Secondary Suite to permit a secondary suite in an existing building on the subject property.

## 3.0 COMMUNITY HERITAGE COMMISSION

At the September 9, 2003 meeting it was resolved:

*THAT the Community Heritage Commission support Heritage Alteration Permit Application HAP03-0011 and Z03-0048 - 124 Lake Avenue, subject to the front shed dormer being replaced with a gable dormer.*

## 4.0 BACKGROUND

### 4.1 The Proposal

The applicants seek to rezone the subject property from the RU1 – Large Lot Housing to the RU1s – Large Lot Housing with Secondary Suite to allow a secondary suite in an existing building on the subject property. The small single family dwelling which currently exists on the subject property will become a secondary suite as the property owner is seeking to building a new larger single family dwelling on the lot. As the rear of the subject property abuts Mill Creek the available building envelope is relatively small and therefore the applicant is seeking to vary the required 15m setback from the creek.

The subject property is located in the Abbott Street Heritage Conservation Area on the north side of Lake Avenue, east of McDougall Street. The existing house is a one-storey structure that is located on the westernmost side of the lot. The applicant is proposing to construct a new single family dwelling on the eastern side of the lot, separated from the existing dwelling by three parking stalls.

The applicant is also proposing to add a carport to the existing dwelling in order to conform to the bylaw. The applicant has also indicated that the existing shed which is located on the northwest corner of the property will be removed from the Riparian Management Area.

The new dwelling that is proposed for the site is 1.5 storeys in height and will measure 163.6m<sup>2</sup>. The building will be finished in a heritage style that complements the guidelines of the Heritage Conservation Area. The applicant is proposing a thirty year asphalt heritage style shingle in a light brown colour a roofing material and dark olive green stucco for the walls of the proposed house. The trim will be painted in a caramel light brown.

The application meets the requirements of the proposed RU1s – Large Lot Housing with Secondary Suite zone as follows:

CRITERIA	PROPOSAL	RU1s ZONE REQUIREMENTS
Lot Area (m <sup>2</sup> )	825.0m <sup>2</sup>	550.0m <sup>2</sup>
Lot Width (m)	37.86m	17.0m
Lot Depth (m)	23.77m	30.0m
Site Coverage (%)	24%	40% (building)
Total Floor Area (m <sup>2</sup> ) -House -Secondary suite	163.6m <sup>2</sup> Approx. 89.7m <sup>2</sup>	N/A 90m <sup>2</sup> or 75% of the total floor area of the building, whichever is less
Storeys (Accessory)(existing)	1 storey	4.5m
Setbacks-Suite (m)		
-Front	3.14m (existing)	4.5m
-Rear	5.9m (existing)	(15m from Mill Creek)
-West Side	2.0m	2.0m
Setbacks-House (m)		
-Front	4.5m	4.5m
-Rear (Mill Creek)	10.0m <sup>①</sup>	15.0m
-East Side	2.0m	2.0m
Proximity of Accessory Building to Principal Building	5.9m	5.0m
Parking Spaces	3	3

- ① Note: The applicant is seeking to vary the setback from Mill Creek from 15m required to 10.0m proposed.

#### 4.2 Site Context

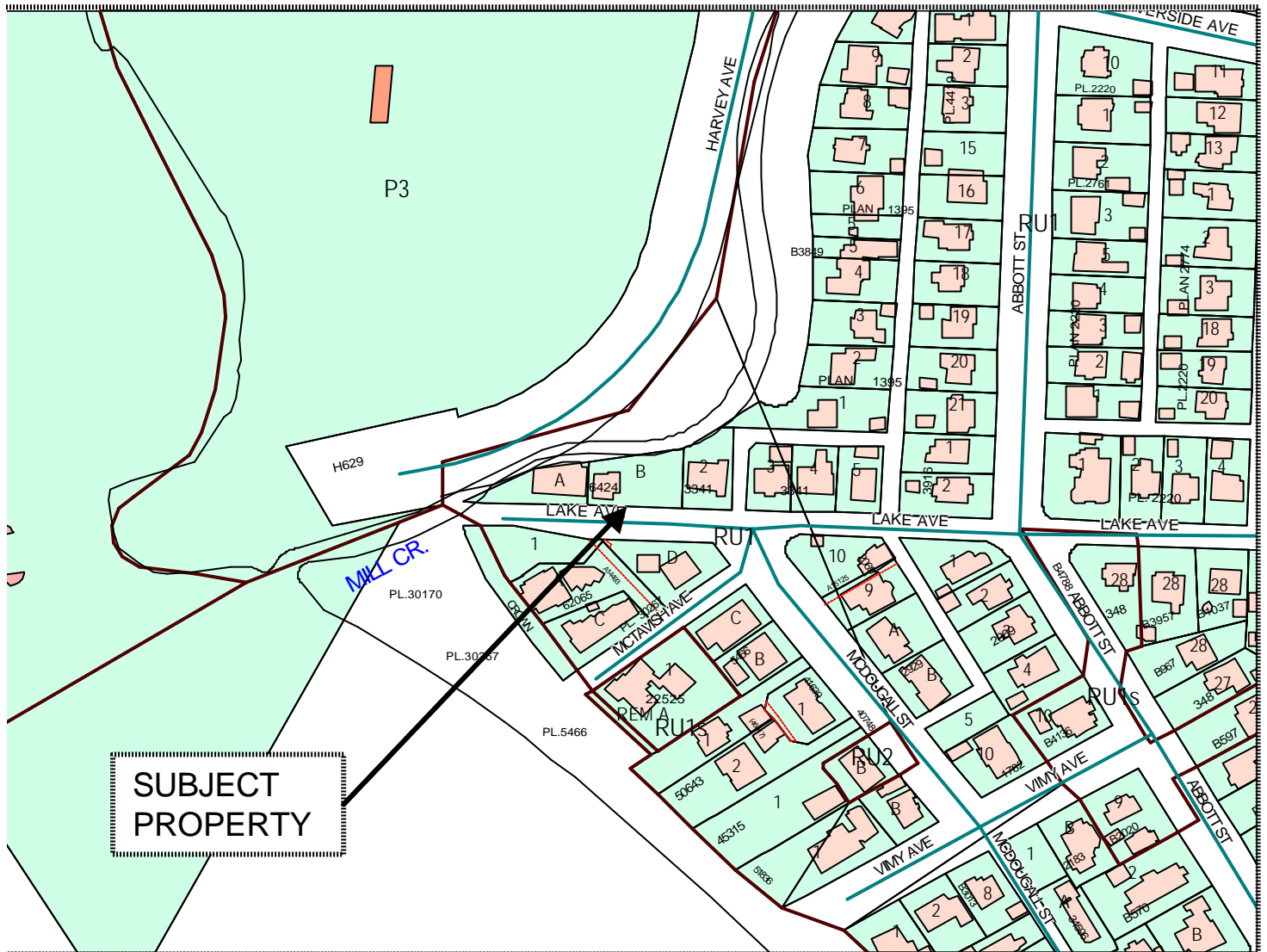
The subject property is located in the Abbott Street Heritage Conservation Area on the northern side of Lake Avenue, to the east of its intersection with McDougall Street. The neighbourhood is zoned predominantly for single family housing. Several lots in the area have been re-zoned from RU1- Large lot housing to RU1s - Large lot housing with secondary suite. These include the two lots on the corners of Abbott St. and Vimy Ave, a lot on McTavish Avenue and another lot at the corner of Lake Avenue and Abbott Street.

Adjacent zones and uses are:

- North - Mill Creek
- East - RU1 - Large lot housing – single family dwelling
- South - RU1 - Large lot housing – single family dwelling
- West - RU1 - Large lot housing – single family dwelling

### Site Location Map

Subject Property: 124 Lake Avenue



### 4.3 Existing Development Potential

The property is zoned RU1 – Large Lot Housing. The purpose of this zone is to provide for single detached housing as a principal use, and compatible secondary uses, such as bed and breakfast homes, minor care centres and group homes, as well as home based businesses.

Secondary suites are allowed on lots with RU1s – Large Lot Housing with Secondary Suite zoning.

#### 4.4 Current Development Policy

##### 3.4.1 Kelowna Official Community Plan

The proposal is consistent with the designation of Single/Two Family Residential in the Official Community Plan future land use designation. The Single/Two Family Residential designation covers single detached homes for occupancy by one family, single detached homes with a secondary suite, semi-detached buildings used for two dwelling units, and complementary uses (OCP, Chapter 15).

The OCP designates the area in which the subject property is located as the Abbott Street Heritage Conservation Area. The purpose of the Heritage Conservation Area designation is to provide objectives and guidelines for the conservation of the areas' heritage resources and distinct character. One of the objectives of Conservation Areas is to encourage additions that are compatible with the form and character of the existing neighbourhood context.

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

One of the objectives of the Strategic Plan is “to develop a more compact urban form by increasing densities through infill and re-development within existing urban areas and to provide for higher densities within future urban areas” (Objective 1.1). The proposal is consistent with these objectives and with their accompanying strategies.

#### 5.0 TECHNICAL COMMENTS

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

##### 5.1 Inspection Services Department

No concerns.

##### 5.2 Environment Manager

The existing house and shed are existing non-conforming with regard to the required creek setbacks. An increase in density or land use may only serve to increase the existing non-conformity--the result of adding a second residence (second building footprint) AND providing for the required parking.

We could support a new single family home to replace the existing home, or support an addition to the existing single-family home, provided all opportunities to minimise encroachment to the creek setback are explored; recognising that the required 15-m setback is not achievable. Regardless of the proposal, an application to reduce the Provincial floodplain protection provisions will be required.

### 5.3 Works and Utilities Department

#### a) General

The proposed rezoning application does not compromise Works and Utilities requirements.

#### b) Domestic water and fire protection

The existing lot is serviced with a small diameter (13-mm) copper water service, which is substandard. Adequate metered water service must be provided to meet current by-law requirements.

Water service issues will be reviewed when a Building Permit application including a mechanical plan is submitted. The installation of the new service will be by City forces. The applicant will be responsible for the cost of the new service.

#### c) Sanitary Sewer

This property is currently serviced by the municipal sanitary sewer system. The existing 100mm-diameter service will be adequate for the proposed additional suite and may be retained. An inspection chamber (IC) must be installed on the service at the owner's cost as required by the sewer-use bylaw.

#### d) Electric Power and Telecommunication Services

The electric service to the existing house must be converted to underground services in the street.

#### e) Site Related Issues

A 'no-build' creek setback must be registered against the subject property as a Section 219 Restrictive Covenant. The building permit must stipulate the 'no-build' setbacks for any building structure.

The environmental ramifications of landscaping, retaining walls, protection of existing mature trees, non-conforming and proposed building setbacks, additional dedication along the Mill Creek frontage, must be considered.

Development Engineering will defer comment on those issues to the City Environment Manager and the Provincial Government

## 6.0 PLANNING AND CORPORATE SERVICES DEPARTMENT

The Planning and Corporate Services Department has concerns with the proposed rezoning and associated heritage alteration permit. Staff is concerned that the applicant is proposing “too much on too little”. The department feels that there are other options available to the applicant that would both reduce the impact on the site, and complement the intent of Riparian Management Area policy and Heritage Conservation area guidelines. Staff would rather see the existing house removed in favour of a new structure that respected at least a 10m setback and would be willing to compromise on reduced front yard setbacks to achieve this goal. Staff would also support the location of a secondary suite in the main house and the removal of the existing dwelling as long as the proposed building did not encroach into a minimum 10m rear yard setback. While not opposed to the rezoning to accommodate a secondary suite, staff do not feel it is appropriate to increase the potential density for this property without addressing the Riparian Management Area for Mill Creek. The Planning and Corporate Services Department therefore recommends Council hold this application at third reading until such time as a Heritage Alteration Permit application has been provided that respects a minimum rear yard setback of 10m adjacent to Mill Creek. Even a 10m setback is reduced from the 15m required and will need positive consideration by the Ministry of Water, Land and Air Protection prior to Council's consideration.

The applicant has submitted letters of support from the following neighbours: 124 McTavish Avenue, 1904 McDougall street, 1915 McDougall Street, 1925 McDougall Street, 1930 McDougall Street, 1900 Abbot Street, 1907 Abbott Street, 166 Lake Avenue, 1912 Abbott Street, 156 Lake Avenue, 1894 Abbot Street, 1902 Abbott Street, 125 Lake Avenue, 151 Lake Avenue, 148 Lake Avenue, 114 Lake Avenue, 134 Lake Avenue. The Kelowna South-Central Association of Neighbourhoods has also indicated their support for this proposal by way of written submission.

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Andrew Bruce  
Development Services Manager

Approved for inclusion

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

RM/AB/rs  
Attach.

**FACT SHEET**

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|--|---|
| 1. APPLICATION NO.:  | Z03-0048 (Also see HAP03-0011)  |
| 2. APPLICATION TYPE:   | Rezoning  |
| 3. OWNER:  | Jan Dommasch  |
| . ADDRESS  | 124 Lake Avenue   |
| . CITY   | Kelowna, BC   |
| . POSTAL CODE  | V1Y 2W5   |
| 4. APPLICANT/CONTACT PERSON:   | Peter J. Chataway   |
| . ADDRESS  | 368 Cadder Avenue   |
| . CITY   | Kelowna, BC   |
| . POSTAL CODE  | V1Y 5N1   |
| . TELEPHONE/FAX NO.:   | 763-1335/763-5367   |
| 5. APPLICATION PROGRESS:   |   |
| Date of Application:   | August 28, 2003   |
| Date Application Complete:   | August 28, 2003   |
| Servicing Agreement Forwarded to Applicant:  | N/A   |
| Servicing Agreement Concluded:   | N/A   |
| Staff Report to Council:   | September 30, 2003  |
| 6. LEGAL DESCRIPTION:  | Lot 13, Section 24, Township 25, ODYD Plan 6424   |
| 7. SITE LOCATION:  | The subject property is located in the Abbott Street Heritage Conservation Area on the northern side of Lake Avenue, to the east of its intersection with McDougall Street. |
| 8. CIVIC ADDRESS:  | 124 Lake Avenue   |
| 9. AREA OF SUBJECT PROPERTY:   | 825m <sup>2</sup>   |
| 10. AREA OF PROPOSED REZONING:   | 825m <sup>2</sup>   |
| 11. EXISTING ZONE CATEGORY:  | RU1 – Large Lot Housing   |
| 12. PROPOSED ZONE:   | RU1s – Large Lot Housing with Secondary Suite   |
| 13. PURPOSE OF THE APPLICATION:  | To rezone the property to allow the construction of a secondary suite in an accessory building  |
| 14. MIN. OF TRANS./HIGHWAYS FILES NO.:<br>NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY |   |
| 15. DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS   | N/A   |



**ATTACHMENTS**

**(not attached to the electronic version of the report)**

- Location of subject property
- Site plan and main floor plan
- Plan of upper floor with suite
- Elevations
- Cross-section
- Photos of existing house