AGENDA
FOR THE SPECIAL COUNCIL MEETING (PUBLIC HEARING)

Thursday, February 7, 2019, 7:00 P.M.
SHAW AUDITORIUM, VANCOUVER ISLAND CONFERENCE CENTRE
80 COMMERCIAL STREET, NANAIMO, BC

SCHEDULED RECESS AT 9:00 P.M.

Pages

1. CALL THE SPECIAL MEETING OF COUNCIL TO ORDER:

2. INTRODUCTION OF LATE ITEMS:

3. ADOPTION OF AGENDA:

4. CALL THE PUBLIC HEARING TO ORDER:

5. PUBLIC HEARING AGENDA

Lainya Rowett, Manager, Current Planning, to explain the required procedures in conducting a Public Hearing and the regulations contained within Part 14 of the *Local Government Act.*

a. Rezoning Application No. RA406 - 111 Nicol Street — 3 - 17

To be introduced by Madeleine Koch, Planner.

Presentation: Matt Charlton, Applicant.

Call for submissions from the Public.

6. FINAL CALL FOR SUBMISSIONS:

Following the close of a Public Hearing, no further submissions or comments from the public or interested persons can be accepted by members of City Council, as established by provincial case law. This is to ensure a fair Public Hearing process and provide a reasonable opportunity for people to respond.

7. ADJOURNMENT OF THE PUBLIC HEARING

8. BYLAWS: 18

a. "Zoning Amendment Bylaw 2019 No. 4500.132" 19 - 20

That "Zoning Amendment Bylaw 2019 No. 4500.132" (To rezone 111 Nicol Street to allow a site-specific Cannabis Retail Store use in the Gateway [DT12] Zone) pass third reading.

9. REPORTS:

10. ADJOURNMENT:

Staff Report for Decision

File Number: RA000406

DATE OF MEETING January 21, 2019

AUTHORED BY MADELEINE KOCH, PLANNER, CURRENT PLANNING

SUBJECT REZONING APPLICATION NO. RA406 – 111 NICOL STREET

OVERVIEW

Purpose of Report

To present Council with an application to amend the existing zoning of the property located at 111 Nicol Street to allow a site-specific Cannabis Retail Store use in the Gateway (DT12) Zone.

Recommendation

1. That "Zoning Amendment Bylaw 2019 No. 4500.132" (To rezone 111 Nicol Street to allow a site-specific Cannabis Retail Store use in the Gateway [DT12] Zone) pass first reading;
2. That "Zoning Amendment Bylaw 2019 No. 4500.132" pass second reading; and
3. That Council direct Staff to secure the amenity contribution and BC Liquor and Cannabis Regulation Branch approval prior to adoption of the bylaw, should Council support the bylaw at third reading.

BACKGROUND

A rezoning application (RA406) for 111 Nicol Street was received from 115737 BC Ltd. (Matt Charlton), on behalf of 636238 BC Ltd. The applicant proposes to amend the existing DT12 Zone to allow "Cannabis Retail Store" as a site-specific use for the subject property.

The City of Nanaimo adopted amendments to City of Nanaimo "Zoning Bylaw 2011 No. 4500" (the "Zoning Bylaw") on 2018-SEP-17 and established a Cannabis Retail Store (CRS) Rezoning Criteria policy to consider future applications for CRS developments in anticipation of changing Federal and Provincial legislation. Following the enactment of new legislation to decriminalize cannabis consumption and legalize the retail sale and distribution of Provincially-licensed cannabis product, the City of Nanaimo began receiving CRS rezoning applications on 2018-OCT-22.

Subject Property and Site Context

Location	111 Nicol Street
Total Lot Area	1,472m^2
Current Zone	DT12
Proposed Zone	DT12 with site-specific "Cannabis Retail Store" use
Official Community Plan Designation	Urban Node
South End Neighbourhood Plan Designation	Urban Node

Proximity to nearest school (Bayview Elementary)	Approximately 800m
Proximity to nearest licensed daycare	Approximately 450m
Proximity to nearest CRS	Approximately 430m from proposed CRS at 52 Victoria Cres.

DISCUSSION

Proposed Development

The applicant is proposing to rezone the subject property to allow "Cannabis Retail Store" in addition to the existing DT12 permitted uses. While the DT12 Zone allows "retail" as a permitted use, a CRS requires site-specific zoning.

The proposed private CRS will be located within Unit 115 in the existing strip mall located at 111 Nicol Street and will have an approximate floor area of 150m^2. The applicant has indicated the proposed business hours will be 9 a.m. to 11 p.m., 7 days per week. The strip mall also houses a gym, a tattoo shop, and retail-oriented businesses.

Provincial Licensing Requirements

The City has received confirmation from the BC Liquor and Cannabis Regulation Branch (LCRB) that an application for a non-medical cannabis retail licence has been made for the subject property.

As part of the LCRB's review, the Branch determines if the applicant is "fit and proper" to receive a licence, in accordance with Section 23(1) of the *Cannabis Act* (Bill 30) (based on indicators such as financial integrity and security screening). The LCRB will advise the City of the results of the "fit and proper" assessment.

The LCRB will not proceed with a licensing application unless the local government submits a positive recommendation to the LCRB indicating that the proposed CRS use is permitted.

Official Community Plan/ Neighbourhood Plan

Both the Official Community Plan (OCP) and the South End Neighbourhood Plan designate the subject property as Urban Node. Neither plan addresses CRS use specifically, but the Urban Node land use designation supports retail uses generally and encourages a diversity of commercial, professional, and residential uses.

In absence of OCP policy direction regarding CRS use, the Cannabis Retail Store Rezoning Criteria provides guidance for considering CRS applications. This application meets the rezoning criteria, as outlined in the table below.

It is not anticipated that the proposed development will require a development permit, as no exterior alterations are proposed at this time.

Cannabis Retail Store Rezoning Criteria

The following table summarizes how the proposed rezoning addresses the Cannabis Retail Store Rezoning Criteria adopted by Council on 2018-SEP-17, which are intended to inform Council's consideration of the rezoning application:

Criteria		Response
Location		
1.1	The proposed CRS should be located on, or in close proximity to a provincial highway, urban arterial or urban major collector road, as defined in the City's Functional Road Classification Working Plan; or in an Urban Node, Commercial Centre or Corridor as designated in the City's Official Community Plan.	The subject property is located on a provincial highway and is within the Urban Node land use designation.
1.2	The proposed CRS should not be located directly adjacent, or in close proximity to a school or licensed daycare facility. A minimum separation of 200m from these facilities is considered necessary, as measured from the front door of the CRS to the school or daycare property line.	The proposed CRS is located more than 200m from any licensed daycares or schools, with the nearest school (Bayview Elementary) located approximately 800m away, and the nearest daycare is approximately 450m away. The applicant was referred to the School Board and they confirmed they have no concerns.
1.3.	The proposed CRS should not be located within 200m of another CRS as measured from the front doors of the CRS. Where the CRS is to be located within a dense urban area (i.e., downtown), consideration shall be given to the overall urban density and context of the area.	The proposed CRS is more than 200m from another proposed CRS location. The nearest proposed CRS to date (52 Victoria Crescent) is located approximately 430m away.
Building or Site		
2.1.	The size of the proposed CRS should be consistent with the nature of the immediate area and the size of existing retail stores within the area.	The size of the CRS is consistent with other units in the existing shopping centre and the surrounding area.
2.2.	The design of the proposed CRS should enhance or improve the aesthetics of the surrounding area, not detract from them.	The appearance of the CRS is consistent with other units in the building and the surrounding area.
2.2.1.	The revitalization of heritage buildings is encouraged.	*N/A*
2.3.	Outside the downtown core, consideration should be given to a requirement for onsite parking and loading for every CRS.	*N/A*

Community Impact		
3.1.	The applicant must outline their awareness of potential negative impacts of the proposed CRS on the community, and must identify the specific measures that will be taken to minimize or prevent these impacts from occurring.	The applicant has indicated that attempts by minors to enter the premises to purchase cannabis or minors engaging clients to purchase cannabis for them could be potential negative impacts.
3.1.1.	Possible measures could include efforts to prevent service to minors, minimize smells, prevent smoking or cannabis consumption on or near the premises, property maintenance and beautification programs designed to prevent unsightliness, etc.	They propose the following mitigation measures: • Requiring customers to produce government photo ID; • Encouraging employees to be vigilant in their examination of ID documents; • Discouraging loitering in the store's vicinity; • Contacting police if resale to minors is suspected.
3.1.2	Consideration must be given to the impact a CRS will have when they are located in close proximity to libraries, public recreation centres, public community centres, parks, places of worship and other family-oriented facilities.	The proposed site is approximately 215m from Deverill Hill Gyro 2 Park and approximately 250m from Nob Hill Park. Staff are not aware of other family-oriented facilities in the immediate area.
3.2.	Projected traffic volumes and on-street parking demands associated with a proposed CRS should not adversely impact nearby residential and commercial areas.	The property is located within the Downtown Specified Area and does not require parking for the proposed commercial use. Staff are not aware of any existing traffic issues in this area and use of the site as a cannabis retail store is not expected to negatively impact traffic volumes.
3.3.	The support of the local community, neighbouring property owners and the local neighbourhood association for the proposed CRS is important to Council's decision.	The application was referred to the South End Community Association. Staff responded to questions from the Association and confirmed they had no concerns.
3.3.1.	The applicant is required to notify all neighbouring property owners within 200m of the subject property of the rezoning application, prior to the application proceeding to Council.	The applicant completed notification of the neighbouring properties as outlined in the policy. A development proposal sign has been placed on the property and if Council gives first and second reading to the Bylaw, the application will proceed to public hearing.

3.4.	All rezoning applications for CRS's must be reviewed by the Community Vitality Committee and the RCMP, in addition to being reviewed by the City's Community Planning and Development Committee	The RCMP have reviewed the proposal and indicated they have no concerns. New Council Committees have yet to be established, so committee review has not taken place.

In summary, Staff support the proposed rezoning, which substantially complies with Council's policy.

Community Contribution

The applicant proposes a monetary contribution of $10,000 to be directed towards Parks, Recreation & Culture underprivileged youth programming within the City of Nanaimo.

Conditions of Rezoning

Should Council support this application and pass third reading of "Zoning Amendment Bylaw 2019 No. 4500.132", Staff recommend the following items be secured prior to final adoption of the Bylaw:

1. *Community Contribution* – a monetary contribution of $10,000 to be directed towards Parks, Recreation & Culture underprivileged youth programming.

2. *LCRB Approval* - Confirmation from the LCRB that it has approved the applicant's suitability for a cannabis retail licence.

SUMMARY POINTS

- A rezoning application has been received to allow a cannabis retail store in an existing commercial building as a site-specific use in the DT12 Zone for the subject property at 111 Nicol Street.
- The Provincial Liquor and Cannabis Regulation Branch is reviewing the licensing application for this proposal.
- The application substantially complies with the Cannabis Retail Store Rezoning Criteria.

ATTACHMENTS

ATTACHMENT A: Location Plan
ATTACHMENT B: School and Licensed Daycare Buffer Map
ATTACHMENT C: Proposed Floor Plan
ATTACHMENT D: Letter of Rationale
ATTACHMENT E: Aerial Photo
"Zoning Amendment Bylaw 2019 No. 4500.132"

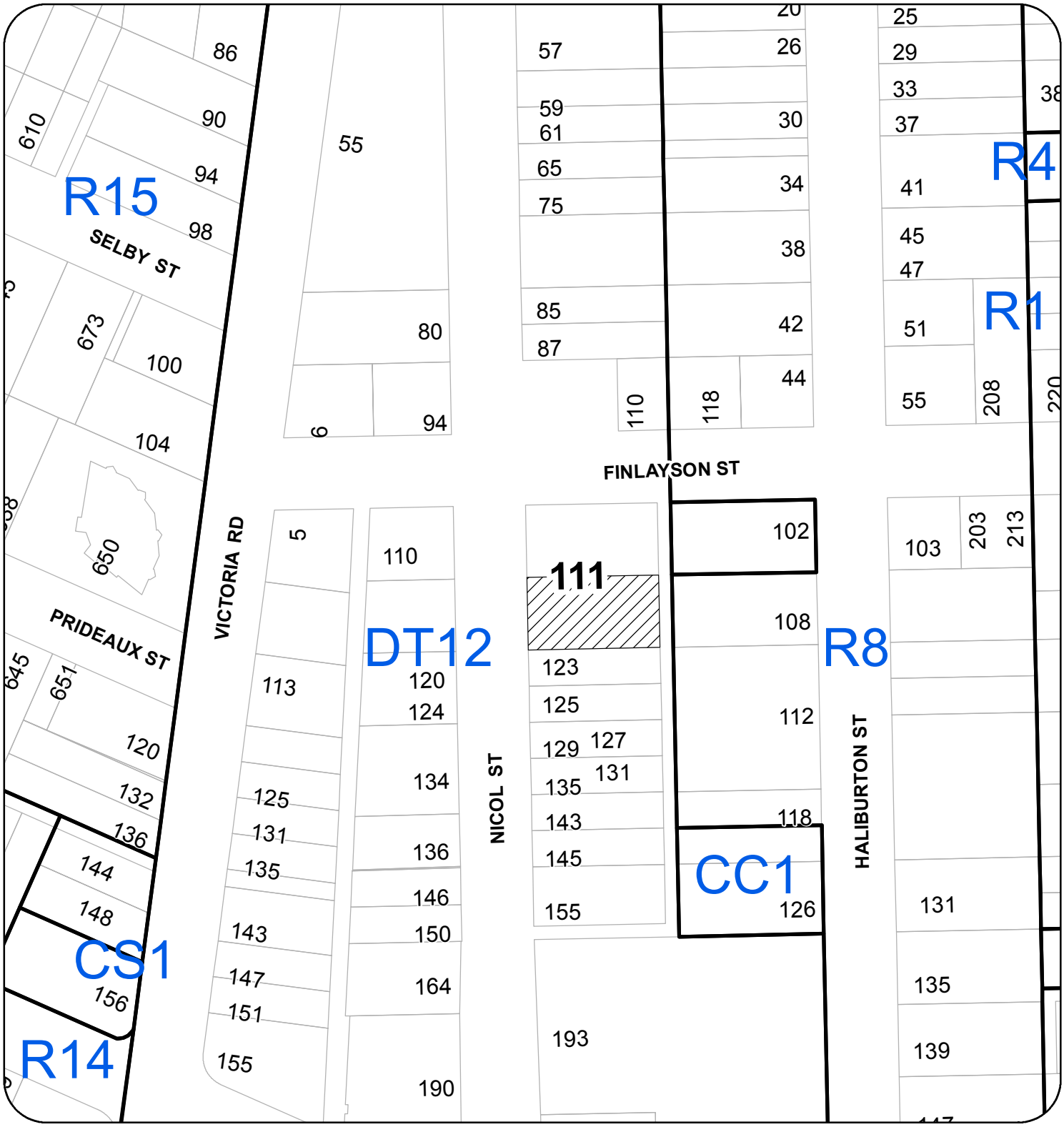
Submitted by:

L. Rowett,
Manager, Current Planning

Concurrence by:

D. Lindsay,
Director, Community Development

ATTACHMENT A
LOCATION PLAN



REZONING APPLICATION NO. RA000406

LOCATION PLAN

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Subject Property

Civic: UNIT #115 - 111 NICOL STREET
Legal: LOT 9, BLOCK 10, SECTION 1
NANAIMO DISTRICT, PLAN 584

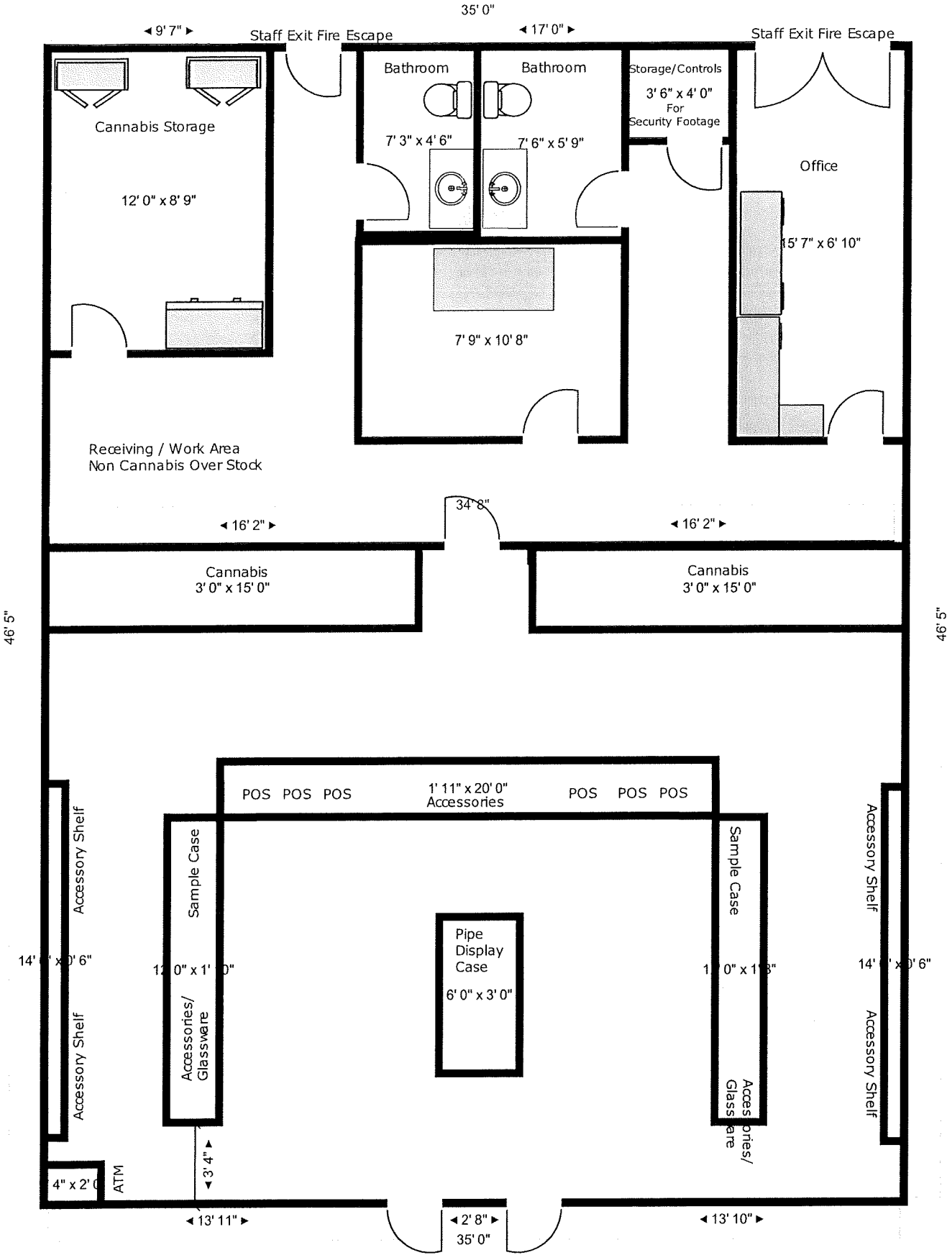
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ATTACHMENT B
SCHOOL AND LICENSED DAYCARE BUFFER MAP



115 NICOL STREET

ATTACHMENT C
PROPOSED FLOOR PLAN



Public Entrance/Exit

The Bud Barn
115 Nichol Street
Nanaimo, BC
V9R 4T1
Tel:(778)441-4119

Letter of Rationale

January 4, 2019

City of Nanaimo
411 Dunsmuir Street
Nanaimo, BC V9R 0E4

Attention: David Stewart, City Planner – Cannabis Task Force, City of Nanaimo Planning Department

Re: Site Specific Re-Zoning Amendment for Cannabis Retail Store

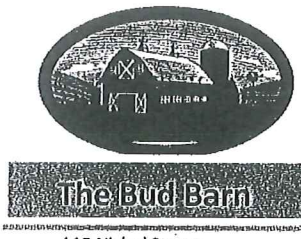
Dear David,

I am submitting this Letter of Rationale for the Site-Specific Re-Zoning Amendment of 111 Nicol Street, Unit 115, in Nanaimo, BC. Upon acceptance and completion of this Cannabis Retail Store Re-Zoning Amendment Application, my company, 1113757 BC Ltd, wishes to launch a Provincially Licensed Cannabis Retail Store at that location doing business as The Bud Barn. The purpose of this rational and Re-Zoning Amendment is to meet the requirements of both the Provincial and Municipal governments for the purpose of operating a Cannabis Retail Store.

About The Bud Barn

The Bud Barn was located at Unit 115 - 111 Nicol Street where it had operated as a business since May 2nd, 2016. In light of new laws and regulations that have passed at the federal and provincial levels, my current goal is to obtain a recommendation from the City of Nanaimo as required by the Liquor and Cannabis Control Board (Province of British Columbia) enabling me to continue the application process for a Cannabis Retail Store License.

The Bud Barn's professional, caring staff and management has had a positive effect on the Nicol Street area and the broader community. As a firm believer in the responsibility of businesses to give back and support the community, the Bud Barn has been a very active corporate citizen.



115 Nichol Street
Nanaimo, BC
V9R 4T1
Tel:(778)441-4119

Advantages for the City of Nanaimo for granting the Re-Zoning Amendment Application

To date, The Bud Barn, while operational, was a good corporate citizen. The Bud Barn contributed to the community in the following ways:

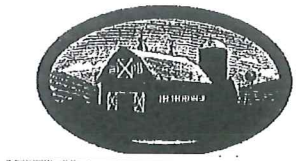
- Donated money to Skills Canada for under privileged families
- Donated 35 turkey hamper baskets to: the Samaritan House Women's Shelter, Loaves and Fishes, Nanaimo Food Share, and Nanaimo Youth Services Association
- Donated Valentine's Day gifts to Samaritan House Women's Shelter
- Donated money, food and clothing to Nob Hill twice a year to help feed and clothe the homeless
- Donated money to Urban Art for the painting of murals in downtown Nanaimo
- Donated money to the Nanaimo BMX Association

We provided a bright, clean, professional, and safe work environment for clients and staff while striving to ensure a safe, comfortable retail space for **all** our customers (disabled, older, younger 19+ male female LGBTQ2 etc).

The Bud Barn worked in concert with Arbutus Books and Dolly's Gym to maintain the cleanliness of the street, sidewalk and parking areas along Nicol Street and Finlayson Street. Our consistent, professional attitude as well as our many contributions to the community garnered us considerable support from the surrounding residents and businesses.

The Bud Barn has supported local businesses including, but not limited to:

- Church Pickard Accounting
- Manning & Kirkhope Law Offices
- Quality Foods
- The Keg
- Royal Bank
- Staples
- Price's Alarms
- Chevron
- Gallazin Locks
- Dolly's Gym



115 Nichol Street
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Potential Impacts

Potential Impacts related to granting the Re-Zoning Amendment Application might include the attempts of minors to enter the premises with the intent to purchase cannabis, or minors engaging clients to purchase cannabis for them. While this would not be specific to any single Cannabis Retail Store, The Bud Barn will put stringent enforcement policies into effect.

As is the case in liquor stores, all clients will be required to produce photo identification such as a driver's license or a BC ID card including date of birth. All employees of The Bud Barn will be encouraged to be vigilant with their examination of documentation. Employees will also discourage loitering in the proximity of the storefront in an effort to prevent the bootlegging of cannabis to juveniles.

In the event clients would be suspected of engaging in the resale of, or the procurement of cannabis for minors, the police would be contacted, and staff would document the suspicious activities.

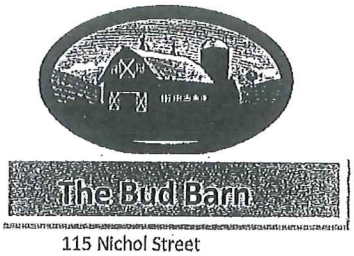
Zoning

The property is currently zoned as DT12 and upon discussion during the Pre-Application Meeting I attended, that was confirmed by the City of Nanaimo Planning representative. The proposed use as a Cannabis Retail Store requires Site Specific Re-Zoning Amendment to allow for a Cannabis Retail Store within the permitted uses for the site.

Proposed Project Description

I am currently looking to meet the federal, provincial and municipal requirements as they apply to Cannabis Retail Stores. Having recently submitted my Application for a Retail Cannabis License to the Provincial Government, I understand the Provincial Liquor and Cannabis Control Board has requested an endorsement from the City of Nanaimo in order to finalize the License Application. Included in the submission of the Application to the City of Nanaimo requesting both the Site-Specific Re-Zoning and a Business License for a Cannabis Retail Store, I am providing you with my Letter of Rationale in support of my Application.

I have the endorsement of the property owner, who understands and accepts the extent and responsibilities of my business.



115 Nichol Street
Nanaimo, BC
V9R 4T1
Tel:(778)441-4119

The site is located at Unit 115 - 111 Nicol Street, Nanaimo. It is located on the #1 Highway as it enters the City from the south, offering a high traffic exposure. The building, 111 Nicol Street, currently houses several businesses including:

- Dolly's Gym
- Heart and Soul Tattoo
- VIP Pawnbrokers

During our Pre-Application Meeting it was determined there are no schools or licensed daycares within the required boundaries of that location.

Frontage

The building would be classified as a small strip mall. The surrounding neighbourhood is in the older area of the City of Nanaimo. The current structure is an established building which has been re-painted and refreshed within the last six months.

Parking

There is ample parking (twenty-three spaces) behind the building to accommodate the clientele of the many businesses, as well as approximately seventeen public parking spaces beside the building. Along the side of the building, on Finlayson Street, there are also four parking spots. The parking areas allow for staggered parking resulting in a refresh of customers throughout the day.

Summary

New Cannabis Retail Stores, to meet the Provincial Licensing requirements are required to apply for municipal endorsements. The Bud Barn is respectfully requesting that you permit a Site Specific Re-Zoning Amendment Application for a Cannabis Retail Store.

The City of Nanaimo, by granting us a recommendation, will afford us:

- Completion of the Licensing process
- Enable us to operate our business as a legal storefront regulated by the current Cannabis laws and regulations
- Secure a longer-term lease in our current building

The Bud Barn
115 Nichol Street
Nanaimo, BC
V9R 4T1
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- Contribute to the wellbeing of our customers, employees, and the community at large

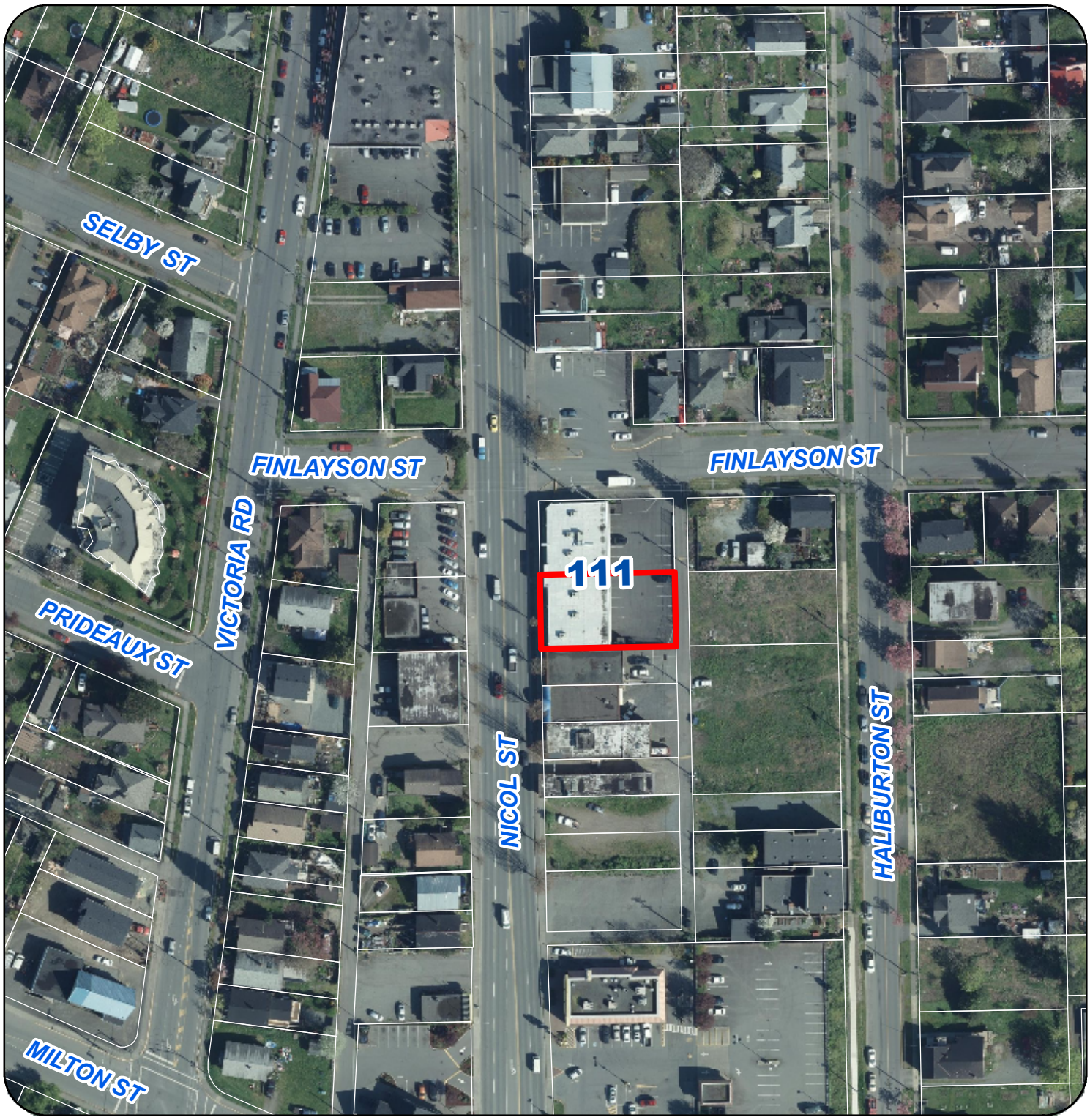
The Bud Barn will be thorough and conscientious regarding the sale of cannabis from their storefront, and will work together with the municipality, province and law enforcement agencies to provide a professional, honourable service within the City of Nanaimo.

We have presented the above rationale to outline, as clearly as possible, our request for a Re-Zoning Amendment Application. If you have any questions, please contact me directly.

Yours Truly,

Matt Charlton

ATTACHMENT E
AERIAL PHOTO



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REZONING APPLICATION NO. RA000406

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8. Bylaw

CITY OF NANAIMO

BYLAW NO. 4500.132

A BYLAW TO AMEND THE CITY OF NANAIMO “ZONING BYLAW 2011 NO. 4500”

WHEREAS the Council may zone land, by bylaw, pursuant to Sections 464, 465, 469, 477, 479, 480, 481, 482, and 548 of the *Local Government Act*;

THEREFORE BE IT RESOLVED the Municipal Council of the City of Nanaimo, in open meeting assembled, ENACTS AS FOLLOWS:

1. This Bylaw may be cited as the “Zoning Amendment Bylaw 2019 No. 4500.132”.

2. The City of Nanaimo “Zoning Bylaw 2011 No. 4500" is hereby amended as follows:

   By rezoning the lands legally described as LOT 9, BLOCK 10, SECTION 1, NANAIMO DISTRICT, PLAN 584 (111 Nicol Street) to allow one Cannabis Retail Store as a site-specific use in the Gateway Zone (DT12), as shown on Schedule A.

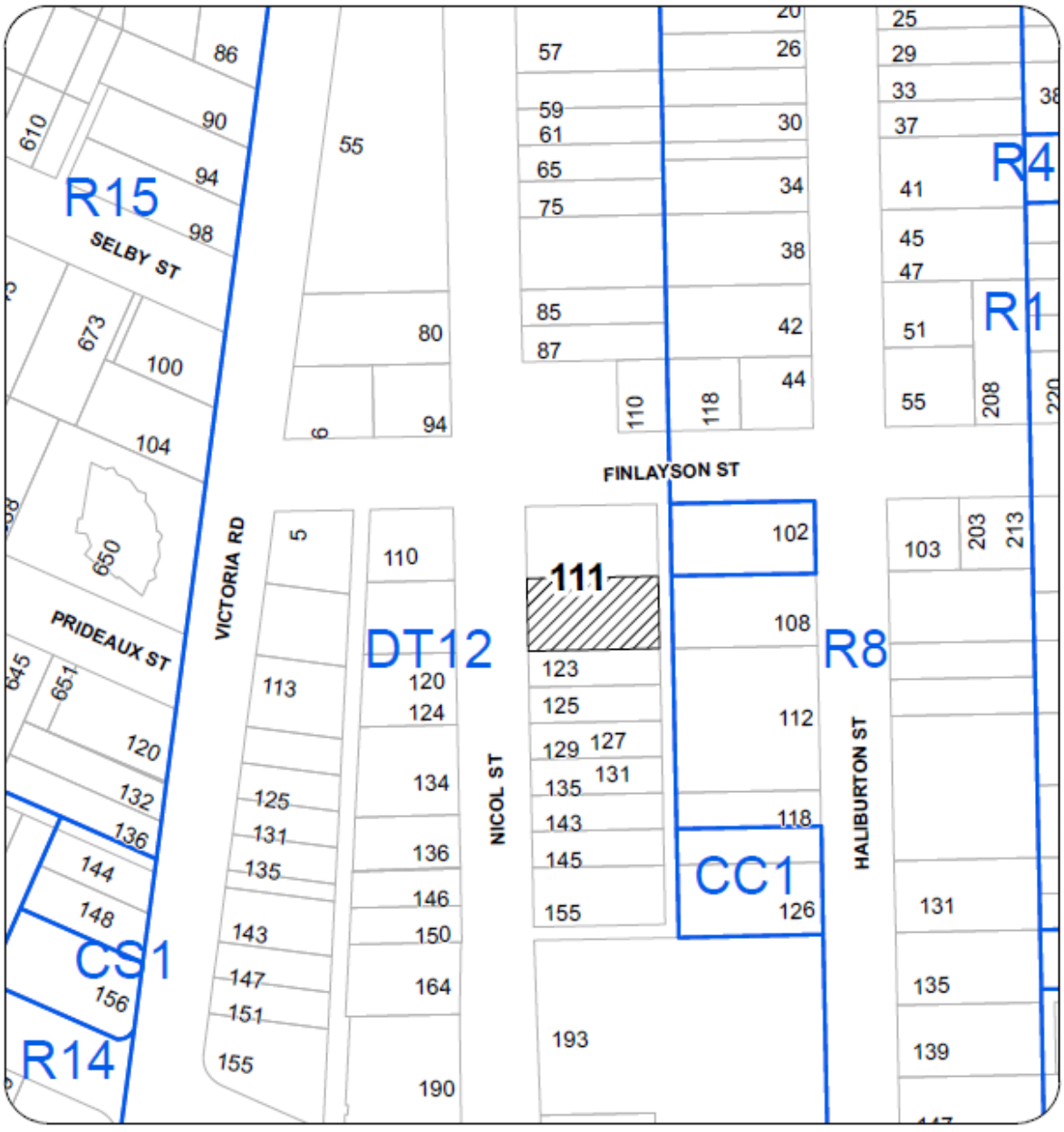
PASSED FIRST READING: 2019-JAN-21
PASSED SECOND READING: 2019-JAN-21
PUBLIC HEARING HELD: _____
PASSED THIRD READING: _____
MINISTRY OF TRANSPORTATION AND INFRASTRUCTURE: _____
ADOPTED: _____

_____
M A Y O R

_____
CORPORATE OFFICER

File: RA000406
Address: 111 Nicol St

SCHEDULE A



REZONING APPLICATION NO. RA000406

LOCATION PLAN

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Subject Property to be Rezoned

Civic: UNIT #115 - 111 NICOL STREET
Legal: LOT 9, BLOCK 10, SECTION 1
NANAIMO DISTRICT, PLAN 584

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