



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

**To:** Council

**File No.:** 4320-20

**From:** Chief Administrative Officer

**Date:** June 11, 2018

**Subject:** Structural change to liquor licence (Match Eatery and Public House) – 361 Hunt Road

### PURPOSE:

The purpose of the report is to obtain Council direction to request public input with respect to the Playtime Gaming Group's application for a structural change to the recently approved liquor licence to include a new outdoor patio within the licenced area at the above referenced business and location.

### CAO RECOMMENDATIONS:

THAT, based on the June 11, 2018 staff report, 'Structural change to liquor licence (Match Eatery and Public House) – 361 Hunt Road', Council approve OPTION 1 and direct staff to post notice on the City's website requesting public input on the proposed change to the liquor licence for Council consideration at the regular meeting scheduled for July 3, 2018.

Respectfully submitted,

David Allen, BES, CLGEM, SCLGM  
Chief Administrative Officer

### BACKGROUND:

Playtime Gaming Group Inc. is in the process of making an application to the the Liquor Control and Licencing Branch (LCLB) for a new liquor primary licence with a Family Foodservice Term and Condition for their new food establishment called "Match Eatery and Public House" at the above referenced location. Council passed a resolution in support of this application at the May 22 regular Council meeting. The application considered on May 22<sup>nd</sup> was for the interior of the building only. The application under current consideration is to make a structural change to the new liquor licence to include the proposed outdoor patio. The applicant is advancing this application while the new liquor licence application is being considered by the LCLB.

A related development permit with variances for the future patio was approved by Council at the March 19, 2018 Council meeting (File No. DPwV 1722). Council considered the development permit with variance application only from a form and character perspective related to the City's development permit guidelines. At that time there was significant concern expressed by the on site management of the BC Housing owned Washington Inn related to noise impacts of a licensed patio. Council was advised at that time that staff believed noise would still be a concern in the neighbourhood and that Council would have

the opportunity to evaluate potential noise and impact on the community as part of this structural change of liquor licence application.

Pursuant to section 38 (3)(c) of the *Liquor Control and Licensing Act*, the local government must gather the views of residents when the applicant has given the local government for the area in which the establishment is proposed to be located or is located notice of the application. In order to gather the views of residents, the City will post notice of the application on the City's main website for two weeks.

#### **DISCUSSION:**

The proposed patio is permitted under the current zoning and meets all the requirements. During the discussion of the development permit with variances application, staff anticipated and shared the noise concerns brought forward by the Washington Inn. Accordingly, staff requested the applicant to conduct a noise attenuation study and incorporate design solutions to the proposed patio. The study indicates that anticipated noise level from the restaurant and patio will be reasonable and below industry maximum standards both daytime and night time. The applicant and their architect responded and made some changes to the façade design such as installation of clear tempered glass. The report is attached as **Attachment No 3**.

As anticipated, BC Housing, the Washington Inn on-site building manager and one of the residents of the Washington Inn responded to the standard referral and raised concerns about noise impacts from the patio. BC Housing specifically recommends a sound attenuation wall be constructed adjacent to the patio. The responses are attached to this report (**Attachment No. 2**). Staff have requested that the applicant further investigate the feasibility of constructing a wall and its impact on noise mitigation.

Section 71 (9) of the *Liquor Control and Licensing Regulation* states that a local government or first nation that wishes to provide comments and recommendations for the LCLB under section 38 (3) of the Act must do so in accordance with the following requirements:

- (a) the comments and recommendations must be in writing;
- (b) the comments must include the views of the local government or first nation on
  - (i) the impact of noise on the community in the immediate vicinity of the establishment unless subparagraph (ii) or (iii) apply,
  - (ii) in the case of an application that involves a temporary use area endorsement, the impact of noise on the community in the immediate vicinity of the proposed locations of event sites under corresponding temporary use area authorizations,
  - (iii) in the case of an application that involves a lounge or special event area endorsement, the impact of noise on the community in the immediate vicinity of the location of the service area under the endorsement,
  - (iv) the general impact on the community, and
- (c) if the local government or first nation has gathered the views of residents under section 38 (3) (c) of the Act, the comments must include
  - (i) the views of the residents, and
  - (ii) a description of the method used to gather those views;
- (d) the recommendations must include whether the application should be approved or rejected;

With respect to the requirement in section 38 (3) (c) of the *Liquor Control and Licensing Act*, staff is of the opinion that a notice on the City’s website will satisfy the requirements of the LCLB for a simple application like this and this has been normal practice in past years. Once Council receives public input on the application, a resolution addressing these points will be forwarded to the LCLB for final consideration. A proposed resolution in the correct format will be presented to Council for consideration at the regular Council meeting scheduled on July 3, 2018.

**FINANCIAL IMPLICATIONS:**

There is no direct financial implication related to this application.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licencing is included in the City’s general statutory duties. To date, staff has spent four hours processing the application. It is anticipated an additional four hours will be required to complete the notification requirements, work with the applicant on the neighbours’ concerns and bring a report back to Council.

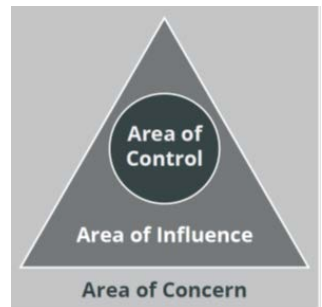
**ASSET MANAGEMENT IMPLICATIONS:**

There is no direct asset management implications related to this application.

**STRATEGIC PRIORITIES REFERENCE:**

**We focus on organizational and governance excellence**

- We support meeting the fundamental corporate and statutory obligations



- **Area of Control**  
The policy, works and programming matters that fall within Council’s jurisdictional authority to act.

**OFFICIAL COMMUNITY PLAN REFERENCE:**

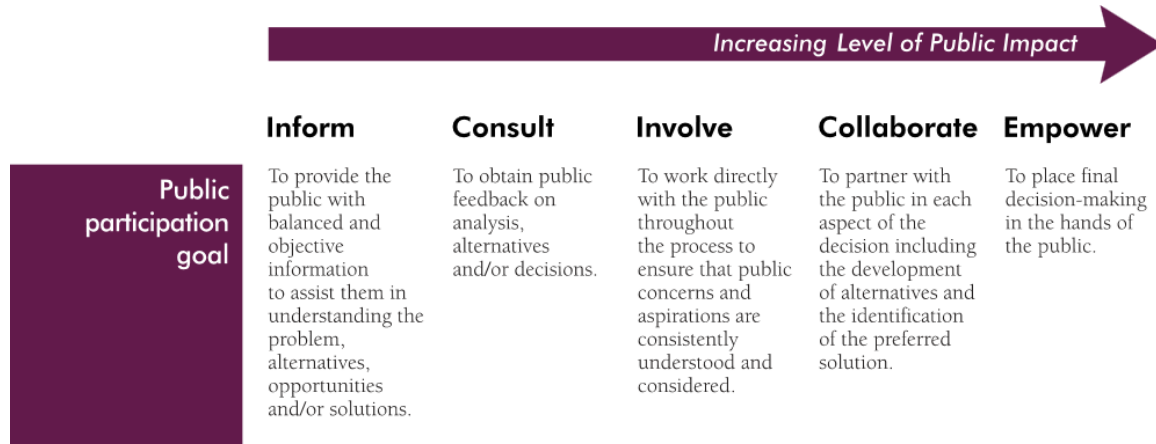
There is no direct reference related to this application.

**REGIONAL GROWTH STRATEGY REFERENCE:**

There is no direct reference related to this application.

**CITIZEN/PUBLIC ENGAGEMENT:**

Staff will consult members of the public based on the IAP2 Spectrum of Public Participation:  
[http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum\\_vertical.pdf](http://c.ymcdn.com/sites/www.iap2.org/resource/resmgr/imported/IAP2%20Spectrum_vertical.pdf)



Public comment gathering period is open between June 12 and July 3, 2018 on the City's main website. Any comments received from the public and the standard referral procedure will be attached to staff report for the Council meeting on July 3, 2018.

**OPTIONS:**

- Option 1: Direct staff to publish notice on the City's website requesting public input on the proposed change of liquor service hours for Council consideration at the regular meeting scheduled for July 3, 2018. (Recommended)
- Option 2: Direct staff to obtain public input through an alternative method
- Option 3: Direct staff not to proceed with the application and advise the LCLB that the City does not support the request

Prepared by:

Tatsuyuki Setta, MCIP, RPP  
Manager of Planning

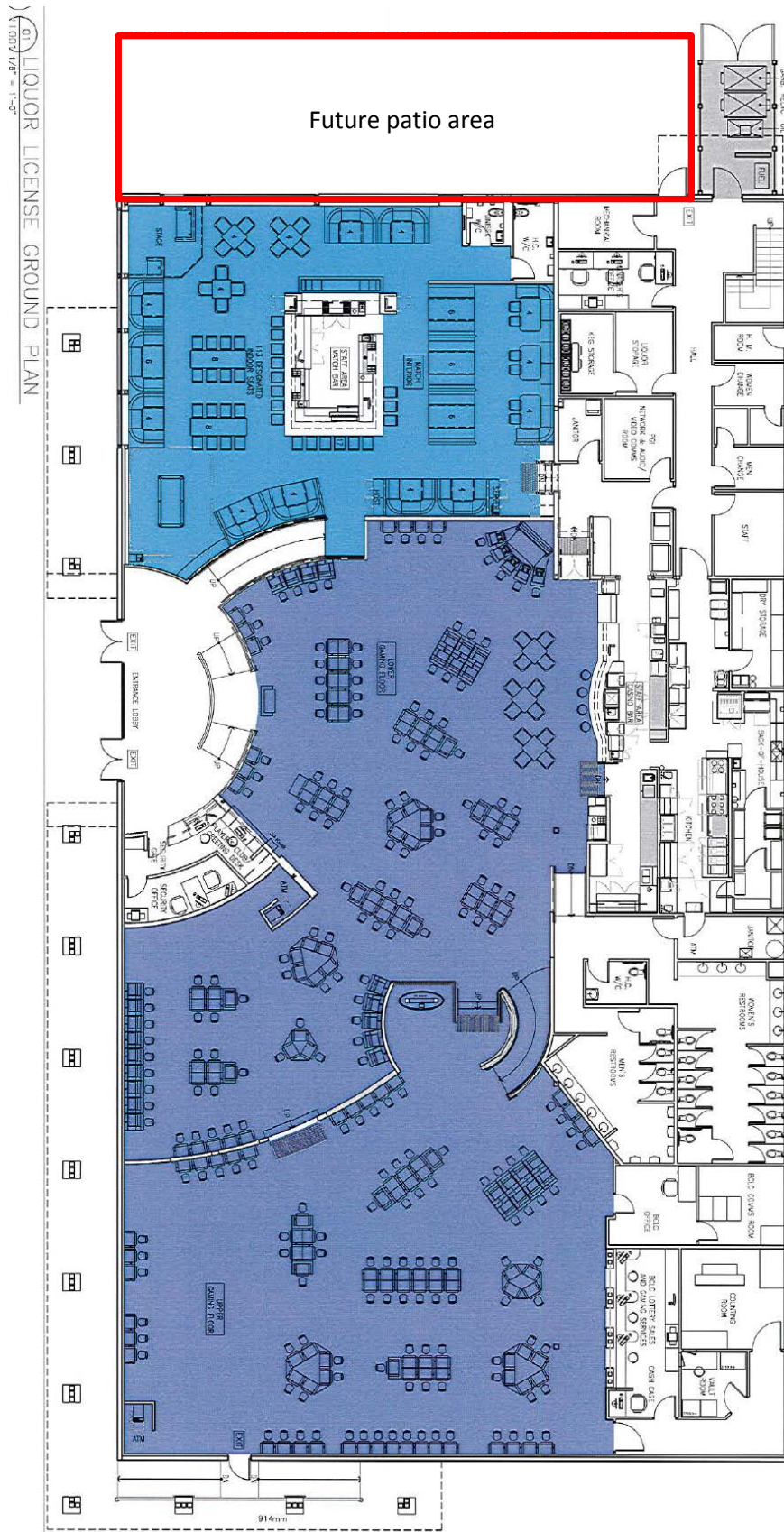
Approved by:

Ian Buck, MCIP, RPP  
Director of Development Services

**ATTACHMENTS:**

- Attachment No. 1: Proposed Area of Structural Change
- Attachment No. 2: Letters from BC Housing and a resident
- Attachment No. 3: Copy of the Noise Impact Study

Attachment No. 1: Proposed Area of Structural Change



Area to add to the new licence

Attachment No. 2: Letters from BC Housing and their tenant

March 28, 2018

Mr. T. Setta,  
Manager of Planning,  
City of Courtenay, BC

RE: New patio at the Casino

Dear Sir:

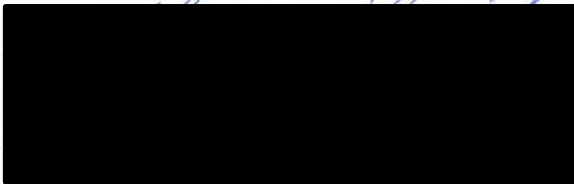
As a tenant at The Washington Apts., I am writing this letter to express my concern regarding the proposed outside patio bar, where the Casino is.

I am a senior woman who has only recently been able to secure housing after being homeless for four months in Victoria. With BC Housing's help, I was able to acquire my new home here.

The entrance door of my apartment opens directly in front of this new patio. Already there is plenty of activity surrounding my unit, and the idea of having an open bar with loud music and people coming and going until late at night is disturbing. I consider this my permanent resident and I could not see myself moving again.

Thank you for hearing my concern.

Sincerely,

A large black rectangular redaction box covers the signature and name of the tenant. The redaction is complete, obscuring all text in this area.



Wesley Zacharias  
Property Portfolio Manager

BC Housing

Vancouver Island Region  
#201 - 3440 Douglas St.  
Victoria, BC V8Z 3L5  
www.bchousing.org

Tel 250-978-2931  
Fax 250-978-2921  
wzacharias@bchousing.org

March 28, 2018

Mr. Tatsuyuki Setta,  
Manager of Planning  
City of Courtenay, BC

RE: GATEWAY CASINOS & ENTERTAINMENT LTD.  
Planning Referral - Liquor Licence Applications-361 Hunt Rd

BC Housing has many concerns regarding Gateway Casino's application for numerous liquor licences for the outdoor patio being constructed alongside our residential development. We are alarmed and apprehensive about how the predictable increase in noise, additional traffic and activity will affect our community.

BC Housing purchased the Washington Apts. two years ago in a move to retain a low-income housing option in the Comox Valley. In addition to living on a very low, fixed income, our residents are vulnerable in other ways, including those suffering with mental health and addiction issues, physical disabilities and seniors living without family attention. These are disenfranchised individuals who have no voice, or means to voice their concerns in this regard.

We are certain you can appreciate how the introduction of an outdoor bar/restaurant complete with loud speakers and sub-woofers within 50 feet of our tenant's front doors is difficult for us to reconcile. The amplified level of voices and laughter over loud music as well as the increase in traffic coming and going along the road in-between the patio and our residence will disturb our tenant's rights to peace and quiet in their neighbourhood. Those who live at The Washington literally have no other options for housing in the Comox Valley. Therefore, BC Housing would like to recommend the installation (at the cost of Gateway) of a noise reducing concrete fence, at maximum height allowance, along the full length of the property line between the two sites. This would reduce more of the inevitable noise issues as well as serve to reduce the ongoing flow of foot and vehicle traffic to and from the casino from our parking lot.

As an arm of the Government of British Columbia, our mandate is to improve the lives of our citizens by offering living options that are safe and affordable. Since acquiring The Washington Apts., the community has significantly improved benefiting not only our residents, but the larger community as well. In fact, The Washington community has begun to enjoy a modicum of peace and quiet. To introduce a second outdoor bar with loud music flanking our east boundary, without a solid fence or any physical barrier will not only aggravate and disrupt our efforts toward stability, but would re-introduce the sense of oppression and frustration we are working hard to alleviate.

Through poverty and lack of opportunity, most of our tenants live lives of quiet desperation. We appeal to your municipal duty to represent all your citizens. The installation of a noise reducing fence would certainly mitigate our noise and disturbance concerns.

Sincerely,

Wes Zacharias  
Property Portfolio Manager, BC Housing  
wzacharias@bchousing.org



**Mark Beebe**

Site Representative

washingtonstudio@shaw.ca

*Washington Apartments*

T: 250-338-0330

1-1033 Ryan Road

F: 250-338-0346

Courtenay, BC V9N 3R6

www.bchousing.org

To whom it may concern,

My name is Mark Beebe I am the building site representative at Washington Apartments. I wish to express my concerns with the expansion of the Casino outdoor patio. This will greatly affect the quality of peace and enjoyment of our home. We are presently experiencing disruptions all day long with continuous high flow traffic, liquor store/bar at the end of the building, the Casino at the other end, and the Post Office (deliveries throughout the night starting at 10:30 pm, 3:30 am and 5:30am 6 days a week) this includes loading and unloading/air brakes/ and reverse warning beeping sounds. Our bedroom window faces directly across from where the new patio will be built. With the liquor license approval being approved, an increase in noise intensity and increased activity effects our residential area further. BC Housing's residents are a combination of venerable adults. Please take all of these concerns into consideration when making your decision.

Thank you for your time and careful thought,

Sincerely,

A handwritten signature in blue ink, appearing to read "Mark Beebe".

Mark Beebe



Attachment No. 3: Copy of the Noise Impact Study



April 18, 2017

File: 2553-16A

Gateway Casinos & Entertainment Limited  
4331 Dominion Street  
Burnaby, BC  
V5G 1C7

Attention: Glenn Atchison

Dear Glenn:

**Re: Match, Courtenay - Noise Impact Assessment**

We understand that Gateway Casinos & Entertainment Limited (Gateway) have recently acquired the Chances Playtime gaming facility, located at 361 Hunt Road in Courtenay, BC. Gateway plans to undertake renovations at the site which include an 85 person outdoor patio and a performance stage in the restaurant area. The City of Courtenay has requested a noise impact assessment relating to the redevelopment of the site. This letter presents a discussion of relevant noise criteria for the outdoor patio and band related noise and the predicted noise level at relevant noise sensitive receivers.

**Site Description**

Chances Playtime, a gaming facility and restaurant, currently operates at 361 Hunt Road in Courtenay. It is proposed that the existing Chances Playtime building will be refurbished with Match Eatery and Public House venue that will include an 85 seat outdoor patio area on the southwest side of the existing building. The subject site is zoned commercial. The closest dwelling is an apartment block located approximately 20 m west of the site. There are also single family residences to the north, east and south of the site. Figure 1 below shows the location of the site, the closest dwellings, and the receiver locations that we selected for further assessment. We note there is an existing bar and restaurant to the west of the apartment building.

The outdoor patio is proposed for the southwest section of the site. The patio will have enough seating for 85 patrons and a total of 16 speakers installed in the space. Operating times for the patio will be seasonal. It is expected that the patio will be open approximately 40% of the year from 11 am to midnight, 7 days a week. In addition to the patio, a stage is being installed inside the restaurant. The band will primarily provide background music for patrons on Friday and Saturday nights between 8 pm and midnight. Figure 2 below shows the site layout. It is expected that the stage will be used for a 3-piece band.

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T: 604-988-2508 | F: 604-988-7457

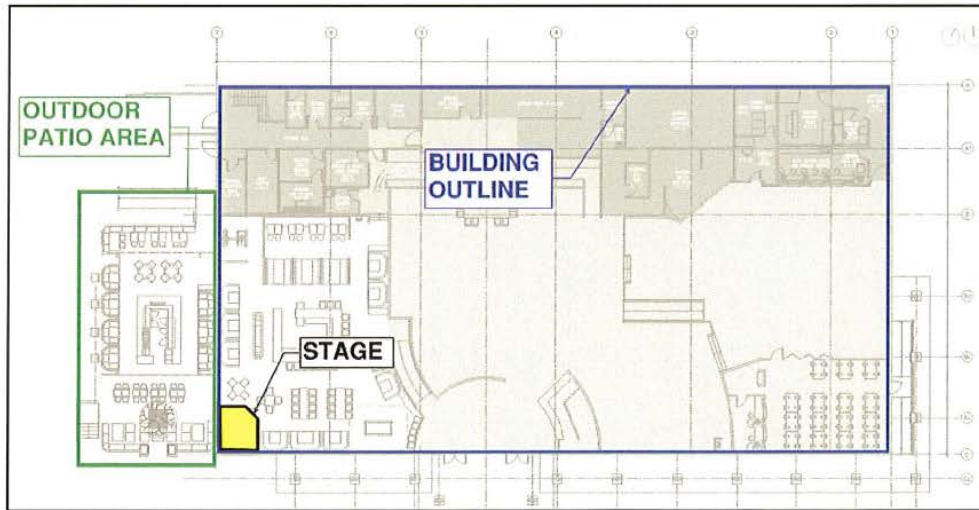
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**Figure 1:** Subject Site and Closest Noise Sensitive Receivers



**Figure 2:** Subject Site Layout

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### Noise Criteria

There are no quantitative noise level criteria that legally apply within the City of Courtenay, including Bylaw 2804 which discusses noise nuisance. Therefore, we have considered other guidance documents to determine appropriate noise criteria for the outdoor patio area and band related noise. Specifically, we have reviewed the guidance of the following documents:

- *World Health Organization (WHO) - Guidelines for Community Noise - 1999*
- *City of Vancouver - Vancouver Noise Bylaw 6555 - 2015*
- *Guidance for Evaluating Human Health Impacts in Environmental Assessment: Noise (Health Canada Guideline), issued by Health Canada in July 2016 (Health Canada 2016)*

Based on these documents, we developed criteria for the daytime and nighttime periods as summarized in Table 1 below.

For the daytime period, we have set the criteria to be appropriate for use of outdoor living areas. For the nighttime period, the WHO Guideline suggests average internal noise levels should not exceed 30 dBA. We have determined the noise criteria by calculating the corresponding outdoor levels for two scenarios: with windows open and with windows closed. We have used information provided in the Health Canada Guideline, which states that an outdoor-to-indoor transmission loss of 15 dBA for an open window and 27 dBA loss for closed windows is typical for residential receivers.

Please refer to Appendix A for further details on the selected criteria.

**Table 1:** Proposed Noise Criteria

Time period	Hours	Level
Daytime	7 am to 10 pm	55 dB L <sub>Aeq</sub>
Nighttime - windows closed	10 pm to 7 am	57 dB L <sub>Aeq</sub>
Nighttime - windows open	10 pm to 7 am	45 dB L <sub>Aeq</sub>

### Noise Predictions

The architectural drawings of the development, provided by Gateway via email on July 8, 2016, show that a total of 13 loudspeakers and three subwoofers are proposed for the outdoor patio. 12 of the units are pendant mounted, with the sound directed down toward the seated patrons. The further four speakers will be wall mounted. We understand that a permanent roof for the patio is being considered, however this has not been included in the model. Figure 3 shows the distribution of the speakers throughout the patio area. We have also modelled noise from 40 patrons talking in a raised voice in the patio area. In addition to noise from the patio area, we have predicted the break-out noise from the interior restaurant while the band is playing. Given that music levels can vary, we have provided

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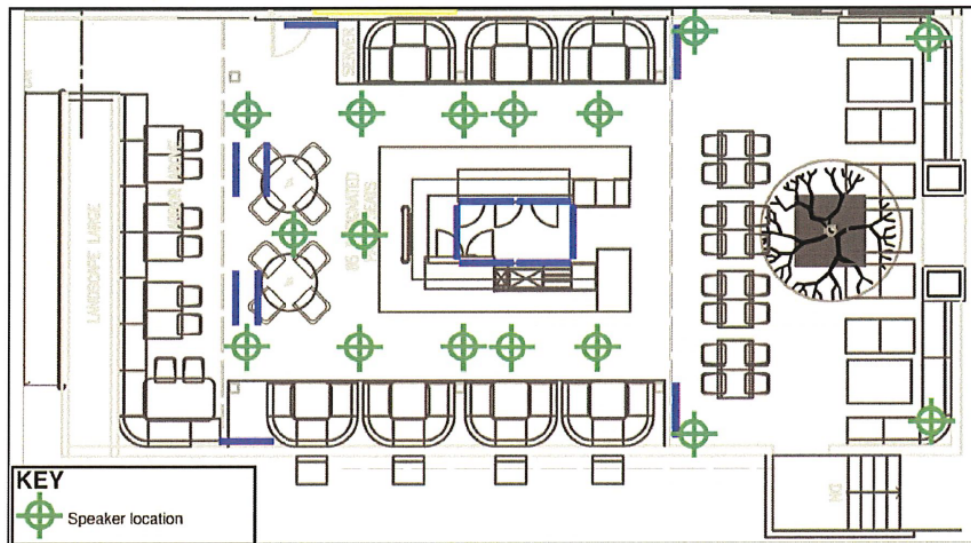
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the predicted noise level reduction from the edge of the patio area to the receivers, provided in Table 2 below.

**Table 2:** Predicted Noise Reduction from Sources to Receivers

Receiver	Source Noise Reduction to Receiver (dBA)	
	Patio Noise	Break-out Noise
1(E)	9	9
1(N)	34	30
2	30	30
3	30	27
4	25	24



**Figure 3:** Speaker Locations Patio Area

While music noise levels can fluctuate, we can estimate the expected noise source levels based on our experience on previous projects.

Based on other Gateway projects, we estimate that the music volume in the patio areas is expected to

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be approximately 65 dB  $L_{Aeq}$ . Performance bands typically generate an interior reverberant noise level between 95 and 105 dB  $L_{Aeq}$  but, as the band will only be providing background music for the restaurant, we estimate the interior noise level will be closer to 85 dB  $L_{Aeq}$ . We have assumed an internal reverberant level of 85 dB  $L_{Aeq}$  for the assessment. The primary path of the sound will be through the windows on the west and south side of the building.

Table 3 below compares the predicted combined noise level from the outdoor patio area as well as the band break-out noise with the nighttime noise criteria.

**Table 3:** Predicted Noise Levels and Nighttime Noise Criteria

Receiver	Predicted Noise Level (dB $L_{Aeq}$ )			Comply?	
	Patio	Break-out band	Combined	Open windows (45 dB $L_{Aeq}$ )	Closed windows (57 dB $L_{Aeq}$ )
1(E)	54	46	55	<b>No</b>	Yes
1(N)	29	25	30	Yes	Yes
2	34	34	37	Yes	Yes
3	35	37	39	Yes	Yes
4	41	40	44	Yes	Yes

Provided the source level estimates are reasonable, the predicted noise levels are at or below the daytime criterion of 55 dB  $L_{Aeq}$  for all receivers. The nighttime, open windows criteria of 45 dB  $L_{Aeq}$  is complied with at most receivers, with the exception of 1(E).

This indicates that the internal noise level would be above 30 dBA when windows are open for the apartments on the east facade of the building and some of the apartments that face into the apartment courtyard. With windows closed, the internal noise level criteria should be achieved.

The project noise level at the apartments on the north and south facade of the building comply with the open window noise criteria, as the orientation of the building provides some additional screening to these apartments.

The significance of the noise impact at the apartment receivers will depend on the current noise levels at the apartments including noise from the existing venue located next to the west facade of the building. We note this venue has an existing patio area.

**Recommendations**

To minimize the noise impact of the site, we recommend restaurant windows are closed after 10 pm

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on nights when the band is performing.

The assessment assumes that the music speakers have a relatively flat frequency response, i.e., that the bass is not louder than the rest of the music. To ensure this occurs on site, we recommend avoiding the use of subwoofers outdoors and that the sound systems are commissioned prior to use and equalized to ensure a flat frequency response.

If a permanent roof for the patio is installed, this has the potential to provide noise shielding for some of the elevated apartment units. However, there is also the potential that patrons will raise their voices further in order to hear each other as the patio will be a semi-enclosed space. To minimize this risk, we recommend adding an acoustically absorptive treatment with a minimum NRC of 0.9 to the underside of the patio roof.

### **Conclusions**

Predicted noise levels from the proposed outdoor patio and break-out noise from the restaurant are expected to be below both the daytime and nighttime project noise criterion for most receivers, provided noise source levels are within the expected range.

Patio and restaurant noise is predicted to exceed the nighttime criteria for some receivers in the apartment building west of the site, specifically those on the east facade and for some of the apartments facing into the courtyard. For these receivers, the project noise levels are expected to exceed the nighttime criteria when windows are open. With windows closed, we expect the internal noise level criteria to be achieved.

The significance of the noise impact at the apartment receivers will depend on the current noise levels that they are exposed to, including noise from the existing venue to the west of the apartment building. We note this venue has an existing patio area. Noise impacts can be minimized by following our recommendations noted above.

We trust this information is satisfactory. Please feel free to contact us if you have any queries regarding this document.

Regards

**BKL Consultants Ltd.**

per:



Brigette Martin, EIT

Glenn Atchison

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## Appendix A - Criteria Discussion

### World Health Organization(WHO) - Guidelines for Community Noise

The WHO issued the Guidelines for Community Noise document in 1999. This document outlines guideline values at the level of the lowest adverse health effect. Specifically, the guidelines consider the noise exposure levels that could result in annoyance, speech intelligibility interference, sleep disturbance or hearing impairment. The relevant values for this study relate to the guideline values provided for outdoor living areas and outside bedrooms provided in Table 4.1, extract provided in Table A1 below.

**Table A1:** Extract from WHO Guidelines (Table 4.1)

Specific Environment	Critical Health Effect	LAeq [dB]	LAm <sub>ax</sub> , fast [dB]
Outdoor living area	Serious annoyance	55 dB L <sub>Aeq(16 hrs)</sub>	N/A
Outdoor living area	Moderate annoyance	50 dB L <sub>Aeq(16hrs)</sub>	N/A
Inside bedrooms, nighttime	Sleep disturbance	30 dB L <sub>Aeq(8hrs)</sub>	45

### Review of Relevant Municipality Noise Bylaws

We reviewed the noise bylaws for a number of municipalities near the City of Courtenay on Vancouver Island and the Lower Mainland. For the majority of the municipalities on Vancouver Island, the noise bylaw is similar to the City of Courtenay bylaw and does not provide a quantitative noise limit. The municipalities that do specify a bylaw limit are similar to the City of Vancouver Bylaw, which we have summarized below.

#### *City of Vancouver - Vancouver Noise Bylaw 6555*

The City of Vancouver Noise Bylaw provides quantitative noise criteria based on how the subject site and noise sensitive receiver are zoned. The bylaw allows less stringent criteria for the Activity, Event and Intermediate Zones of the City. Given our understanding of the City of Courtenay, we believe that area near the site would mostly be considered a Quiet Zone. Quiet Zones are defined as the portion of the City not defined as Activity, Event or Intermediate Zones.

The noise criteria for noise coming from and being received in a Quiet Zone is 55 dBA during the daytime period and 45 dBA during the nighttime period, where daytime is defined as 7 am to 10 pm, Monday to Saturday and from 10 am to 10 pm on Sunday or public holidays.

