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**CITY OF KELOWNA**

**MEMORANDUM**

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**Date:** June1, 2004  
**File No.:** Z04-0026

**To:** CITY MANAGER

**From:** Planning and Corporate Services Department

**Subject:**

APPLICATION NO. Z04-0026

OWNER: Mailey Developments Ltd.

AT: 518 & 548 MCKAY AVENUE

APPLICANT: John Mailey Developments Ltd.

PURPOSE: TO REZONE THE SUBJECT PROPERTIES FROM THE RU6 – TWO DWELLING HOUSING ZONE TO THE C4 – TOWN CENTRE COMMERCIAL ZONE.

EXISTING ZONE: RU6 – TWO DWELLING HOUSING

PROPOSED ZONE: C4 – URBAN CENTRE COMMERCIAL ZONE

REPORT PREPARED BY: KEIKO NITTEL

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

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**1.0 RECOMMENDATION**

THAT Rezoning Application No. Z02-1060 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lots 10 & 11, DL 14, Plan 3769, ODYD located on McKay Avenue, Kelowna, B.C. from the RU6- Two Dwelling Housing zone to the C4- Urban Centre Commercial 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 zone amending bylaw be considered subsequent to the requirements of the Works & Utilities Department being completed to their satisfaction;

AND THAT final adoption of the zone amending bylaw be considered following the consolidation of the lots;

AND THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Permit on the subject property;

AND THAT final adoption of the zone amending bylaw be considered in conjunction with Council's consideration of a Development Variance Permit on the subject property.

## 2.0 SUMMARY

The applicant is proposing to rezone the subject properties from the RU6 – Two Dwelling Housing zone to C4 – Town Centre Commercial zone. The applicant is proposing to consolidate the lots and construct a mixed use building with commercial space on the main floor and three storeys of residential units above. The associated development permit application addresses the form and character of the proposed development. In addition, a development variance permit is required to allow the applicant to provide 17 parking stalls where 23 stalls are required. A variance is also required to allow a side yard setback of 1.7 m to parking where 2.0 m is required.

## 3.0 ADVISORY PLANNING COMMISSION

The above-noted applications were reviewed by the Advisory Planning Commission at the meeting of May 11, 2004 and the following recommendations were passed:

THAT the Advisory Planning Commission supports Rezoning Application No. Z04-0026, for 548 McKay Avenue, Lot 11, DL14, Plan 3769, ODYD, by John Mailey Developments Ltd. (John Mailey), to rezone the subject property (548 McKay Avenue) from the RU6 – Two Dwelling Housing zone to the C4 – Town Centre Commercial Zone;

AND THAT the Advisory Planning Commission not support Development Permit Application No. DP04-0043, for 548 McKay Avenue, Lot 11, DL14, Plan 3769, ODYD, by John Mailey Developments Ltd. (John Mailey), to obtain a Development Permit to allow a new commercial building with retail space on the main floor and 14 residential units.

The APC had general concern with the amount of parking provided and recognized that the proposed design will not work if more parking is provided.

As a result of the Advisory Planning Commission not supporting the Development Permit Application, there is no recommendation for Development Variance Application No. DVP04-0046.

The rezoning of Lot 10 (518 McKay Avenue) was supported by the Advisory Planning Commission under application Z02-1060. Following the May 11, 2004 APC meeting, it was decided to consolidate the rezoning applications for the two lots under a single application (Z04-0026) in order to simplify the planning process.

## 4.0 BACKGROUND

### 4.1 The Proposal

The subject properties are located in the South Pandosy/ KLO Sector. The properties are currently zoned RU6 – Two Dwelling Housing. The applicant is seeking to rezone the properties to the C4 – Town Centre Commercial in order to allow for the development of a mixed used building.

The main floor of the proposed building contains 158.2 m<sup>2</sup> of retail space. Entrances to the commercial component of the building will be a corner entrance where McKay Avenue and Pandosy intersect as well as a smaller entrance from Pandosy Street. The residential component of the building will have its main access from McKay Avenue. The lobby will provide access to apartment storage areas, a mail room and the elevator. Access to stairways, leading to the upper levels of the building, are also proposed at the parking area at the rear of the property and the laneway on the north side of the building.

The applicant has attempted to define and contrast the commercial and residential components of the building. A white trim band circles the building defining the main floor from the floors above. The main floor of the building will be faced with taupe acrylic stucco and cultured stone veneer. Fascia signage is proposed above each of the doors providing access to the retail units. The residential portions of the building are to be faced with matching taupe horizontal hardiplank siding. Brown hardiplank shingle provide accent under the windows, on balcony railing, and within the peaks of the subroofs. Trim throughout the building will be white. A brown asphalt roof is proposed.

Landscaping is proposed at the rear of the property buffering the parking from the adjacent residential property to the east and from McKay Avenue. Four maple trees are to be planted along with oregon grape, dogwood, and lilac plantings. With the exception of one second floor unit, a minimum of one balcony is provided per dwelling unit. In addition, a 61.3 m<sup>2</sup> amenity space, in the form of a recreation/strata meeting room, is located on the second floor of the building.

Parking is proposed at the rear of the property with access from both McKay Avenue and the laneway. Eleven of the proposed stalls are to be under building parking with five of them accessed from the laneway. An additional open air seven parking stalls and one loading stalls are also located at the rear of the property. The applicant is proposing a total of 17 parking stalls where 23 are required. The parking will provide the 3 required commercial parking spaces with an additional 14 parking stalls (1 per dwelling unit) for the residential component. The applicant also requires a variance to allow a setback to parking of 1.7 metres where 2.0 metres is required is required from McKay Avenue. Four bicycle parking stalls are provided at the front of the building, adjacent to the entrance at the corner of McKay Avenue and Pandosy Street. A additional 11 covered bicycle parking spaces are provided at the adjacent to building adjacent to the back residential entrance.

The application meets the requirements of the proposed C4 – Town Centre Commercial zone as follows:

CRITERIA	PROPOSAL	C4 ZONE REQUIREMENTS
Site Area (m <sup>2</sup> )	1133m <sup>2</sup>	460.0 m <sup>2</sup>
Site Width (m)	25.63m	13.0 m
Site Coverage (%)	44.02m	75.0%
F.A.R.	1.27	1.3
Height (m)	13.84 m	15.0 m
Storeys (#)	4	4
Setbacks (m)		
- Front (West)	0.0	0.0 m
- Rear (East)	14.5m	0.0 m or <b>6.0 m abutting a residential zone</b>
- Side (North)	0.0m	0.0 m or 2.0 m for flanking sideyard or where site abuts a residential zone other than for the RU1, RU2, RU3, and RU4 zones
- Side (South)	0.0m	<b>0.0 m</b> or 2.0 m from a flanking street or where the site abuts a residential zone other than for the RU1, RU2, RU3, and RU4 zones
Private Open Space	238 m <sup>2</sup> (balconies & common rec./meeting room)	172 m <sup>2</sup> 15.0m <sup>2</sup> per 2 bedroom unit (150 m <sup>2</sup> ) and 6.0 m <sup>2</sup> per bachelor unit (12 m <sup>2</sup> ) <b>TOTAL 172 m<sup>2</sup></b>
Parking Stalls (#)	17 stalls ❶	1.75 per 100 m <sup>2</sup> (3 required) 1.5 per 2 bedroom unit (18 stalls) 1.0 per bachelor (2 stalls) <b>TOTAL 23 Stalls</b>
Parking Setback		
- Front (west)	n/a	2.0 m
- Rear (east)	1.5m	1.5 m
- Side (south)	1.7 m ❷	2.0 m
- Side (north)	0.0 m	0.0 m
Bicycle Stalls (#)	15	0.2 per 100 m <sup>2</sup> GLA ; or 1 per 10 employees (Class I) =0.3 0.6 per 100 m <sup>2</sup> GLA (Class II) 0.95 Total = 1 (commercial) 0.5 per dwelling unit = 7 0.1 per dwelling unit = 1.4 Total = 9 (residential) <b>Total = 10</b>
Loading Stalls (#)	1	1 stall per 1900 m <sup>2</sup> GFA

❶ A variance is required to allow 17 stalls where 23 are required. The applicant has provided the required 3 parking stalls for the commercial space as well as 1 stall per dwelling unit (14 stalls).

❷ A variance is required to allow a side yard setback of 1.7 metres to parking where 2.0 m is required from a flanking street.

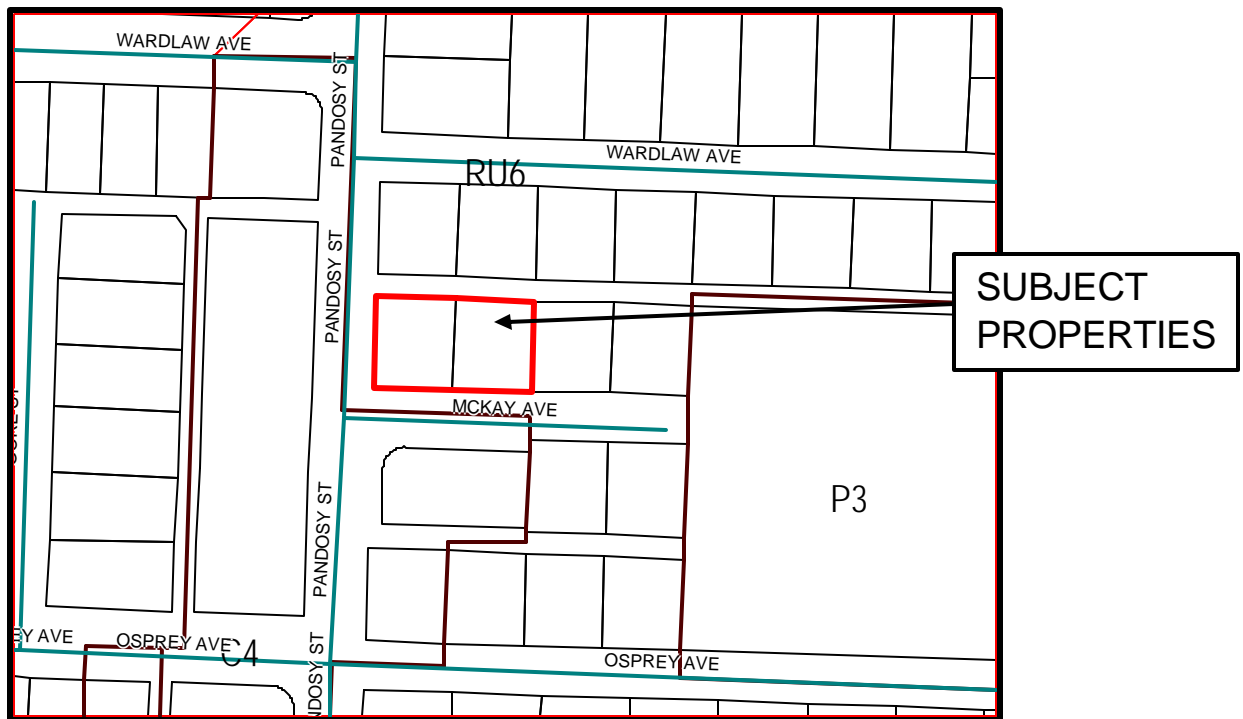
#### 4.2 Site Context

The subject property is located within the Urban Town Centre area of the South Pandosy/KLO Sector Plan that is developed with a mix of commercial and residential uses of various densities.

Adjacent zones and uses are, to the:

- North - RU6 - Two Dwelling Housing
- East - RU6 - Two Dwelling Housing
- South - C4 - Town Centre Commercial
- West - C4 - Town Centre Commercial

#### Site Location Map



#### 4.3 Development Potential

The existing RU6 - Two Dwelling Housing zone permits duplex housing, semi-detached housing, and single detached housing as principal uses, and bed and breakfast homes, boarding or lodging houses (RU6B only), care centres – minor, group homes – minor, home based business – major and minor, and secondary suite as permitted secondary uses.

The purpose of the proposed C4 – Town Centre Commercial zone is to provide a zone for the development of community commercial centres to serve more than one neighbourhood.

#### 4.4 Current Development Policy

##### 4.4.1 Official Community Plan (OCP)

The proposal is consistent with the commercial land use designation of the Official Community Plan. The proposed building form and character is generally consistent with the Official Community Plan Commercial Development Permit Guidelines. The OCP also calls for the increase in the number of building with mixed uses by encouraging developers to incorporate retail uses on the lower storeys with office and/or residential above.

##### 4.4.2 Strategic Plan (1992)

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

“The City will, in its plans and policies concerning future urban development, place an emphasis on more efficiently using serviced land within existing urban areas through infill, and will provide for an increased density of development within established urban areas through redevelopment of areas which are in transition. Urban areas which are targeted include the Central City area with emphasis on the waterfront and north end, Rutland and South Pandosy particularly along major traffic arteries and near the town centres, the Glenmore Valley and Highway 97 corridor”.

##### 4.4.3 South Pandosy / KLO Sector Plan (1997)

The proposal is consistent with the commercial land use designation of the South Pandosy / KLO Sector Plan, and is generally consistent with the design objectives for the South Pandosy Town Centre proposed by the Sector Plan.

The South Pandosy/KLO Sector Plan also includes the following statements relating to the South Pandosy Town Centre Policies;

- Locate commercial and mixed use buildings within the core business area close to the road corridor to minimize the distance between the sidewalk and the building front.
- Parking and service site uses should be located behind or within the building
- Encourage the provision of landscape at-grade or on-slab open space for multiple family residential developments for the use and enjoyment of the residents.
- For commercial and mixed-use buildings, encourage the provision of accessible public open space (e.g. widened sidewalk, dining/retail patio, courtyard) that is compatible with the use and design of the building,

#### 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 FortisBC No response.

- 5.2 Fire Department  
Confirmation of fire flows are available from source at McKay.
- 5.3 Inspection Services  
H/C stall to be relocated towards McKay Ave  
Barrier free access from H/C stall to main entrance to be provided.
- 5.4 Interior Health  
No comment.
- 5.5 Parks Department  
Landscape plan and planting list is approved by Parks.
- 5.6 RCMP  
No response.
- 5.7 School District No. 23  
No response.
- 5.8 Shaw  
Owner/developer to supply and install an underground conduit system.
- 5.9 Telus  
Telus will provide underground facilities to this development. Developer will be required to supply and install conduit as per TELUS policy.
- 5.10 Terasen  
No response.
- 5.11 Works & Utilities  
  
The Works & Utilities Department have the following comments and requirements associated with this application to rezone from RU-6 to C-4. The road and utility upgrading requirements outlined in this report will be a requirement of the issuance of a building permit, but are outlined in this report for information only.
- 5.11.1 Domestic Water and Fire Protection
- (a) The existing water mains on Pandosy St. and McKay Ave. are sufficient to support the proposed development.
- (b) The existing two lots are serviced with 19mm-diameter copper water services. The developer must engage a consulting mechanical engineer to determine the domestic and fire flow requirements of this development. Only one service will be permitted for this development. The applicant, at his cost, will arrange for the removal of existing services and the

installation of one new larger metered water service. The estimated cost of this construction for bonding purposes is \$8,000.00.

- (c) Tie-ins and disconnections at the existing watermain must be by City forces and at the applicant's cost.
- (d) A water meter is mandatory for this development and must be installed inside the building on the water service inlet as required by the City Plumbing Regulation and Water Regulation bylaws. The developer or building contractor must purchase the meter from the City at the time of application for a building permit from the Inspection Services Department, and prepare the meter setter at his cost.
- (e) The boulevard irrigation system must be integrated with the on-site irrigation system.

#### 5.11.2 Sanitary Sewer

- (a) The existing two lots are serviced with 100mm-diameter sanitary sewer services. The developer must engage a consulting mechanical engineer to determine the requirements of this development. The applicant, at his cost, will arrange for the capping of existing services and the installation of one new larger service. The estimated cost of this construction for bonding purposes is \$4,500.00.
- (b) Tie-ins to the mains and the capping of existing services must be by City forces and at the applicant's cost.

#### 5.11.3 Storm Drainage

- (a) The existing storm drainage systems in Pandosy St. and McKay Ave. are adequate to support the proposed uses.
- (b) The existing lots are not provided with a storm drainage service. The applicant, at his cost, will arrange for the installation of one new service. The estimated cost of this construction for bonding purposes is \$5,500.00.
- (c) The developer must engage a consulting civil engineer to provide a storm water management plan for these sites which meets the requirements of the City Storm Water Management Policy and Design Manual. The storm water management plan must also include provision of lot grading plans, minimum basement elevations (MBE), if applicable, and provision of a storm drainage service and recommendations for onsite drainage containment and disposal systems.

#### 5.11.4 Road Improvements

- (a) McKay Avenue must be upgraded to a full urban standard (SS-R5) including curb and gutter, monolithic sidewalk, storm drainage system including catch basin modifications, pavement widening, landscaped boulevard complete with



underground irrigation system, street lights as required and relocation or adjustment of existing utility appurtenances if required to accommodate the upgrading construction. The cost of this construction for bonding purposes is \$14,500.00.

- (b) Pandosy Street has been upgraded to an urban standard by local improvement bylaw, but requires sidewalk and landscaped boulevard to meet the commercial road standard. The cost of a sidewalk fronting on Pandosy Street for bonding purposes is \$5,000.00. Damage to existing curb sections will likely occur during the excavation and construction period. Replacement of damaged works will be at the developer's expense.
- (c) The rear lane fronting on this development must be upgraded to a paved commercial standard, if required install a storm drainage system including a catch basin and drywell. The cost of this work for bonding purposes is \$13,600.00.

#### 5.11.5 Subdivision

By registered plan to provide the following:

- (a) Dedicate 3.35-meter road widening on the Pandosy St. frontage (Or as required to agree with registered plan No. A12996). Adjust the McKay Ave. corner rounding so it is contiguous with the Pandosy St. and McKay Ave. widening.
- (b) Dedicate 2.14m widening of the McKay Avenue right-of-way to provide the necessary widening as required for a commercial road.
- (c) Dedicate 0.75m widening of the rear lane to provide one-half of the required lane width for a future 7.5m commercial lane.
- (d) Lot consolidation.
- (e) Grant statutory rights-of-way if required for utility services.

#### 5.11.6 Electric Power and Telecommunication Services

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

#### 5.11.7 Street Lighting

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

#### 5.11.8 Engineering

Road and utility construction design, construction supervision, and quality control supervision of all off-site and site services including on-site ground recharge drainage collection and disposal systems, must be performed by an approved consulting civil engineer. Designs must be submitted to the city engineering department for review and marked “issued for construction” by the city engineer before construction may begin.

#### 5.11.9 Development Cost Charge Reduction Consideration

None of the required roadwork is eligible for DCC reduction.

#### 5.11.10 Latecomer Protection

Under provisions of Section 990 of the BC Municipal Act, the owner is eligible to apply for latecomer protection for the following:

- (a) Storm drainage construction in the rear lane.
- (b) One-half of the lane pavement

#### 5.11.11 Geotechnical Report

As a requirement of this application the owner must provide a geotechnical report prepared by a Professional Engineer qualified in the field of hydro-geotechnical survey to address the following:

- (a) Area ground water characteristics.
- (b) Site suitability for development, unstable soils, etc.
- (c) Drill and / or excavate test holes on the site and install piezometers if necessary. Log test hole data to identify soil characteristics, identify areas of fill if any. Identify unacceptable fill material, analyse soil sulphate content, Identify unsuitable underlying soils such as peat, etc. and make recommendations for remediation if necessary.
- (d) List extraordinary requirements that may be required to accommodate construction of roads and underground utilities as well as building foundation designs.

#### 5.11.12 Survey Monuments and Iron Pins

If any legal survey monuments or property iron pins are removed or disturbed during construction, the developer will be invoiced a flat sum of \$1,200.00 per incident to cover the cost of replacement and legal registration. Security bonding will not be released until restitution is made.

#### 5.11.13 Bonding & Levy Summary

##### (a) Bonding

McKay Ave. frontage upgrading	\$14,500.00
Pandosy St. sidewalk construction	\$ 5,000.00
Rear lane pavement	\$13,600.00
Service upgrades	\$18,000.00
<b>Total Bonding</b>	<b>\$51,100.00</b>

##### (b) Levies

None

NOTE: The bonding amounts shown above are comprised of estimated construction costs escalated by 140% to include engineering design and contingency protection and are provided for information purposes only. The owner should engage a consulting civil engineer to provide detailed designs and obtain actual tendered construction costs if he wishes to do so. Bonding for required off-site construction must be provided as a condition of building permit issuance, and may be in the form of cash or an irrevocable letter of credit, in an approved format.

The owner must also enter into a servicing agreement in a form provided by the City prior to 4th reading of the zone amending bylaw or issuance of a building permit.

#### 5.11.14 Site Related and Traffic Issues

- (a) On-site parking stalls must be constructed to a paved standard including on-site drainage disposal.
- (b) The developer must obtain the necessary permits and have all existing utility services disconnected prior to moving existing houses. The existing homes have been fitted with small water meters at the City's cost. The owners must give the City adequate notice to remove these meters prior to moving or demolishing these houses. If the meters cannot be recovered, the owners will be billed \$235.00 per meter to compensate for the loss of the meters

#### 5.11.15 Administration Charge

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

### 6.0 PLANNING AND DEVELOPMENT SERVICES DEPARTMENT

The Planning and Development Services Department has few concerns with the proposed rezoning. The Official Community Plan (OCP) supports commercial future land uses on the subject property, and the adjacent properties to the south and west are currently zoned C4 - Town Centre Commercial.

The Planning and Corporate Services Department is generally supportive of form and character of the proposed development. The mixed-use concept is encouraged by the policies outlined in the OCP. Staff acknowledges that the applicant has attempted to define the retail and residential components of the building. The applicant, however, is encouraged to further explore ways of enhancing the architectural detailing of the main floor including the accentuation of the residential entrance on McKay Avenue.

While the preferable location for the handicap parking would be adjacent the building to avoid having the cross the driving aisle of the parking lot, Staff acknowledge that this would result in a loss of one parking space. Staff therefore recommends that the applicant relocated the handicap parking to the south side of the parking lot. This location for the handicap parking will provide easier access to the sidewalk leading to the retail area as well provide quicker access to the apartment lobby containing the elevator. Provided that the handicap parking is relocated, Staff is supportive of the proposed variance to the side yard setback to parking from McKay Avenue. In addition, the applicant is encouraged to use materials such as stamped concrete to define the pedestrian/handicap route across the driving aisle along McKay Avenue. The applicant is encouraged to address these issues prior to the review of the development & development variance permits.

The proposed development is located in close proximity to the many commercial services within the Pandosy Town Centre and is located on an established transit route. Staff is therefore supportive of the proposed variance to the parking requirement. The applicant has provided the 3 parking stalls required for the commercial component of the building. The additional 14 parking stalls provides for 1 parking stall per dwelling unit. Staff is considering amending the residential parking requirement for mixed used buildings in the C4 zone to only one stall per residential unit. A similar approach has been used for mixed use projects within the C7- Central Business District zone.

Staff acknowledges that residents of the neighbourhood have expressed concern with the proposed parking variance due to the existing parking pressures. In particular, users of nearby Osprey Park park their vehicles along McKay Avenue. Existing commercial development may also increase the demand for street parking. In particular, it is noted that the development to the south made payment for cash-in-lieu thus allowing for a limited number of on-site parking stalls. Staff notes, however, that parking located within a street right-of-way is intended for public use. The properties along McKay Avenue should therefore have adequate on-site parking.

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Andrew Bruce  
Development Services Manager

Approved for inclusion

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

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Attach.

**FACT SHEET**

1. **APPLICATION NO.:** Z04-0026
2. **APPLICATION TYPE:** Rezoning
3. **OWNER:** Mailey Developments Ltd., Inc.  
423734  
· **ADDRESS** 2 -3800 Pinnacle Way  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1W 3Z8
4. **APPLICANT/CONTACT PERSON:** John Mailey Developments Ltd.  
· **ADDRESS** Suite 342 – 101, 1865 Dilworth Dr  
· **CITY** Kelowna, BC  
· **POSTAL CODE** V1Y 9T1  
· **TELEPHONE/FAX NO.:** 712-6323
5. **APPLICATION PROGRESS:**  
Date of Application: April 21, 2004  
Date Application Complete: April 21, 2004  
Servicing Agreement Forwarded to Applicant: n/a  
Servicing Agreement Concluded: n/a  
Staff Report to APC: May 4, 2004  
Staff Report to Council: n/a
6. **LEGAL DESCRIPTION:** Lot 10 & 11, D.L. 14, ODYD, Plan 3769
7. **SITE LOCATION:** On the north east corner of McKay Avenue and Pandosy Street
8. **CIVIC ADDRESS:** 518 & 548 McKay Ave  
Kelowna, BC
9. **AREA OF SUBJECT PROPERTY:** 1133m<sup>2</sup>
10. **AREA OF PROPOSED REZONING:** 1133m<sup>2</sup>
11. **EXISTING ZONE CATEGORY:** RU6 – Two Dwelling Housing
12. **PROPOSED ZONE:** C4 – Town Centre Commercial
13. **PURPOSE OF THE APPLICATION:** TO REZONE THE SUBJECT PROPERTIES FROM THE RU6 – TWO DWELLING HOUSING ZONE TO THE C4 – TOWN CENTRE COMMERCIAL ZONE.  
N/A
14. **MIN. OF TRANS./HIGHWAYS FILES NO.:**  
**NOTE: IF LANDS ARE WITHIN 800 m OF A CONTROLLED ACCESS HIGHWAY**
15. **DEVELOPMENT PERMIT MAP 13.2 IMPLICATIONS** Town Centre Commercial

**ATTACHMENTS**

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

- Location of subject property
- Site plan
- Floor plans
- Elevations
- Colour Scheme