SUBJECT: Proposed Outdoor Boulevard Café - 38 Hess Street South (PW07108) - (Ward 2)

RECOMMENDATION:

(a) That the application of the operator of “Che Burrito”, located at 38 Hess Street South, Hamilton, to erect and maintain an outdoor boulevard café within the Hess Street road allowance, be approved, subject to the following conditions:

(i) That the applicant and owner enter into an Outdoor Boulevard Café agreement in a form satisfactory to the General Manager, Public Works and the City Solicitor;

(ii) That the applicant pay the appropriate user fee and an annual fee based on 5% of the market value of the City land utilized at such time as the current moratorium ends;

(iii) That the applicant provide proof of $5,000,000 public liability insurance, naming the City of Hamilton as an added insured and holding the City harmless from all actions, causes of action, interest, claims, demands, damages, expenses and loss;

(iv) That the applicant adhere to all of the City of Hamilton’s Barrier Free Guidelines;

(v) That the applicant adhere to the City Council approved Technical Specifications for Outdoor Boulevard Cafes;

(vi) That the applicant adhere to the Urban Design Guidelines for Outdoor Boulevard Cafes on Public Property;
EXECUTIVE SUMMARY:
The operator of “Che Burrito” at 38 Hess Street South is seeking permission to utilize an existing paved area in front of the business to operate an outdoor café. Although there have been negative comments received from the neighbourhood, this restaurant is located in Hess Village where there are many similar establishments. Therefore, this Department supports the request.

BACKGROUND:
The information/recommendations contained within this report primarily affects Ward 2. An application has been received from the operator of “Che Burrito”, located at 38 Hess Street South, to erect and maintain an outdoor boulevard café within the Hess Street road allowance. The owner of the property supports the request and is prepared to enter into an encroachment agreement with the operator and the City. The subject area is paved and a portion of the outdoor area which is on private property is currently being used for seating.

Notice of the proposed café was circulated to municipal departments and public utilities and no negative comments were received. The Downtown Renewal Division recommends that as a condition of approval, the café be designed in accordance with the City’s Urban Design Guidelines for Outdoor Boulevard Cafes on Public Property. This is currently a condition of approval for all outdoor cafes.

Notice was circulated to property owners within a 400’ radius of the neighbourhood and the results are as follows:

Number Circulated: 169
In favour: 8        Opposed: 16        No Comment: 145

Almost all negative responses cited excessive noise as the reason for opposing the application. As well, respondents found vandalism, lack of parking and increased garbage to be relevant issues.
As the Hess Village district contains similar establishments, and as this particular outdoor area is small in comparison to most other patios, this Department supports the request.

**ANALYSIS/RATIONALE:**
Notice was sent to property owners within a 400’ radius of the location for comment. Although the neighbourhood has expressed concerns regarding increased noise in the area, Hess Village has additional police patrols and noise control officers present during the months most patios are operating.

Municipal departments and public utilities were notified of the application.

**ALTERNATIVES FOR CONSIDERATION:**
The application could be denied however there are many similar establishments in the Hess Village district with outdoor cafes located within the road allowance.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**
The applicant has paid a user fee of $1,232.31.

**POLICIES AFFECTING PROPOSAL:**
The applicant must adhere to the City approved Technical Specifications for Outdoor Boulevard Cafes as well as the City’s Urban Design Guidelines for Outdoor Boulevard Cafes on Public Property and the City of Hamilton Barrier Free Guidelines.

**RELEVANT CONSULTATION:**
The Ward Councillor has met with Public Works staff and the applicant and supports this request.

**CITY STRATEGIC COMMITMENT:**
By evaluating the “Triple Bottom Line”, (community, environment, economic implications) we can make choices that create value across all three bottom lines, moving us closer to our vision for a sustainable community, and Provincial interests.

- **Community Well-Being** is enhanced. ☑ Yes  ☐ No
  Outdoor cafes contribute to an attractive streetscape.

- **Environmental Well-Being** is enhanced.  ☐ Yes  ☑ No

- **Economic Well-Being** is enhanced.  ☑ Yes  ☐ No
  Outdoor cafes draw people to the Hess Village district where they may financially contribute to several area businesses.

Does the option you are recommending create value across all three bottom lines?  ☐ Yes  ☑ No

Do the options you are recommending make Hamilton a City of choice for high performance public servants?  ☑ Yes  ☐ No