THE CITY OF NORFOLK
CITY PLANNING

C: Dir., Department of City Planning

To the Honorable Council
City of Norfolk, Virginia

November 10, 2015

From: George M. Homewood, AICP, CFM, Planning Director

Subject: **Special exception to operate an eating and drinking establishment at 131 Granby Street, Suite B – Benny's**

Reviewed: Ronald H. Williams, Jr., Deputy City Manager

Ward/Superward: 2/6

Approved: Marcus D. Jones, City Manager

Item Number: R-3

I. **Staff Recommendation: Approval.**

II. **Commission Action:** By a vote of **6 to 0**, the Planning Commission recommends **Approval.**

III. **Request:** Special exception – eating and drinking establishment

IV. **Applicant:** Chris M. Brown

V. **Description:**

- This request is to replace a portion of the former restaurant, Mo and O'Malley's Irish Pub, with a new establishment serving alcoholic beverages for on-premises consumption.
- The remainder of the Mo and O'Malley's space will be occupied by Jack Brown's Beer and Burger Joint, which obtained a special exception in August.

	Previous (Mo and O'Malley's)	Proposed (Benny's)
Hours of Operation and for the Sale of Alcoholic Beverages	7:00 a.m. until 2:00 a.m., Monday through Saturday Closed Sunday	11:00 a.m. until 12:00 midnight, Sunday through Monday 11:00 a.m. until 2:00 a.m., Friday and Saturday
Capacity	99 seats indoors 0 seats outdoors 120 total capacity	15 seats indoors 0 seats outdoors 24 total capacity

Staff point of contact: Chris Whitney at 823-1253, chris.whitney@norfolk.gov

Attachments:

- Staff Report to CPC dated October 22, 2015 with attachments
- Proponents and Opponents
- Ordinance

THE CITY OF NORFOLK
CITY PLANNING

Planning Commission Public Hearing: October 22, 2015

Executive Secretary: George M. Homewood, AICP, CFM

Planner: Chris Whitney, CFM

Staff Report	**Item No. 6**	
Address	**131 Granby Street, Suite B**	
Applicant	**Benny's**	
Request	**Special Exception**	**Eating and Drinking Establishment**
Property Owner	Frank T. Gadams (131 Granby, LLC)	
Site Characteristics	Site Area/Space	5,710 sq. ft./850 sq. ft.
	Zoning	D-2 (Downtown Regional Center District) and HO-D (Downtown Historic Overlay District)
	Neighborhoods	Downtown
	Character District	Downtown
Surrounding Area	North	D-2: The Law Building mixed use apartments
	East	D-2: Jimmy John's
	South	D-2: Sail Norfolk
	West	D-2: W. Plume Street Garage

A. Summary of Request

- This request is to replace a portion of the former restaurant, Mo and O'Malley's Irish Pub, with a new establishment serving alcoholic beverages for on-premises consumption at the corner of Granby Street and West Plume Street.
- The remainder of the Mo and O'Malley's space will be occupied by Jack Brown's Beer and Burger Joint, which obtained a special exception in August.

B. Plan Consistency

The proposed special exception is consistent with *plaNorfolk2030*, which designates this site as downtown.

C. Zoning Analysis

i. General

- The site is located in the D-2 and HO-D districts, which permit the proposed use by special exception.

	Previous (Mo and O'Malley's)	Proposed (Benny's)
Hours of Operation and for the Sale of Alcoholic Beverages	7:00 a.m. until 2:00 a.m., Monday through Saturday Closed Sunday	11:00 a.m. until 12:00 midnight, Sunday through Monday 11:00 a.m. until 2:00 a.m., Friday and Saturday
Capacity	99 seats indoors 0 seats outdoors 120 total capacity	15 seats indoors 0 seats outdoors 24 total capacity

- Special Exception history:

City Council Approval	Applicant	Request
2003	Mo and O'Malley's Irish Pub	Entertainment establishment
Pending	Benny's	• Eating and Drinking Establishment • New owner/operator

ii. Parking

The site is located within the D-2 zoning district, which does not require off-street parking.

iii. Flood Zone

The property is located in the X (Shaded) Flood Zone, which is a low-risk flood zone.

D. Transportation Impacts

Institute of Transportation Engineers figures estimate that this new restaurant will generate 72 additional vehicle trips per day.

E. Impact on the Environment

There are currently no opportunities for landscaping site improvements to this existing building.

F. Impact on Surrounding Area/Site

- By requiring this use to conform to the conditions listed below, the proposed eating and drinking establishment should not have a negative effect on the surrounding neighborhood.
- Modifications to the north and east façades as well as interior changes to support the proposed exterior renovations were approved by the Architectural Review Board in August.

G. Payment of Taxes

The owner of the property is current on all real estate taxes.

H. Civic League

- The application was sent to the Downtown Norfolk Civic League and Downtown Norfolk Council on September 10.
- An email was received from the Downtown Norfolk Civic League on September 10 stating no objection to the application.

I. Communication Outreach/Notification

- Legal notice was posted on the property on September 15.
- Letters were mailed to all property owners within 300 feet of the property on October 8.
- Legal notification was placed in *The Virginian-Pilot* on October 8 and October 15.

J. Recommendation

Staff recommends that the special exception request be **approved** subject to the conditions shown below:

(a) The hours of operation for the establishment and for the sale of alcoholic beverages shall be from 11:00 a.m. until 12:00 midnight Sunday through Monday and from 11:00 a.m. until 2:00 a.m. Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not exceed 15 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 24 people. The use authorized by this special exception shall not commence until a certificate of occupancy reflecting these limits has been issued by the Department of Planning.

(c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

(d) The establishment shall maintain a current, active business license at all times while in operation.

(e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(g) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

(h) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(i) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in "Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(j) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special

exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(k) There shall be no entertainment, no dancing, and no dance floor provided.

(l) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(m) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Attachments:

Location Map
Zoning Map
1000' radii map of similar ABC establishments
Application
Notice to the Downtown Norfolk Civic League and Downtown Norfolk Council
Email of no objection from Downtown Norfolk Civic League

Proponents and Opponents

Proponents
Rick Henn – Representative
1400 Granby Street, Unit 407
Norfolk, VA 23510

Opponents
None

10/21/2015 lds

Form and Correctness Approved:

By _____
Office of the City Attorney

Contents Approved: CW

By _____
DEPT.

NORFOLK, VIRGINIA

ORDINANCE No.

AN ORDINANCE GRANTING A SPECIAL EXCEPTION AUTHORIZING THE OPERATION OF AN EATING AND DRINKING ESTABLISHMENT KNOWN AS "BENNY'S" ON PROPERTY LOCATED AT 131 GRANBY STREET, SUITE B.

- - -

BE IT ORDAINED by the Council of the City of Norfolk:

Section 1:- That a Special Exception is hereby granted to Bennys 757, LLC authorizing the operation of an eating and drinking establishment named "Benny's" on property located at 131 Granby Street, Suite B. The property which is the subject of this Special Exception is more fully described as follows:

Property located on the southwest corner of Granby Street and West Plume Street fronting 112 feet, more or less, along the southern line of West Plume Street and 51 feet, more or less, along the western line of Granby Street; premises numbered 131 Granby Street, Suite B.

Section 2:- That the Special Exception granted hereby shall be subject to the following conditions:

(a) The hours of operation for the establishment shall be limited to 11:00 a.m. until 12:00 midnight Sunday through Thursday and from 11:00 a.m. until 2:00 a.m. the following morning on Friday and Saturday. No use of the establishment outside of the hours of operation listed herein shall be permitted.

(b) The seating for the establishment shall not exceed 15 seats indoors, no seats outdoors, and the total occupant capacity, including employees, shall not exceed 24 people.

(c) This special exception shall terminate in the event of a change in ownership of the establishment and may be revoked in the event of a change in the

operation of the establishment as described in the Description of Operations set forth in "Exhibit A," attached hereto, provided that no termination in the event of a change in ownership of the establishment shall be effective until 120 days after the change or until a new special exception is granted showing the new owner, whichever is earlier.

(d) The establishment shall maintain a current, active business license at all times while in operation.

(e) The establishment shall remain current on all food and beverages taxes and business personal property taxes which may become due while it is in operation.

(f) No public telephone(s) shall be permitted on the exterior of the property. Any public phone(s) on the interior of the building shall be located in an area within full view of the establishment's staff and shall not be permitted within any restroom.

(g) During all hours of operation, the establishment operator shall be responsible for maintaining those portions of public rights-of-way improved by sidewalk and portions of any parking lot adjacent to the premises regulated by the special exception so at to keep such areas free of litter, refuse, solid waste, and any bodily discharge.

(h) A menu shall be provided containing an assortment of foods which shall be made available at all times the establishment is open. A food menu and full dining service shall be available at the bar.

(i) The business authorized by this special exception shall be conducted in accordance with the Description of Operations set forth in "Exhibit A," attached hereto. The representations made in "Exhibit A" shall be binding upon all owners, operators and managers who operate and/or manage the premises covered by this special exception. Should any owner, operator or manager desire to operate the business in a manner different than as represented in "Exhibit A," a new special exception must be obtained prior to implementing such change. Where any limitation or representation contained in

"Exhibit A" is inconsistent with any condition of this ordinance, the conditions of this ordinance shall govern.

(j) The violation of any requirement, limitation, or restriction imposed by the Virginia ABC Commission shall be deemed a violation of this special exception. This special exception may be revoked for any violation of a general or specific condition, including a condition incorporated by reference and including a condition arising from requirements, limitations, or restrictions imposed by the ABC Commission or by Virginia law.

(k) There shall be no entertainment, no dancing, and no dance floor provided.

(l) Neither the establishment nor any portion of it shall be leased, let, or used to stage any private party and no outside promoter shall be permitted to use, operate, rent, or host any event on the premises.

(m) A copy of this special exception ordinance and Exhibits shall be available on the premises at all times for inspection, and a notice indicating that this special exception ordinance and all amendments are kept on the premises and are available for review by any member of the general public shall be posted in a visible location. The notice shall also contain information on where and how to report violations of conditions and shall include the address of the zoning administrator.

Section 3:- That the City Council hereby determines that the Special Exception granted herein complies with each of the requirements of § 25-7 of the Zoning Ordinance of the City of Norfolk, 1992 (as amended), namely that:

(a) The proposed use and development will be in harmony with the objectives and policies of the adopted General Plan of Norfolk and with the general and specific purposes for which this ordinance was enacted and for which the regulations of the district in question were established;

(b) The proposed use and development will not

substantially diminish or impair the value of the property within the neighborhood in which it is located;

(c) The proposed use and development will not have an adverse effect upon the character of the area or the public health, safety and general welfare. Conditions may be applied to the proposed use and development, as specified in section 25-8 below, to mitigate potential adverse impacts;

(d) The proposed use and development will be constructed, arranged and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable district regulations;

(e) The proposed use and development will be served adequately by essential public facilities and services such as streets, public utilities, drainage structures, police and fire protection, refuse disposal, parks, libraries, and schools;

(f) The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets;

(g) The proposed use and development will not result in the destruction, loss or damage of natural, scenic or historic features of significant importance;

(h) The proposed use and development will not cause substantial air, water, soil or noise pollution or other types of pollution which cannot be mitigated;

(i) The proposed use and development will not cause a negative cumulative effect, when its effect is considered in conjunction with the cumulative effect of various special exception uses of all types on the immediate neighborhood and the effect of the proposed type of special exception use on the city as a whole;

(j) The proposed use and development complies with all additional standards imposed on it by the particular provisions of the ordinance authorizing such use; and

(k) No application for a special exception shall be recommended or granted until any and all delinquent real estate taxes owed to the City of Norfolk on the subject property have been paid.

Section 4:- That the Special Exception granted hereby amends the previously granted special exception permitting an eating and drinking establishment on this property, adopted on June 28, 1983 (Ordinance No. 32,420), and the special exception permitting an entertainment establishment on this property, adopted on October 7, 2003 (Ordinance No. 41,189). All provisions and conditions previously approved are entirely superseded by the terms of this Special Exception.

Section 5:- That this ordinance shall be in effect from the date of its adoption.

ATTACHMENT:
Exhibit A (3 pages)

EXHIBIT "A"
Description of Operations
Eating and Drinking Establishment

Date 9/4/15

Trade name of business Benny's ~~Bennys LLC~~ Bennys 757, LLC

Address of business 131 Granby St, Suite B

Name(s) of business owner(s)* Chris Brown

Name(s) of property owner(s)* Buddy Adams

Daytime telephone number (757) 627-9873

*If business or property owner is partnership, all partners must be listed.
*If business or property owner is an LLC or Corporation, all principals must be listed.

1. Proposed Hours of Operation:

Facility				Alcoholic Beverage Sales			
Weekday	From 11	To 12 Am		Weekday	From 11	To 12 Am	
Friday	From 11	To 2 Am		Friday	From 11	To 2 Am	
Saturday	From 11	To 2 Am		Saturday	From 11	To 2 Am	
Sunday	From 11	To 12 Am		Sunday	From 11	To 12 Am	

2. Type of ABC license applied for (check all applicable boxes)
☒ On-Premises ☐ Off-Premises (additional application required)

3. Type of alcoholic beverage applied for
☒ Beer ☒ Wine ☒ Mixed Beverage

4. Will indoor or outdoor entertainment be provided?
(Entertainment consists of anything more than one, unamplified musician)
☐ Yes (Different application required) ☒ No

DEPARTMENT OF CITY PLANNING
810 Union Street, Room 508
Norfolk, Virginia 23510
Telephone (757) 664-4752 Fax (757) 441-1569

Exhibit A – Page 2
Eating and Drinking Establishment

5. Will video games, pool tables, game boards or other types of games be provided?
   ☐ Yes (If more than 4, additional application required) ☒ No

   5a. If yes, please describe type and number of each game to be provided

   _____

   _____

6. Will patrons ever be charged to enter the establishment?
   ☐ Yes ☒ No

   6a. If yes, why

   _____

   _____

   6b. Which days of the week will there be a cover charge (circle all applicable days)?

   Monday Tuesday Wednesday Thursday Friday

   Saturday Sunday

7. Will the facility or a portion of the facility be available for private parties?
   ☐ Yes ☒ No

   7a. If yes, explain

   _____

   _____

8. Will a third party (promoter) be permitted to lease, let or use the establishment?
   ☐ Yes ☒ No

   8a. If yes, explain

   _____

   _____

9. Will there ever be a minimum age limit?
   ☐ Yes ☒ No

Exhibit A – Page 3

Eating and Drinking Establishment

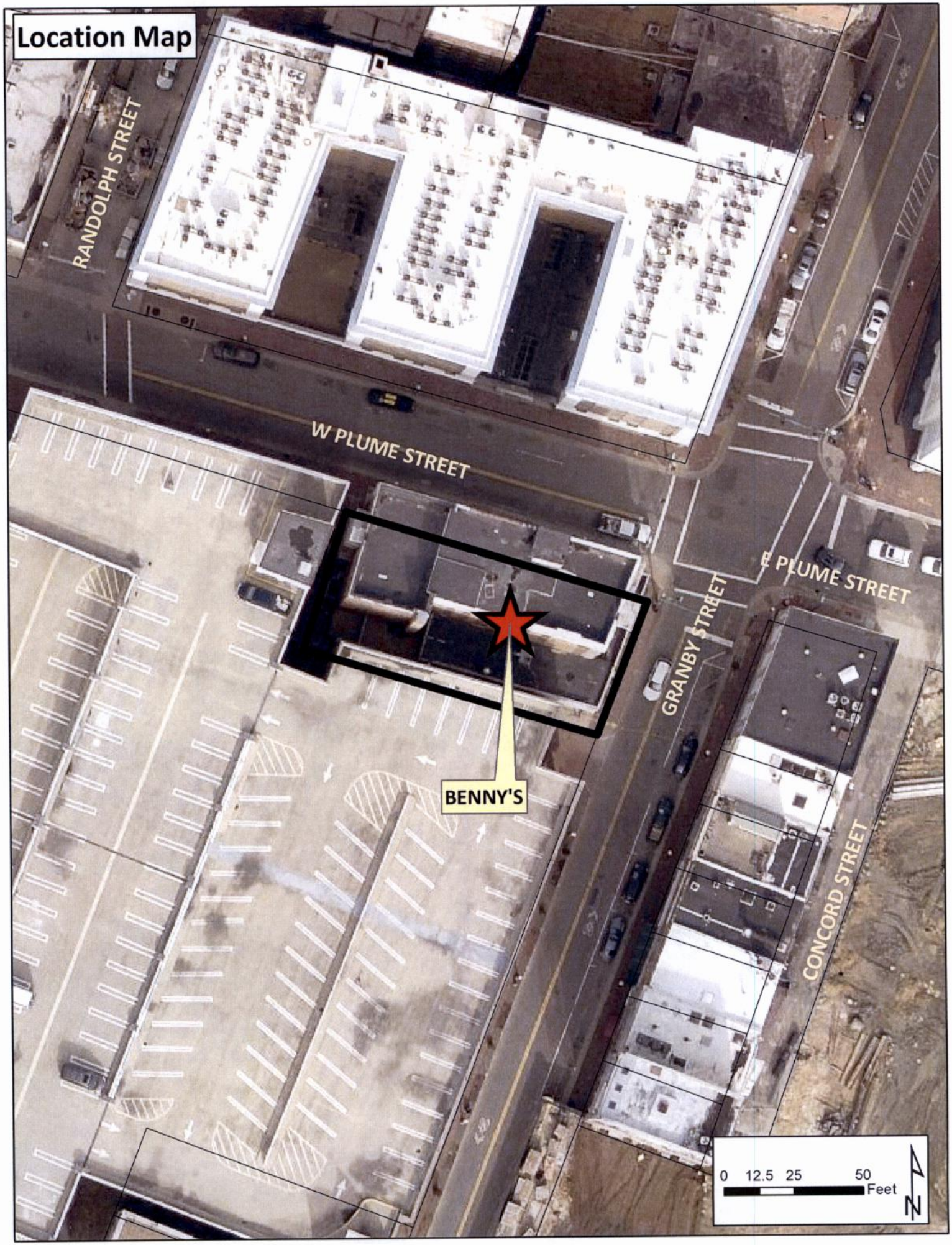
10. Additional comments/ description/operational characteristics or prior experience:

3 Restaurant in VA

Note: If smoking is permitted, then floor plans must be submitted showing all necessary building requirements for such facility.

September 4, 2015

Signature of Applicant


Location Map
RANDOLPH STREET
W PLUME STREET
E PLUME STREET
GRANBY STREET
CONCORD STREET
BENNY'S
0 12.5 25 50
Feet
N

Zoning Map
D-1
D-3
D-3
D-3
MCCULLOUGHS LANE
W CITY HALL AVENUE
E CITY HALL AVENUE
BOUSH STREET
D-2
RANDOLPH STREET
D-2
D-2
W PLUME STREET
E PLUME STREET
GRANBY STREET
BENNY'S
D-2
CONCORD STREET
D-2
W MAIN STREET
E MAIN STREET
D-2
MARTINS LANE
0 30 60 120
Feet
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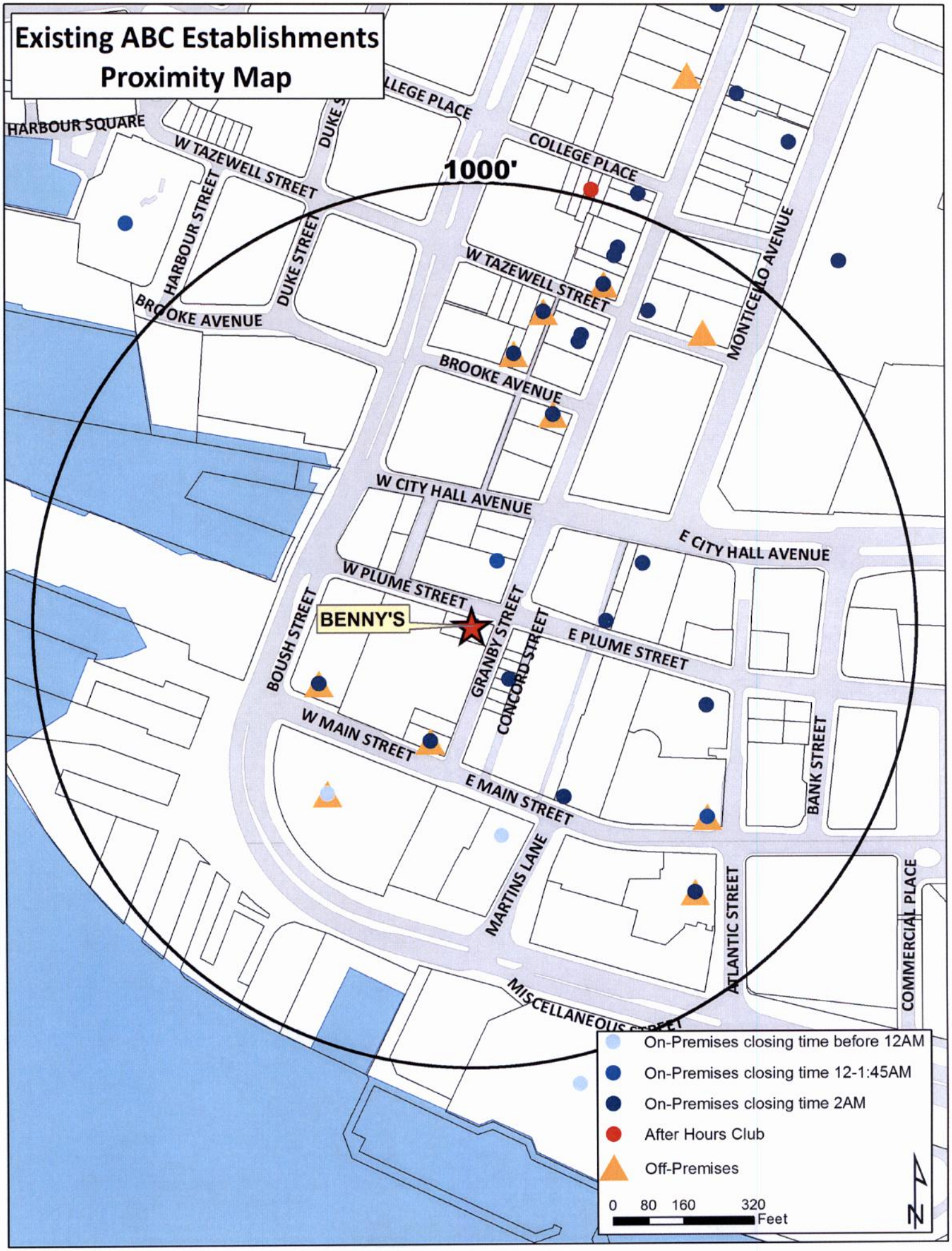
Existing ABC Establishments
Proximity Map
1000'
BENNY'S
HARBOUR SQUARE
W TAZEWELL STREET
HARBOUR STREET
DUKE STREET
COLLEGE PLACE
BROOKE AVENUE
MONTICELLO AVENUE
W CITY HALL AVENUE
E CITY HALL AVENUE
W PLUME STREET
E PLUME STREET
BOUSH STREET
GRANBY STREET
CONCORD STREET
W MAIN STREET
E MAIN STREET
BANK STREET
MARTINS LANE
ATLANTIC STREET
COMMERCIAL PLACE
MISCELLANEOUS STREET
On-Premises closing time before 12AM
On-Premises closing time 12-1:45AM
On-Premises closing time 2AM
After Hours Club
Off-Premises
0 80 160 320
Feet
N

APPLICATION
ADULT USE SPECIAL EXCEPTION
EATING AND DRINKING ESTABLISHMENT
(Please print)

Date 9-4-15

DESCRIPTION OF PROPERTY

Address 131 Granby St, Suite B

Existing Use of Property Restaurant

Proposed Use Restaurant

Current Building Square Footage 850

Proposed Building Square Footage 850

Trade Name of Business (if applicable) Benny's

APPLICANT
(If applicant is a LLC or a Corp./Inc., include name of official representative and/or all partners)

1. Name of applicant: (Last) Brown (First) Chris (MI) M

Mailing address of applicant (Street/P.O. Box): 412 Wilson Ave

(City) Blacksburg (State) VA (Zip Code) 24060

Daytime telephone number of applicant (757) 651-9996 Fax ( )

E-mail address of applicant: The virginiaslice@gmail.com

AUTHORIZED AGENT (if applicable)
(If agent is a LLC or a Corp./Inc., include name of official representative and/or all partners)

2. Name of applicant: (Last) HEWN (First) Rick (MI) J

Mailing address of applicant (Street/P.O. Box): 1400 Granby St Suite 407

(City) NORFOLK (State) VA (Zip Code) 23510

Daytime telephone number of applicant ( ) 6156905 Fax ( )

E-mail address of applicant: Rickhenrconsulting@gmail.com

PROPERTY OWNER
(If property owner is a LLC or a Corp./Inc., include name of official representative and/or all partners)

131 Granby LLC

3. Name of property owner: (Last) Gadams (First) Frank (MI) T

Mailing address of property owner (Street/P.O. box): P.O Box 11659

(City) Norfolk (State) VA (Zip Code) 23517

Daytime telephone number of owner (757) 672-9055 Email: BGadams@marathondevelopmentsgroup.com

CIVIC LEAGUE INFORMATION

Civic League contact: DNC / DNCL

Date(s) contacted:

Ward/Super Ward information:

CIVIC LEAGUE INFORMATION

Civic League contact: _____

Date(s) contacted: _____

Ward/Super Ward information: _____

CERTIFICATION:
I hereby submit this complete application and certify the information contained herein is true and accurate to the best of my knowledge:

Print name: Frank Gadams **Sign:** _____ / 9-4 / 2015
(Property Owner or Authorized Agent of Signature) (Date)

Print name: Chris Brown **Sign:** _____ / September 4, 2015
(Applicant) (Date)

ONLY NEEDED IF APPLICABLE:

Print name: Rick Hekr **Sign:** _____ / 9/14/15
(Authorized Agent Signature) (Date)

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Exhibit A – Floor Plan(s) Worksheet
Eating and Drinking Establishment

- Complete this worksheet based for each floor plan submitted with application.

- Floor plan must be prepared by a registered design professional and include:
  - Tables/seats
  - Restroom facilities
  - Bar
  - Ingress and egress
  - Standing room
  - Outdoor seating
  - Total maximum capacity (including employees)

Total capacity

a. Indoor

Number of seats (not including bar seats)	12
Number of bar seats	3
Standing room	5

b. Outdoor

Number of seats	0

c. Number of employees 4

24

Total Occupancy
(Indoor/Outdoor seats, standing room and employees) = _____

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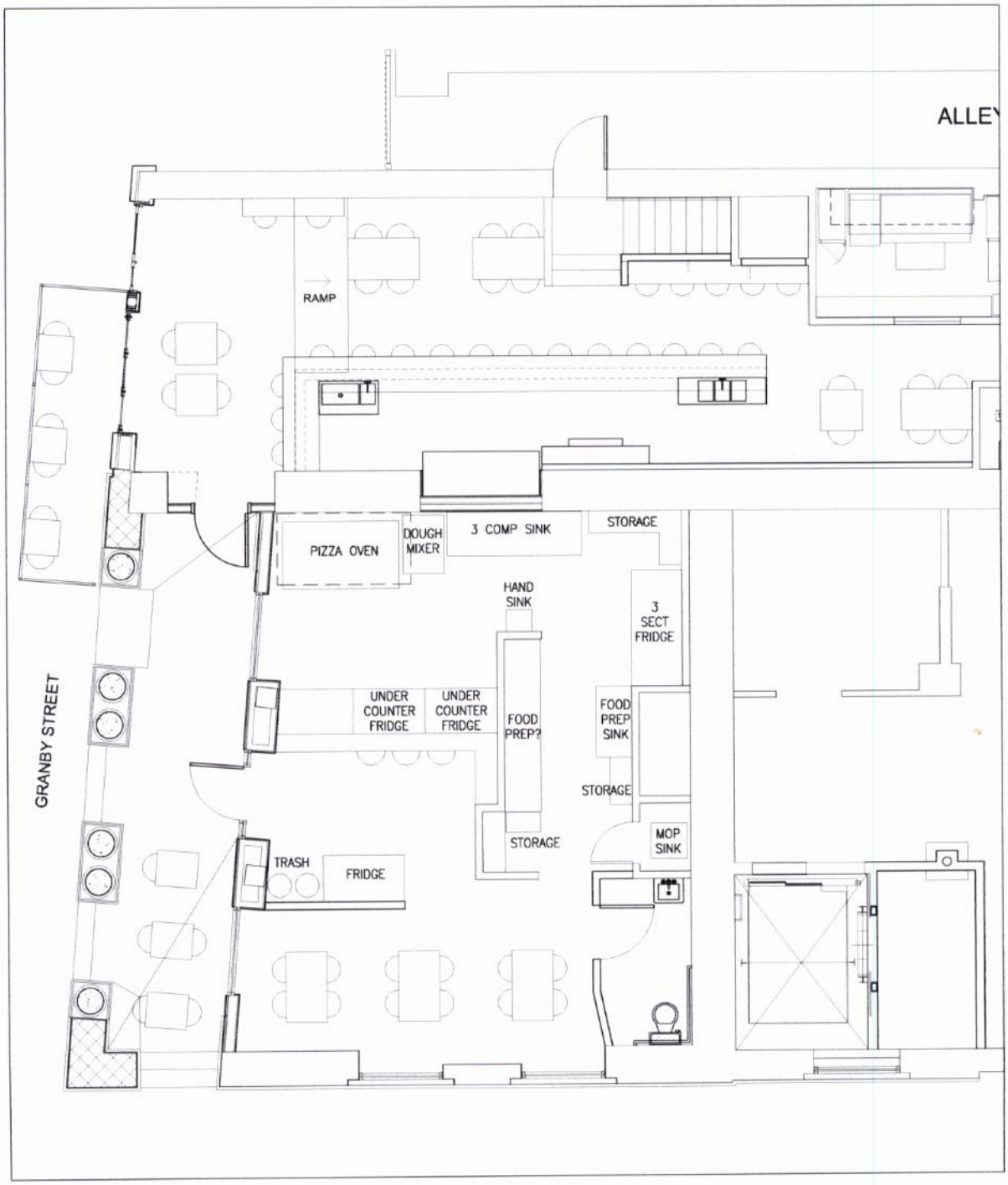
TYMOFF+MOSS ARCHITECTS



1 VIRGINIA BUILDING

VIRGINIA BUILDING
AUGUST 31, 2015

Whitney, Chris

From: Straley, Matthew
Sent: Thursday, September 10, 2015 11:08 AM
To: 'dncl@welovenorfolk.org'; Miller, Mary
Cc: Whibley, Terry; Winn, Barclay; Howard, Oneiceia; Whitney, Chris
Subject: new Planning Commission application - 131 Granby Street
Attachments: Bennys.pdf

Mr. Murphy & Ms. Miller,

Attached please find the application for a special exception to operate an eating and drinking establishment at 131 Granby Street.

The item is tentatively scheduled for the October 22, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov*

Thank you.

Matthew Straley
GIS Technician II
Norfolk Department of City Planning
810 Union Street, Suite 508 | Norfolk, Virginia 23510
Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569

Whitney, Chris

From: Straley, Matthew
Sent: Thursday, September 10, 2015 11:12 AM
To: Whitney, Chris
Subject: FW: new Planning Commission application - 131 Granby Street

FYI

From: Kevin R. Murphy [mailto:krmurphy@verizon.net]
Sent: Thursday, September 10, 2015 11:10 AM
To: Straley, Matthew
Subject: RE: new Planning Commission application - 131 Granby Street

Hi Matthew,

The DNCL does not object to this application.

Thank you,

Kevin

From: Straley, Matthew [mailto:Matthew.Straley@norfolk.gov]
Sent: Thursday, September 10, 2015 11:07 AM
To: dncl@welovenorfolk.org; Miller, Mary <mmiller@downtownnorfolk.org>
Cc: Whibley, Terry <Theresa.Whibley@norfolk.gov>; Winn, Barclay <barclay.winn@norfolk.gov>; Howard, Oneiceia <Oneiceia.Howard@norfolk.gov>; Whitney, Chris <Chris.Whitney@norfolk.gov>
Subject: new Planning Commission application - 131 Granby Street

Mr. Murphy & Ms. Miller,

Attached please find the application for a special exception to operate an eating and drinking establishment at 131 Granby Street.

The item is tentatively scheduled for the October 22, 2015 Planning Commission public hearing.

Should you have any questions, please e-mail or call *Chris Whitney at (757) 823-1253, chris.whitney@norfolk.gov*

Thank you.

Matthew Straley
GIS Technician II
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Matthew.Straley@norfolk.gov | Tel: 757-664-4769 | Fax: 757-441-1569