

**TOWN OF HERNDON, VIRGINIA
WORK SESSION AGENDA
HERNDON COUNCIL CHAMBERS BUILDING *
765 LYNN STREET
January 05, 2021
7:00 PM**

* The meeting is being held electronically pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; and in accordance with Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments. Public comments will be received through the town clerk at town.clerk@herndon-va.gov.

CALL TO ORDER

1. Roll Call & Determination of Quorum

GENERAL [Action requested at work session]

2. Resolution 21-G-01, to adopt Robert's Rules of Order Newly Revised In Brief, 3rd edition and to designate the Town Attorney as the Parliamentarian
3. Resolution 21-G-02, to elect the Vice Mayor

COMMENTS

4. Comments from the Town Manager

GENERAL

5. Resolution 21-G-03, to ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and The Elden Street Players for space at 750 Center Street
6. Resolution 21-G-04, to ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Arts Space, Inc. for space at 750 Center Street
7. Resolution 21-G-05, to ratify a Second Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Fairfax County School Board

8. Resolutions 21-G-06 through 21-G-08, to ratify Temporary License Agreements between the Town of Herndon and Green Lizard Cycling (21-G-06); Teryanna, LLC dba Mile 20 at Mediterranean Breeze (21-G-07); and Zeffirelli Ristorante Italiano (21-G-08) for use of public property or public right-of-way for temporary outdoor dining
- Resolution 21-G-06, to ratify a Temporary License Agreement between the Town of Herndon and Green Lizard Cycling for use of public property or public right-of-way for temporary outdoor dining
 - Resolution 21-G-07, to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining
 - Resolution 21-G-08, to ratify a Temporary License Agreement between the Town of Herndon and Zeffirelli Ristorante Italiano for use of public property or public right-of-way for temporary outdoor dining

DISCUSSION

9. Town Council Budget Guidance

ROUNDTABLE

CLOSED MEETING

A closed meeting as provided under Section 2.2-3711(A)(1) of the Code of Virginia for discussion of prospective candidates relative to appointments to boards & commissions.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 5, 2021

Resolution- to adopt *Robert's Rules of Order Newly Revised In Brief, 3rd edition* and to designate the Town Attorney as the Parliamentarian.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby:

- adopts *Robert's Rules of Order Newly Revised In Brief, 3rd edition*, for the purpose of conducting meetings of the Town Council for January 1, 2021 through December 31, 2022; and
- designates the Town Attorney as the Parliamentarian for January 1, 2021 through December 31, 2022.

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 5, 2021

Resolution- to elect the Vice Mayor.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby elects **Cesar del Aguila** as Vice Mayor of the Town of Herndon for the term of January 1, 2021 through December 31, 2022.

STAFF REPORT

Town Council
January 5, 2021

Title:

Resolution to ratify a Sublease Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and The Elden Street Players for space at 750 Center Street.

Staff Contact:

Lesa J. Yeatts, Town Attorney
(703) 787-7370
lesa.yeatts@herndon-va.gov

Description:

The action proposed is approval of the resolution ratifying a sublicense agreement between the Town and The Elden Street Players for space at 750 Center Street.

At the time of the transfer of ownership of the downtown redevelopment parcel to Comstock Herndon Venture, LC, on December 15, 2020 and for many years prior, the town leased a portion of the space at 750 Center Street to The Elden Street Players (NextStop Theatre Company) for storage, construction, or dismantling of theater props, sets, and other supplies consistent with a theatrical company. The most recent month-to-month lease was set to expire on December 31, 2020. The transfer of the property to Comstock voided that lease. However, The Elden Street Players and the Town still desire to maintain an arts center in that location and Comstock, as the Town's partner in the redevelopment, has consented to enter into a license agreement with the Town for this purpose. The Town entered the License Agreement with Comstock on December 15, 2020. This new sublicense of the Town's interest in 750 Center Street to The Elden Street Players is month-to-month and will be for a term of (1) year. It is anticipated that as required by the Comprehensive Agreement for the redevelopment of the parcel that The Elden Street Players will be relocated during the term of the sublicense. It is proposed that the rent remain \$1.00 per term.

The Town Manager has signed the Sublicense Agreement pursuant to the Town's Continuity of Government Ordinance, as amended. The Town Council now will consider ratification of the Sublicense Agreement to The Elden Street Players in order finalize its approval.

Fiscal Impact:

Staff estimates comparable value at \$16 per square foot.

Recommendation:

Staff recommends that the Town Council Ratify the Resolution as proposed.

Attachments:

- Draft Resolution
- Sublicense Agreement
- Exhibit A

Prepared and Approved by:

A handwritten signature in cursive script, reading "Lesa J. Yeatts".

Lesa J. Yeatts, Town Attorney

SUBLICENSE AGREEMENT

THIS SUBLICENSE made on the 28th day of December 2020, by and between THE TOWN OF HERNDON, a municipal corporation (Landlord) and THE ELDEN STREET PLAYERS., a Virginia corporation (Tenant).

Recitals

Landlord is the licensee of an approximately 6,000 square foot building and surrounding premises located at 750 Center Street, Herndon, Virginia, as shown on Exhibit A attached and incorporated herein, pursuant to that certain “Arts Space License Agreement” dated December 15, 2020.

Landlord and Tenant have agreed that Tenant will sublicense from Landlord, in consideration of the rent and other benefits, and under the terms and conditions specified here, an approximately 2,790 square foot portion of the building, commonly known as 750 Center Street as generally shown on Exhibit A, attached and incorporated by reference which shall be called “Premises.”

THEREFORE, the parties agree as follows:

1. Commencement and Ending Date of Term. Beginning January 1, 2021, Landlord sublicenses the premises to Tenant according to the terms of this sublicense. The Tenant may remain in the Premises on a month-to-month basis with the Tenant having the right to terminate the Sublicense upon 30 days prior written notice to the Landlord, and the Landlord having the right to terminate the Sublicense upon 30 days prior written notice to the Tenant. In any event, the term of this sublicense shall expire December 31, 2021. Tenant is aware that the Premises are part of a large redevelopment project between the Town of Herndon and Comstock Herndon Venture, LC. At the commencement of the redevelopment project that affects the sublicensed premises, the parties understand that Landlord will terminate this sublicense with notice that is reasonable under the

circumstances which may be less than 30 days. This last sentence clarifies, not limits, the parties' agreement as set out in this paragraph.

2. Rent. Tenant shall pay Landlord on demand \$1.00 rent per sublicense term; and shall allow Town access to and from and use of the Industrial Strength Theatre at 269 Sunset Park Drive, for Landlord's Parks and Recreation Programs (IST Space). Landlord and Tenant shall confer and use their best efforts to agree as to the dates of Landlord's such use. Tenant shall provide custodial services for these events. Tenant assures, represents, and warrants to Landlord that Tenant enjoys and will enjoy right of possession of the IST space and rights to license or sublicense the IST space to Landlord.

3. Use of Premises. Tenant shall use the Premises solely for storage, construction, or dismantling of theater props, sets, and other supplies consistent with a theatrical company. Landlord shall provide a physical separation structure or device between the Premises and Landlord's remaining space in the building. Tenant allows and assures to Landlord Landlord's right of access from the double doors on the Vine Street side of the building to and from the Landlord's remaining space on the west side of the building. Tenant shall keep this access area (which Tenant may use with Landlord for Tenant's uses) free of Tenant's property or sustained uses.

4. Policy Compliance. Tenant shall comply with all Town policies and regulations regarding the use of Town owned or leased real property and buildings, including the prohibition of alcohol and the use of recreational drugs or tobacco, as well as the Town building key policy.

5. Utility Charges. Landlord shall maintain and pay the cost of all utilities (except telecommunications) on the Premises.

6. Liability Insurance. Tenant shall keep in effect a General Liability insurance policy with respect to the Premises with a minimum limit of \$1,000,000.00 of coverage. The policy shall

name the Town of Herndon as an additional insured. Satisfactory proof of insurance will be required. Town reserves the right to require additional insurance.

7. Hold Harmless of Landlord. Tenant shall hold harmless Landlord, its officers, agents, and employees from any and all claims, actions, damages, liability and expense, including reasonable attorney's fees, in connection with loss of life, personal injury or damage to property arising from any occurrence in, upon, or at the leased premises, or the occupancy or use by Tenant of the Premises or any part thereof.

8. Default. Tenant shall be in default upon failure to perform any term of this sublicense for more than five days after written notice of such failure shall have been given to Tenant or after Tenant's abandonment of the leased premises.

9. Rights and Remedies on Default. Landlord shall have the following rights on default of Tenant, which shall be cumulative, none excluding any other right allowed by this sublicense or by law.

a. Landlord may enter the Premises and repossess the Premises and remove Tenant and any others who may be occupying the Premises and remove any property.

b. Landlord may seize, remove and sell all of the personal property and fixtures of Tenant on the Premises or remove and store such property at the cost of and for the account of Tenant.

10. Waste or Nuisance. Tenant shall not commit any waste or nuisance upon the Premises.

11. Maintenance by Tenant. Tenant accepts the Premises including the improvements and any equipment in the leased premises in their existing condition. Tenant shall at all times keep the

Premises in good order, condition, and repair. Tenant shall maintain the Premises in a clean and sanitary condition. If Landlord is required to make any repairs by reason of Tenant's negligent or intentional act or omission, Tenant shall pay to Landlord the cost of the repairs as additional rent within ten days after written notice. Landlord shall be responsible for roof, structural integrity of the building, and replacement and repair of utility systems related to the Premises. Except as provided in paragraph 14, Tenant shall return the Premises to its original condition prior to Tenant's vacation of the premises, normal wear and tear excepted.

12. Notification of Hazard. Tenant and Landlord shall give immediate notice to the other in case of fire, accident, or defect in the leased premises or in any fixtures or personal property comprising the Premises.

13. Alterations and Improvements. Except as provided in this paragraph, Tenant shall not make or cause to be made any alterations to the Premises without first obtaining Landlord's written consent. With Town eventual approval of plans (both as a government and as Landlord), Tenant at its expense may make other changes to the Premises consistent with the purposes of this sublicense.

14. Removal of Improvements and Restoration by Tenant. All alterations except lighting not necessary for normal use of the building or conformance with the Virginia Uniform Statewide Building Code made by Tenant shall remain the property of Landlord at the expiration or termination of the sublicense. This property will remain part of the leased premises and Tenant shall not have any obligation to remove it.

15. Loss and Damage. Landlord shall not be liable for any loss or damage to property of Tenant located on the Premises. Landlord shall not be liable for any injury, death, or damage to persons or property associated with Tenant resulting from fire, explosion, falling plaster, steam, gas,

electricity, water, rain, snow, or leaks from any part of the Premises. Landlord shall not be liable for any latent defect in the Premises or in the building of which they form a part. All property of Tenant or its subtenants kept or stored on the Premises shall be so kept or stored at the risk of Tenant or subtenants and Tenant shall hold Landlord harmless from any claims arising out of damage to the same, including subrogation claims by Tenant's insurance carrier.

16. Right of Entry. Landlord, its contractors, agents, or prospective purchasers or licensees, shall have the right to enter the Premises during normal business hours to examine the same upon reasonable notice, either oral or written.

17. Quiet Enjoyment. Upon the observance of all Tenant's obligations of this lease, Tenant shall peaceably and quietly hold and enjoy the Premises.

18. Surrender of Premises. At the expiration or termination of the term of this sublicense, Tenant shall surrender the Premises in the same condition that the leased premises were in at the commencement of this sublicense, except as provided in paragraph 14, reasonable wear and tear excepted, and shall surrender all keys for the Premises to Landlord.

19. Assignment and Subletting. Tenant may not assign this sublicense without prior written consent of Landlord. This prohibition against assigning or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law.

19. Binding on Successors/Assigns. All of the terms of this sublicense shall bind the successors and assigns of Landlord and Tenant, except where the assignment is ineffective due to lack of Landlord's consent.

Signatures on Following Page

TOWN OF HERNDON, VIRGINIA

THE ELDEN STREET PLAYERS

By: William H. Ashton II

Name: William H. Ashton II

Title: Town Manager

By: Vicki Kile

Name: Vicki Kile

Title: President

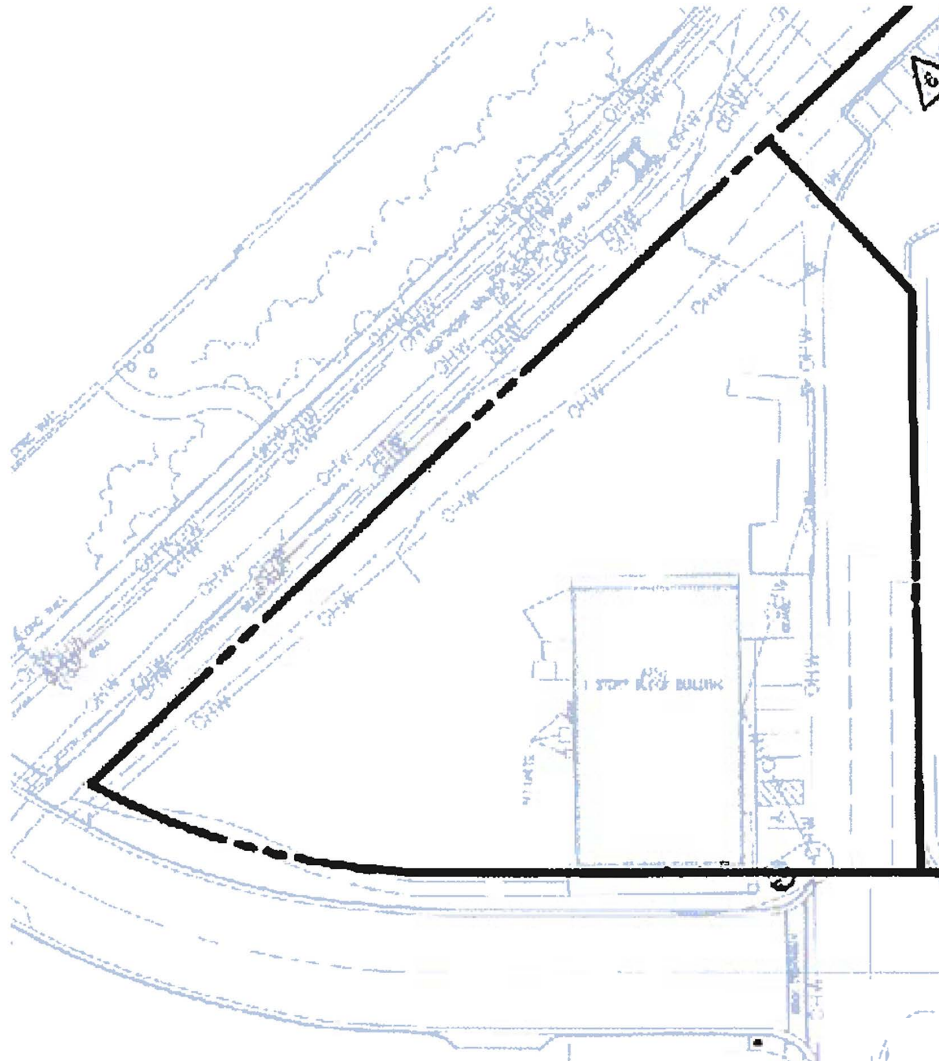
APPROVED AS TO FORM

By: Lesa J. Yeatts

Name: Lesa J. Yeatts

Title: Town Attorney

Exhibit A
750 Center Street



TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 12, 2021

Resolution- to ratify a Sublease Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and The Elden Street Players for space at 750 Center Street.

WHEREAS, the parties entered into a Sublicense Agreement dated December 28, 2020 for storage, construction, or dismantling of theater props, sets, and other supplies consistent with a theatrical company at 750 Center Street; and

WHEREAS, The rent shall be \$1.00 per term beginning January 1, 2021 and will expire on December 31, 2021; and

WHEREAS, The Sublicense Agreement was signed by the Town Manager.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Sublicense Agreement dated December 28, 2020 and signed by the Town Manager between the Town of Herndon and The Elden Street Players for space at 750 Center Street in Herndon.

STAFF REPORT

Town Council
January 5, 2021

Title:

Resolution to ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Arts Herndon, Inc. for space at 750 Center Street.

Staff Contact:

Lesa J. Yeatts, Town Attorney
(703) 787-7370
lesa.yeatts@herndon-va.gov

Description:

The action proposed is approval of the resolution ratifying a sublicense agreement between the Town and Arts Herndon, Inc for space at 750 Center Street.

At the time of the transfer of ownership of the downtown redevelopment parcel to Comstock Herndon Venture, LC, on December 15, 2020 and for many years prior, the town leased a large portion of the space at 750 Center Street to Arts Herndon for use as an arts center including an art gallery, meetings with artists, small group sessions with artists and the public, art classes, and artistic events. The most recent month-to-month lease was set to expire on December 31, 2020. The transfer of the property to Comstock voided that lease. However, Arts Herndon and the Town still desire to maintain an arts center in that location and Comstock, as the Town's partner in the redevelopment, has consented to enter into a license agreement with the Town for this purpose. The Town entered the License Agreement with Comstock on December 15, 2020. This new sublicense of the Town's interest in 750 Center Street to Arts Herndon is month-to-month and will be for a term of (1) year. It is anticipated that as required by the Comprehensive Agreement for the redevelopment of the parcel that Arts Herndon will be relocated during the term of the sublicense. It is proposed that the rent remain \$1.00 per term.

The Town Manager has signed the Sublicense Agreement pursuant to the Town's Continuity of Government Ordinance, as amended. The Town Council now will consider ratification of the Sublicense Agreement to Arts Herndon, Inc. in order to finalize its approval.

Fiscal Impact:

Staff estimates comparable value at \$16 per square foot.

Staff Recommendation:

The Mayor and Town Council ratify the Resolution as proposed.

Attachments:

Draft Ordinance
Sublicense
Exhibit A

Prepared and Approved by:

A handwritten signature in cursive script, reading "Lesa J. Yeatts".

Lesa J. Yeatts, Town Attorney

SUBLICENSE AGREEMENT

THIS SUBLICENCE made on the 18th day of December 2020, by and between THE TOWN OF HERNDON, a municipal corporation (Landlord) and ARTS HERNDON, INC., a Virginia non-profit, charitable corporation (Tenant).

Recitals

Landlord is the licensee of an approximately 6,000 square foot building and surrounding premises located at 750 Center Street, Herndon, Virginia, as shown on Exhibit A attached and incorporated herein pursuant to that certain “Arts Space License Agreement” dated December 15, 2020.

Landlord and Tenant have agreed that Tenant will sublicense from Landlord, in consideration of the rent and other benefits, and under the terms and conditions specified here, an approximately 3,210 square foot portion of the building, outside lawn area, and gravel parking spaces, which shall be to the east and south side of the building commonly known as 750 Center Street, as generally shown on Exhibit A, which shall be called “Premises.” Use of parking spaces is non-exclusive and must conform to the Zoning Ordinance (2017), Herndon Town Code.

THEREFORE, the parties agree as follows:

1. Commencement and Ending Date of Term. Beginning January 1, 2021, Landlord sublicenses the Premises to Tenant according to the terms of this sublicense. The Tenant may remain in the Premises on a month-to-month basis with the Tenant having the right to terminate the Sublicense upon 30 days prior written notice to the Landlord, and the Landlord having the right to terminate the Sublicense upon 30 days prior written notice to the Tenant. In any event, the term of this sublicense shall expire December 31, 2021. Tenant is aware that the Premises are part of a large

redevelopment project between the Town of Herndon and Comstock Herndon Venture, LC. At the commencement of the redevelopment project that affects the Premises, the parties understand that Landlord will terminate this sublicense with notice that is reasonable under the circumstances which may be less than 30 days. This last sentence clarifies, not limits, the parties' agreement as set out in this paragraph.

2. Rent. Tenant shall pay Landlord on demand \$1.00 per sublicense term.

3. Use of Premises. Tenant shall use the Premises solely for an arts center including an art gallery, meetings with artists, small group sessions with artists and the public, art classes, and artistic events. Tenant may also make all or part of the Premises available for public or private meetings or public or private events for a fee (except as provided below) upon written authorization by Landlord, when Tenant is not using all or part of the Premises. Subject to availability (as determined by Tenant), Tenant shall permit Landlord to use rent free the interior of the Premises for Landlord sponsored community meetings for up to four days or part thereof per calendar year, a value of \$1,400 per calendar year. Tenant certifies to Landlord that such internal and external uses are consistent with the Town of Herndon Zoning Ordinance and architectural guidelines and the Herndon Town Code. Tenant on at least 30 days notice from Landlord shall accommodate its exterior use of the Premises to Landlord's predominant use of this exterior space periodic or unique festivals, events, or activities. Tenant shall provide janitorial service to the Premises. Landlord shall mow the yard space surrounding the Premises and the building. Tenant shall maintain other landscaping (approved by Landlord) on the Center Street exterior facade of the building. Landlord shall provide a physical separation structure or device between the Premises and Landlord's remaining space in the building.

4. Policy Compliance. Tenant shall comply with all Town policies and regulations regarding the use of Town owned or leased real property and buildings, including the prohibition of

alcohol and the use of recreational drugs or tobacco, as well as the Town building key policy.

5. Utility Charges. Tenant shall maintain and pay the cost of all utilities (including telecommunications) on the Premises. Landlord shall equitably prorate these costs based on building square footage (except telecommunications), advise Tenant quarterly of Tenant's prorata share of these costs (except telecommunications), and then settle up fairly with Tenant on the costs of these utilities, which Tenant shall pay on demand to Landlord.

6. Liability Insurance. Tenant shall keep in effect a General Liability insurance policy with respect to the Premises with a minimum limit of \$1,000,000.00 of coverage. The policy shall name the Town of Herndon as an additional insured. Satisfactory proof of insurance will be required. Town reserves the right to require additional insurance.

7. Hold Harmless of Landlord. Tenant shall hold harmless Landlord, its officers, agents, and employees from any and all claims, actions, damages, liability and expense, including reasonable attorney's fees, in connection with loss of life, personal injury or damage to property arising from any occurrence in, upon, or at the Premises, or the occupancy or use by Tenant of the Premises or any part thereof.

8. Default. Tenant shall be in default upon failure to perform any term of this sublicense for more than five days after written notice of such failure shall have been given to Tenant or after Tenant's abandonment of the Premises.

9. Rights and Remedies on Default. Landlord shall have the following rights on default of Tenant, which shall be cumulative, none excluding any other right allowed by this sublicense or by law.

a. Landlord may enter the Premises and repossess the Premises and remove Tenant and any others who may be occupying the Premises and remove any property.

b. Landlord may seize, remove and sell all of the personal property and fixtures of Tenant on the Premises or remove and store such property at the cost of and for the account of Tenant.

10. Waste or Nuisance. Tenant shall not commit any waste or nuisance upon the Premises.

11. Maintenance by Tenant. Tenant accepts the Premises including the improvements and any equipment in the Premises in their existing condition. Tenant shall at all times keep the Premises in good order, condition, and repair. Tenant shall maintain the Premises in a clean and sanitary condition. If Landlord is required to make any repairs by reason of Tenant's negligent or intentional act or omission, Tenant shall pay to Landlord the cost of the repairs as additional rent within ten days after written notice. Landlord shall be responsible for roof, structural integrity of the building, and replacement and repair of utility systems related to the Premises. Except as provided in paragraph 14, Tenant shall return the Premises to its original condition prior to Tenant's vacation of the premises, normal wear and tear excepted.

12. Notification of Hazard. Tenant and Landlord shall give immediate notice to the other in case of fire, accident, or defect in the Premises or in any fixtures or personal property comprising the Premises.

13. Alterations and Improvements. Except as provided in this paragraph, Tenant shall not make or cause to be made any alterations to the Premises without first obtaining Landlord's written consent. With Town eventual approval of plans (both as a government and as Landlord), Tenant at its expense may make other changes to the Premises consistent with the purposes of this sublicense.

14. Removal of Improvements and Restoration by Tenant. All alterations except lighting

not necessary for normal use of the building or conformance with the Virginia Uniform Statewide Building Code made by Tenant shall remain the property of Landlord at the expiration or termination of the sublicense. This property will remain part of the Premises and Tenant shall not have any obligation to remove it.

15. Loss and Damage. Landlord shall not be liable for any loss or damage to property of Tenant located on the Premises. Landlord shall not be liable for any injury, death, or damage to persons or property associated with Tenant resulting from fire, explosion, falling plaster, steam, gas, electricity, water, rain, snow, or leaks from any part of the Premises. Landlord shall not be liable for any latent defect in the leased premises or in the building of which they form a part. All property of Tenant kept or stored on the Premises shall be so kept or stored at the risk of Tenant and Tenant shall hold Landlord harmless from any claims arising out of damage to the same, including subrogation claims by Tenant's insurance carrier.

16. Right of Entry. Landlord, its contractors, agents, or prospective purchasers or licensees, shall have the right to enter the Premises during normal business hours to examine the same upon reasonable notice, either oral or written.

17. Quiet Enjoyment. Upon the observance of all Tenant's obligations of this sublicense, Tenant shall peaceably and quietly hold and enjoy the Premises.

18. Surrender of Premises. At the expiration or termination of the term of this sublicense, Tenant shall surrender the leased premises in the same condition that the Premises were in at the commencement of this sublicense, except as provided in paragraph 14, reasonable wear and tear excepted, and shall surrender all keys for the Premises to Landlord.

19. Assignment and Subletting. Except as provided in paragraph 3, Tenant may not assign this sublicense without prior written consent of Landlord. This prohibition against assigning

or subletting shall be construed to include a prohibition against any assignment or subletting by operation of law.

20. Binding on Successors/Assigns. All of the terms of this sublicense shall bind the successors and assigns of Landlord and Tenant, except where the assignment is ineffective due to lack of Landlord's consent.

TOWN OF HERNDON, VIRGINIA

ARTS HERNDON, INC

By: William H. Ashton II

Name: William H. Ashton II

Title: Town Manager

By: JANNA ORNISTON

Name: JANNA ORNISTON

Title: PRESIDENT & CEO

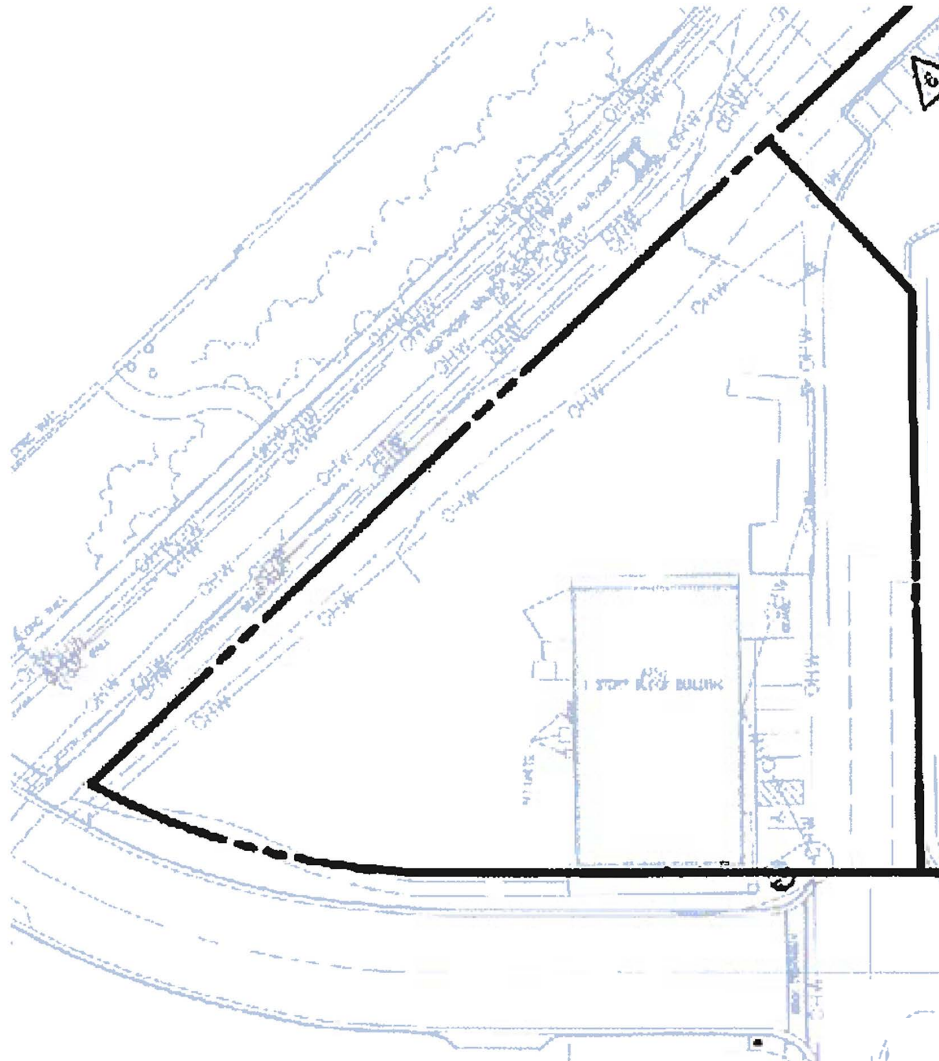
APPROVED AS TO FORM

By: Lesia J. Yeatts

Name: Lesia J. Yeatts

Title: Town Attorney

Exhibit A
750 Center Street



TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 12, 2021

Resolution- To ratify a Sublicense Agreement pursuant to Ordinance 20-O-23, Continuity of Governmental Operations, as amended between the Town and Arts Herndon, Inc. for space at 750 Center Street.

WHEREAS, the parties entered into a Sublicense Agreement dated December 18, 2020 for a cultural arts center including an art gallery, meetings with artists, small group sessions with artists and the public, art classes, and artistic events at 750 Center Street; and

WHEREAS, The rent shall be \$1.00 per term beginning January 1, 2021 and will expire on December 31, 2021; and

WHEREAS, The Sublicense Agreement was signed by the Town Manager.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Sublicense Agreement dated December 18, 2020 and signed by the Town Manager between the Town of Herndon and Arts Herndon, Inc. for space at 750 Center Street in Herndon.



STAFF REPORT

Town Council - Work Session January 5, 2021

Title:

Resolution - to ratify a Second Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town and Fairfax County School Board.

Staff Contacts:

Lesa J. Yeatts, Town Attorney
(703)787-7370
lesa.yeatts@herndon-va.gov

Description:

Staff is requesting that the Town Council ratify a Resolution for a Second Temporary Emergency Extension of Lease between the Town and Fairfax County School Board, pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended.

The Fairfax County School Board currently leases 13,593 sq. ft of office space at 397 Herndon Parkway. The lease was set to expire on September 30, 2020. On August 31, 2020, the lease was extended to December 31, 2020 to allow time for negotiations of a new lease. That extension was subsequently ratified by the Town Council on September 22, 2020.

Fairfax County determined that they would not have sufficient time to have a new lease approved and signed by their Board before the current expiration date of December 31, 2020. Therefore, the lease expiration date will be extended a second time to March 31, 2020 to allow for the necessary time to process a new lease agreement with the Town.

The Town Manager has signed the Second Temporary Emergency Extension of Lease pursuant to the Town's Continuity of Government ordinance. The Town Council must now consider ratification of the Second Temporary Emergency Extension of Lease to Fairfax County School Board in order to extend the expiration date to March 31, 2020 to finalize its approval:

Fiscal Impact:

None.

Recommendation:

Staff recommends that the Town Council approve the Resolution as proposed.

Attachments:

- Resolution
- Agreement Extension

Prepared and Approved By:

A handwritten signature in cursive script that reads "Lesa J. Yeatts". The signature is written in black ink and is positioned above a horizontal line.

Lesa J. Yeatts, Town Attorney

**Second Temporary Emergency Extension of Lease Pursuant to
Ordinance 20-O-23 Continuity of Governmental Operations due to
State of Emergency, Pandemic Disaster**

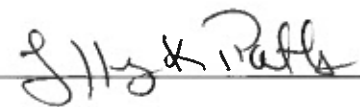
Pursuant to the powers conferred upon the Town Manager by Ordinance 20- O- 23, as amended, this Second Temporary Emergency Extension of Lease dated November 16, 2020 hereby extends the December 31, 2020 termination date of the existing Lease between the Town of Herndon, Virginia (Landlord) and Fairfax County School Board (Tenant), dated March 2, 2005, as amended on March 29, 2010, October 1, 2010, and October 1, 2015, with an Emergency Extension on August 31, 2020 (collectively, the Lease) for 13,593 square feet of space at 397 Herndon Parkway (the Premises), as set out in this Second Temporary Emergency Extension of Lease (Temporary Emergency Extension).

THEREFORE, for the consideration stated in the Lease, the parties agree as follows:

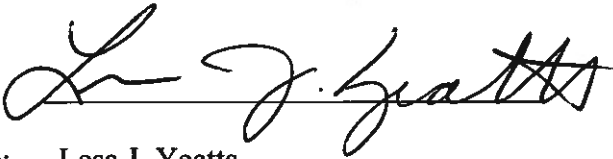
1. The Lease is incorporated by reference.
2. The Lease shall terminate on March 31, 2021.
3. In all other respects, the Lease is confirmed.

TOWN OF HERNDON, VIRGINIA

FAIRFAX COUNTY SCHOOL BOARD

By: <u></u>	By: <u></u>
Name: <u>William H. Ashton II</u>	Name: <u>Jeffery K. Platenberg</u>
Title: <u>Town Manager</u>	Title: <u>Assistant Superintendent</u>

APPROVED AS TO FORM

By: 

Name: Lesa J. Yeatts

Title: Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

DECEMBER 8, 2020

Resolution- to ratify a Second Temporary Emergency Extension of Lease pursuant to Ordinance 20-O-23 Continuity of Governmental Operations, as amended, between the Town and Fairfax County School Board.

WHEREAS, the parties entered into a Lease Agreement dated March 2, 2005, as amended on March 29, 2010, October 1, 2010, and October 1, 2015, with an Emergency Extension on August 31, 2020 for 13,593 sq. ft of office space in the Town's building at 397 Herndon Parkway, as well as use of the rear parking lot for overnight and weekend storage of its maintenance vehicles; and

WHEREAS, the Lease Agreement expired on December 31, 2020; and

WHEREAS, Town and Lessee desire to temporarily extend the term of the Agreement to expire on March 31, 2020; and

WHEREAS, The Second Temporary Emergency Extension of Lease Agreement was signed by the Town Manager and ratified by Town Council; and

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the Second Temporary Emergency Extension of Lease dated November 16, 2020 and signed by the Town Manager between the Town of Herndon and Fairfax County School Board for space in the Town's building at 397 Herndon Parkway in Herndon.



STAFF REPORT

Town Council
January 5, 2021

Title:

Resolutions - to ratify Temporary License Agreements between the Town of Herndon and Green Lizard Cycling, Teryanna, LLC dba Mile 20 at Mediterranean Breeze, and Zeffirelli Ristorante Italiano for use of public property or public right-of-way for temporary outdoor dining.

Staff Contacts:

Lesa J. Yeatts, Town Attorney
(703)787-7370
lesa.yeatts@herndon-va.gov

Description:

This comes before Town Council this evening for ratification of 3 Temporary Outdoor Dining Licenses signed by the Town Manager pursuant to Ordinance 20-O-23, as amended.

In response to Governor Northam's phased reopening of Virginia beginning on May 29, 2020, Town staff moved quickly to assist town businesses with re-opening and developed a comprehensive application for free Temporary Outdoor Dining Permits that streamlined the requirements and the approval process. The application provided for three types of outdoor dining scenarios—private property, town sidewalks (ROW), and town parking lots. Under standard town procedures, requests for a License to use the town sidewalks, streets or parking lots, must be approved by the Town Council after a public hearing, causing the entire process to take several months before a License is issued.

Helping to further streamline this process, as per Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager was authorized to approve and sign instruments. Such instruments are subject to final consideration and ratification by the Town Council at its next available Public Hearing.

On July 14, 2020, Town Council ratified seven (7) Temporary Outdoor Dining License Agreements on private property. Those licenses were set to expire 100 days from the date of the Agreements. On September 8, 2020, Town Council ratified seven (7) Temporary License Agreement Extensions in order to extend the expiration dates to November 30, 2020.

As Virginia and the Town remain in a State of Emergency and restrictions on indoor dining capacity and spacing remain in effect, we have required that all restaurants that would like to continue to offer temporary outdoor seating beyond November 30, 2020 submit a new application for permit. The new application was amended to be more specific to the current situation, including language regarding the seasonal use of heaters as well as language regarding adhering to any future Executive Orders from the Governor. In the previous Agreements, an important element that was essential to the town protecting its property was to provide hardened barriers to establishments where cars were operating in close proximity to diners. The Department of Public Works blocked off certain parking lots and portions of sidewalks with Jersey barriers as a condition of the issuance of a Temporary License. These barriers will remain for businesses that wish to continue to utilize temporary outdoor dining beyond November 30, 2020 and have submitted applications for permit.

These new Outdoor Dining License Agreements signed by the Town Manager will expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

The Town Council must now consider ratification of these three (3) new Temporary License Agreements for Temporary Outdoor Dining on town property to finalize their approval:

Green Lizard Cycling
Teryanna, LLC dba Mile 20 at Mediterranean Breeze
Zeffirelli Ristorante Italiano

Fiscal Impact:

None.

Recommendation:

Staff recommends that the Town Council approve the Resolution(s) as proposed.

Attachments:

- 3 Resolutions
- 3 Applications for Temporary Outdoor Dining Permits and Temporary Licenses

Prepared and Approved By:



Lesa J. Yeatts, Town Attorney



APPLICATION FOR TEMPORARY LICENSE AGREEMENT

Temporary Outdoor Dining on Town Property

Temporary License # OD-001

Application Date: 11/16/2020

Property Address: 718 Lynn Street

Establishment Name: Green Lizard Cycling

Hours of Operation: Monday 8:00 AM-6:00 PM; Tuesday 8:00 AM-6:00 PM; Wednesday 8:00 AM-6:00 PM;

Thursday 8:00 AM-6:00 PM; Friday 8:00 AM-6:00 PM; Saturday 7:00 AM-6:00 PM; Sunday 7:00 AM-6:00 PM;

Applicant Information (Principal Operator of dining establishment):

Name: Dave Meyer

Telephone No.: 907-317-2177. Email Address: dam@greenlizardcycling.com

Are you the property owner? Yes _____ No XX

Property Owner Information (if applicant is not the property owner):

Name(s): Nachman Partnership

Mailing Address: 720 Lynn Street, Suite A

Herndon, VA 20170

Telephone No.: 703-864-2900 Email Address: bignacky@aol.com

Required Town Approvals

Zoning Administrator Approval:

Date: 11/24/2020

Building Official Approval:

Date: 11/30/2020

Deputy Dir. Public Works Approval:

Date: 12/1/2020

REQUIRED APPLICATION SUBMISSION MATERIALS

- ☒ Written authorization or signature from the property owner if the principal operator is not the property owner;
- ☒ A plan which clearly shows the following:
 - o dimensions showing the layout and arrangement of the proposed outdoor seating area, including its overall dimensions, aisle widths, access to the adjacent building and restrooms, the locations of chairs, tables, umbrellas, barriers, and all other appurtenances to be located within the boundaries of the proposed outdoor seating area.

Department of Community Development
777 Lynn Street • Herndon, VA 20170 • (703) 787-7380
zoning.enforcement@herndon-va.gov

Page 1 of 4

- If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☒ Number and type of heaters.
 - Heaters and tents must be in compliance with the Fairfax County Office of the Fire Marshal Guidelines <https://www.fairfaxcounty.gov/fire-ems/fire-marshal> and Town of guidelines dated November 6, 2020, as amended.
- ☐ A copy of the Capacity Certificate for the establishment.
- ☐ Certificate of Insurance showing that the Town of Herndon and its employees, volunteers, and agents have been added as additional insureds to the applicants' Business Liability Insurance and, if applicable, Liquor Liability Insurance.
 - The endorsement to the policy showing that the Town et al. has been added to the policy is also required.
- ☒ If alcohol will be served on site, a copy of Virginia ABC license.
- ☒ Pictures (2-3) of the location of the outdoor dining.

CONDITIONS OF TEMPORARY OUTDOOR DINING LICENSE ON TOWN PROPERTY

1. Temporary outdoor dining area:
 - a. Must be located directly adjacent to the establishment, or a location within 100' of the establishment;
 - c. Concrete barriers, provided by the town, are required on town property used for outdoor dining;
 - d. Any modification to the approved plan must be submitted and approved;
 - e. The proposed dining operation and location will not significantly interfere with pedestrian traffic or otherwise constitute a health and safety risk;
 - f. Any proposed lighting must be approved by the town and any cables must be secured so as not to create a tripping hazard.
2. Must comply with all applicable Governor's Executive Orders, as amended, local Fire Marshal, and Building Code requirements.
3. A copy of this license must be kept on site at all times and a copy of the capacity certificate must be on display at all times.
4. Hours of operation shall be limited to between 6 am and 11 pm.
5. No other uses are permitted within the Temporary Outdoor Dining Area; including, but not limited to, live entertainment.
6. No pets are permitted in Temporary Outdoor Dining Areas, except service animals.
7. Cooking or food prep is not permitted in Temporary Outdoor Dining Areas unless approved by the Fairfax County Health Department and Fire Marshal.
8. Businesses are responsible for properly disposing of all trash in approved private refuse containers.
9. This license agreement shall expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

TEMPORARY LICENSE AGREEMENT – WHEN LOCATED ON TOWN PROPERTY

THIS TEMPORARY LICENSE AGREEMENT (the "Agreement"), is made as of the date it is signed by the Herndon Town Manager (the "Effective Date"), by and between the TOWN OF HERNDON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "Town") and Green Lizard Cycling (the "Applicant") (collectively, the "Parties").

WHEREAS, the Town is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas (the "Property"), as shown on EXHIBIT A – LICENSED AREA of the TEMPORARY OUTDOOR DINING PERMIT (the "Permit") attached hereto;

WHEREAS, due to the COVID-19 pandemic, indoor dining service for Applicant's business has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, the Parties desire to allow Applicant to enter upon the Property for the purpose of outdoor seating and dining (the "Use") in conjunction with the Applicant's business during the Term, as defined herein.

NOW, THEREFORE, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties agree as follows:

1. The Town hereby grants Applicant temporary use of the property for the purposes described in the permit.
2. This Agreement shall expire on May10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first (the "term").
3. The applicant shall comply with the terms of the Permit and all applicable town, state, and federal laws and regulations and maintaining at all times any other permit(s) required under applicable law for the use.
4. The parties expressly agree and contract that there shall be no fee for the use of the Town property during this term only.
5. The permission to use the Property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
6. Applicant hereby assumes all risk of damage by reason of its occupation of the property caused by any defects therein or activity occurring thereon, whether caused by the negligence of the Town, its officers, agents, or employees, or otherwise, and the applicant hereby agrees to hold harmless and indemnify the Town, its officers, agents, and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
7. Applicant shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This agreement shall not take effect until evidence of insurance is provided to the Town and

the Town gives the applicant written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Commercial General Liability – Combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate. Policy shall be endorsed to name the Town as an additional insured.

Liquor Liability (if applicable) – \$1,000,000. Policy shall be endorsed to name the Town as an additional insured.

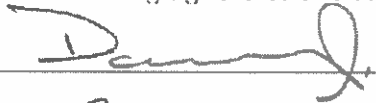
The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance notice thereof to the Town.

8. Termination: The Town may terminate this Agreement upon 24 hours notice to Applicant for cause.
9. This Agreement is subject to ratification by the Town Council for the Town of Herndon pursuant to Ordinance #20-O-23.
10. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.
11. This Agreement contains the entire and only agreement between the parties and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

WITNESS the following signatures and seals: BUSINESS:

By:

Its:

 David A. Meyer Jr.
Owner

TOWN OF HERNDON:

By:


Town Manager

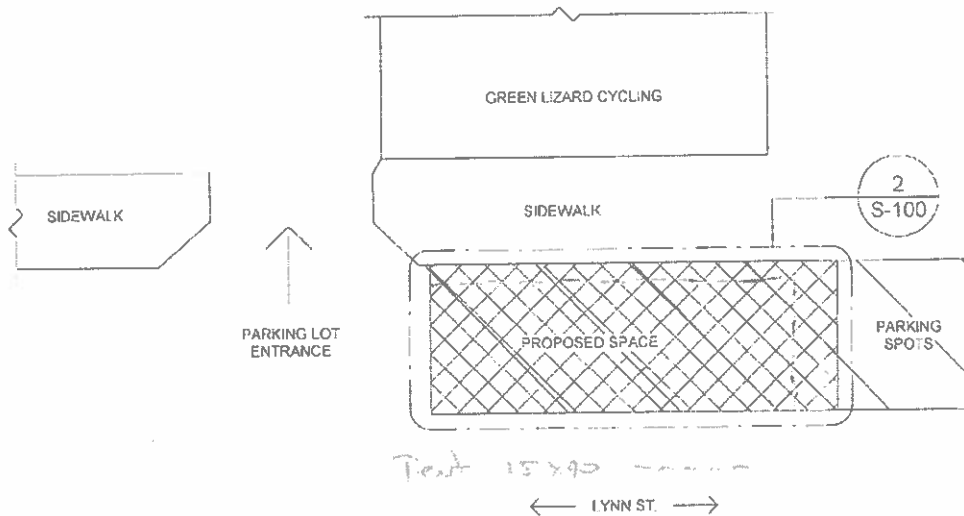
12-2-2020
Date

Green Lizard Cycling
718 Lynn Street
Herndon VA, 20170
Owner Dave Meyer

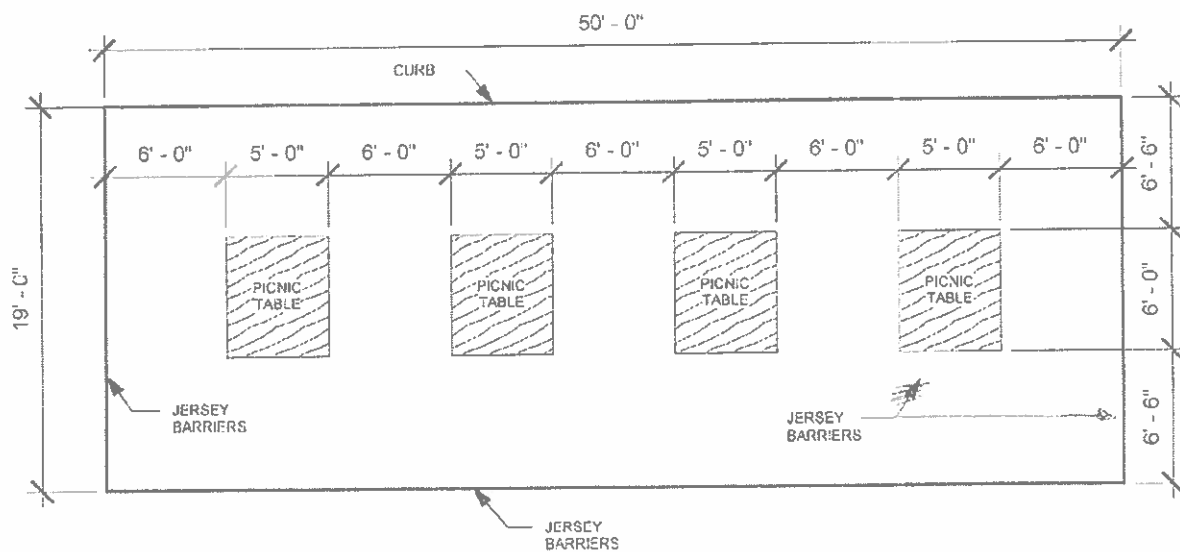
To whom it may concern:

The above applicant has my approval to apply for a temporary outdoor dining permit.

Sincerely,
Arthur Nachman
~~Partner~~
Nachman and Associates, LP
F. O. W. Co.



① SITE
1" = 20'-0"



② PROPOSED SPACE
1/8" = 1'-0"

Tent size is 15x40 = 600 sq ft.
1- Brown Inflated Tent - See Attached at site

GLC

David Meyer
Green Lizard
Cycling

OUTDOOR SEATING

Project number 0024
Date 08/05/2020
Drawn by DAM III

S-100

patioPRODUCTSusa

1 Heater See Below

**BH0510001 - Tungsten Smart-Heat Portable Heater by Bromic Heating****Specs**

Family/Collection	Tungsten
Width/Diameter (in)	18.00"
Height	85"
Depth/Extension	27"
Burner Dimension	180
Weight	123.50 lbs.
Fuel Source	Gas
Installation Sheet	http://images.patproductsusa.com/supplier/BromicHeating/specsheets/TUN-1.pdf
Material	Stainless Steel
Safety System/Safety Control	Flame Failure & Anti-Tilt Safety Device

Style and Option 1

Style	Black Finish Propane
Item #:	BHP180
Price:	\$1,753.00

Orrison, John
RE: Occupancy Permit - 718 Lynn Street
May 28, 2020 at 12:02 PM
Building Inspections
Holste, Dennis

✕ Our records reflect an occupant load of 50 for 718 Lynn Street, Green Lizard Cycling.
This is base on permit 13-13.

Sent from [Mail](#) for Windows 10

From: Building Inspections <buildinginspections@herndon-va.gov>
Sent: Thursday, May 28, 2020 10:44:35 AM
To: Orrison, John <john.orrison@herndon-va.gov>
Cc: Holste, Dennis <Dennis.Holste@herndon-va.gov>; dam@greenlizardcycling.com
<dam@greenlizardcycling.com>
Subject: FW: Occupancy Permit - 718 Lynn Street

John:

Can you please respond to the email below?

Thanks!

Sue

Sue Jaston
Department of Public Works
703-435-6850 (Building Inspections)
703-435-6853 (Public Works)

www.herndon-va.gov



From: Holste, Dennis <Dennis.Holste@herndon-va.gov>
Sent: Thursday, May 28, 2020 10:39 AM
To: Building Inspections <buildinginspections@herndon-va.gov>
Cc: dam@greenlizardcycling.com
Subject: Occupancy Permit - 718 Lynn Street

Good Morning,

Mr. Meyer is working on his application for a temporary outdoor dining permit. He is



GREEN-2

OP ID: LV

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/23/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER HRI Associates ** Insurance Since 1953 ** 718 Pine Street Herndon, VA 20170-4660 Douglas G. Downer, CIC	703-435-3500	CONTACT NAME: Lori VanBuskirk PHONE (A/C, No, Ext): 703-435-3500 FAX (A/C, No): 703-481-0234 E-MAIL: certificates@hriassociates.com ADDRESS:
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Cincinnati Insurance Company		10677
INSURER B: Hartford Insurance Group		
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

COVERAGES		CERTIFICATE NUMBER:		REVISION NUMBER:		
THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.						
INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY) POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR			ECP 035 26 65	12/15/2020 12/15/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000
A	☒ Liquor Liability			ECP 035 26 65	12/15/2020 12/15/2021	MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 Liq. Liab \$ 1,000,000
GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER						
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☒ HIRED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ NON-OWNED AUTOS ONLY			ECP 035 26 65	12/15/2020 12/15/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	☒ UMBRELLA LIAB ☒ OCCUR ☐ EXCESS LIAB ☐ CLAIMS-MADE			ECP 035 26 65	12/15/2020 12/15/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000
DED ☒ RETENTION \$ None						
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/ MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N	N/A	42 WEC CM5330	04/20/2020 04/20/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

The Town of Herndon is additional insured with respects to general liability and liquor liability, when required by written contract. 30 day notice of cancellation or non-renewal applies.

CERTIFICATE HOLDER

CANCELLATION

TOWN OF H	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.
Town of Herndon 777 Lynn St. Herndon, VA 20170	AUTHORIZED REPRESENTATIVE <i>Lori VanBuskirk</i>

ACORD 25 (2016/03)

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Virginia Alcoholic Beverage Control Authority

2901 Heritage Road • P.O. Box 27491 • Richmond, VA 23261-7491 • www.abc.virginia.gov

License Number:

090385

ABC LICENSE

License Type(s):

Beer On and Off Premises/Delivery Permit

Effective Period:

OCT 01, 2020 TO SEP 30, 2021

Expiration Date:

SEP 21

License Name & Trade Address:

Green Lizard Cycling LLC
Green Lizard Cycling
718 Lynn St
Herndon VA 20170-4601

Establishment Type:

Restaurant

Telephone Numbers: (703) 707-2453

Fairfax County - TERRITORY # 70
Alexandria - Region 4
(703) 313-4432

By Order of the Alcoholic Beverage Control Board

Chair

License Privileges and Instructions

The privilege(s) of this license is (are) hereby granted by the Virginia Alcoholic Beverage Control Board to the Licensee named above to operate in accordance with the terms of the license herein designated and the applicable statutes of the Commonwealth of Virginia and regulations of the Board.

The privilege(s) conferred by this license, except banquet licenses and mixed beverage special event licenses, shall continue until the last day of the twelfth month next ensuring or the last day of the designated month of expiration, and thereafter year to year provided no cause exists for which the Board would be entitled to refuse to issue the license or until terminated by operation of law, voluntary surrender, Order of the Board, or failure to pay the required license tax or penalties. License periods may be adjusted as necessary to maintain distribution of annual license reissuances as equally as practicable on a monthly basis.

This license may be suspended or revoked in accordance with the Virginia Alcoholic Beverage Control Act or the Mixed Beverage Laws, whichever is applicable.

Please detach the above license which must be posted in a conspicuous place in the establishment. You may keep the bottom portion for reference.

A separate receipt may be obtained from the Board, if desired, in the event this license is terminated and returned to the Board.

Any questions relative to the issuance, privileges and maintenance of your ABC license should be addressed to your local ABC office.

**GREEN LIZARD CYCLING LLC
GREEN LIZARD CYCLING
718 LYNN ST
HERNDON VA 20170-4601**





TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 12, 2021

Resolution- to ratify a Temporary License Agreement between the Town of Herndon and Green Lizard Cycling for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager is authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining subject to ratification by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated December 2, 2020 between the Town of Herndon and **Green Lizard Cycling** for use of public property or public right-of-way for temporary outdoor dining at 718 Lynn Street, Herndon.

Temporary License # **OD-003**

Application Date: 11/23/20

Property Address: 781 Station St. Herndon, VA 20170
Establishment Name: Teryanna, LLC T/A Mile 20 at Mediterranean Breeze
Hours of Operation: Monday closed; Tuesday 4pm-10pm; Wednesday 4pm-10pm
Thursday 4pm-10pm; Friday 4pm-10pm; Saturday Noon-10pm; Sunday Noon-10pm

Applicant Information (Principal Operator of dining establishment):

Name: Phillip Orme
Telephone No.: © 301-641-0222 Email Address: medbreezeva@yahoo.com
Are you the property owner? Yes _____ No X

Property Owner Information (if applicant is not the property owner):

Name(s): James Building Development LLC - Steven J. Mitchell / MGR
Mailing Address: 1291 Monroe Street Herndon VA 20170
Telephone No.: 703-966-2576 Email Address: monroe1291@aol.com

Required Town Approvals

Zoning Administrator Approval:  **Date:** 12/4/2020
Building Official Approval: John Orrison **Date:** 12/07/2020
Deputy Dir. Public Works Approval: Tammy L Chastain **Date:** 12/4/2020

REQUIRED APPLICATION SUBMISSION MATERIALS

- ☒ Written authorization or signature from the property owner if the principal operator is not the property owner;
- ☒ A plan which clearly shows the following:
- o dimensions showing the layout and arrangement of the proposed outdoor seating area, including its overall dimensions, aisle widths, access to the adjacent building and restrooms, the locations of chairs, tables, umbrellas, barriers, and all other appurtenances to be located within the boundaries of the proposed outdoor seating area.

- If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☐ Number and type of heaters. *N/A*
 - Heaters and tents must be in compliance with the Fairfax County Office of the Fire Marshal Guidelines <https://www.fairfaxcounty.gov/fire-ems/fire-marshal> and Town of guidelines dated November 6, 2020, as amended.
- ☒ A copy of the Capacity Certificate for the establishment.
- ☒ Certificate of Insurance showing that the Town of Herndon and its employees, volunteers, and agents have been added as additional insureds to the applicants' Business Liability Insurance and, if applicable, Liquor Liability Insurance.
 - The endorsement to the policy showing that the Town et al. has been added to the policy is also required.
- ☒ If alcohol will be served on site, a copy of Virginia ABC license.
- ☒ Pictures (2-3) of the location of the outdoor dining.

CONDITIONS OF TEMPORARY OUTDOOR DINING LICENSE ON TOWN PROPERTY

1. Temporary outdoor dining area:
 - a. Must be located directly adjacent to the establishment, or a location within 100' of the establishment;
 - c. Concrete barriers, provided by the town, are required on town property used for outdoor dining;
 - d. Any modification to the approved plan must be submitted and approved;
 - e. The proposed dining operation and location will not significantly interfere with pedestrian traffic or otherwise constitute a health and safety risk;
 - f. Any proposed lighting must be approved by the town and any cables must be secured so as not to create a tripping hazard.
2. Must comply with all applicable Governor's Executive Orders, as amended, local Fire Marshal, and Building Code requirements.
3. A copy of this license must be kept on site at all times and a copy of the capacity certificate must be on display at all times.
4. Hours of operation shall be limited to between 6 am and 11 pm.
5. No other uses are permitted within the Temporary Outdoor Dining Area; including, but not limited to, live entertainment.
6. No pets are permitted in Temporary Outdoor Dining Areas, except service animals.
7. Cooking or food prep is not permitted in Temporary Outdoor Dining Areas unless approved by the Fairfax County Health Department and Fire Marshal.
8. Businesses are responsible for properly disposing of all trash in approved private refuse containers.
9. This license agreement shall expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

TEMPORARY LICENSE AGREEMENT – WHEN LOCATED ON TOWN PROPERTY

THIS TEMPORARY LICENSE AGREEMENT (the "Agreement"), is made as of the date it is signed by the Herndon Town Manager (the "Effective Date"), by and between the TOWN OF HERNDON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "Town") and [REDACTED] (the "Applicant") (collectively, the "Parties").

WHEREAS, the Town is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas (the "Property"), as shown on EXHIBIT A – LICENSED AREA of the TEMPORARY OUTDOOR DINING PERMIT (the "Permit") attached hereto;

WHEREAS, due to the COVID-19 pandemic, indoor dining service for Applicant's business has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, the Parties desire to allow Applicant to enter upon the Property for the purpose of outdoor seating and dining (the "Use") in conjunction with the Applicant's business during the Term, as defined herein.

NOW, THEREFORE, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties agree as follows:

1. The Town hereby grants Applicant temporary use of the property for the purposes described in the permit.
2. This Agreement shall expire on May10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first (the "term").
3. The applicant shall comply with the terms of the Permit and all applicable town, state, and federal laws and regulations and maintaining at all times any other permit(s) required under applicable law for the use.
4. The parties expressly agree and contract that there shall be no fee for the use of the Town property during this term only.
5. The permission to use the Property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
6. Applicant hereby assumes all risk of damage by reason of its occupation of the property caused by any defects therein or activity occurring thereon, whether caused by the negligence of the Town, its officers, agents, or employees, or otherwise, and the applicant hereby agrees to hold harmless and indemnify the Town, its officers, agents, and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
7. Applicant shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This agreement shall not take effect until evidence of insurance is provided to the Town and

the Town gives the applicant written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Commercial General Liability – Combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate. Policy shall be endorsed to name the Town as an additional insured.

Liquor Liability (if applicable) – \$1,000,000. Policy shall be endorsed to name the Town as an additional insured.

The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance notice thereof to the Town.

8. Termination: The Town may terminate this Agreement upon 24 hours notice to Applicant for cause.
9. This Agreement is subject to ratification by the Town Council for the Town of Herndon pursuant to Ordinance #20-O-23.
10. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.
11. This Agreement contains the entire and only agreement between the parties and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

WITNESS the following signatures and seals: BUSINESS:

By: Philip H. Caine

Its: owner

TOWN OF HERNDON:

By: Wm. H. [Signature]

Town Manager

12.8.2020

Date

781-783 STATION ST.

TO WHOM IT MAY CONCERN:

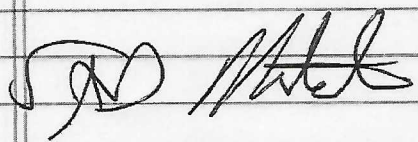
THE ABOVE APPLICANT

HAS AUTHORIZATION TO

MAKE APPLICATION FOR

TEMPORARY OUTDOOR DINING

JAMES BULONE DEV. LLC
STEVEN J. MITCHELL / MGR

 / MGR.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)
11/13/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an **ADDITIONAL INSURED**, the policy(ies) must have **ADDITIONAL INSURED** provisions or be endorsed. If **SUBROGATION IS WAIVED**, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Cushman Insurance Agency, Inc. 5160 Parkstone Drive Suite 130 Chantilly, VA 20151	CONTACT NAME:	
	PHONE (A/C, No, Ext):	FAX (A/C, No):
INSURED Mediterranean Breeze II Teryanne LLC 781 Station Street Herndon, VA 20170	E-MAIL ADDRESS:	
	INSURER(S) AFFORDING COVERAGE	
	INSURER A: Southern Insurance Companies of VA	
	INSURER B:	
	INSURER C:	
	INSURER D:	
INSURER E:		
INSURER F:		

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PRO-JECT ☐ LOC OTHER:			BSS9228139	07/12/2020	07/12/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 100,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000 liquor liability \$ 2,000,000
	AUTOMOBILE LIABILITY ☐ ANY AUTO ☐ OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☐ HIRED AUTOS ONLY ☐ NON-OWNED AUTOS ONLY						COMBINED SINGLE LIMIT (Ea accident) \$ BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$ \$
	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y / N ☐	N / A				PER STATUTE ☐ OTH-ER ☐ E.L. EACH ACCIDENT \$ E.L. DISEASE - EA EMPLOYEE \$ E.L. DISEASE - POLICY LIMIT \$

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Town of Herndon & its employees, volunteers and agents are listed as an additional insured per written contract. RE outdoor seating.

CERTIFICATE HOLDER

CANCELLATION

Town of Herndon
777 Lynn St
Herndon, VA 20170

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

© 1988-2015 ACORD CORPORATION. All rights reserved.



Measure distance
Total distance: 278.09 ft (84.76 m)

12 ft.
Walk way
Separating - Both
Clusters

White Chain fence

- 8 tents 10'x20' size
- 1 tent 10'x30' size
- appropriate space between the tent to walk through

Area 700

A 1-10x30 tent in a cluster
2-10x20 tent

Area **B** 4-10x20 Tents in a cluster

800



- current setup in parking lot, good for warm weather
- looking to close in distances and bring close to building to help fight the cold winds at times





VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY
2901 Hermitage Road • P O Box 27491 • Richmond VA 23261-7491

License Number: 39202

ABC LICENSE

License Type(s):

Wine and Beer On and Off Premises/Delivery Permit

Effective Period

MAY 01, 2020 TO APR 30, 2021

Expiration Date

APR 21

Mixed Beverage Restaurant (Seating Capacity - over 150 seats)

MAY 01, 2020 TO APR 30, 2021

APR 21

License Name & Trade Address:

**Teryanna LLC
Mile 20 at Mediterranean Breeze
781 Station St
Herndon VA 20170-4607**

Establishment Type: Restaurant

**Telephone Numbers: 703-435-4495
301-641-0222**

**Fairfax County - TERRITORY # 70
Alexandria - Region 4
703-313-4432**

By Order of Alcoholic Beverage Control Board

Chair

License Privileges and Instructions

The privilege(s) of this license is (are) hereby granted by the Virginia Alcoholic Beverage Control Board to the Licensee named above to operate in accordance with the terms of the license herein designated and the applicable statutes of the Commonwealth of Virginia and regulations of the Board.

The privilege(s) conferred by this license, except banquet licenses and mixed beverage special event licenses, shall continue until the last day of the twelfth month next ensuing or the last day of designated month of expiration, and thereafter year to year provided no cause exists for which the Board would be entitled to refuse to issue the license or until terminated by the operation of the law, voluntary surrender, Order of the Board, or failure to pay the required license tax or penalties. License periods may be adjusted as necessary to maintain distribution of annual license reissuance as equally as practicable on a monthly basis.

This license may be suspended or revoked in accordance with the Virginia Alcoholic Beverage Control Act or the Mixed Beverage Laws, whichever is applicable.

Please detach the above license which must be posted in a conspicuous place in the establishment. You may keep the bottom portion for reference.

A separate receipt may be obtained from the Board, if desired, in the event this license is terminated and returned to the Board.

Any questions relative to the issuance, privileges and maintenance of your ABC license should be addressed to your local ABC office.

**Teryanna LLC
Mile 20 at Mediterranean Breeze
781 Station St
Herndon VA 20170-4607**

TOWN OF HERNDON
VIRGINIA
DEPARTMENT OF PUBLIC WORKS
BUILDING INSPECTIONS

MAXIMUMS APPROVED

SECTION 1008.1 BOCA CODE AS ADOPTED BY THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

LIVE LOAD _____ LBS. PER SQ FT.

OCCUPANCY LOAD 185 SEATING PERSONS

USE GROUP A-2

CONST. TYPE 5-B

FOR MEDITERRANEAN BREEZE RESTURANT

781 STATION STREET

APPROVED 6/1/05

John Orian
BUILDING INSPECTOR

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 12, 2021

Resolution- to ratify a Temporary License Agreement between the Town of Herndon and Teryanna, LLC dba Mile 20 at Mediterranean Breeze for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager is authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining subject to ratification by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated December 8, 2020 between the Town of Herndon and **Teryanna, LLC dba Mile 20 at Mediterranean Breeze** for use of public property or public right-of-way for temporary outdoor dining at 781 Station Street, Herndon.

Temporary License # **OD-002**

Application Date: _____

Property Address: 728 PINE STREET
Establishment Name: ZEFFIRELLI RISTORANTE ITALIANO

Hours of Operation: Monday 11:30 - 10:00 PM; Tuesday 11:30 AM - 10:00 PM; Wednesday 11:30 AM - 10:00 PM
Thursday 11:30 - 10:00 PM; Friday 11:30 AM - 10:30 PM; Saturday 5:00 PM - 10:30 PM; Sunday 5:00 PM - 9:00 PM

Applicant Information (Principal Operator of dining establishment):

Name: SYED Z. HUSSAIN

Telephone No.: 703-508-7769 Email Address: ZUHFI86@AOL.COM

Are you the property owner? Yes ☒ No ☐

Property Owner Information (if applicant is not the property owner):

Name(s): SYED Z HUSSAIN

Mailing Address: 728 PINE STREET
HERNDON, VA 20170

Telephone No.: 703-508-7769 Email Address: ZEPL@AOL.COM

Required Town Approvals

Zoning Administrator Approval: [Signature] Date: 11/30/2020

Building Official Approval: John Orrison Date: 12/3/2020

Deputy Dir. Public Works Approval: Tammy L Chastain Date: 12/3/2020

REQUIRED APPLICATION SUBMISSION MATERIALS

- ☒ Written authorization or signature from the property owner if the principal operator is not the property owner;
- ☒ A plan which clearly shows the following:
- dimensions showing the layout and arrangement of the proposed outdoor seating area, including its overall dimensions, aisle widths, access to the adjacent building and restrooms, the locations of chairs, tables, umbrellas, barriers, and all other appurtenances to be located within the boundaries of the proposed outdoor seating area.

	Lunch	Dinner
Monday	11:30 am to 2:30 pm	5:00pm to 10:00pm
Tuesday	11:30 am to 2:30 pm	5:00pm to 10:00pm
Wednesday	11:30 am to 2:30 pm	5:00pm to 10:00pm
Thursday	11:30 am to 2:30 pm	5:00pm to 10:00pm
Friday	11:30 am to 2:30 pm	5:00pm to 10:30pm
Saturday	Closed	5:00pm to 10:30pm
Sunday	Closed	5:00pm to 9:00pm

Typed Name

- If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☒ Number and type of heaters.
 - Heaters and tents must be in compliance with the Fairfax County Office of the Fire Marshal Guidelines <https://www.fairfaxcounty.gov/fire-ems/fire-marshal> and Town of guidelines dated November 6, 2020, as amended.
- ☒ A copy of the Capacity Certificate for the establishment.
- ☒ Certificate of Insurance showing that the Town of Herndon and its employees, volunteers, and agents have been added as additional insureds to the applicants' Business Liability Insurance and, if applicable, Liquor Liability Insurance.
 - The endorsement to the policy showing that the Town et al. has been added to the policy is also required.
- ☒ If alcohol will be served on site, a copy of Virginia ABC license.
- ☒ Pictures (2-3) of the location of the outdoor dining.

CONDITIONS OF TEMPORARY OUTDOOR DINING LICENSE ON TOWN PROPERTY

1. Temporary outdoor dining area:
 - a. Must be located directly adjacent to the establishment, or a location within 100' of the establishment;
 - c. Concrete barriers, provided by the town, are required on town property used for outdoor dining;
 - d. Any modification to the approved plan must be submitted and approved;
 - e. The proposed dining operation and location will not significantly interfere with pedestrian traffic or otherwise constitute a health and safety risk;
 - f. Any proposed lighting must be approved by the town and any cables must be secured so as not to create a tripping hazard.
2. Must comply with all applicable Governor's Executive Orders, as amended, local Fire Marshal, and Building Code requirements.
3. A copy of this license must be kept on site at all times and a copy of the capacity certificate must be on display at all times.
4. Hours of operation shall be limited to between 6 am and 11 pm.
5. No other uses are permitted within the Temporary Outdoor Dining Area; including, but not limited to, live entertainment.
6. No pets are permitted in Temporary Outdoor Dining Areas, except service animals.
7. Cooking or food prep is not permitted in Temporary Outdoor Dining Areas unless approved by the Fairfax County Health Department and Fire Marshal.
8. Businesses are responsible for property disposing of all trash in approved private refuse containers.
9. This license agreement shall expire on May 10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first.

TEMPORARY LICENSE AGREEMENT – WHEN LOCATED ON TOWN PROPERTY

THIS TEMPORARY LICENSE AGREEMENT (the "Agreement"), is made as of the date it is signed by the Herndon Town Manager (the "Effective Date"), by and between the TOWN OF HERNDON, VIRGINIA, a municipal corporation of the Commonwealth of Virginia (the "Town") and (the "Applicant") (collectively, the "Parties").

WHEREAS, the Town is the owner of the public property or right-of-way, including any adjacent sidewalks and green areas (the "Property"), as shown on EXHIBIT A – LICENSED AREA of the TEMPORARY OUTDOOR DINING PERMIT (the "Permit") attached hereto;

WHEREAS, due to the COVID-19 pandemic, indoor dining service for Applicant's business has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, the Parties desire to allow Applicant to enter upon the Property for the purpose of outdoor seating and dining (the "Use") in conjunction with the Applicant's business during the Term, as defined herein.

NOW, THEREFORE, that for and in consideration of the mutual promises contained herein and other good and valuable consideration, the Parties agree as follows:

1. The Town hereby grants Applicant temporary use of the property for the purposes described in the permit.
2. This Agreement shall expire on May10, 2021 or 10 days from the lifting or repeal of any Executive Order limiting or prohibiting indoor dining service at the Applicant's business, whichever occurs first (the "term").
3. The applicant shall comply with the terms of the Permit and all applicable town, state, and federal laws and regulations and maintaining at all times any other permit(s) required under applicable law for the use.
4. The parties expressly agree and contract that there shall be no fee for the use of the Town property during this term only.
5. The permission to use the Property granted by this agreement is nonexclusive in nature, and the Town reserves the right to make concurrent use of the Property.
6. Applicant hereby assumes all risk of damage by reason of its occupation of the property caused by any defects therein or activity occurring thereon, whether caused by the negligence of the Town, its officers, agents, or employees, or otherwise, and the applicant hereby agrees to hold harmless and indemnify the Town, its officers, agents, and employees, from and against any such liability for such damage or injury to the extent permitted under the laws of the Commonwealth of Virginia.
7. Applicant shall secure, provide and maintain insurance to protect the Town of such type and in such amount as is described below naming the Town as an additional insured. This agreement shall not take effect until evidence of insurance is provided to the Town

the Town gives the applicant written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Commercial General Liability – Combined single limit of at least \$1,000,000 per occurrence and \$2,000,000 general aggregate. Policy shall be endorsed to name the Town as an additional insured.

Liquor Liability (if applicable) – \$1,000,000. Policy shall be endorsed to name the Town as an additional insured.

The insurance required hereunder shall be maintained in effect during the duration of this Agreement. Insurance Policy(s) shall contain a valid provision or endorsement that the policy may not be canceled, terminated, changed or modified without giving thirty (30) calendar days advance notice thereof to the Town.

8. Termination: The Town may terminate this Agreement upon 24 hours notice to Applicant for cause.
9. This Agreement is subject to ratification by the Town Council for the Town of Herndon pursuant to Ordinance #20-O-23.
10. This Agreement, having been executed in the Commonwealth of Virginia, the construction and performance thereof or any dispute shall be governed by the laws of Virginia. Venue shall be proper in the County of Fairfax, Virginia.
11. This Agreement contains the entire and only agreement between the parties and it supersedes and merges all pre-existing agreements. Any representations, understandings, promises and any conditions not expressly incorporated herein shall not be binding upon either party or their respective successors in interest.

WITNESS the following signatures and seals: BUSINESS:

By:

Its:

ZEFFIRELLI RISTORANTE ITALIANO

TOWN OF HERNDON:

By:

12-3-2020

Town Manager

Date



Zeffirelli
Ristorante Italiano

Zeffirelli Ristorante Italiano
728 Pine Street
Herndon, Virginia 20170
Tel: 703-318-7000

11/20/2020

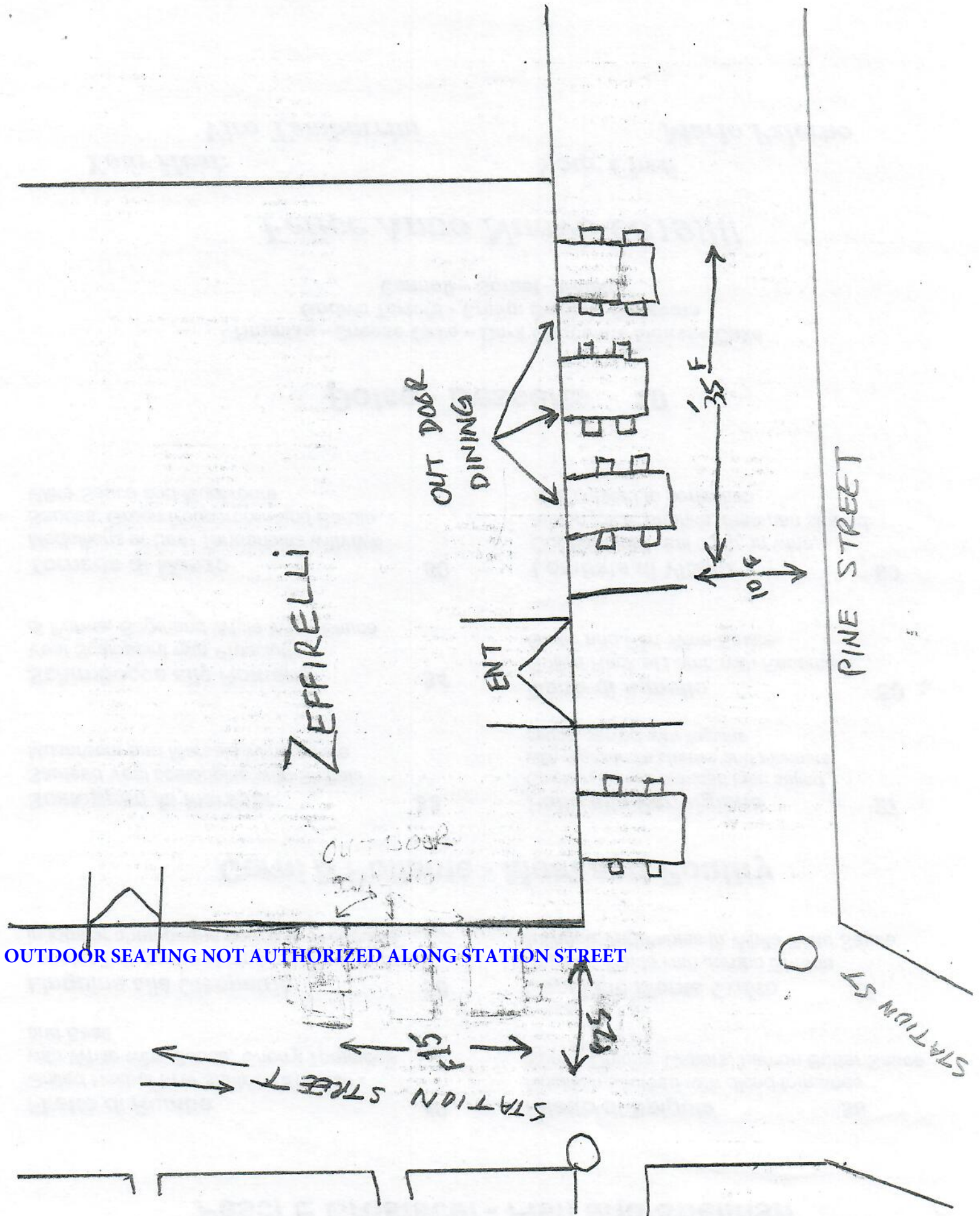
Mr. Dennis Holste,
Town of Herndon

Zeffirelli Ristorante Italiano we will not be using any heaters or tent for outdoor seating.

Sincerely:

Syed Hussain
Owner

Zeffirelli Ristorante Italiano
(703) 318-7000





ZEFFRIS-01

MSANDY

CERTIFICATE OF LIABILITY INSURANCE

 DATE (MM/DD/YYYY)
 11/17/2020

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER Preferred Insurance Services, Inc 4035 Ridge Top Road, Suite 150 Fairfax, VA 22030		CONTACT NAME: Certificate Department PHONE (A/C, No, Ext): (703) 667-5940 E-MAIL ADDRESS: certs@preferins.com FAX (A/C, No): (703) 991-4838	
INSURED Pine Street INC DBA Zeffirelli; Zulfar Family Limited Partnership 728 Pine St Herndon, VA 20170		INSURER(S) AFFORDING COVERAGE	
		INSURER A : Erie Insurance Exchange	
		INSURER B : Hartford Accident And Indemnity Company	
		INSURER C :	
		INSURER D :	
		INSURER E :	
		INSURER F :	

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL INSD	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☒ POLICY ☐ PROJECT ☐ LOC OTHER:	X		Q97-1400629	10/1/2020	10/1/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMP/OP AGG \$ 4,000,000
A	AUTOMOBILE LIABILITY ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY			Q97-1400629	10/1/2020	10/1/2021	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
	UMBRELLA LIAB ☐ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$						EACH OCCURRENCE \$ AGGREGATE \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N	N/A	42WECEK9473	10/1/2020	10/1/2021	☒ PER STATUTE ☐ OTH-ER E.L. EACH ACCIDENT \$ 100,000 E.L. DISEASE - EA EMPLOYEE \$ 100,000 E.L. DISEASE - POLICY LIMIT \$ 500,000
A	Liquor Liability			Q97-1400629	10/1/2020	10/1/2021	Each Common Cause 2,000,000
A	Liquor Liability			Q97-1400629	10/1/2020	10/1/2021	Aggregate 4,000,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: The Town of Herndon and its employees, volunteers, and agents, 777 Lynn St., Herndon, VA 20170 have been added as an additional insured to the applicant's Business Liability Insurance.

CERTIFICATE HOLDER

CANCELLATION

The Town of Herndon
 777 Lynn St
 Herndon, VA 20170

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

POLICY NUMBER: Q97-1400629

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

ADDITIONAL INSURED – DESIGNATED PERSON OR ORGANIZATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

SCHEDULE

Name Of Additional Insured Person(s) Or Organization(s):
The Town of Herndon and its employees, volunteers, and agents
Information required to complete this Schedule, if not shown above, will be shown in the Declarations.

A. Section II – Who Is An Insured is amended to include as an additional insured the person(s) or organization(s) shown in the Schedule, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts or omissions of those acting on your behalf:

1. In the performance of your ongoing operations; or
2. In connection with your premises owned by or rented to you.

However:

1. The insurance afforded to such additional insured only applies to the extent permitted by law; and
2. If coverage provided to the additional insured is required by a contract or agreement, the insurance afforded to such additional insured will not be broader than that which you are required by the contract or agreement to provide for such additional insured.

B. With respect to the insurance afforded to these additional insureds, the following is added to Section III – Limits Of Insurance:

If coverage provided to the additional insured is required by a contract or agreement, the most we will pay on behalf of the additional insured is the amount of insurance:

1. Required by the contract or agreement; or
2. Available under the applicable Limits of Insurance shown in the Declarations;

whichever is less.

This endorsement shall not increase the applicable Limits of Insurance shown in the Declarations



VIRGINIA ALCOHOLIC BEVERAGE CONTROL AUTHORITY
2901 Hermitage Road · P O Box 27491 · Richmond VA 23261-7491

ABC LICENSE

License Number: **39278**

License Type(s):
Wine and Beer On and Off Premises

Effective Period
JAN 01, 2020 TO DEC 31, 2020

Expiration Date
DEC 20

Mixed Beverage Restaurant (Seating Capacity - 101 to 150 seats)

JAN 01, 2020 TO DEC 31, 2020

DEC 20

License Name & Trade Address:

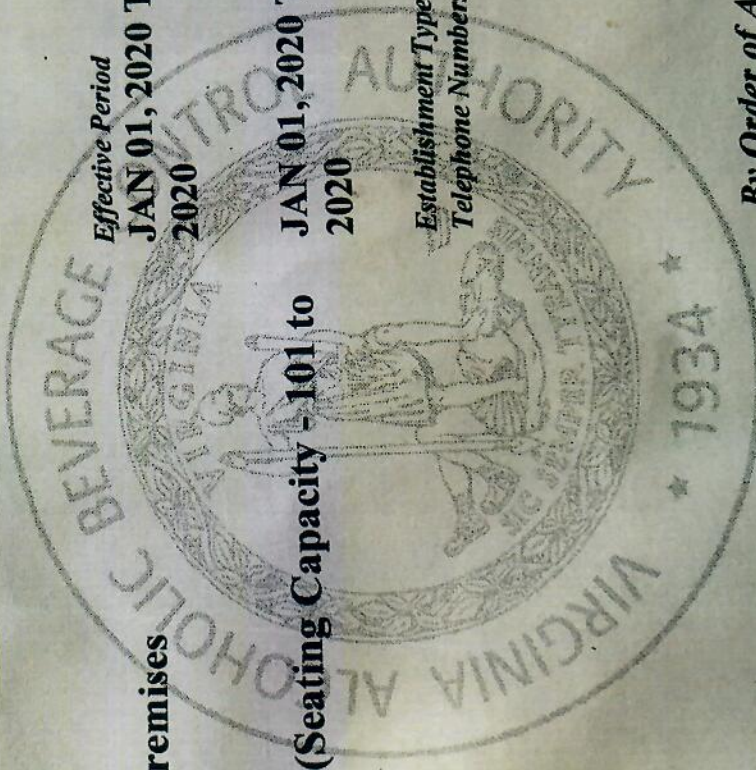
**Pine Street Restaurant Inc
Zeffirelli Ristorante Italiano
728 Pine St
Herndon VA 20170-4660**

Establishment Type: Restaurant
Telephone Numbers: 703-318-7000

**Fairfax County - TERRITORY # 70
Alexandria - Region 4
703-313-4432**

By Order of Alcoholic Beverage Control Board

Chairman



VIRGINIA

DEPARTMENT OF PUBLIC WORKS
BUILDING INSPECTIONS

MAXIMUMS APPROVED

SECTION 1008.1 BOCA CODE AS ADOPTED BY THE VIRGINIA UNIFORM STATEWIDE BUILDING CODE

DWELLING LOAD 100 LBS. PER SQ. FT.

OCCUPANCY LOAD 104 Seats PERSON

USE GROUP A-2

CONST. TYPE 3-C

FOR 728 PINE Street Zeffirelli (54 DIME CAT)

APPROVED 1/22/85

William Pooton

BUILDING INSPECTOR







OUTDOOR SEATING NOT AUTHORIZED IN THIS LOCATION
ALONG STATION STREET

PINE STREET & STATION STREET

FT
10



25 FT

TOWN OF HERNDON, VIRGINIA

RESOLUTION

JANUARY 12, 2021

Resolution- to ratify a Temporary License Agreement between the Town of Herndon and Zeffirelli Ristorante Italiano for use of public property or public right-of-way for temporary outdoor dining.

WHEREAS, the Town of Herndon is the owner of the public property or right-of-way, including adjacent sidewalks and green areas; and

WHEREAS, due to the COVID-19 pandemic, indoor dining service for businesses has been prohibited or limited by Executive Orders of Governor Northam; and

WHEREAS, pursuant to the Governor's Executive Orders, as amended; and Ordinance 20-O-23, Continuity of Governmental Operations during Pandemic Disaster (COVID-19), as amended, the Town Manager is authorized to approve temporary license agreements for use of public property or public right-of-way for temporary outdoor dining subject to ratification by Town Council.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia hereby ratifies the temporary license agreement dated December 2, 2020 between the Town of Herndon and **Zeffirelli Ristorante Italiano** for use of public property or public right-of-way for temporary outdoor dining at 728 Pine Street, Herndon.