



This does not represent a verbatim transcript of the Town Council meeting. Visit www.herndon-va.gov "agendas & minutes" to view agendas and videos. Copies of videotapes of the public hearing meetings are available on request by contacting HCTV at 703-689-2323. Work sessions are not videotaped, but audio files are available. Individuals not having access to the town's website may contact the Town Clerk's office at 703-435-6804 or town.clerk@herndon-va.gov.

HERNDON TOWN COUNCIL
Tuesday
January 12, 2021

Pursuant to Virginia Code Section 2.2-3708.2, as amended; the Governor's Executive Orders, as amended; 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments, Mayor Olem stated that the January 12, 2021 Herndon Town Council Public Hearing would be by electronic means. The meeting was broadcast and recorded through Cisco Webex and details for the meeting were made available to the public on Thursday, January 7, 2021. In attendance electronically were: Mayor Sheila A. Olem; Vice Mayor Cesar del Aguila; and Councilmembers Naila Alam; Pradip Dhakal; Signe Friedrichs; Sean M. Regan; and Jasbinder Singh (due to technical difficulties, Councilmember Singh was away from the dais until 7:14 p.m.).

Staff present during the meeting: William H. Ashton II, Town Manager; Lesa Yeatts, Town Attorney; Jennie Tripoli, Director of Finance; Elizabeth Gilleran, Director of Community Development; Scott Robinson, Director of Public Works; David Stromberg, Zoning Administrator; and Amanda M. Kertz, Chief Deputy Town Clerk.

Announcements

Amanda M. Kertz, Chief Deputy Town Clerk, welcomed those listening to the January 12, 2021 Town Council public hearing and stated that night's regularly scheduled Herndon Town Council meeting was a virtual meeting, which was being conducted electronically pursuant to:

- ❖ Virginia Code Section 2.2-3708.2, as amended;
- ❖ the Governor's Executive Orders, as amended; and

**January 12, 2021
(public hearing)**

- ❖ 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during Pandemic Disaster (COVID-19), as amended and readopted by the Herndon Town Council on September 8, 2020, which superseded previously adopted amendments.
- Proper notice of the electronic meeting was provided in accordance with the Code of Virginia;
- Agenda and meeting materials, along with information for viewing the meeting and submitting comments for the record are available on the town's website; and
- Electronic meetings will begin with a roll call to determine a quorum and all votes, including adjournment, will be by roll call vote.

CALL TO ORDER

1. Roll Call & Determination of Quorum

Mayor Olem called the public hearing by electronic means to order at 7:00 p.m. and asked Ms. Kertz to call the roll for attendance. Mayor Olem asked each Councilmember to respond by clearly stating their name and indicating they were present.

Following the roll call for attendance, Mayor Olem confirmed there was an electronic quorum present. All members were present electronically, with Mayor Olem presiding. As Ms. Kertz had stated, the meeting that evening was being conducted pursuant to the appropriate laws associated with the COVID-19 pandemic disaster.

Mayor Olem stated that she would briefly like to review the Guidelines for meeting participation, which were posted on the screen at the beginning of the meeting. These Guidelines were developed for the benefit of everyone and are used for all government meetings to maintain good order and to help meetings run efficiently, which included: refraining from participation unless recognized by the chair; being respectful, clear, concise, and demonstrating integrity in comments and actions; and the use of profane, vulgar, obscene or threatening remarks was not permitted and could result in removal from the meeting.

APPROVAL OF MINUTES

**Vote on December 8, 2020
Public Hearing Minutes**

On motion of Councilmember Friedrichs, seconded by Councilmember Regan, and carried by a 6-0 roll call vote by electronic means, the minutes of the December 8, 2020

**January 12, 2021
(public hearing)**

public hearing were approved. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Vice Mayor del Aguila, and Mayor Olem voting "Aye." Councilmember Singh was absent from the dais.

Amend the Agenda

Vice Mayor del Aguila called for point of order to add an item to the agenda. He moved to amend the agenda to add the following item: Discussion on Town Council Strategic Initiatives. Councilmember Dhakal seconded the motion and expressed his support for discussing this item.

Vice Mayor del Aguila felt it was important to discuss and make priorities known to staff while the budget was being discussed.

Councilmember Friedrichs voiced her support for discussing the item and stated she would like to have it presented at that night's public hearing and discussed at the following work session.

Mayor Olem stated this item was also brought up at the work session. She stated only some of Council was included in the discussion, and this item had not been advertised for this meeting. Further, Mayor Olem indicated that the Mayor and Town Manager would normally be contacted about agenda items. She stated in these cases it had been done at the last minute and that, in the interest of the entire community, it was imperative they be transparent about agenda items.

Mayor Olem stated the Town Manager had indicated he would add this item to a work session agenda, and that information was also passed onto Vice Mayor del Aguila.

Vice Mayor del Aguila stated that, regarding notification, Mayor Olem could check with the parliamentarian that all rules were followed, and there was no requirement to notify the public of discussion items. He stated, if there were going to be actions taken, Mayor Olem was correct, but for a discussion it was appropriate, and anyone could bring anything to the body at any time. He asked Mayor Olem to call the question.

Mayor Olem stated, for the record, that it was also appropriate to let all of Council know what was going to be on the agenda so they would be prepared. She stated all of Council should be contacted if there was a discussion item.

Mayor Olem called the question on adding an agenda item. Vice Mayor del Aguila clarified that Strategic Initiatives was the discussion item.

**January 12, 2021
(public hearing)**

The question was called on the motion, which carried by a 5-0 vote. The vote was Councilmembers Alam, Dhakal, Friedrichs, Regan, and Vice Mayor del Aguila voting "Aye." Mayor Olem abstaining. Councilmember Singh was absent from the dais.

Following the Council's vote, the agenda was amended to include the discussion item on Town Council Strategic Initiatives at the end of the meeting.

2. COMMENTS FROM THE TOWN MANAGER

Mayor Olem recognized William H. Ashton II, Town Manager, for comments followed by questions of Council.

Mr. Ashton began his comments by sharing that he was in contact with the IT department and they were working with Councilmember Singh to resolve connection issues so he could return to the dais.

In relation to COVID-19, Mr. Ashton stated he attended two meetings that week related to health. One was with Dr. Gloria Addo-Ayensu and the other was with Christy Gray, Director of the Division of Immunization who was running the vaccination initiative at the Commonwealth of Virginia for the Governor's office. He stated Dr. Goodfriend, Loudoun County Health Director, was also on that call. Mr. Ashton gave an aggregate report of both meetings. He stated regional numbers continued to climb with a 14 percent positivity rate. A nugget of positive news was that the 20170-zip code was now 10th in the region, for percent positivity per 100,000 people, after being fourth early in the pandemic and eighth more recently.

Mr. Ashton stated it had been a wild week on the vaccine front, and all NOVA health districts had been authorized to move from Phase 1A (healthcare personnel and long-term care facility residents) to Phase 1B (first responders, frontline essential workers, people over 75 years old, shelters, correctional facilities, and other group situations, childcare, teachers, and officials responsible for government continuity of operations) in that order.

The pace of Phase 1B would depend on the supply of the vaccine given to the states and the distribution from the states to the health districts. Distribution would also depend on logistics such as: resourcing and operation at vaccination sites, needing about 100 people per distribution site (check-in people, EMTs, and those skilled in administering the vaccine), and proper transportation, storage, tracking, and administration of the vaccine. Mr. Ashton stated timing would also be affected by the second dose administration for those who had been given the first round.

**January 12, 2021
(public hearing)**

He stated Fairfax County was averaging 1,000 vaccinations per day and the logistics of vaccine distribution were still being worked on. Mr. Ashton stated Phase 1C would include several more groups of the town workforce being eligible for the vaccine, but there was no definitive idea of when Phase 1C would begin. He further clarified that, in Phase 1, the delineating factor for eligibility focused on workplace while Phase 2 would probably be delineated by where you live.

Mr. Ashton indicated that staff continued to get positives and exposures and use administrative leave for the time prescribed by state mandates. He stated anyone showing any symptoms, even a sniffle, was required to be out for 10 days or be able to provide two negative COVID-19 tests per state guidelines. He stated one department was being particularly squeezed, and they were managing their way through.

Mr. Ashton also stated he attended the Virginia Municipal League's (VML) State Budgeting Overview, which had good information including that the state unemployment rate was doing better than expected. He also mentioned the boom in real estate and sales tax with interest rates low, saving rates up, and inflation being restricted to inflation in assets not consumer goods. The state was looking with potential reason for hope in second half of 2021.

He stated they must look at the housing cost rise caused by millennials wanting to own homes and low interest rates. He stated, as interest rates go up, they would see a potential bubble popping in that sector a few years out, but it was not an immediate threat. Mr. Ashton also shared that states and counties should recover more quickly than cities and towns due to bigger economic bases. He thought they would likely follow a similar path of recovery from the 2008 recession. He stated they were planning and looking out a couple of years.

Mr. Ashton then shared that staff completed scheduling of the next housing education event for Council with Fabrizio Fasulo, Director of Policy and Planning at Virginia Housing. The meeting would be on Webex on Tuesday January 26, 2021 at 3:00 p.m. Information was forthcoming, and Mr. Fasulo would be providing an overview of the state housing study requested by the General Assembly and similar efforts.

Based on comments, discussions, and requests he said it became apparent that Council was interested in quarterly strategic meetings. Mr. Ashton also stated he would add a discussion at the next meeting to discuss logistics and frameworks to get those meetings initiated. He agreed with an earlier comment from Vice Mayor del Aguila that it was good to have discussions before getting deep into the budget.

**January 12, 2021
(public hearing)**

Questions from Council

Mayor Olem welcomed Councilmember Singh (he arrived at 7:14 p.m.) to the dais and acknowledged him for questions. Councilmember Singh asked how and when they would be notified, they were able to get vaccinated.

Mr. Ashton stated that the Fairfax County Health Department had begun notifying individuals 75 or older about vaccination scheduling. Mr. Ashton encouraged Councilmember Singh to reach out to the Fairfax County Health Department. He also stated that the Council body falls into the continuity of governmental operations category that is included further into Phase 1B. He reiterated those 75 and older could reach out to the Fairfax County Health Department and look on their website for vaccination information.

In response to queries from Councilmember Regan, Mr. Ashton clarified that the Second Housing Webex for Council was at 3:00 p.m. on January 26, 2021.

Vice Mayor del Aguila asked if there was anything the town could do to help facilitate vaccine distribution. Mr. Ashton stated this came up on the Fairfax Chief Administrative Officers call and that he routinely volunteered town staff to help at the point of distribution site. He stated the town has staff that can be re-deployed, and they are asking about that every time they speak with Dr. Gloria. However, he stated the current issue was the number of vaccines and supply chain. He stated that in Phase 2 the vaccine should become available in pharmacies, and he was constantly asking how to get Herndon residents vaccinated.

Vice Mayor del Aguila also asked about an email from a Ms. Gota about a need to subdivide her property on Crestview. He stated he was just communicating that it was becoming a problem. Mr. Ashton stated all he could comment was that they were aware and in discussions.

Vice Mayor del Aguila then stated he had some news from the corporate world, and he confirmed with Mayor Olem that these were questions for Mr. Ashton. He stated they were informed they could not, as a company/entity, require employees or staff to share their videos on Zoom shared meetings. He wanted to make sure the town did not have anything similar. Mr. Ashton stated they had nothing like that that he was aware of from the Human Resources department. Vice Mayor del Aguila thanked Mr. Ashton for arranging the strategic initiatives meetings and stated he thought they should devote six to eight hours to those.

Mayor Olem concluded by stating that community members had a lot of questions and were anxious to get their vaccinations.

January 12, 2021
(public hearing)

3. **COMMENTS FROM THE TOWN COUNCIL**

Vice Mayor del Aguila: Stated he would share his thoughts during the discussion item.

Councilmember Alam: Thanked the Herndon voters for electing her to Council and stated she wanted to challenge her fellow councilmembers to each encourage three people to fill out applications for the talent bank for boards and commissions. She stated she would do the same.

Councilmember Dhakal: Reiterated his comments from the work session thanking the citizens and congratulating fellow councilmembers. He wanted to recommit that his work and decisions would be guided by what brings the most value to the town. He stated he would always be open to new ideas and different perspectives for growth and improvement. He was open to hearing ideas on how to make town processes, systems, or operations better as the Council and Herndon continued to evolve. He asked Council to be open to new ideas, as there was always room to grow. He stated they were not experts on everything, but they could bring expertise into the decisions they make and processes they adopt. Mr. Dhakal commended Council for being open to discussing strategic initiatives and thanked Vice Mayor del Aguila for putting the presentation together. He stated change was the only constant, and they needed to be able to adapt to the ever-changing world and always be looking for continuous improvement and respect for each other. Mr. Dhakal stated he would work diligently with Council, staff, and stakeholders on issues like: housing, supporting entrepreneurs and local businesses, a multicultural board, enhancing transparency, and working to re-evaluate, enhance, and amend processes he thought needed updating or were irrelevant. He also voiced support for strategic planning to prioritize initiatives on a quarterly basis.

Councilmember Friedrichs: Thanked citizens for placing trust in her and electing her for a third term. She looked forward to serving residents and stated that she knew Council would be open to new ideas, working to increase communication with residents, and continuing initiatives. She had enjoyed chatting with Mr. Ashton about initiatives he began at Council's behest to create new, affordable housing in the town. She looked forward to hearing from her colleagues and stated she hoped they would be mindful of how they could do better in relation to events downtown and the events the prior week.

Councilmember Singh: Thanked Mayor Olem for her email and stated he had a history of 10 years of advocating for getting into the details and for change. He looked forward to talking with Mayor Olem and seeing if she agreed or disagreed. He seconded Councilmember Dhakal's challenge for new ideas and stated he had many articles with good ideas in them and the background of where they came from. He expressed he felt it was important to know where they were coming from and what they are doing to proceed. He stated someone must get into the details, and he hoped staff and Mr. Ashton could listen to Council ideas, problems, and where they were coming from.

**January 12, 2021
(public hearing)**

Councilmember Singh stated he had come for one last term and that Vice Mayor del Aguila had convinced him to come out for changes. He stated if Council could work together, he hoped they would make progress.

Mayor Olem: Thanked voters for electing her as Mayor and for the trust they put in her. She stated it was a privilege to serve the town. Mayor Olem shared that she thrived in the community because the town put their arms around her shortly after she moved to the town and went through a tragic time when her children were just two and 10 years old. She stated they are now grown and while most people thought 2020 was the worst year, her daughter in law graduated as a veterinarian in May, her son and his fiancé got married in December, and she now had a lot of new family members to get to know.

COMMENTS & DISCLOSURES FOR THE RECORD

Mayor Olem asked Ms. Kertz whether she had received comments for the record or Transactional Disclosure Declarations from Council on any items listed on that evening's agenda, and Ms. Kertz stated that she had not received any comments or any transactional disclosures for that evening's meeting.

4. COMMENTS FROM THE AUDIENCE

Mayor Olem outlined the participation process for Webex. She stated that Council would use a speakers list to call on those who have registered to provide "Comments from the Audience" to address Council on any matter that was not listed as a public hearing item on that night's agenda. She would call on each person that signed up to speak and would pause briefly while staff enabled the speaker's ability to address Council. Speakers would have up to three minutes and should state their name and address for the record. Comments from the Audience were limited to 45 minutes or approximately 15 speakers.

Mayor Olem stated that a timer would appear on the Webex screen and encouraged speakers to wrap up when there were 30 seconds left on the timer. She then called on the following individual, who provided comments:

- Walter Shorter, 1201 Herndon Parkway, Herndon: Provided comments as the President of the Four Seasons HOA and Director of the Recreation Association for Four Seasons. He congratulated the Mayor and Council and noted the energy with this future-looking Council. He also expressed concerns and made some suggestions about Council conduct. Mr. Shorter expressed that he enjoyed hearing Council talking about "joyful debate" and that he and the HOA looked forward to working with Council and appreciated their communication.

January 12, 2021
(public hearing)

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.**

Mayor Olem recognized Town Attorney, Lesa Yeatts who presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

Ms. Yeatts stated the proposed action was approval of the resolution ratifying a sublicense agreement between the town and The Elden Street Players for space at 750 Center Street also known as ArtSpace Herndon. She reviewed the background to the lease with the Elden Street Players and stated that the most recent month-to-month lease expired on December 31, 2020. The transfer of the property to Comstock voided that lease. However, The Elden Street Players and the town still wanted 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 would be for a term of one year. It was anticipated that, as required by the Comprehensive Agreement for the redevelopment of the parcel, that The Elden Street Players would be relocated during the term of the sublicense. It was proposed that the rent remain \$1.00 per term.

The Town Manager signed the Sublicense Agreement pursuant to the town's Continuity of Government (COG) Ordinance, as amended. The Council was now considering ratification of the Sublicense Agreement to finalize its approval. Staff recommended approval of this resolution as presented.

There was brief discussion amongst Council and staff on this item.

Vice Mayor del Aguila moved approval of Resolution 21-G-03, as presented, and Councilmember Regan seconded the motion.

There were brief comments from Council.

Councilmember Regan pointed out that the Granicus agenda on the town's website had the sublicense agreement posted twice instead of including both the draft resolution and the sublicense agreement. He was not sure if that impacted the ability for the Council to vote on this item.

**January 12, 2021
(public hearing)**

Ms. Yeatts stated this was a staff error and asked the Town Clerk's office to ensure the correct attachments were posted under this item on the Granicus agenda.

Ms. Yeatts stated that while this error did not impact the ability for Council to approve this General item, it was critical to have the correct items posted on the town's website.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

Resolution 21-G-03 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.

[Note: Attached for reference is the Sublicense Agreement dated December 28, 2020 b/n the town and The Elden Street Players.]

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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,

**January 12, 2021
(public hearing)**

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

January 12, 2021
(public hearing)

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

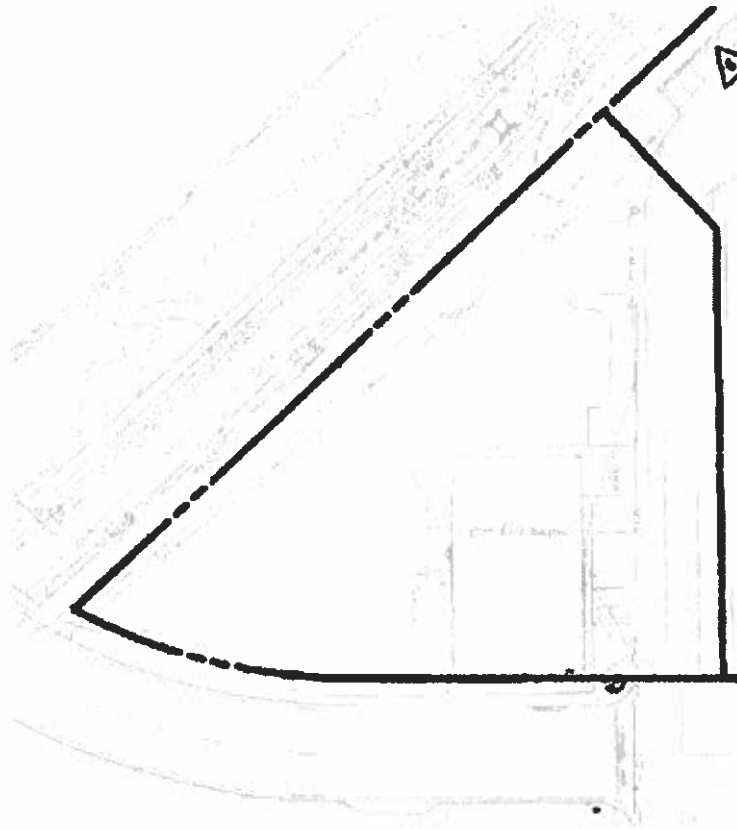
By: Leta J. Yeatts

Name: Leta J. Yeatts

Title: Town Attorney

January 12, 2021
(public hearing)

Exhibit A
750 Center Street



January 12, 2021
(public hearing)

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 Herndon, Inc. for space at 750 Center Street.**

Mayor Olem recognized the Town Attorney, Lesa Yeatts for the staff report. Ms. Yeatts presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

Ms. Yeatts reviewed the background and the process for the proposed resolution ratifying a sublicense agreement between the town and Arts Herndon, Inc., for space at 750 Center Street. The proposed action on the sublicense would be similar to the previous item between the town and The Elden Street Players. This new sublicense of the town's interest in 750 Center Street to Arts Herndon is month-to-month and would be for a term of one year. It was anticipated that as required by the Comprehensive Agreement for the redevelopment of the parcel that Arts Herndon would be relocated during the term of the sublicense. It is proposed that the rent remain \$1.00 per term. She also stated that, similar to the last item, there would be a minimum of a 30-day notice given and it was expected there would be much more notice.

Ms. Yeatts stated that the Town Manager had signed the Sublicense Agreement pursuant to his powers under the town's Continuity of Governmental Operations Ordinance, as amended. Staff recommended approval of this resolution as presented.

Councilmember Dhakal moved approval of Resolution 21-G-04, as presented, and Vice Mayor del Aguila seconded the motion.

There were brief comments from Council.

The question was called on the motion, which carried by unanimous roll call vote by electronic means. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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 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

**January 12, 2021
(public hearing)**

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.

[Note: Attached for reference is the Sublicense Agreement dated December 18, 2020 b/n the town and Arts Herndon, Inc.]

January 12, 2021
(public hearing)

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:

I. 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

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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.

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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

**January 12, 2021
(public hearing)**

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

20 Binding on Successor. 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

By Jessica K. Lester

Name William H. Ashton II

Name Jessica K. Lester

Title: Town Manager

Title: PRESIDENT & CEO

APPROVED AS TO FORM

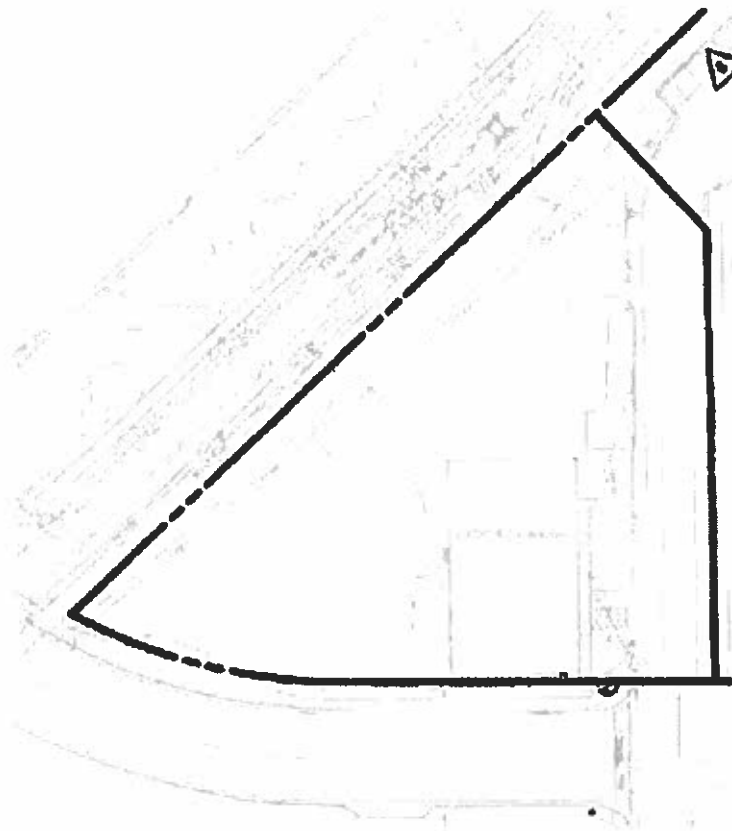
By

Name: Lisa J. Yeatts

Title: Town Attorney

January 12, 2021
(public hearing)

Exhibit A
750 Center Street



January 12, 2021
(public hearing)

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.**

Mayor Olem recognized the Town Attorney, Lesa Yeatts who presented the staff report dated January 5, 2021 which is on file in the Town Clerk's office.

Ms. Yeatts provided commentary about the location of the lease and stated staff requested that the 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 (COG), as amended. She reviewed the background of the lease with Fairfax County School Board, who lease 13,593 square feet of office space at 397 Herndon Parkway.

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 would be extended a second time to March 31, 2021 to allow for the necessary time to process a new agreement with the town.

The Town Manager signed the Second Temporary Emergency Extension of Lease pursuant to the town's COG ordinance. The Council must now consider ratification of the lease to extend the expiration date and to finalize its approval. Staff recommended approval of this resolution as presented. Ms. Yeatts stated the Director of Public Works was also available for any questions.

On motion of Councilmember Friedrichs, seconded by Vice Mayor del Aguila, and carried by unanimous roll call vote by electronic means, Resolution 21-G-05 was approved, as presented. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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.

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

**January 12, 2021
(public hearing)**

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, 2021; and

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

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.

[Note: Attached for reference is the Second Temporary Emergency Extension of Lease dated November 16, 2020 b/n the town and the Fairfax County School Board.]

January 12, 2021
(public hearing)

**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:

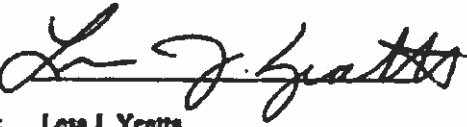
1. The Lease is incorporated by reference.
2. The Lease shall terminate on March 31, 2021.
3. In all other respects, the Lease is confirmed.

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: Lisa J. Yeatts

Title: Town Attorney

Attachment
21-G-05

January 12, 2021
(public hearing)

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; and
- 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

Mayor Olem recognized the Town Attorney, Lesa Yeatts. Ms. Yeatts presented the concurrent staff reports dated January 5, 2021 which are on file in the Town Clerk's office.

Ms. Yeatts stated that the proposed resolutions were for ratification of three Temporary Outdoor Dining Licenses signed by the Town Manager pursuant to Ordinance 20-O-23, as amended. She reviewed the background and processes and stated that on July 14, 2020, the Council ratified seven Temporary Outdoor Dining License Agreements on private property. Those licenses expired 100 days from the date of the Agreements. On September 8, 2020, the Council ratified seven Temporary License Agreement Extensions to extend the expiration dates to November 30, 2020. As Virginia and the town remained in a State of Emergency and restrictions on indoor dining capacity and spacing remained in effect, the town 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 and language regarding adhering to any future Executive Orders from the Governor. These new Outdoor Dining License Agreements were signed by the Town Manager and would 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 occurred first.

**January 12, 2021
(public hearing)**

Ms. Yeatts stated they had recently become apprised of some information about the license agreement requested by Teryanna, LLC dba Mile 20 at Mediterranean Breeze, so staff was requesting that item be deferred for the next set of Council meetings.

Staff recommended approval of the two new Temporary License Agreements for Temporary Outdoor Dining on town property to finalize their approval for Green Lizard Cycling and Zeffirelli Ristorante Italiano. Staff recommended deferral of the new Temporary License Agreements for Temporary Outdoor Dining on town property for Teryanna, LLC dba Mile 20 at Mediterranean Breeze.

Councilmember Friedrichs asked if Mile 20 was aware of the issue, and Ms. Yeatts stated that she presumed so.

Responding to Councilmember Dhakal's queries about why only three out of seven originally approved businesses applied to renew and their future intentions to renew, Ms. Yeatts stated that the Director of Economic Development reached out to every town restaurant to see how they were doing and reached out to those who had dining on town property and they affirmatively indicated they did not want to renew.

Councilmember Singh asked why certain businesses did not want to renew so Council could keep those reasons in mind. Ms. Yeatts stated she did not know specifically other than some feeling like they did not have enough people using the outdoor dining and not wanting to invest in purchasing heaters and tents to close in the outdoor area.

In response to further queries from Councilmember Singh, Ms. Yeatts confirmed that there was no license fee.

Mayor Olem asked Ms. Yeatts to explain, for those in the community who were watching, why they were doing this. Ms. Yeatts indicated that COVID-19 had adversely affected many of the town's restaurants and one of the reasons, at least initially, was that only outdoor dining was permitted. Regulations at that time still limit the amount of indoor dining and outdoor dining increases the ability of people to come to those establishments. The town also donated use of concrete barriers for the businesses to securely contain the perimeter to the outdoor dining and those are still on loan to the businesses mentioned this evening.

Councilmember Singh asked how well the restaurants were doing and to what extent outdoor dining was making a difference. Mr. Ashton indicated it was hard to tell in the aggregate because, going into COVID-19, the town had 120 restaurants that were all performing at different levels. The top 20 restaurants were responsible for most of the meals tax. Mr. Ashton stated that exact percentages were escaping him, and it was hard to say because a lot of those restaurants, especially on Herndon Parkway, relied on business lunch traffic. He stated that most of the outdoor dining requests had come

**January 12, 2021
(public hearing)**

from downtown restaurants or those on private property. He thought that the outdoor dining was a critical factor in the town holding a 25 percent loss rather than 50 percent loss of meals tax and why estimates from May 2020 were overperforming.

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.

On motion of Councilmember Regan, seconded by Vice Mayor del Aguila, and carried by unanimous roll call vote by electronic means, Resolution 21-G-06 was approved as presented. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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.

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.

[Note: Attached for reference at the end of the minutes is the temporary license agreement b/n the town and Green Lizard Cycling dated December 2, 2020.]

January 12, 2021
(public hearing)

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.

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, consideration of Resolution 21-G-07 was deferred to the Council's January 26, 2021 public hearing meeting. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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.

On motion of Councilmember Regan, seconded by Councilmember Dhakal, and carried by unanimous roll call vote by electronic means, Resolution 21-G-08 was approved as presented. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."

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.

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 3, 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.

January 12, 2021
(public hearing)

[Note: Attached for reference at the end of the minutes is the temporary license agreement b/n the Town and Zeffirelli Ristorante Italiano dated December 3, 2020.]

Point of Order

Vice Mayor del Aguila called for point of order. He asked when the Council would discuss the item he added to the agenda: Town Council Strategic Initiatives.

Mayor Olem stated Vice Mayor del Aguila's item would be Item #18 on the agenda.

Ms. Yeatts opined that since there was no restatement of the motion to amend the agenda when it was voted on, and no affirmation of the agenda changing, the discussion item would default to the last item on the agenda, following action on the Consent agenda.

CONSENT AGENDA

9. **Resolution 21-G-09, to reinstate the Herndon Town Council's Interview Subcommittee.**
10. **Resolution 21-G-10, to appoint the Town of Herndon's "Principal" and "Alternate" members as Advisory Directors to the Committee for Dulles Board of Directors.**
11. **Resolution 21-G-11, to appoint the Town of Herndon's "Principal" and "Alternate" members to the Dulles Area Transportation Association Board of Directors.**
12. **Resolution 21-G-12, to Nominate a Member of the Herndon Town Council to the Fairfax County Economic Advisory Commission.**
13. **Resolution 21-G-13, to appoint members of the Herndon Town Council to the serve on the Inter-Jurisdictional Committee.**
14. **Resolution 21-G-14, to appoint Town of Herndon Elected Officials to serve on the Northern Virginia Regional Commission.**
15. **Resolution 21-G-15, to appoint the Town of Herndon's "Principal" and "Alternate" members to the Phase 2 Dulles Rail Transportation Improvement District Commission Board.**

**January 12, 2021
(public hearing)**

16. **Resolution 21-G-16, to reappoint the “RDP Engineer” member to the Herndon Building Board of Appeals.**
17. **Resolution 21-G-17, to reappoint a “town resident” member to the Herndon Architectural Review/Historic District Review Boards.**

On motion of Councilmember Friedrichs, seconded by Councilmember Dhakal, the Consent agenda items were approved by unanimous roll call vote by electronic means, without comment. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting “Aye.”

Resolution 21-G-09, to reinstate the Herndon Town Council’s Interview Subcommittee.

WHEREAS, as part of organizational housekeeping matters at the onset of each term, the Herndon Town Council reviews council subcommittees to determine whether to reinstate or disband existing committees; and

WHEREAS, throughout the term, council may change representation and/or create additional subcommittees.

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

- reinstates the Town Council’s Interview Subcommittee for the 2021-2022 term; and
- appoints the following members:
 - **Councilmember Jasbinder Singh**, to serve as chair;
 - **Councilmember Pradip Dhakal**;
 - **Councilmember Sean Regan**; and
 - **Councilmember Signe Friedrichs**, to serve as an alternate member.

January 12, 2021
(public hearing)

Resolution 21-G-10, to appoint the Town of Herndon's "Principal" and "Alternate" members as Advisory Directors to the Committee for Dulles Board of Directors.

WHEREAS, founded in 1966, the Committee for Dulles, a non-profit organization, is the oldest member-sponsored organization dedicated to achieving the full potential of the Washington Dulles International Airport and its immediate market area; and

WHEREAS, the committee provides the only significant opportunity for businesses, organizations and concerned individuals who depend on the Dulles Economic Corridor to stay current with up-to-the-minute, first-hand knowledge about the issues affecting the airport's daily operation and future prospects, and to play a vital role in the outcomes; and

WHEREAS, the Town of Herndon pays annual membership dues to the committee and appoints one elected official to serve as the Advisory Director on the Board of Directors as the town's official representative, although all members of council and town staff may attend monthly luncheons and events.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members to serve as the town's representatives to the Committee for Dulles for the 2021-2022 term:

- **Councilmember Sean Regan**, as the town's "principal" advisory director; and
- **Councilmember Signe Friedrichs**, as the town's "alternate" advisory director.

Resolution 21-G-11, to appoint the Town of Herndon's "Principal" and "Alternate" members to the Dulles Area Transportation Association Board of Directors.

WHEREAS, the Dulles Area Transportation Association (DATA), a nonprofit, public-private, 501(c)3 non-stock corporation, is dedicated to enhancing transportation mobility and fostering economic vitality and provides a visionary voice for building a transportation network that will

**January 12, 2021
(public hearing)**

accommodate the current and future growth planned for the area, with particular emphasis directed toward transportation issues in the Greater Dulles Area of Northern Virginia (Western Fairfax, Eastern Loudoun, and Northern Prince William Counties); and

WHEREAS, the Town of Herndon has been a member of DATA since its creation in 1988, and in November 1989, by Resolution 89-G-205, the Herndon Town Council approved support of DATA and its efforts; and

WHEREAS, the town pays annual membership dues to the association and appoints an elected official as the town's 'principal' representative and the town manager to serve as an 'alternate' representative, although all members of council and staff may attend Board of Directors/Member meetings, events and seminars.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members to serve as the town's representatives to the Dulles Area Transportation Association for the 2021-2022 term.

- **Councilmember Pradip Dhakal**, as the town's "principal" member; and
- **William H. Ashton II, Town Manager**, to serve as the town's CAO "alternate" member.

Resolution 21-G-12, to Nominate a Member of the Herndon Town Council to the Fairfax County Economic Advisory Commission.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby nominates and recommends the appointment of **Councilmember Pradip Dhakal** to serve as the Town of Herndon's representative to the Fairfax County Economic Advisory Commission for a three-year term ending January 31, 2024.

January 12, 2021
(public hearing)

Resolution 21-G-13, to appoint members of the Herndon Town Council to the serve on the Inter-Jurisdictional Committee.

WHEREAS, the inter-jurisdictional committee was originally formed in January 2008; and reinstated in July 2008, July 2010, July 2012, July 2014, January 2017, January 2019 and January 2021 to meet with similar committees formed by Fairfax and Loudoun Counties; and

WHEREAS, the town's inter-jurisdictional committee meets jointly with Fairfax and Loudoun Counties as needed on inter-jurisdictional matters.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reinstates and appoints the following members of the Herndon Town Council to the inter-jurisdictional committee for the 2021-2022 term:

- **Mayor Sheila A. Olem**, as the town's chief elected official;
- **Councilmember Pradip Dhakal**;
- **Councilmember Signe Friedrichs**;
- **William H. Ashton II, Town Manager**, to serve as the town's CAO member; and
- **Lesa J. Yeatts, Town Attorney**, to serve as the town's legal counsel.

Resolution 21-G-14, to appoint the Town of Herndon's "Principal" and "Alternate" Elected Officials to serve on the Northern Virginia Regional Commission.

WHEREAS, the Northern Virginia Regional Commission (NVRC) is a regional council of 14 local governments in Northern Virginia and recognized by the Commonwealth of Virginia as a political subdivision — a government agency; and

WHEREAS, NVRC's programs and policies are established by a 25-member Board of Commissioners composed of elected officials appointed by the governing bodies of NVRC's 14 member localities, which include the Counties of Arlington, Fairfax, Loudoun and Prince William; the Cities of

**January 12, 2021
(public hearing)**

Alexandria, Fairfax, Falls Church, Manassas and Manassas Park; and the towns of Dumfries, Herndon, Leesburg, Purcellville and Vienna; and

WHEREAS, the NVRC's basic roles and functions have focused on providing information, professional and technical services, and a mechanism for regional coordination; and

WHEREAS, the Town of Herndon pays annual membership dues to the commission and appoints one elected official to serve as the town's representative.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following Town of Herndon elected officials to serve on the Northern Virginia Regional Commission for the 2021-2022 term.

- **Mayor Sheila A. Olem**, as the town's "Principal" member;
- **Councilmember Signe Friedrichs**, as the town's "alternate" member; and
- **Councilmember Jasbinder Singh**, as the town's "second alternate" member.

Resolution 21-G-15, to appoint the Town of Herndon's "Principal" and "Alternate" members to the Phase 2 Dulles Rail Transportation Improvement District Commission Board.

WHEREAS, on November 10, 2009, the Herndon Town Council adopted Resolution 09-G-130 determining that the Town Council wishes commercial, industrial and multi-unit residential property in the town to be included within the proposed Phase 2 Dulles Rail Transportation Improvement District; and

WHEREAS, Virginia Code Section 33.1-432 authorizes the creation of a Phase II District Commission consisting of four members of the Fairfax County Board of Supervisors (appointed by the Fairfax Board); one member of the Herndon Town Council (appointed by the Council); and the Chairman of the Commonwealth Transportation Board or his designee; and

**January 12, 2021
(public hearing)**

WHEREAS, the Phase II District Commission would take action as permitted by the Virginia Code Act to provide for the funding, acquisition, construction and equipping of the Phase 2 Transportation Improvements including, but not limited to entering in agreements requiring the payment of proceeds from an annual special improvement tax levied and collected as authorized by the Act.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby appoints the following members of the Herndon Town Council to the Phase 2 Dulles Rail Transportation Improvement District Commission Board for the 2021-2022 term.

- **Councilmember Naila Alam**, as the town's "principal" member;
and
- **Councilmember Signe Friedrichs**, as the town's "alternate" member.

Resolution 21-G-16, to reappoint the "RDP Engineer" member to the Herndon Building Board of Appeals.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Keith Sinclair** as the "**RDP Engineer**" member to the Herndon Building Board of Appeals for a five-year term ending December 31, 2025.

Resolution 21-G-17, to reappoint a "town resident" member to the Herndon Architectural Review/Historic District Review Boards.

BE IT RESOLVED that the Town Council of the Town of Herndon, Virginia, hereby reappoints **Lauren Edmondson** as a "town resident" member to the Herndon Architectural Review/Historic District Review Boards for a three-year term ending June 30, 2023.

January 12, 2021
(public hearing)

DISCUSSION ITEM

18. Town Council Strategic Initiatives

Vice Mayor del Aguila outlined a slide presentation which is on file in the Town Clerk's office. He reiterated there were a few changes from his presentation at the work session and this presentation outlined what he felt the majority-plus of Council wanted. He stated they acknowledged the town and region had experienced a lot of changes and many Councilmembers feel the institutions had not.

Vice Mayor del Aguila restated that he did not get to everyone, but he thanked Councilmembers Alam, Dhakal, Regan, and Singh for their input.

Vice Mayor del Aguila presented the idea that Council needed to start with transparency, and he referenced anxiety surrounding the Comstock project. He believed this would help with changes moving forward and that, to have the confidence of the residents, they needed complete transparency.

Vice Mayor del Aguila stated that while they did have some short-term goals, he thought Council needed to focus on long-term initiatives. He thought they could immediately look at how to ensure audio and video recordings were available to everyone. He did not see how this could be a problem for anything other than personnel issues, and he felt that recordings of the Comstock project discussions should now be released. He believed it was important for the public to understand where they started and what Council's concerns were throughout the project.

Additionally, he felt that FOIA requests should not cost \$1500. He felt that information should not only be for those with disposable income. Vice Mayor del Aguila also expressed that he was not advocating someone tying up staff for hours and hours but there could be a happy medium. He believed that making records available to the public should not cost a fortune.

It was his opinion that the items listed in his presentation represented most of the Council. He believed the log and record keeping processes could be reformed so when requests were made, they could be made available. He suggested there may be some way to archive data relative to specific projects or standardize a meta descriptor.

Vice Mayor del Aguila stated another concern that had been brought to his attention was that when staff made a presentation to Council those decisions should be carried out. He restated that if a plan was approved by Council it should be carried out and if not, they should be informed why. Vice Mayor del Aguila also reiterated that he felt all information should be recorded regardless of if the meeting was a closed meeting.

**January 12, 2021
(public hearing)**

Another area Vice Mayor del Aguila saw for reform was with the Historic District Review Board (HDRB). He felt Council should redefine what it means to the town, evaluate the areas, and update the district if necessary. He thought they might need a review through a task force with 30, 60, and 90- day evaluations and reports back to Council, which he felt was important for addressing housing in the town.

Vice Mayor del Aguila also suggested creation of an independent office of code enforcement for the town to address crowding and parking issues. He thought they should regulate and enforce consistently and fairly.

The Council onboarding process was another concern Vice Mayor del Aguila brought up. He felt that, to have effective meetings, new Councilmembers needed to be ramped up. Further, he suggested they look at onboarding for both Council and staff. He felt that presentations from staff included data that was not necessarily what Council needed, and he suggested looking at standardizing information communicated to Council.

Council, board, and committee allowances were another of Vice Mayor del Aguila's concerns. He stated they had not changed since 1985, and he felt they may need to look at that for more citizen participation.

Vice Mayor del Aguila also brought up concerns such as speeding issues in neighborhoods. He stated there were some problem areas, and they should have a process for looking at those. He also thought traffic flow would only get worse and asked if there were changes to be made there.

Additionally, Vice Mayor del Aguila stated that gun safety was a good, proactive idea, and he thought Herndon should follow Fairfax County.

Other ideas Vice Mayor del Aguila mentioned included multicultural outreach/inclusion, re-vamping Friday Night Live, and adding a Multicultural Folk Festival to celebrate the value of the diversity in the town. He also thought they should look at future use of the community center keeping in mind how it aligns with 2035 vision.

Vice Mayor del Aguila also wanted to look at making outdoor dining more permanent for town restaurants between the months of March-November. Additionally, he wanted to look at reforming the HDRB, possible police reforms, and reforming processes for the Board of Zoning Appeals and the Planning Commission.

Vice Mayor del Aguila thought Council needed to determine their priorities and stated staff had been doing a great job but he thought Council direction to staff was lacking.

**January 12, 2021
(public hearing)**

Vice Mayor del Aguila also mentioned bus bays as something they should have set aside money for. He thought Council needed to take initiative and refine the vision to reflect what the constituents want.

Vice Mayor del Aguila stated that quarterly strategic planning meetings would help Council stay more agile in processes.

Longer term, he felt staff could help Council by having five-year plans and showing trending back 10-20 years in staff reports. He felt that planning and prioritization need to stretch beyond and show why gaps existed between now and 2035 Vision or have major modifications to the 2035 Vision.

Vice Mayor del Aguila felt that housing was what would take time. He stated, for those who missed the presentation, that they have not done anything as Council, and it was up to them to own these initiatives. He felt that subsidies should be given to teachers and law enforcement officers living in the town if they could. He also emphasized creating a more diverse community and having police who were in touch with the community.

Vice Mayor del Aguila thanked Council and the public for letting him present a template that he would like to add or update in their planning sessions.

There was brief discussion amongst Council and staff.

Councilmember Singh believed the presentation covered most things and that some items could be implemented quickly with little cost. He believed, that as they moved forward, they would know more about the problems and could add to the list. In his view, they had not kept up with the demands. He felt that staff and Council would have to respond to meet the demands of the people coming in. Councilmember Singh believed Council wanted to be associated with open government and thriving culture and suggested that Herndon needed to create its own culture. He provided comments about borrowing ideas from other parts of the country and promoting and encouraging diverse cultures in town. He provided further comments about raising standards.

Councilmember Friedrichs thanked Vice Mayor del Aguila and stated there were several things listed in his presentation that she ran on. She also stated some things presented had been moved on to some extent and agreed it was frustrating when they try to move something forward and it moves slowly. She thought strategic planning was a great idea. Councilmember Friedrichs expressed concern that a lot of those items might be more expensive than the cost they see, due to bureaucracy. She asked if staff would look into restrictions and costs—especially with the cost of running government at that time with lower income. Councilmember Friedrichs stated the items presented were not things they could say they would change the next day. She expressed that she agreed with most things in the presentation.

**January 12, 2021
(public hearing)**

Councilmember Dhakal expressed that the Councilmembers involved formed this agenda based on their interactions, and he felt they all agreed to some of the items. He emphasized visibility and sustainability. Councilmember Dhakal asked Ms. Yeatts if they could adopt this as a strategic roadmap and add the list to an agenda to start bringing those agendas based on priority.

In response to Councilmember Dhakal's queries about moving the agenda be adopted, Mayor Olem stated this was a discussion item with no votes that evening. Ms. Yeatts confirmed this was a discussion item.

Councilmember Regan stated he was happy with the presentation and eager to get into the details. He thought it would take a lot of time, and he looked forward to crafting work sessions or strategic planning initiatives to see what Council jointly supported and could afford.

Mayor Olem stated that some of the items presented were things they were currently doing such as looking at zoning and overcrowding. She expressed they are constantly looking for best practices and, since Mr. Ashton became Town Manager, they have had a huge number of changes. Mayor Olem asked Vice Mayor del Aguila to call her and contact her. She shared she had availability that Friday and stated discussions were important to move things forward.

Vice Mayor del Aguila stated that communication works both ways and shared that he also built this on the initiative of community roundtables put forward by Councilmember Friedrichs. He stated there were a lot of good ideas that did not go anywhere. He felt the majority wanted to hear about these issues and have a discussion in a strategic planning meeting where they could decide which items to act on and fund in future budget years. He expressed that this was putting a plan in place. He felt it was not a simple thing and they would continue to update priorities. Vice Mayor del Aguila expressed that he wanted to position and prepare the town for another crisis.

Vice Mayor del Aguila also felt it was good to get a contrarian view. He believed that once you have been institutionalized you tend to focus operationally, and tactical and strategic thinking gets put back because there is no time. He believed Council was there to align operations with their strategic initiatives.

Councilmember Friedrichs asked Mr. Ashton about the bus bay mentioned in Vice Mayor del Aguila's presentation. Mr. Ashton confirmed they were building a bus bay and it was currently in the utility relocation phase where there had been a setback due to utilities infrastructure. He stated they would be authorized by VDOT to proceed and were confident they would beat the time Metro would open.

**January 12, 2021
(public hearing)**

Councilmember Friedrichs also asked if Council was working on housing initiatives, and Mr. Ashton confirmed they were working on one with Fairfax County and another with the Residence Inn project approved at the last session. In relation to macro level policy directives, they were working with the housing subject matter experts to help get that input.

Councilmember Friedrichs believed they had been working on a lot of these things for a while and sometimes the public does not know what they are working on. She felt this was where the strategic planning initiatives would be helpful, because they get updates on timely things, but they need to know what the town is doing on a more holistic level. She did not believe there was anything in the presentation Council did not agree on, and she felt they need to act and have people know they are acting. Councilmember Friedrichs emphasized the great staff. She felt they could improve the process in relation to what was getting done.

Mr. Ashton stated Councilmember Friedrichs provided fair criticism about communication, and he would take that under advisement. He stated that how communication usually worked was through CIP updates, and he could see how that could be inadequate. Mr. Ashton stated development and road projects take years including the land acquisition, utility acquisition, some managed by town some by VDOT, and all those things they get caught up in as a staff. Mr. Ashton agreed they could do a better job with communication.

At 8:46 p.m., Mayor Olem relinquished the Chair to Vice Mayor del Aguila due to technical difficulties.

Councilmember Singh expressed concern over Councilmember Friedrichs' comments about what the town was already doing. He felt they needed a big departure from what they were doing. He referenced the housing slide and stated there were six to seven questions that he put in especially regarding workforce housing. He felt they were difficult questions and that Council must understand what the issues are and get into a different level of detail. He felt the same thing should happen for FOIA requests and referenced the Comstock project.

Point of Order

During the discussion, Councilmember Friedrichs called for point of order. She asked Councilmember Singh to refrain from the use of profanity. Councilmember Singh refuted this statement.

Acting Chair del Aguila reminded Councilmember Singh to be mindful of his language during his comments.

Councilmember Singh then stated he felt there were closed meetings that should not have been. He was open to discussion of each of these items. He felt he knew the depth of the progress they need to make, and that Council would need six to eight hours

**January 12, 2021
(public hearing)**

initially to know their thoughts and go through that process. He felt that how it would be done would be secondary. He felt that which things they should do and how they should do them needed to be discussed to set priorities. It was his belief that they needed to find their differences and move from there.

At 8:51 p.m., Vice Mayor del Aguila returned the chair to Mayor Olem.

Councilmember Regan supported the last thing that Councilmember Singh said which was this was an especially important conversation. Councilmember Regan was reluctant to engage on specifics and stated it was the first time he was hearing some of it. Councilmember Regan referred to Robert's Rules of Order, and he stated he felt they should end the discussion at that point.

Mayor Olem stated Council also needed to keep the budget in mind, where they would have a huge shortfall. She stated anyone on the VML budget meeting knew this was happening across the state, and towns were being hit harder than counties. Mayor Olem expressed that Council needed to consider that because all items presented would have a price tag. She stated Council needed to talk to the community about what they were willing to put in their budget. She reiterated Council needed community input.

Vice Mayor del Aguila concluded by stating he agreed with what everyone else said. He reiterated that long term planning was vital, and they could have planned better for the current crisis. He stated he knew bus bays were coming and he felt it was a failure in planning strategically long term that they did not currently have it. He felt everything could have been planned better, and he thought they were all in agreement to do that now.

Mayor Olem stated she had been planning for Metro since she moved to the town and before she was on Council. She stated they have had things in place and funding had been worked on for years.

Mr. Ashton stated the funding was in place for the bus bays in the 2017-2018 timeframe when they had an inadequate process and they worked to speed it up, but they hit snags in land acquisition and utility relocation. He stated if Metro were imminent, they might have been able to speed that up.

Mr. Ashton detailed the relocation process and stated beating the opening of Metro was always the goal. He stated they did not exercise the leverage because it was not needed. Mr. Ashton stated that bringing in federal and state money frees up funds for other projects, and they could get more into those conversations when they review the CIP.

**January 12, 2021
(public hearing)**

Guidance to Town Manager

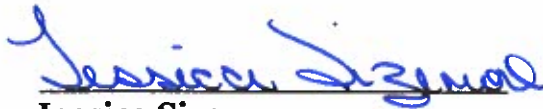
Following discussion, Mr. Ashton was requested to schedule quarterly strategic meetings, along with future Council discussions, to further address the strategic initiatives.

19. ADJOURNMENT

Councilmember Friedrichs moved to adjourn the meeting of the January 12, 2021 public hearing, and Councilmember Regan seconded the motion. The question was called on the motion which carried by unanimous roll call vote by electronic means, and the meeting of the January 12, 2021 public hearing adjourned at 8:58 p.m. The vote was: Councilmembers Alam, Dhakal, Friedrichs, Regan, Singh, Vice Mayor del Aguila, and Mayor Olem voting "Aye."


Sheila A. Olem
Mayor




Jessica Sizemore
Legislative Assistant

Minutes approved by Town Council: February 23, 2021.

January 12, 2021
(public hearing)

NOTE:

This page was intentionally left blank



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: dave@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: *[Signature]*

Date: 11/24/2020

Building Official Approval: *John Orrison*

Date: 11/30/2020

Deputy Dir. Public Works Approval: *Tammy L Chastain*

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
herndon@va.gov

- o If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- o Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☒ Number and type of heaters.
 - o Heaters and tents must be in compliance with the Fairfax County Office of the Fire Marshal Guidelines <https://www.fairfaxcounty.gov/fire-emt/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.
 - o 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 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 "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.

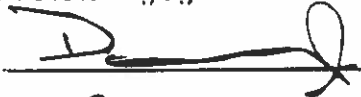
Liquor Liability (if applicable) – \$1,000,000. Policy shall be endorsed to name the Town as an additional insured.

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:

 David A. Meyer Jr.

Its:

Owned

TOWN OF HERNDON:

By:


Town Manager

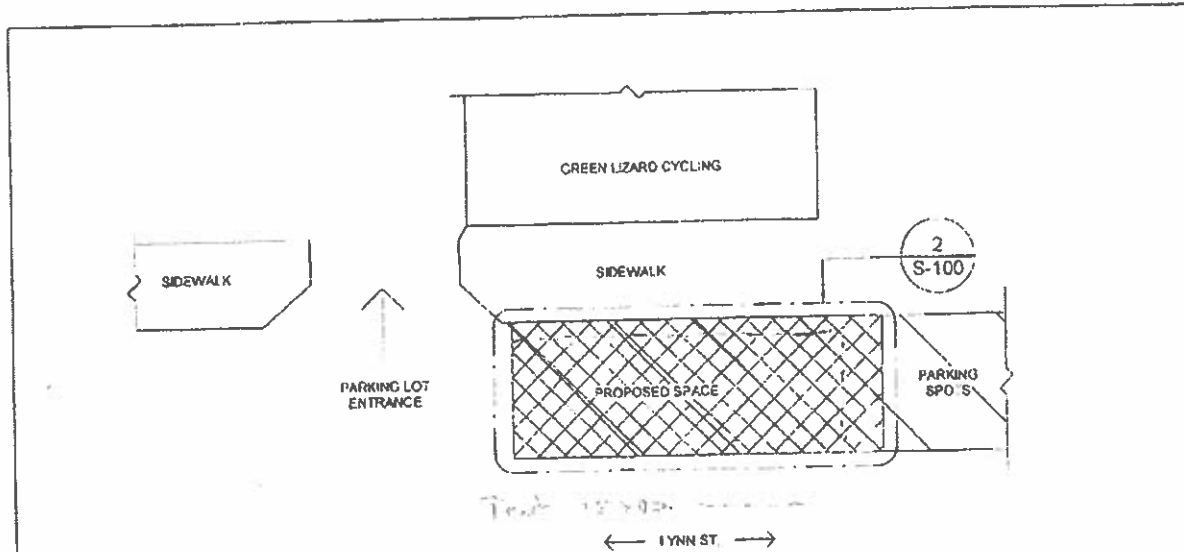
12-2-2020
Date

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

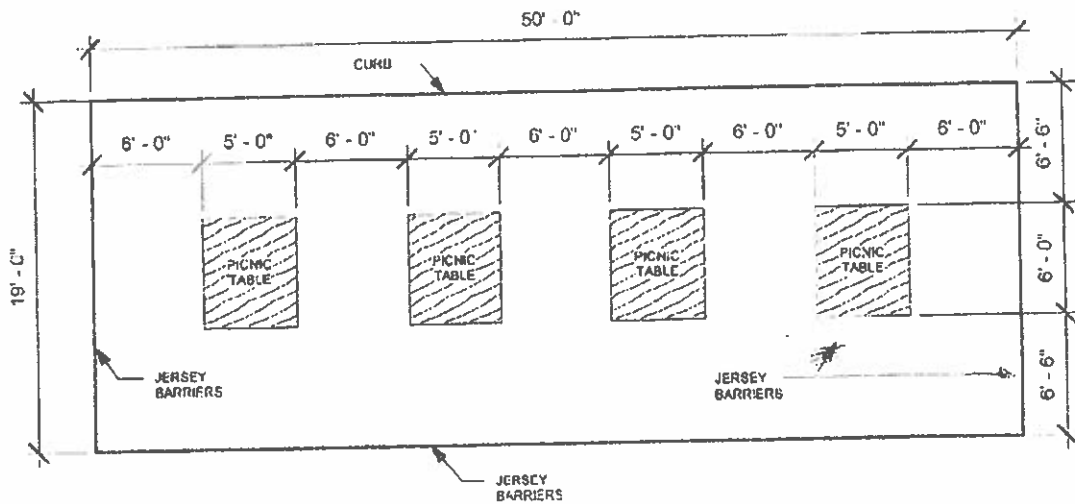
To whom it may concern:

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

Sincerely,
Arthur Nachman
Arthur Nachman, LP
City of Fairfax



① SITE
1" = 20'-0"



② PROPOSED SPACE
1/8" = 1'-0"

Handwritten notes:
Total size is 15' x 40' = 600 sq ft.
1 - Brown Inflatable Table - see attached cut sheet

GLC	David Meyer Green Lizard Cycling	OUTDOOR SEATING	
		Project number	0024
		Date	08/05/2020
		Drawn by	DAM III
		S-100	

PRODUCTS

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	122.50 lbs.
Fuel Source	Gas
Installation Sheet	https://images.paloalto.com/suppliers/BromicHeating/180cHeat/TLTn.pdf
Material	Stainless Steel
Safety System/Safety Control	Flame Failure S.A. to-Tell Safety Device
Style and Option	
Style	Black Finish-Popover
Item #	SH0160
Price	\$ 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

TOWN OF
Herndon
 DEPARTMENT OF PUBLIC WORKS

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 Lori VanBuskirk PHONE (Ac. No. Exp.) 703-435-3500 FAX (Ac. No.) 703-481-0234 EMAIL certificates@hriassociates.com ADDRESS:
INSURER(S) AFFORDING COVERAGE	
INSURER A: Cincinnati Insurance Company	
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.		

TYPE OF INSURANCE	POLICY NUMBER	POLICY EFF. (MM/DD/YYYY)	POLICY EXP. (MM/DD/YYYY)	LIMITS
A ☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR A ☒ Liquor Liability GEN'L AGGREGATE LIMIT APPLIES PER ☒ POLICY ☐ PBO ☐ LOC OTHER	ECP 035 26 65 ECP 035 26 65	12/15/2020 12/15/2020	12/15/2021 12/15/2021	EACH OCCURRENCE \$ 2,000,000 DAMAGE TO RENTED PREMISES (Per occurrence) \$ 2,000,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 2,000,000 GENERAL AGGREGATE \$ 4,000,000 PRODUCTS - COMPOP AGG \$ 4,000,000 Liq. Lab \$ 1,000,000
A AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY	ECP 035 26 65	12/15/2020	12/15/2021	COMBINED SINGLE LIMIT (Per accident) \$ 2,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$ \$
A ☒ UMBRELLA LIAB ☒ OCCUR EXCESS LIAB CLAIMS-MADE DED ☒ RETENTION \$ None	ECP 035 26 65	12/15/2020	12/15/2021	EACH OCCURRENCE \$ 1,000,000 AGGREGATE \$ 1,000,000 \$
B WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below	42 WEC CM5330	04/20/2020	04/20/2021	☒ PER STATUTE ☐ OTHER 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

TOWNOFH

Town of Herndon
 777 Lynn St.
 Herndon, VA 20170

CANCELLATION

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

Lori VanBuskirk

ACORD 25 (2016/03)

© 1988-2015 ACORD CORPORATION. All rights reserved.

The ACORD name and logo are registered marks of ACORD



Virginia Alcoholic Beverage Control Authority

1000 Highways Road • P.O. Box 20491 • Richmond, VA 23261-4191 • www.abc.virginia.gov

090385

ABC LICENSE

Beer On and Off Premises/Delivery Permit

Effective Period
OCT 01, 2020 TO SEP 30, 2021

Expiration Date
SEP 21

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

Maria J. Everett
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 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





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: ZUFFIRELLI@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:

Date: 11/30/2020

Building Official Approval: John Orison

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:
- 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.

	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

- o If outdoor dining is located in a designated parking area, please show the location of available parking and identify traffic control measures.
- o Number, location, and size of tents. If multiple tents, include the aggregate square footage.
- ☒ Number and type of heaters.
 - o 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.
 - o 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 (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: _____

[Signature]
ZEFFIRELLI RISTORANTE ITALIANO

TOWN OF HERNDON:

By: _____

[Signature]

12-3-2020

Town Manager

Date



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

11/20/2020

Mr. Dennis Holste,
Town of Herndon

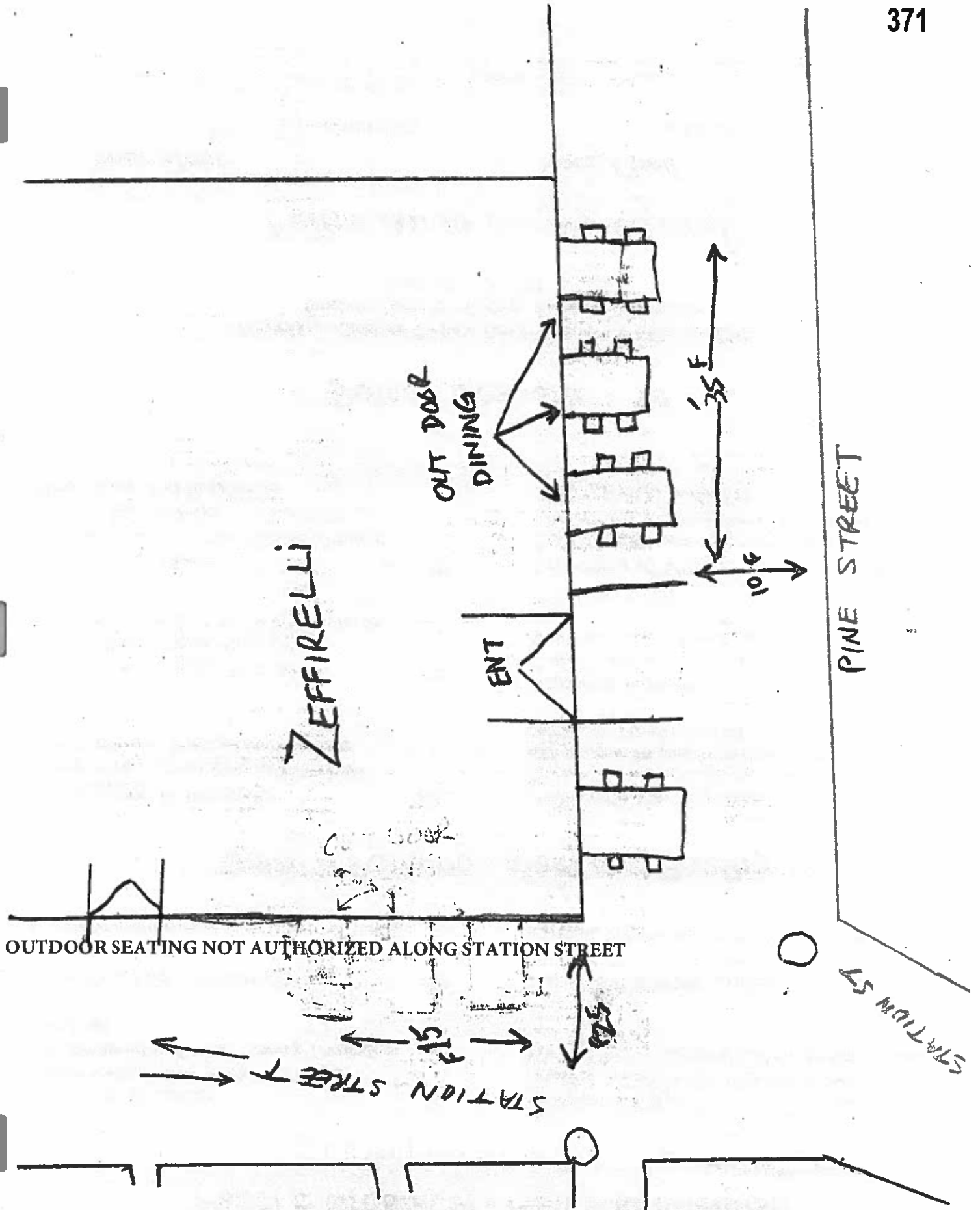
Zeffirelli Ristorante Italiano we will not be using any heaters or tent for outdoor seating.

Sincerely:

A handwritten signature in black ink, appearing to read "Syed Hussain".

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 FAX (A/C, No): (703) 991-4838	
	E-MAIL ADDRESS: certs@preferins.com	
INSURED Pine Street INC DBA Zeffirelli; Zulfar Family Limited Partnership 728 Pine St Herndon, VA 20170	INSURER(S) AFFORDING COVERAGE	NAIC #
	INSURER A: Erle Insurance Exchange	26271
	INSURER B: Hartford Accident And Indemnity Company	22357
	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 SUBR INSD	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 - COMPOP 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 N/A	42WECEK9473	10/1/2020	10/1/2021	☒ PER STATUTE ☐ OTHER 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

DEC 20

Mixed Beverage Restaurant (Seating Capacity - 101 to

- 150 seats)

JAN 01, 2020 TO DEC 31, 2020

Establishment Type: Restaurant

Telephone Numbers:

703-318-7000

License Name & Trade Address:

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

By Order of Alcoholic Beverage Control Board

Fairfax County - TERRITORY # 70

Alexandria - Region 4

703-313-4432

J. Pinter

Chairman

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 100 LBS. PER SQ. FT.

OCCUPANCY LOAD 104 Seats PERSON

USE GROUP A-2

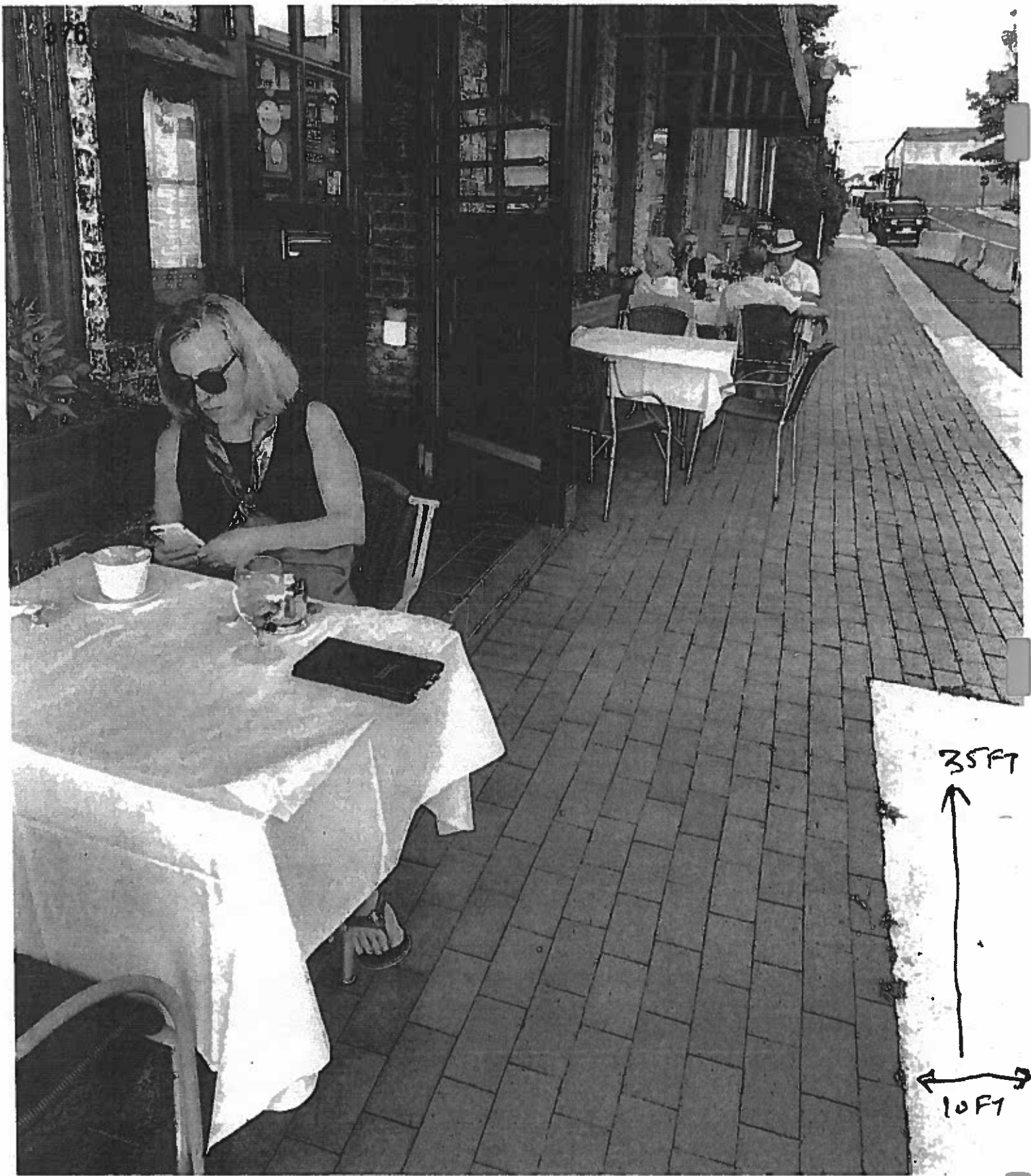
CONST. TYPE 3-C

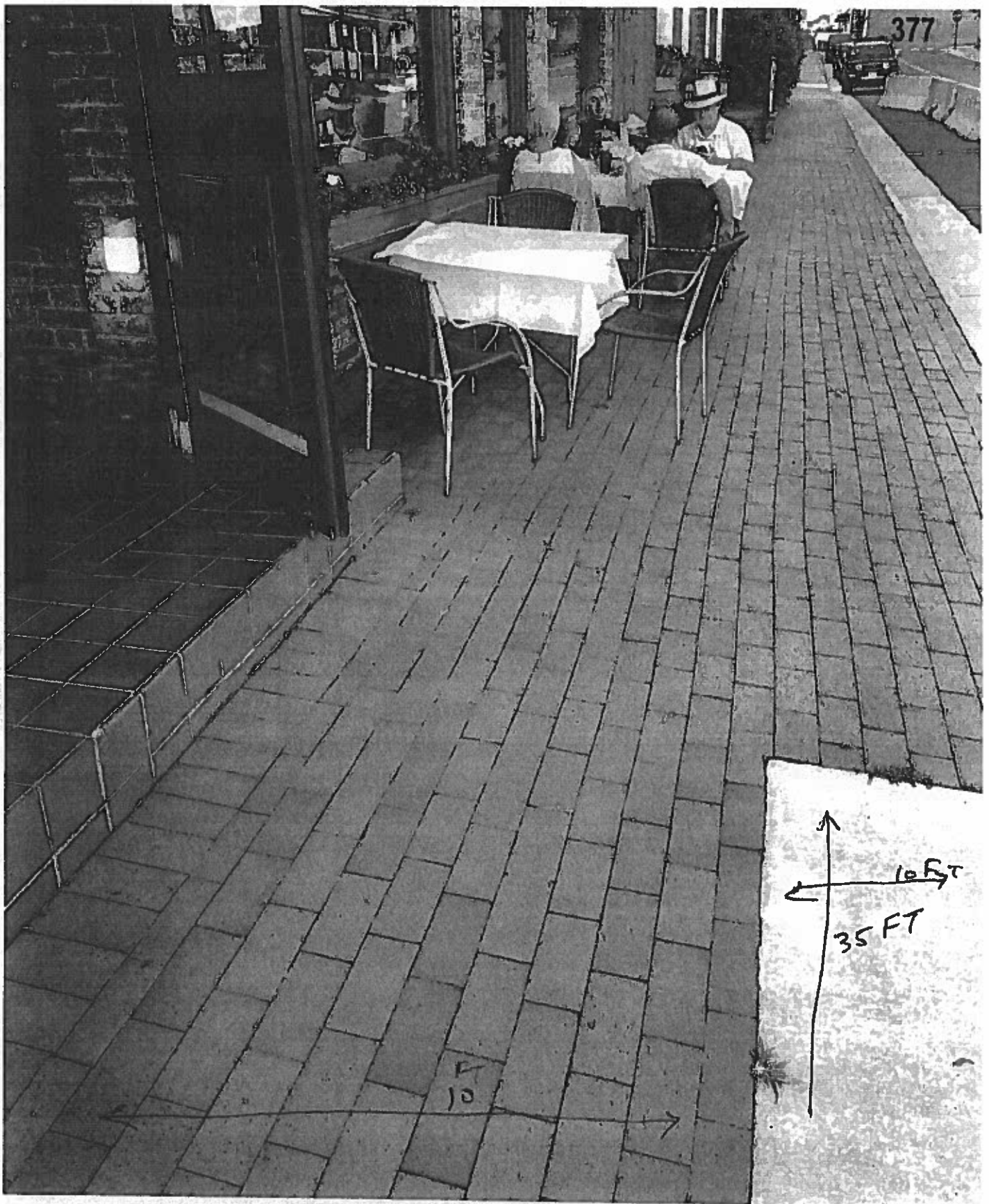
FOR 728 PINE Street Zeffirelli (5+DIME)

APPROVED 1/22/85

William Pooten

BUILDING INSPECTOR

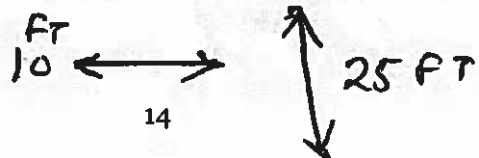






OUTDOOR SEATING NOT AUTHORIZED IN THIS LOCATION
ALONG STATION STREET

PINE STREET & STATION STREET



Attachment
21-G-08