

City of Nanaimo
REPORT TO COUNCIL

DATE OF MEETING: 2012-MAY-14

AUTHORED BY: DAVE PADY, PLANNING ASSISTANT, CURRENT PLANNING

RE: LIQUOR LICENSE APPLICATION NO. LA78 – SIMONHOLT RESTAURANT – PATRON PARTICIPATION ENTERTAINMENT

STAFF'S RECOMMENDATION:

That Council endorse the application to permit patron participation entertainment for an existing food primary liquor license held by SimonHolt Restaurant located at 6582 Applecross Road.

PURPOSE:

The purpose of this report is to provide information to Council regarding the application to amend an existing food primary liquor license to include patron participation entertainment (dancing).

SUMMARY:

The City of Nanaimo has received correspondence from Mr. Cody Dreger regarding his application for a permanent change to a food primary liquor license, located at 6582 Applecross Road (Attachment A). Mr. Dreger is requesting a local government resolution in support of his application to the provincial Liquor Control and Licensing Branch (LCLB) to permit patron participation entertainment in order to allow restaurant patrons to dance to live music. Live entertainment is permitted and currently being provided by the restaurant and it should be noted that the Bylaw Services Department has no record of any nuisances or disturbances in the vicinity of the restaurant. This type of facility in the north end helps to reduce drinking and driving as it is within walking distance for many residents in the area. Results from neighbourhood notification are approximately equal, with a majority of opposition related to noise and drinking and driving.

A local government resolution is required by the LCLB before it will consider the application to permit patron participation entertainment within a food primary licensed establishment.

BACKGROUND:

Subject Property

The existing restaurant is included within the Woodgrove Urban Node of the City's Official Community Plan (OCP) and is currently zoned Woodgrove Urban Centre (CC4). A restaurant is a permitted use within the CC4 zone.

On 2012-JAN-18, Council voted to endorse a previous application from SimonHolt in order to extend its late night hours of liquor service from 12am to 1am, Thursday to Saturday, in order to provide late night entertainment. The LCLB has since approved the liquor service extension application.

In June, 2002 the City of Nanaimo retained Neilson-Welch Consulting Inc. to prepare a Liquor Control Strategy, which Council subsequently adopted. In terms of food primary establishments, the Liquor Control Strategy recommends that Council support restaurants that wish to include patron participation entertainment, but only in cases where the restaurant provides, in writing, an outline of the types of entertainment proposed and the assurance that food service will remain as the primary function. The applicant has verbally stated that he plans to provide live music, along with the occasional DJ, and wishes to allow patron participation entertainment. A formal letter from the applicant has been received and confirms that their primary objective is to continue being a food primary license and they anticipate little change to the current 75% food and 25% alcohol sales.

According to the LCLB Licensing Policy Manual, patron participation entertainment is defined as:

“any form of live entertainment that entails the active involvement of patrons or results in patrons leaving their seats, including but not limited to:

- *sing-along’s or karaoke;*
- *dancing; and*
- *amateur night, in which patrons are invited to sing, dance or perform stand-up comedy routines”*

As part of the food primary amendment review process, the LCLB asks the local government to comment on the following:

- ***The potential for noise if the application is approved:***
SimonHolt Restaurant is located within a shopping plaza on Applecross Road. The site is adjacent to Costco Wholesale store and directly to the south of the site is the ICBC office and vehicle compound. The east side of the site is an undeveloped parcel but was rezoned in 2009 to permit two 20-storey towers and a single storey commercial building. There are existing multi-family developments to the north and northwest of the site and further north is a mix of multi and single family residential. The strata multi-family units directly to the north of the site were created for seniors. When deciding on whether or not to support the application, Council is asked to consider any potential for increased noise and disturbance to neighbouring residents that may be caused by allowing patron participation entertainment within the existing restaurant. Comments have been received regarding the existing and anticipated increase of noise generated by the restaurant.
- ***The impact on the community if the application is approved:*** The subject property is at the edge of the Woodgrove Urban Node, which abuts a wider area to the north identified as Corridor within the City’s Official Community Plan (OCP).

The applicant wishes to include entertainment in order to provide restaurant patrons with the opportunity to dance to jazz and blues music already being provided. Provincial liquor law allows food primary licensed restaurants to provide live entertainment but local government comments are required in order to permit dancing.

The Woodgrove Urban Node and surrounding areas in the Corridor designation both support higher intensity of mixed land uses.

North Nanaimo has few entertainment options, the lack of which requires that individuals, wishing to have an evening out, drive or take a taxi to the downtown. The applicant has specified that musical performances and dancing activities will be in the evening after dinner. The specified musical genres are meant to attract a mature audience and appropriately fit the ambiance of the dining facility. The restaurant receives requests for private functions such as staff parties, charity events, corporate events, etc. While the restaurant hires live entertainment for these events and on weekends, the owner would like to afford people the opportunity to dance if they would like to do so.

The RCMP has no concerns with the proposed entertainment endorsement for the restaurant.

- ***Where the amendment may result in the establishment being operated in a manner contrary to its primary purpose:*** The restaurant will provide a full menu and has provided written assurance that the primary function will be that of a restaurant (Attachment B). All restaurant guests will be seated at tables but will have the opportunity to get up and dance on the restaurant's small dance floor. The small dance floor will be removed when there is not a live performance. A letter has been received from the Alliance of Beverage Licensees, a Vancouver based organization, which raises concerns that this application may be a strategy by a food primary license holder to operate as a nightclub. It should be noted that in their letter they state their opposition is to the extension of liquor service hours, which Council has already supported, and there is no mention of patron participation entertainment, which is the subject of this application. Several comments received from the surrounding neighbourhood indicate there is concern about, and opposition to, the restaurant functioning as a nightclub.
- ***The views of residents:*** A public notice and comment sheet was mailed and hand delivered to the owners and residents of buildings and properties within 100m of the subject property. A total of 149 comment sheets were delivered. 47 responses have been received; 22 are in support of the application while 25 are opposed. Those opposed to the application cite concerns related to noise, drinking and driving, disruptive behaviour in the neighbourhood, and the restaurant operating as a nightclub. A summary of the responses received is attached (Attachment C).

Opt Out of Application Process

With respect to all food and liquor primary license applications, it is worth noting that Council has the option to provide no comment. If Council chooses to opt out of the application process, Staff will inform the LCLB of Council's decision and no further action will be taken by Staff regarding the application. If a local government chooses to opt out, the LCLB will start their own review process, which could considerably delay the application process. As such, Staff does not recommend Council opt out of the decision making process regarding this application.

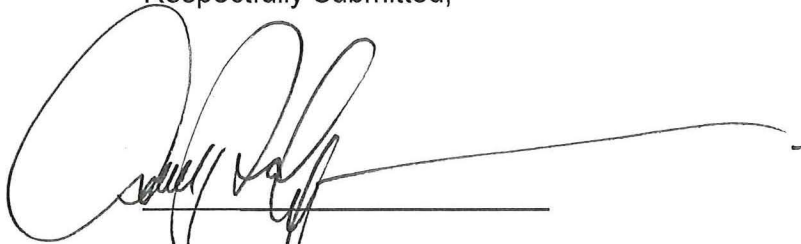
Next Steps

Once Council has made a recommendation regarding the application to endorse patron participation entertainment, Staff will forward the recommendations to the LCLB. The ultimate decision regarding this food primary license amendment application will be made by the LCLB.

DISCUSSION:

Staff supports the application and recommends that Council endorse the application to permit patron participation entertainment for an existing food primary liquor license held by SimonHolt Restaurant located at 6582 Applecross Road.

Respectfully Submitted,

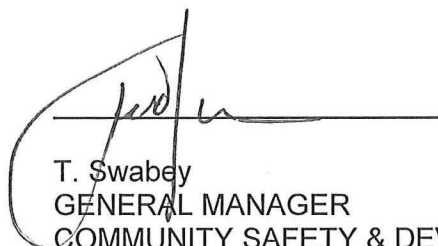


Dave Pady, Planning Assistant
CURRENT PLANNING

Concurrence by:



A. Tucker
DIRECTOR OF PLANNING
COMMUNITY SAFETY & DEVELOPMENT



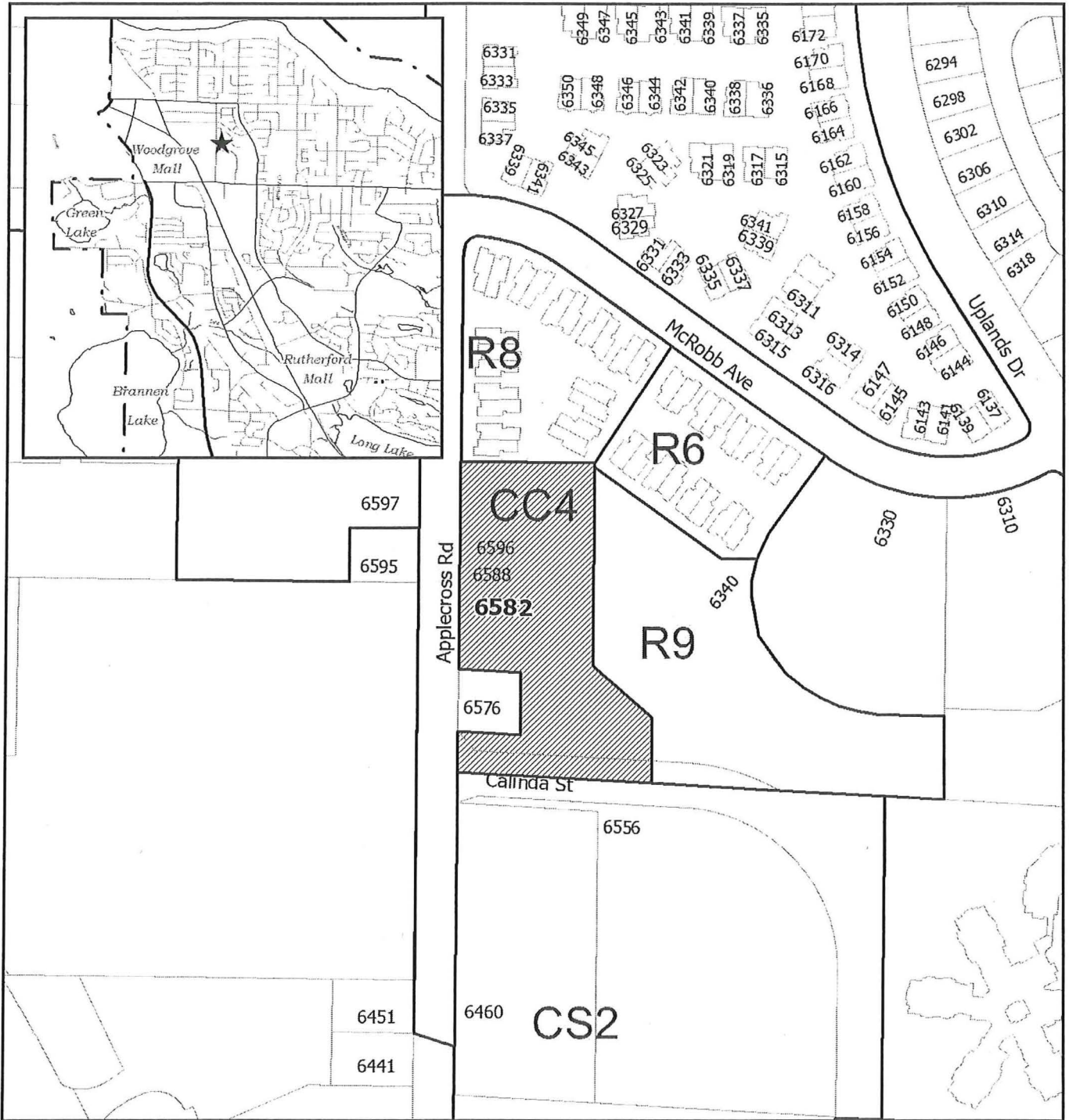
T. Swabey
GENERAL MANAGER
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the staff recommendation.

Drafted: 2012-MAY-07
Prospero: LA78
DP/pm

Attachment A



LIQUOR LICENSE APPLICATION NO. LA78

LOCATION PLAN

Civic: 6582 Applecross Road

 **Subject Property**



Comment Sheets Returned by 2012-MAY-4

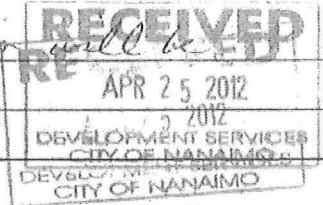
I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: Hopefully the hours of operation will be
reasonable.



Name: Kathy Jackson Resident Street Address: 6313 Ruxton Rd.
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: This is a residential area and
includes many Senior residents. Therefore
noise is an obvious issue.
Why has the City allowed it to go this far?

May 4, 2012

Name: E. Rutherford Resident Street Address: 6372 McRobb Ave
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: Booze, traffic, noise, speeding =
trouble.
on top of all of this we have the wet-house
project!
Way to go

Name: Sybil Farnese Resident Street Address: 6340 SAVARY ST
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: Dr. Edward Murdoch Resident Street Address: 101-6596 Applecross Rd
Name of Business: Ocean's Edge Orthodontics Business Address: "

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: Why did you not apply the ^{same} process when you decided without notice to build the home for the drug addicts on Upland Road. The proposed site for the addicts on Upland Road is the WRONG place, the WRONG location! The city refused to listen to the ~~rest~~ residents of North Nanaimo. We deserved better treatment!

Name: RE: 6337 THURLOW PLACE
VILLAZOR ALFRED
VILLAZOR KOHARU
6337 THURLOW PLACE
NANAIMO BC V9V 1S8

Resident Street Address: _____

Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: We live in a neighbourhood of Senior complexes and I do believe this an establishment of this nature would be detrimental to the neighbourhood and all it's residents.

Name: Michael E. Vernon

Resident Street Address: 6314 Ruston Rd

Name of Business: _____

Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: WE LIVE IN A QUIET NEIGHBOURHOOD
OVERLOOKING SIMON HOLT AND ALREADY ARE DISTURBED
BY THE PATIO. THERE ARE PLENTY OF OTHER PLACES
TO DANCE AND WE DON'T WANT THE MUSIC EITHER,
WHICH WE HEARD IN OUR BEDROOM THE NIGHT OF APRIL 21ST /2012

Name: GORD HYATT Resident Street Address: 6145 SATURNA AVE
NANAIMO

Name of Business: _____ Business Address: _____

WE WERE NOT NOTIFIED TO THEIR PREVIOUS EXTENSION OF HOURS
APPLICATION - WHICH OBVIOUSLY EFFECTS US.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: LOUD MUSIC IS ALREADY HEARD FROM
SIMON HOLT RESTAURANT AT NIGHT. THE ADDITION
OF A DANCE FLOOR WILL FURTHER INCREASE THE NOISE LEVEL.

Name: Meryl Falconer Resident Street Address: 6410 Pachena Place

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: IF THIS IS APPROVED A SOUND
BARRIER SHOULD BE A CONDITION
OF THIS LICENSE CHANGE

Name: A. FALCONER Resident Street Address: 6410 PACHENA PL.
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: It was given a "family" restaurant licence meaning
it's not a sports bar, or a neighbourhood pub - To change
the demographic of the "neighbourhood" restaurant for
late night dancing changes the "whole" clientele! Longer hours
- "more" drinking, loud music - "closing problems" at night!

Name: Marilyn Kittle-Jago Resident Street Address: 6404 Pachena Place.
Name of Business: _____ Business Address: _____

The location is hidden - Not sure if the this is an
Ideal Location within a Residential Area.

I SUPPORT THE APPLICATION.

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I DO NOT SUPPORT THE APPLICATION.

Comments: It is inevitable that with the change would increase
the noise level and be a nuisance to residents in what
is a quiet neighbourhood in which many residents are
seniors who would not welcome noise in the back opening. It would
also increase the amount of vehicular traffic.

Name: M. J. HOWARTH Resident Street Address: 1174 Salina Ave.

Name of Business: Business Address:

I SUPPORT THE APPLICATION.

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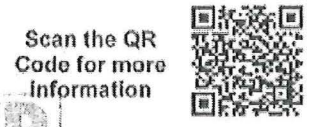
I DO NOT SUPPORT THE APPLICATION.

Comments: NO! ABSOLUTELY NOT IN FAVOUR.
THERE ARE ENOUGH IRRESPONSIBLE DRUNKS AND ROWDIES IN
THE AREA NOW, SCREAMING TIRES AND PAINTING GRAFFITI.

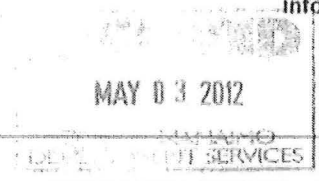
Name: ED + HILDA LOCK Resident Street Address: 6348 SAVARY ST

Name of Business: Business Address:

- I SUPPORT THE APPLICATION.
- I DO NOT SUPPORT THE APPLICATION.



Comments: Good Staff



Name: Sue Minhan Resident Street Address: 6414 Parksmouth
Name of Business: _____ Business Address: _____

- I SUPPORT THE APPLICATION.
- I DO NOT SUPPORT THE APPLICATION.



Comments: Limited hours, Noise Guidelines.

Name: B. Vanderkooi Resident Street Address: 6410 Parksmouth Rd
Name of Business: _____ Business Address: UAD-1A3

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments:

WHEN I MOVED INTO THIS AREA I WAS WILLING TO HAVE A
PUB/RESTAURANT NEARBY NOT A NIGHT CLUB. IF I WANTED THAT I'D
HAVE MOVED DOWNTOWN. THIS LOOKS LIKE CHANGING THE LICENSE BY
STEALTH. GET A LICENSE FOR FOOD PRIMARY THEN CHANGE IT TO MUSIC
& THEN CHANGE IT TO ENTERTAINMENT CONTRADICTORY TO ORIGINAL PLANNING

Name: JAMES HARRIS

Resident Street Address: 6430 PACHEWA PLACE

Name of Business: _____

Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments:

Name: JEAN ANNE BERTRAND

Resident Street Address: 6415 PACHEWA PLACE

Name of Business: _____

Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: Karen McHellan Resident Street Address: 6421 Pachena Place
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: This seems to be an effort to gradually change
from a "Restaurant-Pub" to a nightclub. It does not suit
the location, and would not have been allowed initially. We
will see how much their friends on Council will do to
subvert proper process. Nothing is being done to minimize noise

Name: James Young Resident Street Address: 6404 Pachena Place
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: R. SISLER Resident Street Address: 6347 PINWOOD LN.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: ① There is a SENIOR CARE HOME close by they need quiet area. ② McRobb & Skata is "Senior" area as well. Where we live "The Terraces" is Senior Area why would we vote for music & entertainment as a place for dancing & band music - Absolutely 'NO'

Name: Roy & Minnie Johns Resident Street Address: 6164 Saturna Ave.

Name of Business: _____ Business Address: _____
"The Terraces"

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: This is a family restaurant & sports bar.
We dine there frequently and are not interested in
entertainment or dancing!

Name: W.D. LANE Resident Street Address: 6509 Buxton Rd.

Name of Business: N/A Business Address: N/A

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: JEAN BERTRAND Resident Street Address: 6415 PACHENA PLACE

Name of Business: _____ Business Address: NANAIMO BC. V9V 1W4

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Ms. Ruberta Mitchell
6321 Redonda Pl
Nanaimo BC V9V 1S8

Name: _____ Resident Street Address: _____

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: GEO & HELENE CHAMPAGNE Resident Street Address: 6345 SAUVARY ST.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: noise all hours of the night & drunk wandering around our neighbourhood.

Name: P. BERTON Resident Street Address: 6137 Astoria Ave.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: N. Mostowy Resident Street Address: 6374 McRobb Ave.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: NOISE PROBLEM !!
MORE DRUNK DRIVERS !! (WE HAVE ENOUGH)

Name: KEV DAVIDSON Resident Street Address: 6435 PACHENA PL

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: Margaret Mostowy Resident Street Address: 6374 McRobb Ave.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: Druanne Haugan Resident Street Address: 6532 Parmigan Way
Name of Business: RBC Dominion Securities Business Address: 101-6585 Applecross Road

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: _____ Resident Street Address: _____
Name of Business: Urban Beet Business Address: 6595 Applecross Rd.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: DARYL EPP Resident Street Address: _____

Name of Business: RBC Dominion Securities Business Address: #101 6588 Applecross Rd.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: Excellent idea. Vancouver is badly lacking in this type of entertainment and I am one of many, especially in my age group who need this kind of activity & entertainment.

Name: Madison Network Resident Street Address: 1214 Luster Road

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: M. GODBOUT / P. CONWAY Resident Street Address: 6425 PACHENA R. NANAIMO

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: J. BEZANSON Resident Street Address: 6353 PINEWOOD LANE

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: food, as long as they have control and autonomy
behave well inside and outside the dwelling.
Haven't seen any problems as of yet and for now it is
a go ahead

Name: Sam Lath Resident Street Address: 1066509 Alpacura Rd

Name of Business: Sam's Optical Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: _____ Resident Street Address: _____

Name of Business: NOREX DEVELOPMENTS INC. Business Address: 6421 APPLECROSS RD.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: MARILYN HOET Resident Street Address: _____

Name of Business: SIMON HOET Business Address: 6582 Applecross Rd.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: WE HAVE BEEN NEIGHBOURS WITH SIMON HOLT
AND HAVE FOUND THEM TO BE AN ASSET TO OUR
NEW COMPLEX.

Name: RIK KOWALCZYK Resident Street Address: 6281 FERLEY PLACE

Name of Business: DWM SECURITIES Business Address: 103-6596 APPLE CRESS
ROAD.

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: BENNY B MURRAY Resident Street Address: 112-6597 Apple Cress Rd

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: EDWARD TIDEY Resident Street Address: 322-6599 APPLECROSS RD
Name of Business: RETIRED Business Address: NANAIMO BC V9N 1L9

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: There is very little info given. Is dancing & the
music for outside on the patio & balcony - if so a
definite NO! - Our strata is directly opposite Simon Holt
& the bass music carries a long way. If the
dancing is only for inside with closed doors that would

Name: Elizabeth Lewis Resident Street Address: 6434 Pachena Place
Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: This resolution should not be granted. Residents of the area are mainly in Senior complexes where a "Night club" does not fit! Local residents were initially supportive of a nice local restaurant not a late night club bringing rowdiness & cars leaving the neighbourhood late at night.

Name: Joan & Doug McConnell Resident Street Address: 6073 McRobb Ave.

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: IT'S BETTER TO HAVE DANCING INSIDE RATHER THAN OUTSIDE, IN THE PARKING LOT.

Name: CAROL HINDE Resident Street Address: 6350 PINEWOOD LANE

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: GLENN W. HALL Resident Street Address: 6247 SAYRY ST.
Name of Business: _____ Business Address: NANAIMO BC V9Y 1S8

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: I support entertainment becoming
available in North Nanaimo. There isn't
enough available

Name: [Signature] Resident Street Address: 3133 NAHERIC RD
Name of Business: Baby's 1st Images Business Address: #102 - 6588 Applecross

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: Marica Lieb Resident Street Address: 6143 Saturna Ave

Name of Business: _____ Business Address: _____

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

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Comments: _____

Name: MANFRED SCHWEDER Resident Street Address: 6335 REDONDA PL

Name of Business: _____ Business Address: _____



MEMORANDUM

TO: Dave Pady
Planning Assistant, Current Planning

FROM: Randy Churchill
Manager of Bylaw, Regulation & Security

DATE: 2012-Apr-02

SUBJECT: Application to for an entertainment endorsement- 6582
Applecross Road – Your File LA78

Bylaw Services has no record of any nuisances or disturbances in the vicinity of the Simonholt Restaurant at 6582 Applecross Road.

A handwritten signature in black ink, consisting of a large, stylized initial 'R' followed by a series of loops and a horizontal line extending to the right.

Randy Churchill