SUBJECT: Proposed Outdoor Boulevard Café - 29 King Street East, Stoney Creek (PW06043) - (Ward 9)

RECOMMENDATION:

(a) That the application of the owner of 29 King Street East, in the former City of Stoney Creek, now in the City of Hamilton, to erect and maintain an outdoor boulevard café within the Mountain Avenue North road allowance, for a one season trial basis, be approved, subject to the following conditions:

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

(ii) That the applicant pay an annual fee based on 5% of the land value of the square footage utilized, at such time as the current moratorium on encroachment fees ends.

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

(iv) That the applicant occupy the licensed area of the boulevard from May 1 to October 31 only, and that all furniture, equipment etc. be removed from the road allowance at all other times.

(v) That the applicant adheres to the Barrier Free Standards adopted by City Council on October 25, 1994.

(vi) That the applicant provide a 2.0m offset from the King Street face of the building and a 2.0m offset from the back of walk on Mountain Avenue for a proposed traffic signal controller cabinet and service disconnect box.

(vii) That as a condition of approval, the applicant agree to relocate the existing railings to meet the Council approved technical specifications for outdoor boulevard cafes.
(b) That the Boulevard Café Agreement be executed by the General Manager, Public Works, or his designate, in accordance with the delegated authority granted by Section 3 of the 3rd Report of the 1999 Finance and Administration Committee, adopted by the former City of Hamilton Council on February 9, 1999.

_______________________
E. (Beth) Goodger
Acting General Manager
Public Works

**EXECUTIVE SUMMARY:**
An application was submitted by the owner of 29 King Street East, Stoney Creek to erect an outdoor boulevard café, operated in association with the Village restaurant, within the abutting Mountain Avenue North road allowance. As no objections were received from any public utilities or municipal departments and as only one objection was received from the public, this department supports approval for a one year term with extension subject to the results of a staff review of the facility's first year of operation.

**BACKGROUND:**
The information/recommendations contained within this report primarily affects Ward 9.
The owner of the Village Restaurant, located at 29 King Street East, Stoney Creek, has made application to locate an outdoor patio café within the abutting road allowance of Mountain Avenue North.
Notice of the proposed café was circulated to municipal department and public utilities and no negative comments were received. Bell advises that should their existing pole require relocation, it will be at the expense of the applicant.
Notice was also circulated to a 400’ radius of the neighbourhood for comment and the results are as follows:
Number circulated: 55
In Favour: 8   Opposed: 1    No response: 46
The one respondent who is opposed cites ongoing garbage and noise problems in the area and the possibility of an increase in these problems with the addition of an outdoor area.
The applicant has recently installed railings within the road allowance at the proposed site of the café. As a condition of approval, the relocation of these railings will be required to provide the necessary clearance for the proposed traffic signal controller and service disconnect box and the required 1.5 foot clearance from the back of the sidewalk.
As no negative comments were received from public utilities or municipal departments and as the majority of the responses from the neighbourhood were in favour of the proposal, this department supports the request on a one year trial basis.

**ANALYSIS/RATIONALE:**
Notice was circulated to municipal departments, public utilities and the neighbourhood for comment. No environmental assessment was required.

**ALTERNATIVES FOR CONSIDERATION:**
The application could be denied, however, there are existing outdoor cafes located on private property in the same area.

**FINANCIAL/STAFFING/LEGAL IMPLICATIONS:**
The applicant has paid the user fee and an annual fee, based on 5% of the land value of the square footage of City land utilized, will apply at such time as the moratorium on encroachment fees for cafes ends.

**POLICIES AFFECTING PROPOSAL:**
The applicant will adhere to the City’s technical specifications for outdoor boulevard cafes and enter into an encroachment agreement.

**RELEVANT CONSULTATION:**
The Ward Councillor supports the request. Comments were requested from municipal departments, public utilities and no negative comments were received. The neighbourhood was circulated for comments and only one responded opposed.

**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
  The outdoor boulevard cafe will be an attractive addition to the downtown streetscape.

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

- **Economic Well-Being is enhanced.**   Yes  No

- **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
LOCATION PLAN

PROPOSED OUTDOOR BOULEVARD CAFÉ:
AT
29 KING ST. E., STONEY CREEK
“THE VILLAGE RESTAURANT”
CITY OF HAMILTON
PUBLIC WORKS DEPARTMENT

LEGEND

SUBJECT LAND

SCALE NOT TO SCALE
DATE 2006-03-28
REFERENCE FILE NO: PW06043