

DATE: August 1, 2023

TO: Tony LaColla, Division Chief  
Department of Planning and Zoning

FROM: Mavis Stanfield, Urban Planner  
Department of Planning and Zoning

SUBJECT: Special Use Permit #2023-00058  
Administrative Review for a Change of Ownership  
Site Use: Restaurant  
Applicant: Madison Ward  
Location: 102 South Patrick Street  
Zone: CD/Commercial Downtown

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### **Request**

Special Use Permit #2023-00058 is an administrative request to change the ownership of an existing restaurant from Sarah Moore to Madison Ward. The business proposes to continue operating as an ice cream shop, under the trade name of Jeni's Ice Cream, offering ice cream and sorbets. The restaurant will maintain the use of 45 seats for patrons. The restaurant would continue to operate from 6 a.m. to 11 p.m., daily. No other operational changes are proposed.

### **Background**

A restaurant has operated at this location since April 13, 1991 when the use was approved under SUP #2482 to Michael Elmendorf. An expansion of the restaurant into adjoining buildings at 104 and 106 South Patrick Street was approved with SUP#2482-A on September 18, 1993. This increased the area of the restaurant from 400 square feet to approximately 1,200 square feet. On May 9, 2019, SUP 2019-0037 was approved to change the ownership from Michael Elmendorf to Sarah Moore.

A site inspection completed in May 2023 revealed that the business operation was in compliance with all applicable special use permit conditions with the exception that the ownership had changed. With approval of this special use permit, this violation will be resolved.

### **Parking**

The restaurant is located within the Central Business District. In accordance with Section 8-300(B) of the Zoning Ordinance, off-street parking for restaurants is not required within the Central Business District.

### **Community Outreach**

Public notice was provided through eNews, via the City's website, and by posting a placard at the site. In addition, the Old Town Civic Association was sent an email with information about the current application. Staff has not received any public comments about the proposal.

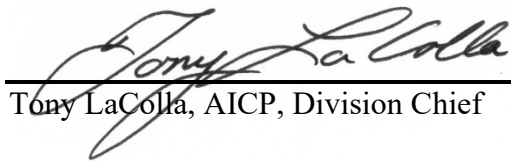
**Staff Action**

Staff supports the applicant's request for a change of ownership at this location. As the applicant proposes no other changes and has operated at this location since 2019 without complaints, no new impacts are not expected from this use on South Patrick Street. Staff has carried forward previous SUP conditions and amended conditions to reflect current standard language for conditions related to ending the regulation of indoor hours of operation (Condition #2), making the number of indoor dining seats subject to the building code (Condition #6), allowing alcohol sales in compliance with Virginia ABC (Condition #14), delivery vehicles operated and managed by the applicant (Condition #15) and limited live entertainment (Condition #16).

Staff hereby approves the Special Use Permit request.

**ADMINISTRATIVE ACTION – DEPARTMENT OF PLANNING AND ZONING:**

Date: August 1, 2023  
Action: Approved



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Tony LaColla, AICP, Division Chief

Attachments: 1) Special Use Permit Conditions  
2) Statement of Consent

## CONDITIONS OF SPECIAL USE PERMIT #2023-00058

The owner is responsible for ensuring that the following conditions are adhered to at all times. Violation of any of the conditions may result in fines and/or referral to public hearing by the Planning Commission and City Council.

1. The special use permit shall be granted to the applicant only or to any corporation in which the applicant has a controlling interest. (P&CD) (SUP#2019-0037)
2. **CONDITION AMENDED BY STAFF:** ~~The hours of operation shall be limited to 6:00 a.m. to 11:00 p.m., seven (7) days a week. No new meals may be ordered and no alcohol maybe served after the closing hour, and A~~all patrons must leave the premises one hour after closing. (P&CD) (SUP#2019-0037) (P&Z)
3. No food, beverages, or other material shall be stored outside, with the exception of materials specified in other conditions. (P&CD) (SUP #2482) (P&Z)
4. Condition deleted.
5. Trash and garbage shall be collected every day that service is available. (P&CD) (SUP #2482-A)
6. **CONDITION AMENDED BY STAFF:** ~~No more than 45~~ The number of seats shall be provided for the use of patrons shall comply with the state building code. (P&CD) (SUP#2482-A) (P&Z)
7. The use must comply with the city's noise ordinance. No amplified sound shall be audible at the property line. (SUP #2019-0037) (P&Z)
8. The applicant shall post the hours of operation at the entrance of the restaurant. (P&CD) (SUP #2482-A)
9. Litter on the site and on the public rights-of-way and spaces adjacent to or within 75 feet of the premises shall be picked up at least twice a day and at the close of business, and more often if necessary, to prevent an unsightly and unsanitary accumulation, on each day the business is open to the public. (SUP#2019-0037) (P&Z)
10. Condition deleted.
11. Kitchen equipment, including floor mats, shall not be cleaned outside, nor shall any cooking residues be washed into the streets, alleys or storm sewers. (SUP #2019-0037) (P&Z)
12. **CONDITION DELETED BY STAFF:**~~The applicant shall post the hours of operation at the entrance of the business. (SUP #2019-0037) (P&Z)~~

13. The applicant shall conduct employee training sessions on an ongoing basis, including as part of any employee orientation, to discuss all SUP provisions and requirements. (SUP #2019-0037) (P&Z)
14. **CONDITION AMENDED BY STAFF:** ~~Off and On-premises alcohol sales is not are~~ permitted in compliance with Virginia ABC requirements. (SUP #2019-0037)-(P&Z)
15. **CONDITION AMENDED BY STAFF:** ~~Food Delivery vehicles~~ operated and managed by the applicant shall not be permitted. Delivery vehicles must be parked off-street when not in use. (SUP #2019-0037) (P&Z)
16. **CONDITION AMENDED BY STAFF:** ~~Indoor limited, Live entertainment is not permitted~~ may be offered and must comply with the City's noise ordinance. No admission or cover fee shall be charged. All entertainment shall be subordinate to the principal function of the restaurant as an eating establishment. Any advertising of the entertainment shall reflect the subordinate nature of the entertainment by featuring food service as well as the entertainment. (SUP #2019-0037) (P&Z)
17. All windows shall remain transparent. The placement or construction of items that block the visibility through windows of the interior of the commercial space from the street and sidewalk, including but not limited to walls, window film, storage cabinets, carts, shelving, boxes, coat racks, storage bins, and closets, shall be prohibited. This is not intended to prevent retailers from displaying their goods in display cases that are oriented towards the street frontage. (SUP#2019-0037) (P&Z)
18. Exterior power washing of the building shall not be completed using any kind of detergents. (SUP#2019-0037) (P&Z)
19. Chemicals, detergents or cleaners stored outside the building shall be kept in an enclosure with a roof. (SUP#2019-0037) (P&Z)
20. If used cooking oil is stored outside, the drum shall be kept securely closed with a bung (a secure stopper that seals the drum) when not receiving used oil, it shall be placed on secondary containment, and it shall be kept under cover to prevent rainwater from falling on it. (SUP#2019-0037) (P&Z)
21. Trash and garbage shall be stored inside or in sealed containers that do not allow odors to escape, invasion by animals, or leaking. No trash or debris shall be allowed to accumulate outside of those containers. Outdoor containers shall be maintained to the satisfaction of Planning & Zoning and Transportation & Environmental Services, including replacing damaged lids and repairing/replacing damaged dumpsters. (SUP#2019-0037) (P&Z)
22. The applicant shall control cooking odors, smoke and any other air pollution from operations at the site and prevent them from leaving the property or becoming a nuisance to neighboring properties, as determined by the Department of Transportation & Environmental Services. (SUP#2019-0037) (P&Z)

23. All waste products including but not limited to organic compounds (solvents and cleaners) shall be disposed of in accordance with all local, state and federal ordinances or regulations. (SUP#2019-0037) (P&Z)
24. Supply deliveries, loading, and unloading activities shall not occur between the hours of 11:00 p.m. and 7:00 a.m. (SUP#2019-0037) (P&Z)
25. The applicant shall require its employees who drive to use off-street parking. (SUP#2019-0037) (P&Z)
26. The applicant shall encourage its employees to use public transportation to travel to and from work. The business shall contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for information on establishing an employee transportation benefits program. (SUP#2019-0037) (P&Z)
27. The applicant shall provide information about alternative forms of transportation to access the site, including but not limited to printed and electronic business promotional material, posting on the business website, and other similar methods. Contact Go Alex at [goalex@alexandriava.gov](mailto:goalex@alexandriava.gov) for more information about available resources. (SUP#2019-0037) (P&Z)
28. The applicant shall encourage patrons to park off-street through the provision of information about nearby garages on advertising and on the restaurant's website. (SUP#2019-0037) (P&Z)
29. The applicant shall contact the T&ES parking planner at 703.746.4025 for information about applying to participate in the Discount Parking Program for Employees of Old Town Businesses (or other similar program if one is created) that offers discounted parking at select City parking facilities on evenings and weekends. (SUP#2019-0037) (P&Z)
30. **CONDITION AMENDED BY STAFF:** The Director of Planning and Zoning shall review the special use permit after it has been operational for one year, and shall docket the matter for consideration by the Planning Commission and City Council if (a) there have been documented violations of the permit conditions which were not corrected immediately, constitute repeat violations or which create a direct and immediate adverse zoning impact on the surrounding community; (b) the director has received a request from any person to docket the permit for review, as the result of a complaint that rises to the level of a violation of the permit conditions or (c) the director has determined that there are problems with the operation of the use and that new or revised conditions are needed. (~~SUP #2019-0037~~) (P&Z)

STATEMENT OF CONSENT

The undersigned hereby agrees and consents to the attached conditions of this Special Use Permit #2023-0058. The undersigned also hereby agrees to obtain all applicable licenses and permits required for a restaurant use at 102 South Patrick Street.



Applicant – Signature

8/3/23

Date

Madison Ward

Applicant – Printed

8/3/23

Date