



PUBLIC HEARING REPORT
Development Services
For the May 14, 2019 Council Meeting

DATE: April 25, 2019 File: Z 19-09 (Spiritleaf)

TO: Jim Zaffino, CAO

FROM: Chris Oliver, Planner III

RE: Applications: Zoning Amendment Bylaw No. 154.80, 2019 (Z 19-09)
Legal: Lot 2 DL 506 ODYD Plan 18464 Except Plan H16956
Address: 1195 Industrial Road
Owners: BMK133 Holdings Inc.
Agent: 1143782 B.C. Ltd. (Spiritleaf)

LEGISLATIVE REQUIREMENTS

Section 464 of the *Local Government Act* requires a local government to hold a public hearing as part of the bylaw amendment process to allow the public to make representations to Council regarding the matters contained in the proposed bylaw amendment. The public hearing must be held after first reading and before third reading. Notification of the public hearing was completed in accordance with Section 466 of the *Local Government Act*.

As of October 17, 2018, non-medical cannabis is legal in Canada under the Federal *Cannabis Act*. In British Columbia, the Liquor and Cannabis Regulation Branch¹ oversees retail sales of non-medical cannabis as per the *Cannabis Control and Licensing Act*, *Cannabis Distribution Act* and the Cannabis Control and Licensing Regulations. Under this Federal and Provincial framework, municipalities in BC have the authority to regulate certain aspects of non-medical cannabis retail sales, including zoning regulations, public consultation methods, public consumption and business licensing regulations. Municipalities are required to provide a positive recommendation to the Province before any application for a non-medical cannabis retail store can be approved by the Province under the Cannabis Control and Licensing Regulations. As part of the licensing process local governments are required to gather the views of residents of the area if the location of the proposed store may affect nearby residents. Input can be gathered by:

- Receiving written comment in response to a public notice of the application;
- Conducting a public hearing in respect of the application;
- Holding a referendum; or
- Using another method the local government considers appropriate.

BACKGROUND

The proposed amendment bylaw received first and second reading on April 23, 2019, where Council directed staff to schedule the Public Hearing. At the April 23 meeting, Council also decided to consider the notification and public hearing as consultation for both the rezoning application and the British Columbia Liquor and Cannabis Regulation Branch license. The notification for the public hearing included pertinent information for the Cannabis Retail Store license to ensure it can be considered adequate for gathering the views of residents for licensing purposes.

¹ Previously named the Liquor Control and Licensing Branch

The Non-Medical Cannabis Retail Store Rezoning Policy in accordance with the Development Application Procedures Bylaw outlines the application procedures under which proposals for retail cannabis applications are submitted, assessed and approved to operate in the City. In accordance with the Policy, the highest scoring applications are being brought forward to rezone with a site-specific text amendment to permit the Non-Medical Cannabis Retail Store use within the proposed unit.

Figure 1 provides an overview of the Boucherie Centre/ West Kelowna Business Park areas with the two other store locations being considered for rezoning. The Spiritleaf location on Industrial Road has been highlighted in blue.

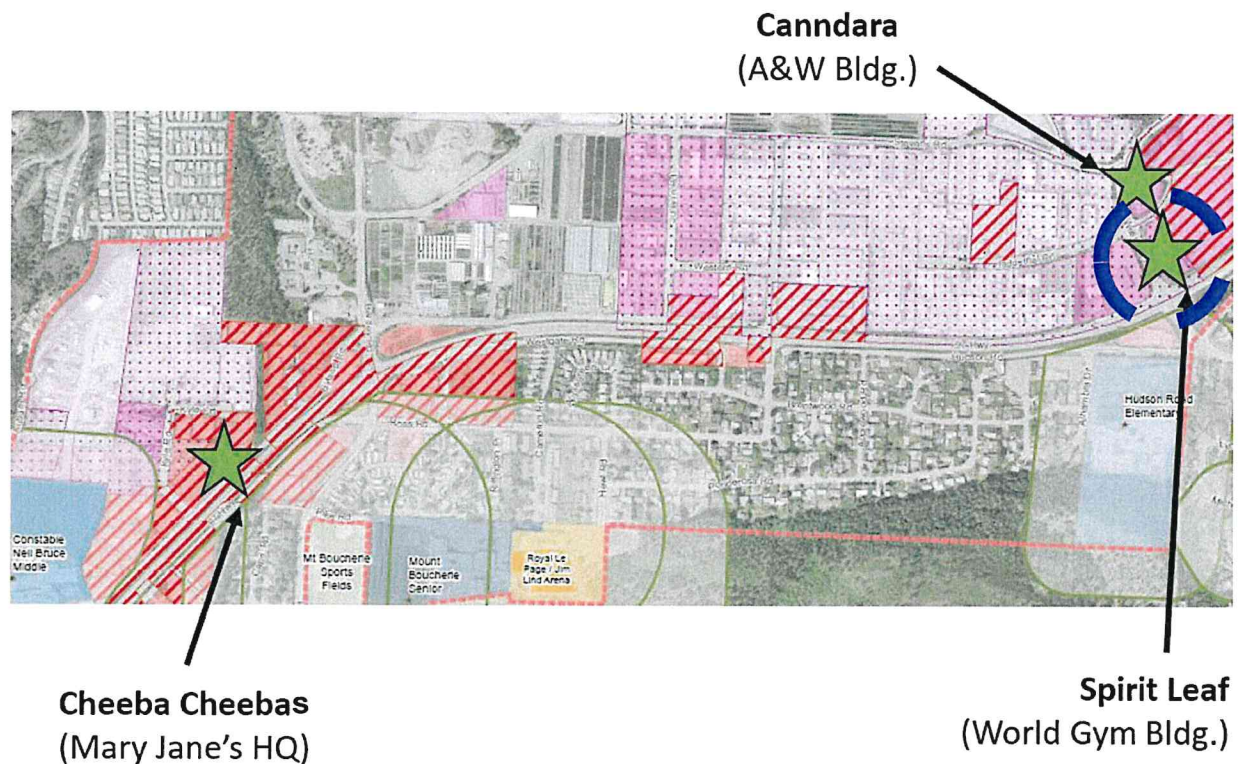


Figure 1. Boucherie Centre and West Kelowna Business Park Applications

Proposal

The proposed site-specific text amendment and Cannabis Retail Store License would allow for a Non-Medical Cannabis Retail Store in the proposed unit located at 1195 Industrial Road. The proposed unit and subject building were constructed under an Industrial Development Permit in 2004 and generally comply with applicable OCP guidelines. Spiritleaf has proposed as part of their application to install decorative window treatments as required by the LCRB licensing requirements and install signage associated with their unit (Figure 2).



Figure 2. Proposed Signage and Window Treatment

LOCATION AND SURROUNDING USES

The subject property is located in a unit on the north side of the existing multi-tenant building located at 1195 Industrial Road. This building includes World Gym, Hergott Law, as well as other existing tenants. The surrounding land uses include:

- North – C3 Gasoline Service Station Zoned Parcel
- East– C4 Service Commercial Zoned Parcels
- South – P2 Parks and Institutional Zoned Parcel and C3 Zoned Parcel (Sonic Car Wash)
- West – I1 Light Industrial Zoned Parcel

POLICY AND BYLAW REVIEW

Official Community Plan (OCP) Bylaw No. 0100

The proposed site-specific text amendment to allow for a Non-Medical Cannabis Retail Store is supported by the existing Business Park Land Use Designation in the Official Community Plan.

Zoning Bylaw No. 0154

The subject property is zoned I1 – Light Industrial which currently a variety of uses including retail uses. In addition to being commensurate with permitted uses in the I1 Light Industrial Zone, the proposed use can be accommodated in the existing building and satisfies all applicable parking requirements in the Zoning Bylaw.

Cannabis Retail Store License (Liquor and Cannabis Regulation Branch)

The LCRB has stringent requirements that each retail store licensee must achieve prior to approval. These requirements regulate various items related to store layout, security requirements, use of smell jars, sale of accessories, branding, gift cards, etc. The proposed exterior improvements for Spiritleaf are related to the following LCRB requirements:

- The store must be located in a permanent building or structure and be enclosed by floor-to-ceiling walls that are not transparent;
- Non-medical cannabis, cannabis accessories and transactions involving those products must not be visible from outside the store;
- Licensees and employees must take reasonable measures to prevent disturbances. This means performing actions that are appropriate in the circumstances and within their capacity to do. Examples of reasonable measures include:
 - Installing adequate lighting outside the store and in the parking lot;
 - Supervising parking areas; and/or
 - Posting signs asking patrons not to disturb the neighbours.

No additional permitting or conditions are required to ensure that the required LCRB improvements such as window treatments are implemented.

The LCRB also limits the hours of operation for Cannabis Retail Stores to between the hours of 9 a.m. and 11 p.m., unless their hours are further restricted by the local government. The proposed hours of operation for Spiritleaf are 9:00 a.m. - 11:00 p.m. Monday through Sunday. The applicant may as part of future operational considerations choose to reduce these hours with no impact to their license, but they would not be able to be extended. The hours of operation limited by the LCRB are the same as licensee retail stores (private liquor stores) which have limited hours of sale between 9:00 a.m. and 11:00 p.m.

REFERRAL RESPONSES

The application has not been considered by the City's Advisory Planning Commission (APC), as the City recently filled 2019 - 2021 Commission member positions and the Commission hasn't yet met in 2019.

PUBLIC CONSULTATION/NOTIFICATION

A Development Proposal sign has been posted on site in accordance with the Development Applications Procedures Bylaw No. 0131. Two advertisements have been placed in the local newspaper and notices were mailed to 34 property owners and/or tenants within 100 metres of the subject property (Attachment 4).

Should Council consider adopting the proposed amendment bylaw, staff will include a motion at adoption that meets the Provincial licensing requirements for the British Columbia Liquor and Cannabis Regulation Branch.

At the time of writing this report, no public submissions have been received during the public hearing notification window for the proposed bylaw amendments and LCRB Cannabis Retail License.

COUNCIL REPORT/RESOLUTION HISTORY:

Date	Report Topic/Resolution	Resolution No.
Apr 23, 2019	THAT Council give first and second readings to City of West Kelowna Zoning Amendment Bylaw No. 0154.80, 2019 (Spiritleaf, Z 19-09); THAT Council direct staff to schedule the bylaw for public hearing; and THAT Council consider the notification and public hearing as consultation for both the rezoning application and the British Columbia Liquor and Cannabis Regulation Branch license.	C170/19

Respectfully Submitted,



Chris Oliver
Planner III



Brent Magnan
Planning Manager

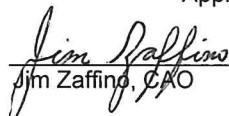


Nancy Henderson
General Manager of Development Services

Powerpoint: Yes ☒ No ☐

Attachments:

1. Zoning Amendment Bylaw No. 0154.80, 2019 (Spiritleaf Z19-09)
2. Context Map
3. Subject Property Map
4. Map of Notification Area

Approved for Agenda	
 Jim Zaffino, CAO	May 8, 2019 Date

H:\DEVELOPMENT SERVICES\PLANNING\3360 Zoning & Rezoning\20 Applications\2019\Z 19-09 #104 - 1195 Industrial Rd - Spiritleaf\Bylaw_Rpts_Minutes\Public Hearing\DRAFT Z 19-09 Public Hearing Report.docx

CITY OF WEST KELOWNA

BYLAW NO. 0154.80

A BYLAW TO AMEND "ZONING BYLAW NO. 0154"

WHEREAS the Council of the City of West Kelowna desires to amend "CITY OF WEST KELOWNA ZONING BYLAW NO. 0154" under the provisions of the *Local Government Act*.

THEREFORE BE IT RESOLVED that the Council of the City of West Kelowna, in open meeting assembled, hereby enacts as follows:

1. Title

This Bylaw may be cited as "CITY OF WEST KELOWNA ZONING AMENDMENT BYLAW NO. 0154.80, 2019".

2. Amendments

"Zoning Bylaw No. 0154" is hereby amended as follows:

- 2.1 By adding to Section 12.1 Light Industrial Zone (I1), Sub-section 12.1.4 (Site Specific Uses, Building and Structures):

On Lot 2 DL 506 ODYD Plan 18464 Except Plan H16956 (#104-1195 Industrial Road): one Non-Medical Cannabis Retail Store as indicated on Schedule 'B' of Zoning Amendment Bylaw No. 0154.80.

- 2.2 By depicting the site specific text amendment on "Zoning Bylaw No. 0154 Schedule B" (Zoning Bylaw map) as shown on Schedule 'A' attached to and forming part of this bylaw.

READ A FIRST TIME AND SECOND TIME THIS 23RD DAY OF APRIL, 2019

PUBLIC HEARING HELD THIS ____ DAY OF ____

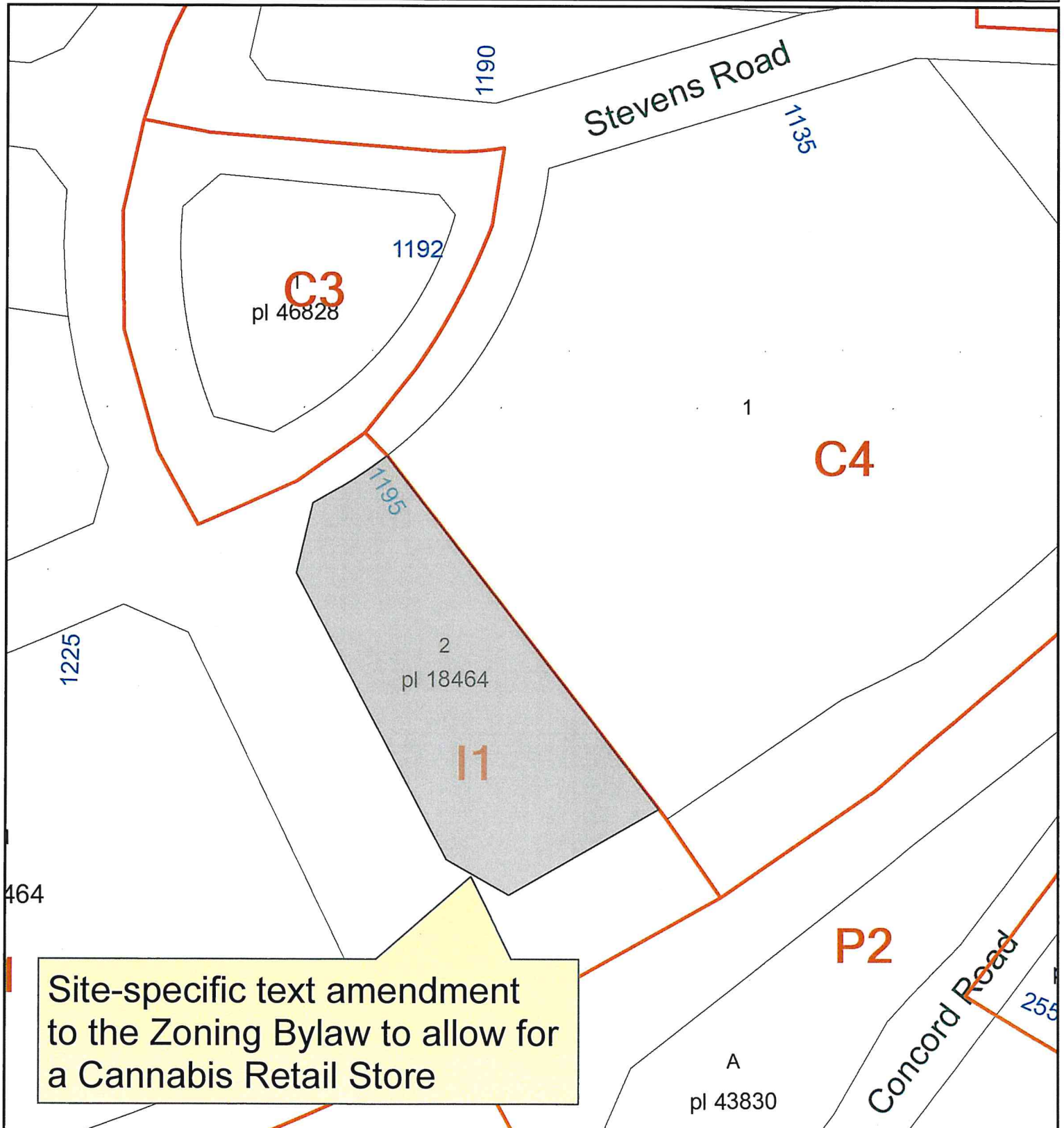
READ A THIRD TIME THIS ____ DAY OF ____

APPROVED BY MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE THIS

ADOPTED THIS ____ DAY OF ____

MAYOR

CITY CLERK



File: Z 19-09

Legal Description: Lot 2, District Lot 506, ODYD,
Plan 18464 Except Plan H16956

0 20 40 80
Metres

1:1,500

LEGEND

- Subject Property
- Zoning Boundary
- Parcels

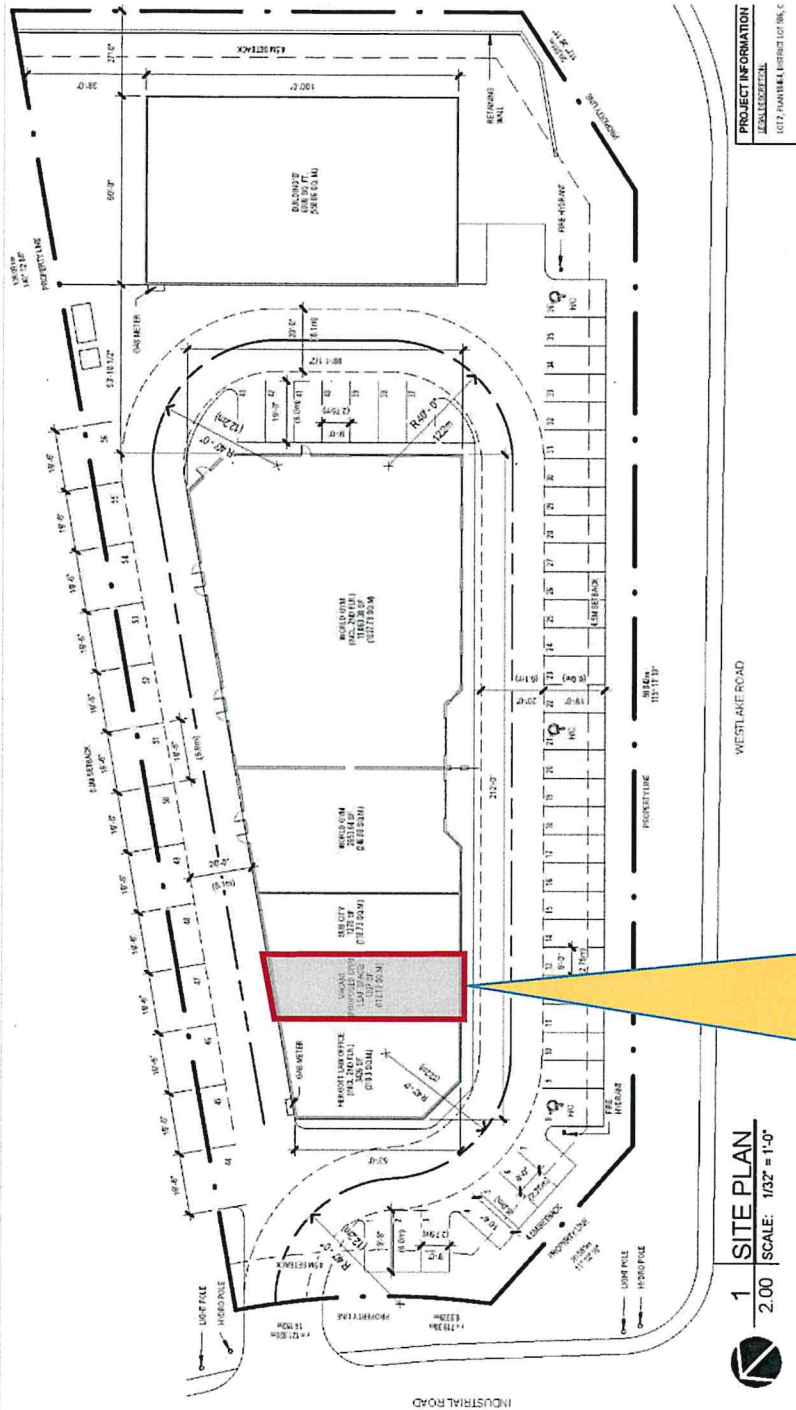


Date: 2019-04-05



CITY OF
WEST
KELOWNA

SCHEDULE 'B' of BYLAW NO. 0154.80



Site-specific text
amendment to the Zoning
Bylaw to allow for a
Cannabis Retail Store

File: Z 19-09

Legal Description: Lot 2, District Lot 506, ODYD,
Plan 18464 Except Plan H16956

Address: #104 - 1195 Industrial Road, West Kelowna, BC

Date: 2019-04-08

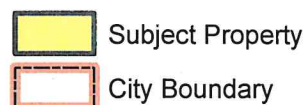


CONTEXT MAP: Z 19-09



File: Z 19-09

Legal Description: Lot 2, DL 506, ODYD, Plan 18464
Excerpt Plan H16956



0 120 240 480 Metres





SUBJECT PROPERTY: Z 19-09



File: Z 19-09

Legal Description: Lot 2, DL 506, ODYD, Plan 18464
Except Plan H16956

LEGEND

- Subject Property
- Zoning Boundary
- Parcels

0 35 70 140 Metres

1:2,500



Date: 2019-03-29

Z 19-09 GIS Mail Notification Map



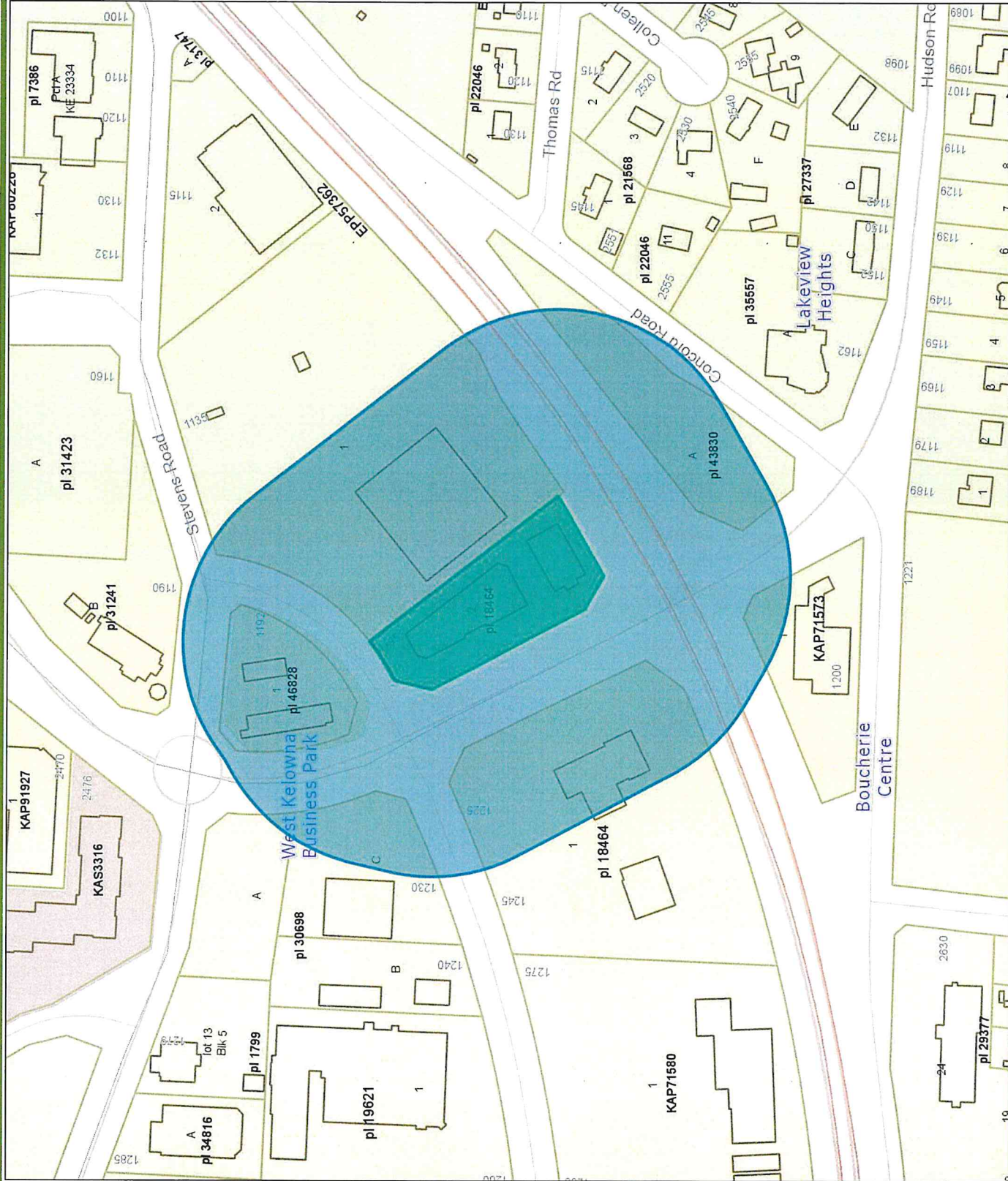
Legend
Landmarks
 Cemetery
 City Hall
 Community Centre
 Dam
 Fire Hall
 Museum
Basemap Layers
 WK Admin Boundary
 Regional Admin Boundary
 Highway
 River / Stream
 Intermittent Stream
Parcels
 Ownership
 Land Strata
 Building Strata
 Common Property
 Crown Land
 Lease
 Park
 Road Right-Of-Way
 Walkway
 Common Access

Waterbody
 Lake Access
 Regional Park
 Municipal Park
 Westbank First Nation

Scale 1:2,948

Notes

ATTACHMENT 4



This map has been produced by the City of West Kelowna's Geographic Information System. The data provided is derived from a variety of sources with varying levels of accuracy. The City of West Kelowna makes no warranty or representation, expressed or implied, with the regard to the correctness, accuracy and/or reliability of the information contained herein.



0 75 150 Meters

Map Projection: NAD_1983_UTM_Zone_11N
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