THE CITY OF NORFOLK

# MEMORANDUM

TO: The Honorable City Council

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

CC TO: Leonard M. Newcomb III, CFM, Assistant Director, City Planning
Susan Pollock Hart, CFM, Principal Planner, City Planning

FROM: George M. Homewood, AICP, CFM, Director, City Planning

SUBJECT: Special Exception for an entertainment establishment with alcoholic beverages at 9605 Granby Street, Suite A – Elegant Occasions

DATE: February 5, 2016

On the February 9, 2016 Regular Agenda, City Council will be reviewing a special exception request by Elegant Occasions to operate an entertainment establishment with alcoholic beverages at 9605 Granby Street, Suite A. The property is located on the west side of Granby Street, between W. Balview Avenue and W. Seaview Avenue, in the West Ocean View. The site was most recently occupied by East Coast Bicycles (retail) and Arianna's Café (take-away café), and is currently zoned C-2 (Corridor Commercial), which allows entertainment establishments with a special exception.

All land uses near Naval Station Norfolk Chambers Field have been evaluated in an adopted report known as the 2005 Hampton Roads Joint Land Use Study (HR JLUS); the subject site is located within an Accident Potential Zone (APZ-II) and the 65-70 DNL noise zone [2005 HR JLUS, revised 2010]. The Identifying Land Use Strategies chapter of *plaNorfolk2030* replicates the HR JLUS map and includes an action calling for the City to not support any increase in intensity of incompatible uses in those zones. The site is designated commercial; however, since the proposed special exception would permit the existing retail sales and service space to be intensified and used as a place of assembly, it is not consistent with *plaNorfolk2030*.

In 2005, the City Council adopted Resolution 1,276, approving the HR JLUS. The Resolution states that "... the City Council recognizes that the findings and recommendations contained in the report will help protect the public health, safety and welfare of our citizens..." [2005 City Council Resolution 1,276]. The proposed use of the site for a "public assembly" is listed as a prohibited

use within the APZ-II and is, by definition, an intensification in use from the prior use as a retail establishment. The HR JLUS recommend land uses with "low density" occupancy levels; occupancy levels should in general be restricted to "50 persons per acre in APZ-II are...considered to be low density." Additionally, the HR JLUS indicates that "meeting places, auditoriums, etc. are not recommended." The approximately quarter acre site with a proposed occupant load of 80 persons equates to roughly 320 persons per acre on the site, which is more than six times more dense than the HR JLUS recommendation. The 3,543 square foot tenant space itself would potentially congregate patrons at a level over 20 times more dense than the HR JLUS recommendation.

Currently there are ten parking spaces available on-site. Off-street parking is shared amongst two uses in one structure. However, at times when the entertainment establishment is operating the remaining office space will be closed. The adjacent dentist office has agree to lease two additional off-street parking spaces at times when the dentist office is closed.

The C-2 district permits dozens of office and retail opportunities as a matter of right, all of which would be allowed in the location for which this application has been submitted. Thus, the existence of the APZ and noise zones from Chambers Field do not, as has been alleged, diminish the economic value of the investment. Special Exceptions are a privilege, not a right. The decision as to whether to grant or not depends on the specific situation and location and whether or not conditions can be applied that would ameliorate the concerns that arise from location and type of enterprise; in this case there are no conditions that can address the location within the APZ and the inherent added danger to the public from establishing a new public assembly use in the existing building.

Citing the 2005 City Council approved Resolution, which recognized that the HR JLUS report recommendations will help protect the public health, safety and welfare of our citizens, and given that *plaNorfolk2030* discourages any increase in intensity of incompatible uses within the Accident Potential Zones, staff recommends **denial** of the special exception request.

After conducting a duly advertised public hearing on January 28, 2016, at which representatives for the applicant and from the United States Navy provided comments and responded to questions from Commissioners, the City Planning Commission voted **7 to 0** to recommend **denial** of the application.

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