



TOWN COUNCIL WORK SESSION AGENDA

Town Council Chambers
765 Lynn Street, Herndon, VA 20170
Tuesday, September 19, 2023 | 7:00 p.m.

1. Call to Order

2. General

- a. Resolution to accept the State of the Town Report, Fiscal Year 2023
- b. Resolution to adopt the Town of Herndon's 2024 Legislative Program
- c. Resolution to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating during an event

3. Discussion

- a. Town Business Opinion Survey
- b. Progress on Items Recommended by HDEIC - Councilmember Dhakal

4. Roundtable

5. Closed Meeting

- a. A Closed Meeting pursuant to Code of Virginia Section 2.2-3711 (A)(8) for consultation with legal counsel regarding specific legal matters requiring the provision of legal advice by such counsel, relating to publicly held real property in the downtown

6. Adjournment



STAFF REPORT

Town Council
September 19, 2023

Title: Resolution to adopt the Town of Herndon's 2024 Legislative Program

Staff Contact:

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

Description:

Each year the Town advises the Town's representatives in the General Assembly of legislation which they wish to be advanced and legislative positions on important issues in the form of its Legislative Program. The positions and information provided by the Legislative Program play an important role in informing state legislators on how the actions they take at the General Assembly will affect the community. Generally, the Legislative Program mirrors that of the Virginia Municipal League (VML) which advocates on behalf of Towns and Cities throughout the Commonwealth and occasionally includes specific requests for legislation. The VML Legislative Program will be adopted at their Annual Conference on October 9, 2023.

This year, two specific requests have been identified. The first is that the Virginia General Assembly amend the Code of Virginia to enable localities to provide incentives, including local tax rebates to owners of structures in a Historic District who make exterior renovations. This amendment was identified as a useful tool to address concerns expressed by homeowners about the cost of exterior renovations to historic buildings in the Historic District.

The second is that the Virginia General Assembly amend the Code of Virginia to authorize localities to employ photo speed monitoring devices in certain areas in addition to school zones and work zones where they are currently authorized. This amendment was identified as a highly useful tool to address concerns about speeding in the Town expressed by residents and Town Council.

Recommendation:

That the Mayor and Town Council adopt the Resolution.

Attachments:

1. Resolution

Prepared and Approved by:

A handwritten signature in cursive script that reads "Lesa J. Yeatts".

Lesa J. Yeatts, Town Attorney

TOWN OF HERNDON, VIRGINIA

RESOLUTION

SEPTEMBER 26, 2023

Resolution- to adopt the Town of Herndon's 2024 Legislative Program.

The Mayor and the Town Council annually advise the Town's representatives in the General Assembly of legislation they desire to be advanced and of legislative positions on important issues.

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

1. The Town generally supports the positions of the Virginia Municipal League (VML) relative to issues and legislation affecting local governments.
2. The Town Council specifically requests that:
 - the Virginia General Assembly amend the Code of Virginia to enable localities to provide incentives, including local tax rebates to owners of structures in a Historic District who make exterior renovations.
 - the Virginia General Assembly amend the Code of Virginia to authorize localities to employ photo speed monitoring devices in areas in addition to school zones and work zones where they are currently authorized.



STAFF REPORT

Town Council
September 19, 2023

Title:

Resolution to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating during an event.

Staff Contacts:

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

David S. Stromberg, Zoning Administrator
(703) 787-7380
david.stromberg@herndon-va.gov

Summary:

This Resolution approves a Temporary License Agreement which grants permission to Jimmy's Old Town Tavern to use the town alley located behind 689 and 681 Spring Street for outdoor seating during an event on October 1, 2023.

Description:

The applicant, Jimmy's Old Town Tavern, is requesting authorization to use designated alley public space located behind 689 and 681 Spring Street for outdoor seating during an event from 8:00 a.m. to 11:00 p.m. on October 1, 2023. The applicant has been approved for a Temporary Use Permit by the Zoning Administrator pursuant to Section 78-90.2 of the Town of Herndon Zoning Ordinance.

This resolution authorizes the Mayor to sign the necessary license agreement to permit Jimmy's Old Town Tavern to utilize the town's property for this 1-day event.

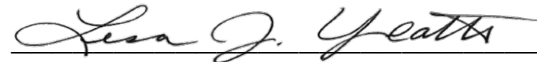
Recommendation:

Staff recommends the Mayor and Town Council adopt the attached resolution approving the temporary license agreement.

Attachments:

1. Resolution
2. Temporary License Agreement
3. Exhibit A: Temporary Use Permit Application for October 1, 2023,
w/attachments

Prepared and Approved by:



Lesa J. Yeatts, Town Attorney



David S. Stromberg, Zoning Administrator

TOWN OF HERNDON, VIRGINIA

RESOLUTION

SEPTEMBER 26, 2023

Resolution- to approve a temporary license agreement to use a designated public space in the alley adjacent to Jimmy's Old Town Tavern for outdoor seating during an event.

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

1. The temporary license agreement dated September 26, 2023, between the Town of Herndon as licensor and JOTT, INC. d/b/a Jimmy's Old Town Tavern (Jimmy's) as licensee is approved. The license allows Jimmy's to use designated public alley space adjacent to Jimmy's for outdoor seating during an event on October 1, 2023. The license agreement may contain other terms agreed to by the Mayor and is on file in the office of the Town Attorney.
2. The Mayor is authorized to sign and deliver this temporary license agreement and any other instrument necessary to evidence or effectuate this agreement.

TEMPORARY LICENSE AGREEMENT

This Agreement ("Agreement") is made this 26th day of September 2023 by and between JOTT, INC. d/b/a Jimmy's Old Town Tavern ("Jimmy's") and the TOWN OF HERNDON, VIRGINIA, ("Town").

WHEREAS Jimmy's represents that they have a Temporary Use Permit to conduct an event in the Town of Herndon on October 1, 2023 represented in "Exhibit A" attached hereto ("Permit") and that Jimmy's would like to use the Town's property behind Jimmy's Old Town Tavern Restaurant as shown on the Permit and known as the "Alley";

WHEREAS the Town desires to permit the use of the Alley by Jimmy's on the date as described in the Permit (on October 1, 2023 only).

Now therefore the parties agree as follows:

1. The Town hereby grants Jimmy's authorization to temporarily use the Alley for purposes described in the Permit.
2. Jimmy's shall comply with the terms of the Permit, this License, and all applicable town, state and federal laws and regulations obtaining and maintaining at all times any other permit(s) required under applicable law for this use.
3. The parties expressly agree and contract that there shall be no fee for the use of the Town property on this occasion only.
4. 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.
5. Jimmy's hereby assumes all risk of damage by reason of its occupation of the Alley 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 Jimmy's 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.
6. Jimmy's 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 Jimmy's written confirmation that the type and amount of insurance is accepted.

Insurance limits shall not be less than the following amounts:

Liability - Coverage totaling \$5,000.000.00. All policies shall be endorsed to name the Town of Herndon 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 written notice thereof to the Town.

7. Termination: The Town may terminate this Agreement upon 24 hours notice to Jimmy's for cause.

8. 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.

9. 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.

JOTT, INC.

d/b/a Jimmy's Old Town Tavern

By James C. Cirrito
James C. Cirrito, President

TOWN OF HERNDON, VIRGINIA

By _____
Sheila A. Olem, Mayor

APPROVED AS TO FORM:

Lesa J. Yeatts
Lesa J. Yeatts
Town Attorney

July 2018



RECEIVED ON

AUG 14 2023

Department of Community Development
777 Lynn Street
Herndon, Virginia 20170-4602

DEPARTMENT OF
COMMUNITY DEVELOPMENT

**APPLICATION FOR APPROVAL OF A TEMPORARY USE SITE PLAN
AND ASSOCIATED ZONING INSPECTION PERMIT
(TEMPORARY USE PERMIT)**

(Not all temporary uses require a permit. See § 78-90.1 of the Herndon Town Code.)

Submittal of this form with **original signatures is required. PLEASE PRINT OR TYPE** (Unless otherwise indicated.)

Name of Business or Organization:

Jimmy's Old Town Tavern

Street Address of the Subject Property
(including apt/suite #):

697 Spring St. Herndon VA 20170

Please describe the requested activity, proposed
dates and daily hours of operation. Add more
sheets if necessary.

Outdoor Dining/Fundraiser Oct. 1, 2023 8am - 11pm

Lot Area (site area) Proposed for the Temporary
Use:

Alley behind Jimmy's

Are any site alterations or any alterations to the building's exterior or interior planned or underway in connection
with this use (or were any alterations done)? ☒ No ☐ Yes Please describe :

Name of Contact for the Temporary Use
(Applicant):

Jimmy Cirrito

Address of Permanent Residence:

9254 Matthew Dr. Manassas Park, VA 20111

Jimcirrito@aol.com

703-470-4014

E-mail address

Telephone # for duration of temporary use

**The undersigned hereby applies for a Temporary Use Permit under the provisions of § 78-90.3
and § 78-90.4 of the Herndon Town Code.**

I hereby affirm and certify that:

- The information provided on this form is true and correct to the best of my knowledge.
- The requirements associated with this application under § 78-90.3 and § 78-90.4 of the Herndon Town Code have been read and are understood.
- The use and occupancy of buildings and/or the use of land noted above is in conformance with all provisions of the Town of Herndon, Virginia Zoning Ordinance regulations to the best of my knowledge.
- The site shall be returned within 48 hours to its condition prior to the establishment of the temporary use.


Signature of Contact (Applicant)

7-19-2023

Date

APPLICATION FOR APPROVAL OF A TEMPORARY USE SITE PLAN AND ASSOCIATED ZONING INSPECTION PERMIT (TEMPORARY USE PERMIT) - continued

Name and Title of Property Owner (Applicant): Jimmy Cirrito JMK 12 LLC
Mailing Address: same

E-mail address

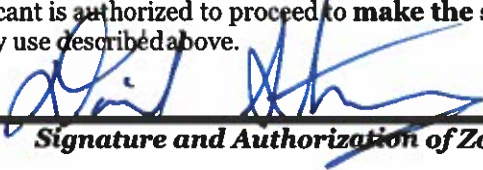
Telephone

TO BE SUBMITTED WITH THIS APPLICATION

- X A letter signed by the owner or owner's agent consenting to the application for the Temporary Use Permit;
- X A Site Plan prepared in accordance with § 78-155.6(4) and showing the area of proposed activity with signage, display areas, illumination, vehicular entrances to the site (location, type and size), parking area associated with the temporary use (location, layout, and surface material);
- X The detailed description of the proposed temporary activity requested above should include an analysis of any noise that may not comply with the noise provisions in the Herndon Town Code;
- X Sample signage to be used;
- N/A A statement from the landowner(s) authorizing an agent to act on their behalf (if applicable);
- N/A If a pre-application conference took place, a statement indicating the date and time a pre-application conference was held with the Town, as well as a list of participants in the conference;
- N/A A list of proposed vendors to include security firms, food trucks, portable toilet providers, or any other vendors that will be onsite during the event.

AUTHORIZATION STEP ONE. SITE IMPROVEMENTS ONLY (verification of Site Plan approval)

The applicant is authorized to proceed to **make the site improvements** for the purposes of conducting the temporary use described above.


Signature and Authorization of Zoning Administrator

8/28/2023

AUTHORIZATION STEP TWO: AUTHORIZATION TO BEGIN OPERATION OF THE TEMPORARY USE (Temporary Use Permit/Zoning Inspection Permit)

The applicant has completed the site improvements and the applicant is authorized to **begin operation of the temporary use**.

This Permit is effective beginning _____ for _____ days.

Signature of Zoning Inspector

EXHIBIT A

APPLICATION FOR APPROVAL OF A TEMPORARY USE SITE PLAN AND ASSOCIATED ZONING INSPECTION PERMIT (TEMPORARY USE PERMIT) - continued

For Office Use Only:

STEP ONE (Site Plan)	Received by: <i>LWU</i>	Fee paid for Temporary Use Site Plan* application:	Date: <i>8/14/2023</i>	Case No.: <i>TUP23-010</i>
	Use permitted by Town Code Section:			
	Tax Map Reference: <i>0162020086A</i>	Zoning District: <i>CC</i>		
	Business and Occupational License #:	Status of Taxes: ☒ Paid ☐ Delinquent		
STEP TWO (ZIP)	Received by:	Fee paid for Zoning Inspection Permit/Temporary Use Permit:	Date:	

**Note: no application fee is required for uses of less than 90 consecutive days in duration.*

Distribution
after
approval:

Applicant

Community
Development

Fire
Department

Finance



July 19, 2023

copy

Special Agent, Kenneth Chang
Bureau of Law Enforcement
Commonwealth of Virginia
Department of Alcoholic Beverage Control
Alexandria Regional Office
6308 Grovedale Drive
Alexandria VA 22310

Re: Request for Extension of License Privileges for outdoor Event, Sunday, October 1, 2023.

Dear Special Agent Kenneth Chang:

This letter serves as a Request for Permission for JOTT, Inc., trading as Jimmy's Old Town Tavern, License 75822, to extend its license privileges to the alleyway, et al, shown on the enclosed sketch for the following date and time span:

Sunday, October 1, 2023, from 8:00 AM to 11:00 PM

Enclosed please find the following:

- Drawing of the proposed area.
- Application to the Town of Herndon for this event.

The license is obligated to ensure full compliance with the ABC laws and all other laws and regulations and is cognizant of criminal action that could be taken toward those involved and administrative action taken toward the license held by JOTT, Inc.

If you have any questions, please contact me at 703-470-4014.

Sincerely,

James Cirrito
Owner
Jimmy's Old Town Tavern

Dowdy, Sarah

From: jimcirrito@aol.com
Sent: Tuesday, August 15, 2023 6:09 PM
To: Dowdy, Sarah
Subject: Fw: Amendment 013392983- Approved

DISCLAIMER: This message was sent from outside the Town of Herndon email system.

DO NOT CLICK any links or download attachments unless the contents are from a trusted source.

----- Forwarded Message -----

From: Virginia ABC Licensing <noreply@virginiaabc.com>
To: "kenneth.chang@virginiaabc.com" <kenneth.chang@virginiaabc.com>
Cc: "jimcirrito@aol.com" <jimcirrito@aol.com>; "jimcirrito@aol.com" <jimcirrito@aol.com>
Sent: Thursday, August 3, 2023 at 02:35:57 PM EDT
Subject: Amendment 013392983- Approved

Dear Licensee,

Amendment 013392983 for License Establishment Extension Amendment has been Approved. If you have questions or need additional information, please contact your Virginia ABC special agent.

Sincerely,

Virginia ABC

Please do not reply to this email. This is an automated message sent by Virginia ABC. If you have a question or concern, please contact your [Regional Office](#).



July 19, 2023

David Stromberg

Development Program Planner/Deputy Zoning Administrator

Town of Herndon

Department of Community Development

777 Lynn Street
Herndon VA 20170-0427

Re: Temporary Use Permit for the Extension of Retail Sales, Sunday, October 1, 2023

Dear Mr. Stromberg,

This letter serves as a Request/Application for permission for Jimmy's Old Town Tavern, 697 Spring Street, to have the Town of Herndon issue a Temporary Use Permit for the Extension of Outdoor Retail Sales per The Town of Herndon Zoning Ordinance, Division 3. Temporary Uses; Sec.78-1392 Item (3) and Sec. 78-1395 Item (3) Outdoor Retail Sales Events & Sec. 78-1395 Item (4). Additional Permits for Temporary Use inclusive of Sunday, October 1, 2023 from 8am to 11:00pm.

Enclosed please find the following:

- Drawing of the proposed area
- Letters signed by the adjacent business allowing this event (The Upholstery Shop)
- Letter to the ABC Board of Virginia requesting an extension of license privileges.

If you have any questions, please contact me at 703-470-4014.

Sincerely,

A handwritten signature in black ink that reads "James C. Cirrito". The signature is written in a cursive, flowing style.

James C. Cirrito
Owner
Jimmy's Old Town Tavern

EXHIBIT A



RECEIVED ON

AUG 21 2023

DEPARTMENT OF
COMMUNITY DEVELOPMENT

July 19, 2023

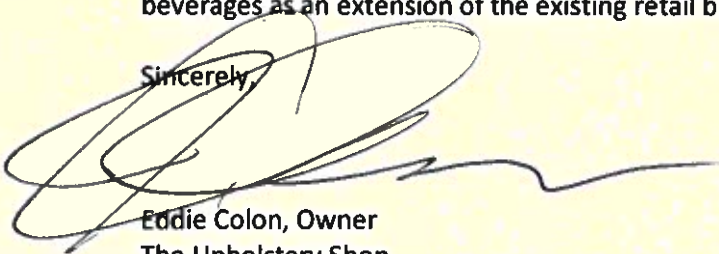
Town of Herndon
Dept. of Community Development
777 Lynn Street
Herndon VA 20170

Re: Temporary Use Permit for the Extension of Retail Sales for Outdoor Event, October 1, 2023.

Dear TOH:

Relative to your request, I hereby give my permission for my business neighbor, Jimmy's Old Town Tavern, to provide an outdoor event on October 1, 2023 from 8am to 11pm. The location shall be in the alleyway behind and adjoining our businesses. The purpose of this event is to provide and sell food and beverages as an extension of the existing retail business known as Jimmy's Old Town Tavern.

Sincerely,



Eddie Colon, Owner
The Upholstery Shop
757 Elden Street
Herndon, VA 20170

Date:

8/21/2023



EXHIBIT A

William H. Ashton II
TOWN MANAGER
T (703) 787-7368
Bill.Ashton@herndon-va.gov

August 14, 2023

Jimmy's Old Town Tavern
697 Spring Street
Herndon, VA 20170

Dear Mr. Cirrito,

This is in response to your request for a noise permit for your event on Sunday, October 1, 2023, from 8 AM to 11 PM, to be held at Jimmy's Old Town Tavern, 697 Spring Street, Herndon, VA 20170. Since you will be using amplified sound, you are required to have a noise permit. Please keep in mind that the noise permit only allows amplified sound between 7 AM and 10 PM.

I am approving the noise permit and this letter will serve as such. By copy of this letter to the Herndon Police, I am advising them of your event since they enforce the noise ordinance.

Best wishes for a successful event.

Sincerely,

A handwritten signature in black ink that reads "Bill Ashton".

Bill Ashton
Town Manager

c. Maggie A. DeBoard, Chief of Police