



THE CORPORATION OF THE CITY OF COURTENAY

## STAFF REPORT

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**To:** Council  
**From:** Deputy Chief Administrative Officer  
**Subject:** Avalanche Bar & Grill Structural Change

**File No.:** 4320-20  
**Date:** June 13, 2016

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### PURPOSE:

The purpose of this report is to respond to the application made by the owner of Avalanche Bar & Grill for a structural change to allow for a sidewalk patio.

### CAO RECOMMENDATIONS:

That, based on the June 13, 2016 staff report, "Avalanche Bar & Grill Structural Change", Council approve Option 1 and direct staff to post notice on the City's website requesting input on the proposed structural change for an outdoor patio for Council consideration at the regular meeting scheduled on July 4, 2016; and

That, the Downtown Courtenay Business Improvement Association (DCBIA) be advised of the application.

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John Ward, CMC  
Deputy Chief Administrative Officer

### BACKGROUND:

The owner of Avalanche Bar & Grill has applied for a structural change to the existing liquor license to construct an outdoor patio (Appendix No. 1). Pursuant to section 11.3 (2) (c) of the Liquor Control and Licensing Act, the local government must gather the views of residents when a licensee wishes to amend the existing approved licensed area.

### DISCUSSION:

With respect to the requirement in section 11.1 (2) (c) of the Liquor Control and Licensing Act, staff is of the opinion that notice on the City's website and notification of the DCBIA will satisfy the requirements of the Liquor License Control and Licensing Branch (LCLB).

The Liquor Primary and Liquor Primary Club Structural Change application form outlines items that must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation. Any report presented by an advisory body or sub-committee to the council or board may be referenced in and attached to the resolution.

- (a) The potential for noise if the application is approved (provide comments).
- (b) The impact on the community if the application is approved (provide comments).
- (c) If the amendment may affect nearby residents, the local government or first nation must gather the views of residents in accordance with 11.3(2)(c) of the Act.
  - If the local government or first nation gathered the views of residents, they must provide:
    - (i) the views of the residents
    - (ii) the method used to gather the views of the residents, and
    - (iii) its comments and recommendations respecting the views of the residents.  
(Residents includes residents and business owners)
  - If the views of residents were not gathered, provide reasons.
- (d) Its recommendation with respect to whether the amendment should be approved.

Once Council receive public input on the application, a resolution addressing the points will be forwarded to the LCLB for the final approval. A proposed resolution in the correct format will be presented to Council for consideration at the regular meeting scheduled on July 4, 2016.

Council may choose to “opt out” of the process. This is a valid option only if Council feels the structural change would not affect nearby residents including businesses.

The proposed patio for Avalanche Bar & Grill will reduce one on-street parking space in front of the building if approved (Appendix No. 2). Sidewalk patios in the downtown are currently being operated as pilot projects pursuant to the Council resolution of June 15, 2015.

**FINANCIAL IMPLICATIONS:**

There is no direct financial implication related to this application.

**ADMINISTRATIVE IMPLICATIONS:**

Administration of liquor licencing amendments is included in the City’s general statutory duties. The Development Services Department has recently taken over the function from Legislative Services. To date, staff has spent two hours to process and review the liquor licensing amendment application.

**ASSET MANAGEMENT IMPLICATIONS:**

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

**STRATEGIC PRIORITIES REFERENCE:**

<p><b>We actively pursue vibrant economic growth</b></p> <ul style="list-style-type: none"><li>● Revitalizing our downtown is critical to our economic future</li><li>● Continue to improve our relationship with business in our community</li></ul>	<p><b>We focus on organizational and governance excellence</b></p> <ul style="list-style-type: none"><li>● We support and encourage initiatives to improve efficiencies</li><li>● We support meeting the fundamental corporate and statutory obligations</li></ul>
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● **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.

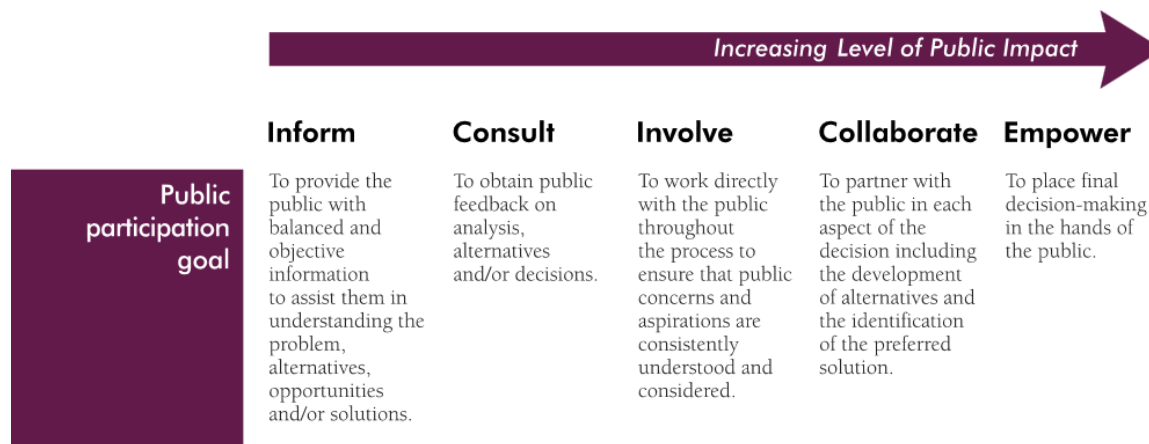
**REGIONAL GROWTH STRATEGY REFERENCE:**

There is no direct reference related to this application.

**CITIZEN/PUBLIC ENGAGEMENT:**

Public notice is required if Council wishes to comment on the application. Staff will consult the 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)



**OPTIONS:**

- Option 1: Direct staff to publish notice on the City's website requiring public input on the Structural Change for Council consideration at the regular meeting scheduled on July 4, 2016 (recommended); and  
That the Downtown Courtenay Business Association (DCBIA) be advised of the application.
- Option 2: Direct staff to obtain public input through an alternative method
- Option 3: Opt out of the process and advise the LCLB

Prepared by:



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Tatsuyuki Setta, MCIP, RPP  
Manager of Planning

Approved by:



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Ian Buck, MCIP, RPP  
Director of Development Services

#### Attachments

1. Appendix No. 1: Structural Change Application Form
2. Appendix No. 2: The proposed sidewalk patio plan

**Appendix No. 1**



**Liquor Primary and Liquor Primary Club**  
 Structural Change Application  
 Liquor Control and Licensing Form LCLB 012a

**What is a Structural Change?**

It is defined as a change to the existing approved licensed area(s), including but not limited to:

- a change in the position of a wall or partial height divider (pony wall) or fixed planters used as separation between/within a licensed area
- new construction
- the removal or addition of permanent display cabinets, stages or dance floors
- a change to the food and liquor service bar location or size
- in the position of access and exit points leading to or from a licensed area
- the removal of a licensed area from the liquor licence
- addition of a new outdoor patio or the removal or expansion of an existing patio
- increase to capacity (occupant load) of a licensed establishment with or without changes to the licensed area(s)
- such other construction or changes the general manager considers may affect patron routing, capacity, or the line of sight between a staff control point and the licensed area of the establishment.

If you are making changes to the current approved floor plan, other than cosmetic changes, a structural alteration application is required.

**Note:** This does not include cosmetic changes such as changes to existing flooring, wallpaper, reconfiguring tables and chairs, countertops, painting, or changing the type of material used in the perimeter bounding of an outdoor patio.  
 If you have any questions about this application, call the Liquor Control and Licensing Branch (LCLB) toll-free at: **1 866 209-2111**

**Licence Information**

Licence # affected: 113818

Please check if licence is currently dormant.  
 If yes, attach a letter signed by the licensee requesting the licence to be reactivated if this application is approved.

Do you currently hold other licences at this location?  Food Primary \_\_\_\_\_ (Licence #)  
 Liquor Primary \_\_\_\_\_ (Licence #)  Licensee Retail Store 144770 (Licence #)  UBrew/UVin \_\_\_\_\_ (Licence #) or Other

Licensee name [as shown on licence]: Avalanche Bar & Grill

Establishment name [as shown on licence]: Mt. Washington Hostel

Establishment Location address: 275 8th Street Courtenay BC V9N 1N4  
(as shown on licence) Street City Province Postal Code

Business Tel with area code: 1250 331 0334 Business Fax with area code:

Business e-mail: info@avalanchebar.ca

Business Mailing address:      
(if different from above) Street City Province Postal Code

Contact Name: Moldenhauer/Devin/Norman Title/Position: General Manager  
last / first / middle

**Type of Change Requested**

**Sub- Job Number**  
 Office Use ONLY

Please check  appropriate box(es) below:

<b>Part 1</b>	<input checked="" type="checkbox"/> Addition of a New Outdoor Patio	Outdoor Patio (C3-LIC) _____
<b>Part 2</b>	<input type="checkbox"/> Alteration/Renovation <input type="checkbox"/> Removal of an existing licensed area <input type="checkbox"/> Other	Structural - capacity change (C3-LIC) _____ Structural - no capacity change (C4-LIC) _____

**PART 2: Structural Changes** (Excluding construction of new patios)

Fee: \$440	C3 - Cap Ch.
	C4 - No Cap Ch.

Provide the following information:

1. Describe in full detail the reason for this application and what the changes are that you want considered.

We feel that due to the wonderful climatic weather we have in our area and the interest shown in our patrons requesting a outdoor area to enjoy a beverage and a meal this is the next step in growing our business and adding vibrance to the area. The City has also just brought in the approval for sidewalk patios to liven up and beautify the downtown core.

2. Attach one 11" x 17" updated floor plan of the establishment which shows the changes proposed and has the determined occupant load calculations stamped on the plan. The floor plan is a view of the establishment as seen if you were to remove the roof or ceiling.

Floor plans must:

- Show acceptable levels of detail
- Show the dimensions of rooms and provide labels for each room as well as identify unlicensed areas, partial height walls, full height walls, planters, doors and windows, stairs showing direction of travel and all entrances and exits, washrooms, kitchens, bar, patio(s), and furniture layout must be marked on the plan you submit

**Note:** The occupant load calculation is generally provided by local building or fire authorities in your area. If you are advised that local building or fire authorities do not have jurisdiction or opt out of providing this calculation, provide written confirmation from that authority. You may then take your plan to an alternate qualified architect or design professional who will authorize the calculation. Do not submit this application if you do not have updated floor plans with updated current occupant load.

3. Current total of all licensed areas (as shown on the liquor licence): 210

4. By making these alterations, the total occupant load will:

- Decrease to:  (patrons plus staff)
- Stay the same:  (patrons plus staff)
- Increase to: 232 (patrons plus staff)

If there is an increase, a resolution from your local government or First Nation commenting on the application is required. Please see Parts 3 and 4 for an explanation of what the local government or First Nation is required to consider.

**PART 3: Local Government/First Nation Resolutions: Information for the Applicant**

A resolution from your local government or First Nation commenting on the application is required for the following change types:

- o Part 1: Addition of a new patio
- o Part 2: Any alteration/addition, when the proposed change increases the occupant load calculation.

**Licensee responsibilities:**

1. Fill out applicable sections of this form.
2. Attach floor plan showing the proposed changes and stamped with an updated and current occupant load calculation.
3. Take your completed application, updated floor plan with updated occupancy load calculation to your local government/First Nation office. They will photocopy all of the documents and complete Part 4.
4. Request that a resolution be provided within 90 days and sent via email or post directly to the Liquor Control and Licensing Branch, Victoria.
5. Send the completed original form, floor plan and application fees to the branch.
6. The Liquor Control and Licensing Branch will follow up with the local government/First Nation if a resolution has not been received by the Branch within 90 days of the local government's receipt of your request.

Your local government/First Nation may decide that it does not wish to provide comment on your change request. However, they must still provide a resolution or letter stating this decision and submit it directly to the Liquor Control and Licensing Branch.

### PART 4: Local Government/First Nation Confirmation of Receipt of Application

This is to be filled out by your local government/First Nation office in relation to Parts 1 and 2. Applies to Liquor Primary and Liquor Primary Club licences.

Local government/First Nation (name): City of Courtenay

Name of Official: WARD, JOHN Title/Position: City Clerk  
(last / first / middle)

Email: JWARD@COURTENAY.CA Phone: 250-703-4853

Signature of Official: [Signature] Date of receipt of application: 10/05/16  
(day / month / year)

This application serves as notice from the Liquor Control and Licensing Branch (LCLB) that an application for a permanent change to a liquor licence is being made within your community. LCLB requests that a resolution commenting on the application be sent to the LCLB Victoria Head Office within 90 days of the above date of receipt. If more than 90 days is required to provide a resolution, please contact the branch to make a request to the general manager for an extension. If the local government/First Nation decides not to provide comment, a resolution or letter indicating this decision must be provided to the branch.

All of the items outlined below in points (a) through (d) must be addressed in the resolution in order for the resolution to comply with section 53 of the Liquor Control and Licensing Regulation. Any report presented by an advisory body or sub-committee to the council or board may be referenced in and attached to the resolution.

- (a) The potential for noise if the application is approved (provide comments).
- (b) The impact on the community if the application is approved (provide comments).
- (c) If the amendment may affect nearby residents, the local government or first nation must gather the views of residents in accordance with 11.3(2)(c) of the Act.
  - If the local government or first nation gathered the views of residents, they must provide:
    - (i) the views of the residents
    - (ii) the method used to gather the views of the residents, and
    - (iii) its comments and recommendations respecting the views of the residents.(Residents includes residents and business owners)
  - If the views of residents were not gathered, provide reasons.
- (d) Its recommendation with respect to whether the amendment should be approved.

For more information on resolutions regarding B.C. liquor licences, please visit the LCLB website publication index to consult the guide *Role of Local Government and First Nation* at <http://www.pssg.gov.bc.ca/lclb> under "Publications, Legislation & Resources".

### PART 5: Declaration of Signing Authority Including Valid Interest

My signature, as Applicant, indicates that, with respect to the establishment:

- I am the owner of the business to be carried on at the establishment or the portion of the establishment to be licensed.
- I am the owner or lessee of the establishment or portion of the establishment to be licensed. If I have an option/offer to lease the establishment, or portion of the establishment to be licensed, prior to a licence being issued, I will obtain a completed lease that will not expire for a minimum of 12 months after the date the licence is issued.
- I understand that the general manager has the right to request the following documentation supporting valid interest at any time and I agree to provide the requested documentation in a timely manner upon request:
  - If the applicant owns the property, a Certificate of Title in the applicant's name.
  - If the applicant is renting or leasing, a fully executed lease or assignment/offer of lease which does not expire for at least 12 months from the date the licence is issued. An offer for rent/lease must show rent paid, have a term and an expiry date and be signed by both the applicant and the property owner.
  - If the applicant is buying the land and the building(s), a copy of the offer or option to purchase the property and building(s). An offer must show price paid, have a term and expiry date, and be signed by both the applicant and the property owner.
- I understand that loss of valid interest at any time while holding a licence is reason for the general manager to consider cancelling the licence.
- I understand that I must advise the branch immediately if at any time the potential exists to lose valid interest either during the licensing process or once a licence has been issued.
- I understand that the name(s) on documentation demonstrating valid interest must be identical to the applicant name(s).
- As the licensee, I will be accountable for the overall operation, for all activities within the establishment and will not allow another person to use the licence without having first obtained a written approval from the general manager.
- I understand that a licence can only be renewed if I am the owner of the business carried on at the licensed establishment and I am the owner or lessee of the licensed portion of the establishment.

**I solemnly declare that the statements in this declaration are true.**

*(Signature of any shareholder of a private corporation, signing officer of a public corporation or society, sole proprietor or all individuals in a partnership is required below):*

**Note:** An agent, lawyer, resident manager or third party operator may not sign the declaration on behalf of the applicant.

Name of Official:  Position:  Date:   
(last / first / middle) (Day/Month/Year)

Signature: \_\_\_\_\_

Name of Official:  Position:  Date:   
(last / first / middle) (Day/Month/Year)

Signature: \_\_\_\_\_

Name of Official:  Position:  Date:   
(last / first / middle) (Day/Month/Year)

Signature: \_\_\_\_\_

Name of Official:  Position:  Date:   
(last / first / middle) (Day/Month/Year)

Signature: \_\_\_\_\_

Section 15(2) of the Liquor Control and Licensing Act states: "A person applying for the issue, renewal, transfer, or amendment of a licence who fails to disclose a material fact required by the form of application or makes a false or misleading statement in the form of application commits an offence".

**False declaration of valid interest is reason for the general manager to consider terminating the licence application and/or cancelling the licence.**

**PART 6: Application Fees - Payment Options** TOTAL FEE Submitted: \$

In accordance with Payment Card Industry Standards, the branch is no longer able to accept credit card information via email.

Payment is by (check  one):

Cheque, payable to Minister of Finance (if cheque is returned as non-sufficient funds, a \$30 fee will be charged)

Money order, payable to Minister of Finance

Credit card:  VISA  MasterCard  AMEX

I am submitting my application by email and I will call with my credit card information. I will call Victoria Head Office at 250-952-5787 or 1-866-209-2111 and understand that no action can proceed with my application until the application fee is paid in full.

I am submitting my application by mail and have given my credit information in the space provided at the bottom of the page.

**Note: To ensure legibility, do not submit by fax.**

**Contact Information**

Liquor Control and Licensing Branch  
 Location: 4th Floor, 3350 Douglas St., Victoria BC V8Z 3L1  
 For Mail Only: PO Box 9292 Stn Prov Govt Victoria, BC V8W 9J8  
 Phone: 250 952-5787 Web: www.pssg.gov.bc.ca/lclb E-mail: liquor.licensing@gov.bc.ca

Freedom of Information and Privacy Act - The information requested on this form is collected for the purpose of obtaining or making changes to a liquor licence application. All personal information is collected under the authority of Section 15 of the Liquor Control and Licensing Act (RSBC 1996, c.267). Questions should be directed to: Liquor Control and Licensing Branch, Freedom of Information Officer, PO Box 9292 STN PROV GOVT, Victoria, BC V8W 9J8. Ph: In Victoria, 250 952-5787 Outside Victoria, 1 866 209-2111. Fax: 250 952-7066

Credit Card Information (To be submitted by fax or mail only)

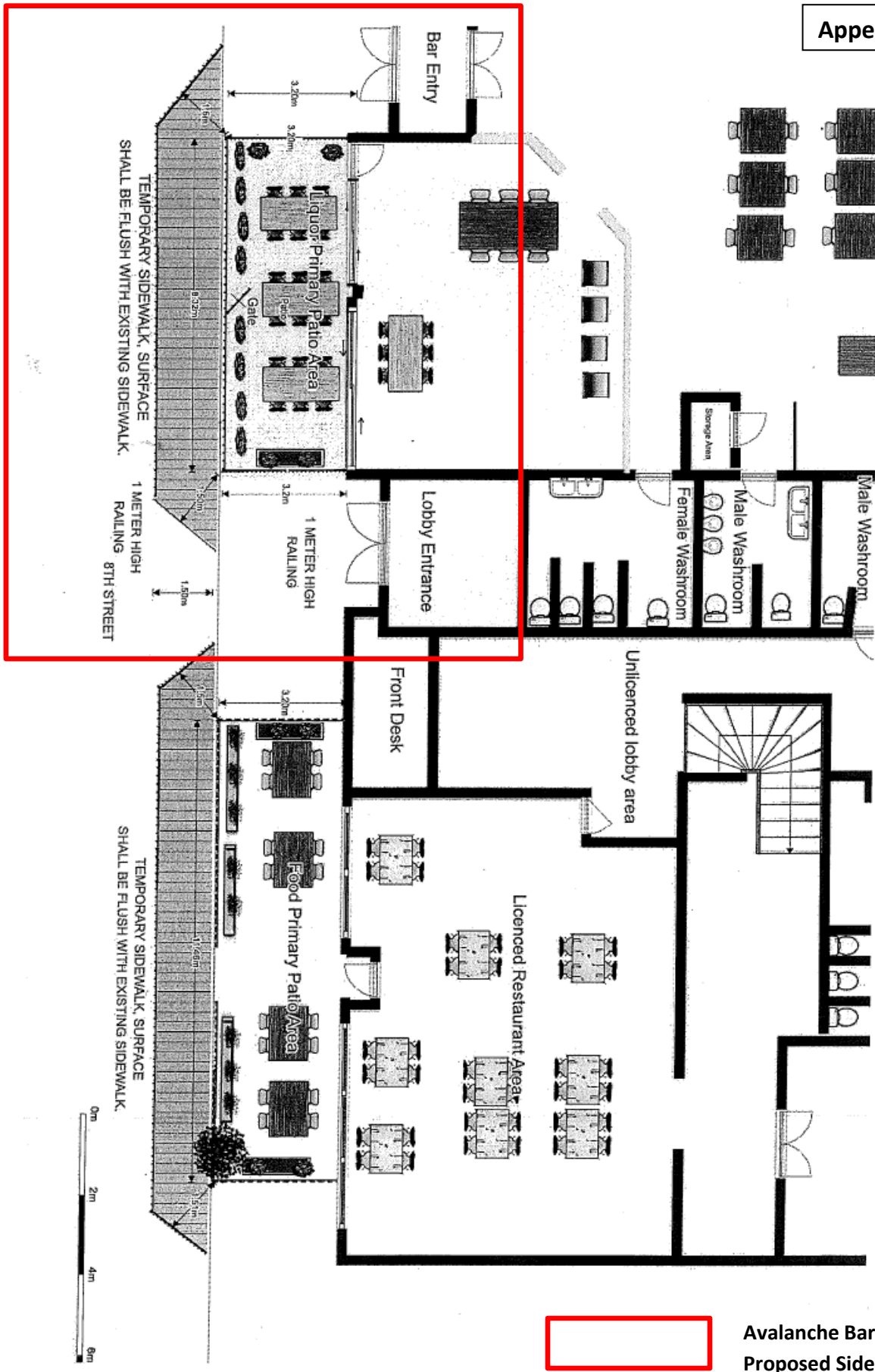
Name of cardholder (as it appears on card):

Credit card number:  Expiry date:  /   
(Month) (Year)

Signature: \_\_\_\_\_



**Appendix No. 2**



 **Avalanche Bar & Grill  
Proposed Sidewalk Patio area**

