

**City of Nanaimo**  
**REPORT TO COUNCIL**

DATE OF MEETING: 2013-NOV-18

AUTHORED BY: DAVE STEWART, PLANNER, PLANNING & DESIGN SECTION

RE: LIQUOR LICENSE APPLICATION NO. LA000097 - APPLICATION FOR A PERMANENT CHANGE TO A LIQUOR LICENSE – CARLOS O'BRYAN'S

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STAFF RECOMMENDATION:

That Council recommend the Liquor Control and Licensing Branch (LCLB) approve the application for a permanent change to an existing licensed establishment at 1724 Stewart Avenue for an occupant load of 190.

PURPOSE:

The City has received a copy of an application to the LCLB from Mr. Reginald Henry, on behalf of Carlos O'Bryan's Neighbourhood Pub and Liquor Store, for a structural change to an existing licensed establishment at 1724 Stewart Avenue (Attachment A). Mr. Henry is applying to increase the permitted occupant load of the pub from 120 persons to 190 persons (165 patrons and 25 staff).

As Council is aware, a municipal resolution is required before the province will consider the application further.

BACKGROUND:

The former Muddy Waters pub located at 1724 Stewart Avenue is under new ownership and is changing its name to Carlos O'Bryan's Neighbourhood Pub and Liquor Store. As part of the proposed renovations to the existing pub building, the applicant plans to add a mezzanine area for customer seating. A copy of the proposed floor plan, which shows 165 seats, is included (Attachment B).

The existing licensed capacity for the pub is 120 persons, including 20 on the patio area. The applicant is requesting the permitted occupant load be increased to 190 persons, which would include up to 38 patrons on the outdoor patio. City policy requires an occupant load be established for patios and decks to ensure safe exiting, but this occupant load is not in addition to the occupant load for the interior. Exterior patios and decks are assumed to be occupied by the same patrons already counted indoors ( i.e., the same persons sit outdoors in fine weather).

The Vancouver Island Health Authority limits the number of patrons to 165, based on the size of the kitchen. As such, if approved, the occupant load will be 165 patrons plus 25 staff. However, the City's Zoning Bylaw allows up to 175 patrons within a neighbourhood pub.

While VIHA and the City's Zoning Bylaw limit the number of permitted patrons within an establishment, the LCLB counts the number of persons within the building, including all patrons and staff. As such, if the application is approved as presented, LCLB enforcement will be based on a person capacity of 190. The applicant is not requesting any change to the existing hours of liquor service, from 11am to 1am.

#### DISCUSSION:

Prior to making a recommendation to support or deny an application, the LCLB asks the local government to consider the following:

1. ***The potential for noise if the application is approved:*** The subject property is separated by Stewart Avenue from an established low density residential neighbourhood. Given the proximity of the residential homes in the area, there is some potential for pub noise to be heard by the nearby residents. As such, when considering the application Council is asked to consider what impact noise from an increase in patrons will have on these and other nearby residents.

In order to mitigate any potential noise concerns, the applicants have incorporated a number of features into the renovation of the existing building design to reduce noise transfer. These noise reducing features, as highlighted by the applicant, include:

- Thick, insulated walls and a fully insulated concrete and wooden plank floor.
- Relocating the entrance to the pub from the west (neighbourhood facing) to the northeast side of the building away from the neighbourhood. Access into the pub involves going through two sets of doors.
- The west (neighbourhood) facing liquor store will continue to act as a buffer between the neighbourhood and pub activities facing the marina.
- No opening windows and, according to management, deck access doors are planned to remain closed. The building includes a heating and air conditioning system so window and door openings are not required.
- A five-foot tall glass railing on the east (marina) facing outside deck.

Given the noise mitigation efforts carried out by the applicants, Staff believes any increased noise concerns resulting from the increased occupant load request will be minimal.

2. ***The impact on the community if the application is approved:*** When considering what impact the proposed increase in occupant load would have on the subject property, it is important to note that there is another existing liquor primary (Millers Pub) on the neighbouring property. Both pubs can be accessed through adjoining parking lots. Miller's Pub has a licensed capacity of 150. As such, if the proposed application is granted, there would be a net seating capacity of over 300 between the two liquor-primary establishments. When considering the application Council is asked to consider what, if any, impact the increase in occupant load will have on the potential for disorder or noise that may disturb the peace and enjoyment of the community.

Given the above concerns regarding the number of liquor primary seats in the area, the RCMP recommends the applicant enter into a Good Neighbour Agreement (GNA) with the City.

A GNA, if employed, will be tied to the applicant business license and can include regulations pertaining to noise emissions and how the business controls the conduct of patrons both inside and outside of the establishments. Typically, GNA's are employed for downtown establishments; although a GNA is in place for the Wellington Pub in central Nanaimo.

Given the proximity of the neighboring residents and the number of liquor primary seats in the area, Staff agrees with the RCMP's recommendation and suggests Council recommend the applicant sign a GNA as a condition of local government support. A sample GNA is included for Council information (Attachment C). Overall, the RCMP suggests Council consider the quality of the application and the applicant's ability to satisfy neighbourhood concerns and minimize public disturbances. A copy of the RCMP's response is included (Attachment D).

The applicants plan to completely renovate the existing Muddy Waters building in order to clean up the existing older structure and design the building with a maritime architectural style suitable to the pubs waterfront location. Through the design review process the applicant contacted the Brechin Hill Community Association. The Association approved of the appearance of the pub and noted "*it will once again be an attractive component of the waterfront*". It is anticipated that the renovation and reopening of the pub as Carlos O'Bryan's will be a positive addition to the Stewart Avenue waterfront. The applicant's letter of rationale is attached (Attachment E).

3. ***The opinion of area residents:*** A public notice and comment sheet was mailed to all owners and occupants of the buildings and properties within 100m of the subject property. A total of 34 comment sheets were mailed and delivered. Of the 15 responses received, 14 are in support of the application and none are opposed, while one respondent did not indicate if they were in support or opposed to the application. It should be noted that one resident returned three comment sheets representing three different addresses. Comment sheets returned are attached as Attachment F.

Through the application process City Staff and the property owner have contacted the Brechin Hill Community Association regarding the proposed occupant load increase. The community association expressed a concern regarding parking and asked how many parking spaces will be provided, but otherwise had no concerns with the application. A copy of the community association response is included (Attachment G). The association was concerned that if not enough parking is provided on site patrons may park on Stewart Avenue. The property owner has stated 60 spaces will be dedicated for the pub's use, 55 are required through the City's off-street parking bylaw. In Staff's opinion sufficient parking is provided on site for the proposed use and occupancy. In addition, one member of the association responded to the applicant with a question regarding noise reduction.

### ***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**

Following Council decision regarding the application, Staff will notify the LCLB of Council's recommendation. The LCLB will then rely on the Council recommendation when determining whether or not to grant the liquor license amendment request.

Respectfully submitted,



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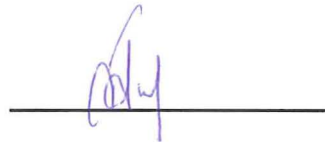
B. Anderson, MCIP  
MANAGER  
PLANNING & DESIGN SECTION

Concurrence by:



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A. Tucker, MCIP  
DIRECTOR  
PLANNING



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T. Seward  
ACTING GENERAL MANAGER  
COMMUNITY SAFETY & DEVELOPMENT

CITY MANAGER COMMENT:

I concur with the staff recommendation.





# ATTACHMENT C



CITY OF NANAIMO

## GOOD NEIGHBOUR AGREEMENT

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WHEREAS the City of Nanaimo ("the City"), the RCMP Nanaimo Detachment ("the RCMP") and the Owners of \_\_\_\_\_ ("the Licensed Establishment") (collectively "the Parties") recognize that liquor licensed establishments have a civic responsibility, beyond the requirements of the *Liquor Control and Licensing Act*, to control the conduct of their patrons; and

WHEREAS the Licensed Establishment wishes to demonstrate to the citizens of Nanaimo its desire to be a responsible corporate citizen; and

WHEREAS the Parties wish to promote Nanaimo as a vibrant, safe and attractive community for the enjoyment of everyone, including residents, visitors, businesses and their workers;

NOW THEREFORE the Licensed Establishment agrees with the City and the RCMP to enter into this Good Neighbour Agreement, the terms and conditions of which follow:

### **Noise and Disorder**

1. The Licensed Establishment shall undertake to ensure that noise emissions from the Establishment do not disturb surrounding residential developments, businesses and neighbourhoods, as provided by the City of Nanaimo *Noise Bylaw*.
2. The Licensed Establishment shall undertake to monitor and promote the orderly conduct of patrons immediately outside of the Establishment, particularly those congregating outside during open hours as well as at closing time, and to discourage patrons from engaging in behaviour that may disturb the peace, quiet and enjoyment of the neighbourhood.
  - 2.1 In cases where the presence of employees does not facilitate the orderly conduct of patrons, staff shall contact the RCMP to request assistance in dealing with any persons or crowds.

### **Criminal Activity**

3. The Licensed Establishment shall not tolerate any criminal activity within the Establishment.

- 3.1 The Establishment shall make every reasonable effort to scrutinize patrons as they enter the building to ensure that no items of contraband, including weapons and controlled substances, are brought onto the premises.

### **Minors**

4. The Licensed Establishment shall not allow any person under the age of 19 into the Establishment.
  - 4.1 The Establishment shall check two pieces of identification for any person who appears to be under the age of 25; one piece must be picture identification and may be a driver's licence, a government identification card or a passport.

### **Sale and Consumption of Alcohol**

5. While it is recognized that there may be occasional price reductions or promotions for specific alcoholic beverages, the Licensed Establishment shall offer no deep discounts (i.e., "cheap drinks") or across-the-board discounts.
  - 5.1 When offering price reductions and promotions, the Establishment shall be particularly mindful of its legal and moral obligation to refuse service to persons who may, based on appearance or amount of alcohol consumed, be intoxicated.
6. The Licensed Establishment shall not allow patrons to carry or consume open beverages in areas that are not licensed for such purposes, including areas outside of the Establishment.

### **Entertainment**

7. Stripping and exotic dancing shall only be permitted as forms of entertainment in the Licensed Establishment if the Establishment's zoning allows for such forms.
8. If stripping and exotic dancing are permitted, as per the Establishment's zoning, the Establishment shall ensure that advertisements are not offensive to the community.

### **On-Duty Employees**

9. Each on-duty employee of the Licensed Establishment shall wear a clearly visible nameplate showing his or her first name and/or employee number.
10. The Licensed Establishment shall maintain a work schedule showing each on-duty employee and shall make the work schedule available to the RCMP, upon request.

### **Cleanliness**

11. The Licensed Establishment shall assign staff to inspect the outside of the premises each night after closing to ensure that there is no litter, garbage, broken glass or other foreign objects associated with the Establishment left within the general area of the Establishment.



12. The Licensed Establishment shall undertake to remove, as soon as is practicable, any graffiti from the building's exterior.
13. The Licensed Establishment agrees to work with the City and its departments, including the RCMP, to resolve any concerns that arise with respect to the operation of the Establishment.
  - 13.1 The Licensed Establishment agrees to attend a formal meeting, as required, with the City and the RCMP to discuss issues and concerns.
14. The Licensed Establishment shall demonstrate complete support for the RCMP and its members.
  - 14.1 When incidents occur which require RCMP involvement, all staff of the Licensed Establishment shall cooperate fully with RCMP members, and shall not impede or obstruct members in performing their duties.
15. The Licensed Establishment shall participate as an active member in the local Hospitality Industry Liquor Licensing Advisory Committee (HILLAC).
16. If the Licensed Establishment is a nightclub located within the downtown core, the Establishment will be strongly encouraged to participate in the Nanaimo Bar Watch Program.
17. The Licensed Establishment shall support programs which aim to eliminate occurrences of drinking and driving.
  - 17.1 A free telephone shall be available to patrons for the purpose of contacting a taxi or arranging other transportation from the Establishment.
  - 17.2 Non-alcoholic beverages shall be provided at prices which are below those set for alcoholic beverages.

#### **Amendment and Transferability**

18. Any proposed changes to the terms of the Good Neighbour Agreement shall be discussed and resolved among the Parties.

#### **Enforcement**

19. Obtaining a business license is contingent upon accepting and signing this Agreement; notwithstanding this fact, the parties recognize that the success in reaching the objectives of the Good Neighbour Agreement is largely dependent upon each establishment's willingness to make a concerted effort to support and adhere to the principles outlined in the Agreement.
  - 19.1 Any failure on the part of the Licensed Establishment to comply with the terms outlined herein will result in the following:
    - (a) the City will attempt to resolve the matter by requesting a meeting with the licensee.

- (b) If the matter is not satisfactorily resolved during a meeting, the City will provide a written warning. The letter will clarify what action is needed in order for the licensee to comply with the terms of the agreement. The letter will also specify how much time will be provided for the licensee to comply. The length of time will depend on the nature of the infraction.
- (c) Continued non-compliance may be brought to the attention of City Council, which may in turn require the owners of the Establishment to attend a "show cause" hearing related to the suspension of their Business Licence.

It should be noted that a "show cause" hearing would only be used when all other reasonable attempts to gain compliance have failed.

- 20. Nothing contained or implied in this Good Neighbour Agreement shall prejudice or affect the City's rights and authorities in the exercise of its functions pursuant to the *Community Charter* and *Local Government Act*, as amended, and the rights and powers of the City and the RCMP under provincial and federal statutes and regulations, and City bylaws.

Signed this \_\_\_\_\_ day of \_\_\_\_\_, 2012, in Nanaimo, British Columbia.

\_\_\_\_\_  
[name of Principal]

[name of Licensed Establishment]

\_\_\_\_\_  
Mayor John R Ruttan

City of Nanaimo

\_\_\_\_\_  
[rank and name of OIC]  
Nanaimo Detachment, RCMP

# ATTACHMENT D



Royal Canadian  
Mounted Police

Gendarmerie royale  
du Canada

Security Classification  
/Designation  
Classification/désignation  
sécuritaire

RCMP Nanaimo  
303 Prideaux Street  
Nanaimo, BC V9R 2N3

Your File - Votre référence

LA 97

Our File - Notre référence

City of Nanaimo  
Development Services  
Attn: Dave Stewart, Planning Department

Date

October 21, 2013

Dear Sir,

**Re:** Application for a structural change to a liquor primary license – 1724 Stewart Avenue

We are writing to provide comment on an application by Carlos O'Bryan's Neighborhood Pubs to propose structural changes and increase in occupancy for the former Muddy Waters Pub at 1724 Stewart Avenue. It is our understanding that the licensee is requesting an increase in overall licensed capacity from 120 to 185 occupants. This increase would be the result of the addition of a mezzanine area, more patio seating, & increases in staffing numbers.

Comments and feedback from Nanaimo Detachment on applications of this nature are often premised on past performance and policing incidents at a licensed venue. In this circumstance, the applicant has accurately noted that the former Muddy Waters Pub business was in steady decline in recent years and substantially underutilized. The proposed changes would bring about substantial structural changes, a significant increase in licensed occupancy, and a corporately branded venue that has proven to be popular in other communities. Accordingly, it is more appropriate that our comments reference future potential impacts.

There is a second liquor-primary establishment, Miller's Pub, situated in immediate proximity to the future Carlos O'Bryan's Pub with a shared parking lot. Miller's Pub has a licensed capacity of 150. The City of Nanaimo should take note that if the proposed application is granted, there would be a net seating capacity of over 300 between the two liquor-primary establishments. The potential for disorder or noise that may disturb the peace and enjoyment of the community must be considered in this context. The actual impact to public peace and safety would largely be determined by how the establishments are managed, the type of venue and entertainment that is being provided, and the patron demographics. To this extent, the city must also consider future implications if either establishment substantially changed their venues to adjust to variations in market demands.

Canada

Application for a structural change to a liquor primary license – 1724 Stewart Avenue

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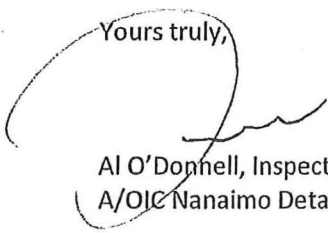
There is a potential for an increase in police related calls for service in situations where larger-capacity liquor primary establishments are concentrated in close proximity. The downtown Bar Watch program is a component of the Nanaimo Liquor Control Strategy which effectively manages liquor-related issues in the city's entertainment district. Please note that the Bar Watch program does not currently include restaurants or liquor primary establishments outside of the downtown area.

Nanaimo's Liquor Control Strategy encourages the use of good neighbour agreements (GNA's) which are based on the fundamental premise that licensed establishments have a civic responsibility to control the conduct of patrons both within and outside of their establishments. GNA's currently in use address issues including noise emissions, the duty of staff to monitor the activity of patrons outside the establishment, particularly at closing time, refraining from deeply discounted drink prices, following a zero tolerance policy for criminal activity, and similar undertakings.

We would encourage the City of Nanaimo to carefully consider the quality of the application and the licensee's ability to satisfy the community (particularly their neighbours) in their willingness and ability to take steps to minimize public disturbances. Properly motivated applicants should identify a range of initiatives that the establishment would commit to undertake to ensure that the peace and safety of the community is maintained. This may include the use of GNA's, staff training, service standards that prevent over-service or intoxication, communication with the neighbourhood, municipality and police, and promotion of a venue that attracts socially responsible patrons. If these concerns are appropriately addressed, we would support the proposed structural changes and increase in occupancy.

Thank you for the opportunity to provide comment on this application. If you require further information, please contact Corporal David LaBerge or Constable David Scherr of the Nanaimo Detachment Bike Patrol Unit.

Yours truly,

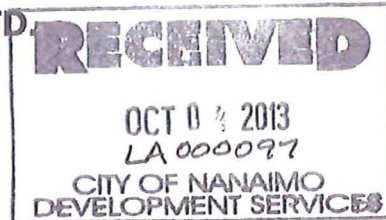


Al O'Donnell, Inspector  
A/OIC Nanaimo Detachment

# ATTACHMENT E

## K.O'B FRANCHISE

ENTERPRISES LTD.



Sept 30, 2013  
To Whom It May Concern,

This is a letter of rationale for the proposed structural changes and increase in occupancy for the old Muddy Waters Pub at 1724 Stewart Avenue, Nanaimo, B.C. Muddy Waters name will be changed to Carlos O'Bryan's Neighborhood Pub & Liquor Store.

Although the foot print to the building will not change, we have successfully worked with the City of Nanaimo to add a mezzanine area for customer seating. This area will not only add needed seating to make the location viable, but will definitely show off the uniqueness of the building construction. Although Muddy Waters has been a popular "watering hole" for the neighborhood, its business had declined over the past few years and was due for badly needed renovations. Of course with the cost of major renovations, comes the necessity to increase the past volume of the past business. With the proposed increase in occupancy in the pub and the additional space in the liquor store, Carlos O'Bryan's is sure to be a great corporate addition to the Nanaimo Water Front.

This is why we have asked for an increase to the seating of the Pub from 100 to 127 customers, and an increase of the patio from 20 to 38 customers. This is a total seating capacity of 165 (which has been agreed to by VIHA), which in turn will make the business more viable. This occupancy does not, however, include staff however which should be no more than 20 on a busy night.

The Liquor Store foot print has basically doubled which will enable us to accommodate our local customers much better in the form of marketing and selection of products. Most of our liquor store customers will most likely be boaters and locals from the Newcastle & Brechin Neighborhoods.

In general the new look to the building, along with the increase in service and products will be a welcome addition to the harbor front revitalization and development. Carlos O'Bryan's will have 60 designated parking spots and the liquor store will have 5 short term parking spots. The increase in occupancy will not have an impact on the local parking situations.

When it comes to negative impacts on the neighborhood, we feel strongly that the increase in occupancy will not produce any additional impact. Having said that, wanting to demonstrate our "good neighbour" policy we have increased the outside patio glass railing to 5 feet (4 feet previously) to lessen the possibility of additional noise from the additional patio customers. The pub is situated a good distance from the surrounding neighbourhood with its outdoor patio buffered from the neighbourhood by the building itself. During the Design Panel phase of the project, we contacted the executive of the Brechin Neighbourhood Association and provided them with information on the new operation. We were pleased to receive positive comments and enthusiastic support. We are also excited that our local boating community have all expressed that they are very much looking forward to opening day!

If you have any additional questions, comments or suggestions please feel free to contact me anytime!

Sincerely,

  
Reginald A. Henry  
CEO

Kelly O'Bryan's Neighborhood Restaurants  
Carlos O'Bryan's Neighborhood Pubs



#140-948 MCCURDY RD.  
KELOWNA B.C.  
V1X 2P7  
CANADA

PHONE (250)-765-2650  
FAX (250)-765-2670  
E-MAIL reghenry@kellyobryans.com  
WEB SITE <http://www.kellyobryans.com>



# Attachment F

## Returned Public Comment Sheets

For:

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: JAMES SMELTZER Resident Street Address: 1843 STEWART AVE  
Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: Heather Smeltzer Resident Street Address: 1863 STEWART AVE  
Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

Comments: Seating of 165, plus 25 staff maximum, WHERE do the STAFF PARKING? and OVER FLOW PARKING WILL BE AT OUR NEIGHBOURHOOD WE LIVE RIGHT AT THE BOTTOM OF DRAKE ST, NANAIMO. B. IF YOU COULD GIVE US THE ANSWER, WE SUPPORT THE APPLICATION. ALSO CONCERN ABOUT THE NOISE, if the doors are open during Summer evening

Name: JESSIE + ERLING JERSEN Resident Street Address: 426 DRAKE ST NANAIMO.

Name of Business: Business Address:

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

Comments:

FURTHER TO MY EMAILS TO MR. STEWART

Name: MARC STONES Resident Street Address: 5084 VISTA VIEW CRES NW

Name of Business: STONES MARINA Business Address: 1690 STEWART AVE

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: LORRAINE BELL Resident Street Address: 6310 ACHARD AVE NANAIMO

Name of Business: STONES BOAT YARD Business Address: 1690 STEWART AVE NANAIMO

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: Jon W. Pherson Resident Street Address: 101 Cheryl Place NANAHO  
Name of Business: NANAHO Yacht Services Business Address: 1690 Stewart Ave NANAHO

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

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Name: Stu Austin Resident Street Address: 4231 Torres Turnabout  
Name of Business: A. M. Mound Business Address: 1690 Stewart Ave



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

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Name: Frances Wilhelmsen Resident Street Address: 411 Drake St. N.W.  
 Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

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

Comments: \_\_\_\_\_  
Any business on the waterfront is welcome - a  
wonderful improvement  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

*[Signature]*

Name: LYNET SAGER Resident Street Address: 393 CHESTNUT ST  
 Name of Business: \_\_\_\_\_ Business Address: N/A

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

Comments: Looking forward to a new entertainment & food venue in our neighborhood.  
 \_\_\_\_\_  
I do hope that any outdoor noise & or music can be mitigated in order to not disturb  
our guests stay. Perhaps, if outdoor speakers are allowed, they be restricted in  
hours so that the families staying @ the Buccaneer Inn can have their children go to  
bed at a reasonable hour and not be woken by music. Perhaps as part of a Good Neighbor  
Agreement. Thank you.

Name: Dave Flynn Resident Street Address: \_\_\_\_\_  
 Name of Business: Buccaneer Inn Business Address: 1577 Stewart Avenue, Miami

I SUPPORT THE APPLICATION.

I DO NOT SUPPORT THE APPLICATION.

Comments:

Name: Victoria Propeller Resident Street Address: 1650 Belford Ave  
Name of Business: Victoria Propeller Business Address: 1650 Belford Ave

I SUPPORT THE APPLICATION. *for a pub.*

I DO NOT SUPPORT THE APPLICATION. *for a liquor store*

Comments:

*I support a pub, but please address*

*noise and parking issues*

*and please get that walkway along the sea  
completed all the way so people can start to  
use it. It's far from it's potential as it is today.*

Name: Ber e Ria Strategy Resident Street Address: 1811 Stewart Avenue  
Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

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

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Name: BYRCE LABONTE Resident Street Address: 399 CHESTNUT ST  
 Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

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

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

Name: Greg Phillips Resident Street Address: 440 Chestnut St.  
 Name of Business: \_\_\_\_\_ Business Address: \_\_\_\_\_

**Undecided**

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

Comments: \_\_\_\_\_  
 \_\_\_\_\_  
 We would like to know how many parking stalls they will be providing. The parking lot for Seaboard Market, i.e. Beefeaters, Millers & Skippers is for these businesses, our concern is that the patrons of Kelly & Carlos O'Bryen's will use Sealand Market parking.  
 \_\_\_\_\_  
 \_\_\_\_\_

Name: Helen Mihakos Resident Street Address: \_\_\_\_\_  
 Name of Business: Beefeaters Rest. Business Address: 1840 Stewart Ave.

## David Stewart

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**Subject:** FW: Carlos O'Bryan's Neighborhood Pub and Liquor Store

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**From:** Ingvar Vikan [mailto:iv.tedboelawco@shaw.ca]

EXCELLENT - WELL DONE. This response indicates to me that you have genuinely appreciated how important potential excessive noise issues are to our neighbourhood and taken them well into account, both in the company you have invited to share in your venture and in the re-design of the building itself. Thanks.

----- Original Message -----

**From:** [Marc Stones](#)

Hi Ingvar:

Thanks for your emails.

The concerns you raised are well-taken. In fact they are important to us as well considering that we are planning, as you know, a comprehensive redevelopment of the property that will bring new homes and hotel rooms to the site directly adjacent to the pub. Currently we have RV's and boaters that deserve consideration. We address your concerns as follows:

1. The tenant.

Kelly and Carlos O'Bryan's restaurants and pubs, established in numerous locations in B.C., have been a success since 1987. In a large way, their success has come from connecting with their community and in building relationships.

We discussed the future prospects for the Stones Marina property and that Carlos O'Bryan's would complement our development plans. The Carlos O'Bryan's group were excited and felt that they would be a perfect fit. Our mutual understanding is formalized in our lease. Here, with Owner Reg Henry's permission, is an excerpt:

“... the Tenant covenants not to carry on or permit to be carried on in the Leased Premises any noisome trade or business or any acts or practices which may injure the Leased Premises, the Leasehold Improvements, or the Building or the Common Areas or which may be, with consideration to the reasonable expectations of what constitutes the normal and expected business practices of the Tenant's business, a nuisance, disturbance or menace to the Landlord or other tenants or occupants of any of the Landlord's property or in contravention to municipal noise bylaws and not to allow odours to escape from the Leased Premises which, in the opinion of the Landlord, are offensive. It is understood by the Tenant that the Landlord's future intentions for the redevelopment of the Landlord's adjacent property not part of the Leased Premises comprise the prospect for multi-family residential, hotel and non-industrial commercial development and the Tenant acknowledges that its business practices shall be in the spirit of harmonizing its operations as part of those mixed-use prospects;”

2. The building:

Along with our architects, many features designed into the renovated building have come from suggestions made by the Carlos O'Bryan's group. Many of these features will contribute to limiting sound transmission:

- i) The building's redesign incorporates a sophisticated heating, ventilation and air conditioning system (HVAC) and heat recovery ventilation unit (HRV). To maintain optimal climate control for building occupants, the building has been designed with no opening windows and, according to Carlos management, deck access doors are planned to remain closed.
- ii) The entrance to the pub has been moved from the west (neighbourhood facing) to the northeast side of the building away from the neighbourhood and involves going through two sets of doors.
- iii) The west (neighbourhood) facing liquor store will continue to act as a buffer between the neighbourhood and pub activities facing the marina.
- iv) The east (marina) facing outside deck will now have a five-foot tall glass railing.
- v) The building is being built with thick, insulated walls and a fully insulated concrete and wooden plank floor.

Reg would also like you to know that he is available to meet with you at your convenience. He is here for a couple of days every week during the construction period.

Thanks again, Ingvar. I trust all is well at the Pine and Picket!

Marc Stones

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**From:** Ingvar Vikan [<mailto:iv.tedboelawco@shaw.ca>]

Hi Mark. I see you folks are working hard. What has been done to ensure noise reduction in the new construction - i.e. loud music filling the neighbourhood late at night. That has been a real problem from the open deck and speakers used at Miller's and there have been numerous times over the years when the side doors were propped open at Muddy's and it was so loud for blocks away - and the reaction by your bar manager so poor - that it took calls to the police to get the music turned down and the side doors closed - and of course opened again by patrons as soon as the police left. Has this history of noise nuisance well past 11:00pm been considered in the noise-reduction construction features? i.e. if you can't expect complete control over raucous bands and patrons (now asking for more of those re the occupancy increase), what specifically is in place in the building plans to ensure noise is directed away from the neighborhood - and not into it as in the past?

----- Original Message -----

**From:** [Marc Stones](#)

Hi again everyone!

We'd like to give you the heads up that on October 28<sup>th</sup> Council will receive our application for an increase in occupancy for the new Carlos operation. The City will be sending a notice out to the neighbourhood. We ask for your support with this.

The matter is scheduled to go before Council for recommendation on November 18<sup>th</sup>.

The former Muddy Waters had seating of 120. With the new mezzanine floor addition, our seating will go to 165, which is supported and has been approved by VIHA. With staff, this will give the pub an occupancy of 190. Our building permit was approved with a total building (pub and liquor store) occupancy of 210.

We're right in the thick of the reno, now. I've attached a few pics in the event you haven't had the opportunity to walk down. Our framing contractor is Westmark Construction, who have an excellent reputation in the business. They're putting up the new, while our team, head up by Lyle Archibald, took down the old. The first phase was to empty the interior of the building and then make any repairs to structure that was to remain. All of the original post-and-beam framework was in excellent condition and will be featured in the new floorplan. Additional post-and-beam construction will be incorporated into the exterior architecture, including the building entrance and the covered deck areas. The 1,000 square foot mezzanine floor will be a very unique space in the plan. Access is by way of a large staircase leading up from the centre of the pub. Once upstairs, you'll find a high and open ceiling, four new roof dormer windows, glass gables and walls, the pool table, and comfortable seating throughout. The floor will be open to below, so you'll always feel part of the Irish pub action. The whole building is opened up with glass, giving you a great view of Sealand, the marina and Newcastle Island. The main pub area will be decorated with brick, twin fireplaces, and a granite-topped bar.

Carlos management is very much looking forward to being part of our community. They are planning to open this, their ninth outlet, as early in the new year as possible!

Check out the Kelly O'Bryan's website <http://www.kellyobryans.com/> ("Kelly" are the restaurants and "Carlos" are the pubs).

Cheers

Marc

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# ATTACHMENT G

Brechin Hill Community Association

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bhca@shaw.ca

November 1, 2013

Mr. David Stewart  
City Planner  
City of Nanaimo

Dear Mr. Stewart:

The executive of the Brechin Hill Community Association met and discussed the issue of parking at the Carlos O'Bryan's Pub.

We are concerned that the application to increase the number of patrons and staff from 120 to 190 without increasing the number of parking spaces will be problematic. Presently the parking lot is frequently full with patrons using Stone's Marina, the Marine Service, liquor store, Nanaimo Charters Sailing School, the boat brokerage, and the present pub.

At peak times, especially during the summer months, patrons will need to find parking on Stewart Avenue, and on the side streets in our neighbourhood. We are already under pressure with ferry patron parking as well.

We are otherwise supportive of the improvements to the property.

Yours truly

Michael Harrison  
Chairperson BHCA