

# Memo



**Date:** September 2/11

**To:** City Manager

**From:** Land Use Management, Community Sustainability (LT)

**Applications:** OCP09-0017/Z09-0079

**Applicant:** City of Kelowna

**Owner:** Natisa Development Corp./  
City of Kelowna

**Address:** 3441,3451,3461 & 3471 Lakeshore Road (DP/DVP)  
3471 Lakeshore Road (Rezoning/OCP Amendment)

**Subject:** OCP & Zoning Amendment /  
Rescindment of Development & Development Variance Permit

**Existing OCP Designation:** Mixed-Use (Residential/Commercial)

**Proposed OCP Designation:** Single/Two Unit Residential

**Existing Zone:** C9 - Tourist Commercial

**Proposed Zone:** RU6 - Two Dwelling Housing

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## 1.0 Recommendation

THAT Development Permit No. DP09-0160 and Development Variance Permit No. DP09-0161 for Lot 3, District Lot 134, ODYD, Plan 38150; Lot 39, District Lot 134, ODYD, Plan 3886 except Plan KAP76671; Lot 38, District Lot 134, ODYD, Plan 3886 except Plan 40525; Lot 37, District Lot 134, ODYD, Plan 3886 except Plan 40525; Lot 36, District Lot 134, ODYD, Plan 3886; located at 3441, 3451, 3461 & 3471 Lakeshore Road, Kelowna, BC be rescinded by Council;

AND THAT OCP Bylaw Amendment No. OCP09-0017 to amend Map 4.1 of the Kelowna 2030 - Official Community Plan Bylaw No. 10500 by changing the Future Land Use designation of Lot 36 District Lot 134 ODYD Plan 3886 located at 3471 Lakeshore Road, Kelowna BC from the Mixed-Use (Residential/Commercial) designation to the Single/Two Unit Residential designation as shown on Map "A" attached to the report of Land Use Management Department, dated September 2, 2011, be considered by Council;

AND THAT Rezoning Application No. Z09-0079 to amend the City of Kelowna Zoning Bylaw No. 8000 by changing the zoning classification of Lot 36 District Lot 134 ODYD Plan 3886 located at 3471 Lakeshore Road, Kelowna BC, from the C9 - Tourist Commercial zone to the RU6 - Two Dwelling Housing zone, be considered by Council;

AND FURTHER THAT the OCP Bylaw Amendment No. OCP09-0017 bylaw and the zone amending bylaw be forwarded to a Public Hearing for further consideration;

## 2.0 Purpose

Staff are requesting that Council rescind a previously-approved Development Permit and Development Variance Permit, which was to allow for a 7.5 storey mixed-use building on the subject properties. In addition, OCP and Zone Amending Bylaws are proposed to return the privately-owned properties to their former zoning, as outstanding requirements to finalize the development have not been met.

## 3.0 Land Use Management

Rezoning 3471 Lakeshore Road is necessary to ensure that pertinent Development Engineering fees (servicing and infrastructure costs) can be requested through future development applications for the subject properties. This absolves the City from the existing liability of having the lands zoned without the fees associated with the rezoning being paid. At this time, the lots have yet to be consolidated as the former land agreement has not been completed.

As such, the Land Use Management Department recommends that the OCP and Zoning Amendment application be approved, and the previously-approved Development and Development Variance Permits be rescinded. It is expected that a future land owner would develop the properties to their highest-and-best use, and that the property would be rezoned to commercial at that time.

## 4.0 Background & Summary

Two of the subject properties (3441, 3451 Lakeshore Rd) are currently owned by the City of Kelowna. In 2010, the City negotiated a land exchange agreement with the neighbouring property owner of 3461 & 3471 Lakeshore Road (Natisa Development Corporation) to facilitate the development of a mixed-use apartment hotel and to acquire Civic infrastructure needs. The proposed land assembly and redevelopment triggered a substantial road reserve covering approximately 2245m<sup>2</sup> (36%) of the original land area. In addition, a significant amount of frontage improvement costs were required. Given these requirements, and that half of the proposed land assembly was owned by the City, the land exchange agreement allowed Development Engineering fees associated with the rezoning to be deferred until Development Permit issuance.

To allow for the land exchange agreement to be completed, the OCP and Zone Amending bylaws were given final adoption, and the Development & Development Variance Permits were approved for issuance. Prior to formal issuance of the permits by the Director of Land Use Management, the applicant was to meet the following requirements:

- Development Engineering fees: bonding of \$123,000 and a cash levy of \$81,595, (to be transferred to the City solicitor through undertakings from the applicant's solicitor).
- Subdivision/lot consolidation to be registered at the Land Titles Office.
- Submission of landscape bonding (\$144,858.69).

These requirements have not been met. The Director of Land Use Management has approved two 6-month extensions to the issuance period for the Development & Development Variance Permits to allow the applicant additional time to complete the above requirements.

The monies which were held in trust by the applicant's solicitor to cover the rezoning fees have since been rescinded by the mortgagor. The funds were to have been transferred to the City by no later than July 15, 2011 as part of completion of the land exchange agreement. As the funds

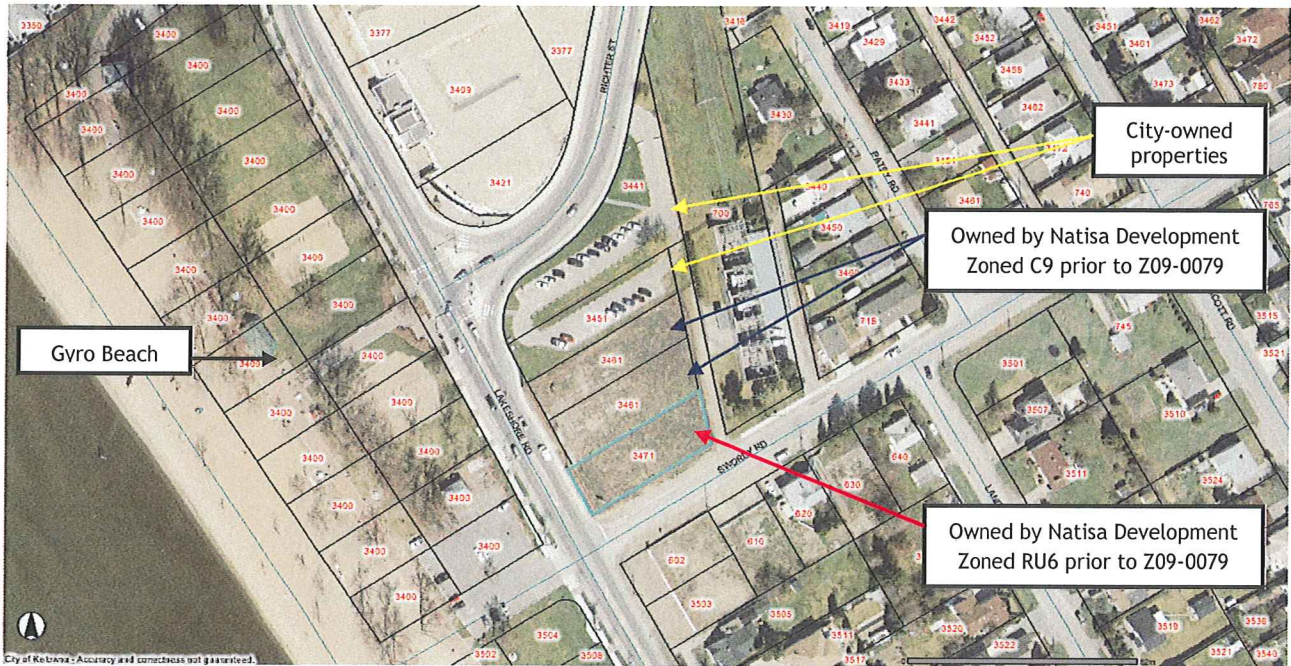
have not been received and are no longer held in trust, staff is recommending that the Development & Development Variance Permits be rescinded.

As the rezoning and OCP amending bylaws were given final adoption with the required fees being held in-trust with the solicitor and those funds have now been withdrawn, staff are recommending that the privately-owned property at 3471 Lakeshore Road be rezoned back to its previous RU6 - Two Dwelling Housing zone. Rezoning this corner property to its previous zoning would allow the City to recoup the unpaid Development Engineering fees as part of future development applications. The two privately-owned properties addressed at 3461 Lakeshore Road were zoned C9 prior to the 2009 development application. The other properties included within the development application and associated land agreement are owned by the City of Kelowna, thus not required to revert back to their former zoning.

To achieve the rezoning of 3471 Lakeshore Road, an OCP amendment is also required. Kelowna OCP 2030 has designated all of the properties as Mixed-Use (Residential/Commercial) to reflect the ultimate development potential of the parcel. The Single/Two-Unit Residential designation is chosen to match the former zoning of the property. It is expected that the property will be rezoned in the future through a comprehensive mixed-use development, which would also see the OCP designation change back to Mixed-Use (Residential/Commercial).

#### 4.1 Site Location Map

Subject properties: 3441, 3451, 3461 & 3471 Lakeshore Road



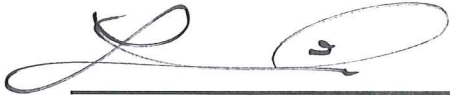
#### 5.0 Application Chronology

Date Original Application Received:	December 15, 2009
Advisory Planning Commission:	February 2, 2010
Third Reading of OCP & Zone Amending Bylaws:	March 23, 2010
Final adoption of OCP & Zone Amending Bylaws:	May 4, 2010
Approval of DP & DVP:	May 4, 2010

1<sup>st</sup> Extension of DP Issuance Approved by  
Director of Land Use Management:  
2<sup>nd</sup> Extension of DP Issuance Approved by  
Director of Land Use Management:

Nov 4, 2010 (extended to May 4, 2011)  
May 4, 2011 (extended to Nov 4, 2011)

**Report prepared by:**




Luke Turri, Planner II

**Reviewed by:**



Shelley Gambacort, Director, Land Use Management

**Approved for Inclusion:**

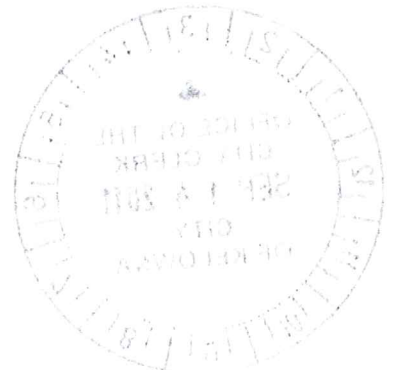


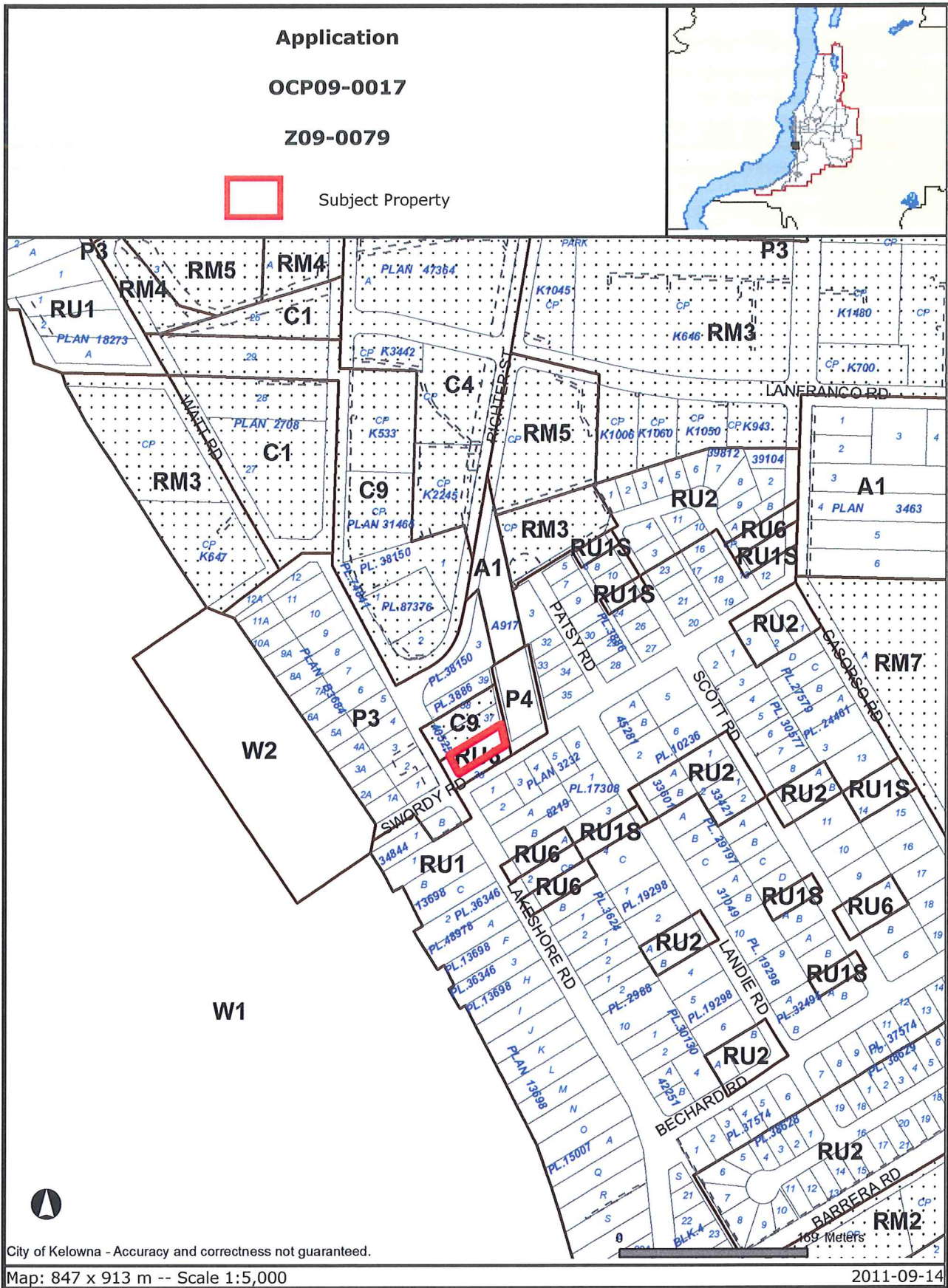
Jim Paterson, GM, Community Sustainability

**Attachments:**

Subject Property Map  
Proposed Map "A"

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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.

# Z09-0079/OCP09-0017 - Lakeshore/Richter/Swordy - Map "A"

OCP Future Land Use Designation - Map 19.1

