

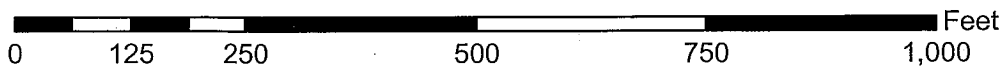
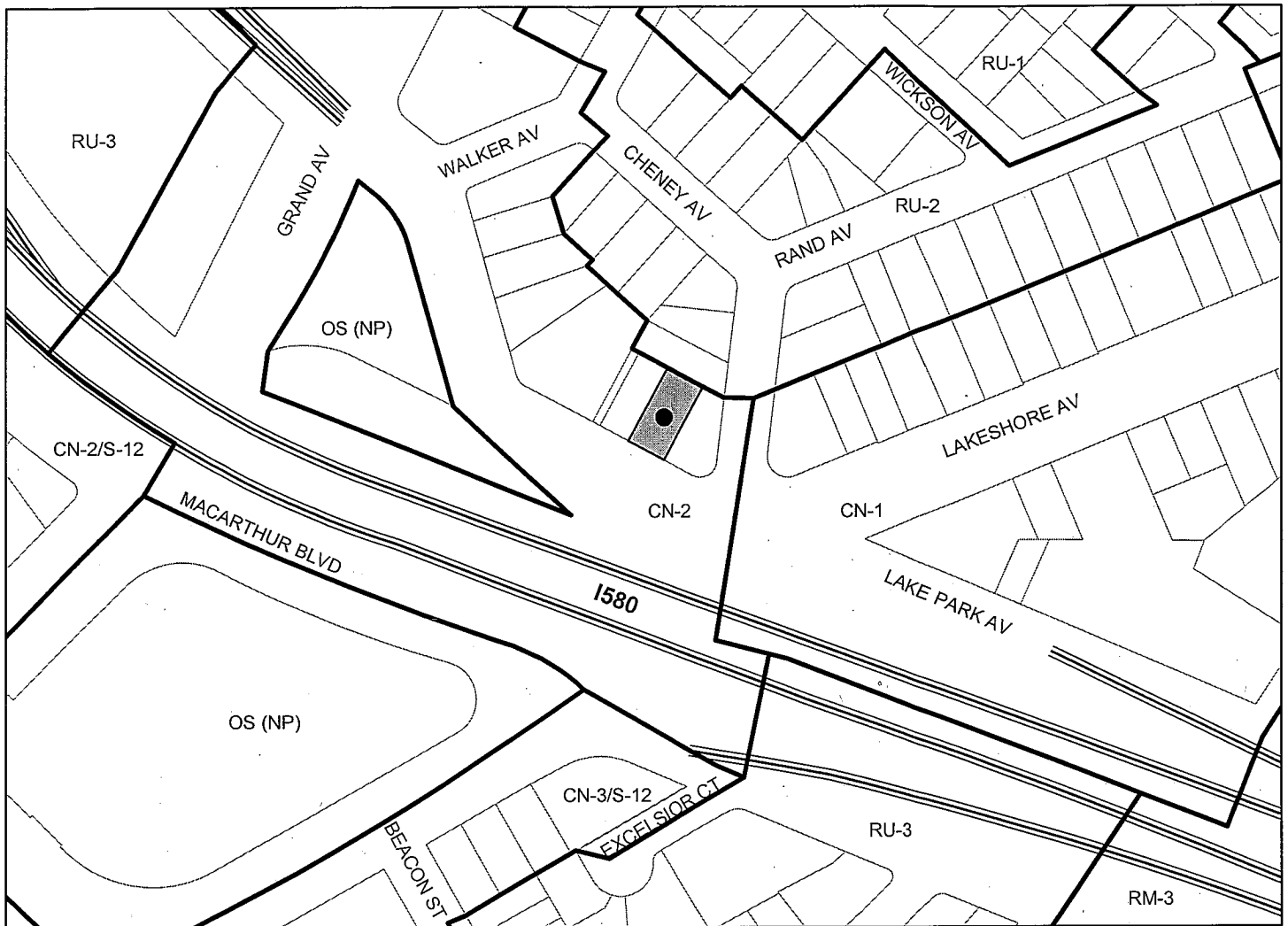
<b>Location:</b>	<b>528 Lake Park Avenue</b>
<b>Assessor's Parcel Number:</b>	<b>011 -0837-085-00</b>
<b>Proposal:</b>	To allow a limited service restaurant (WingStop) to serve beer and wine. The 2,000 square-foot restaurant's dining room would contain approx. 12 tables/34 chairs and the restaurant would close at 12:00am/midnight. <i>The limited service restaurant is a permitted use in the zoning district. On July 5, 2011 the City Planning &amp; Zoning Division issued Zoning Clearance #111603 for the restaurant to be established to operate without alcoholic beverage sales. The former restaurant at the space was full service (table service/pay after dining) and was allowed to sell alcoholic beverages without additional zoning approvals. A limited service restaurant requires a conditional use permit to serve alcohol.</i>
<b>Applicants/</b>	<b>Emon and LaDonna Toliver</b>
<b>Phone Number:</b>	<b>(510) 760-4791</b>
<b>Owners:</b>	<b>Peter and Helen Shi</b>
<b>Planning Permits Required:</b>	Major Conditional Use Permit with additional findings to allow an Alcoholic Beverages Commercial Activity; Public Convenience or Necessity (PCN) Findings for alcohol sales in an over-concentrated area; Variance to allow a new alcohol sales location within 1,000-feet of existing alcohol sales locations and for not meeting all PCN findings (required 1,000-foot distance separation to civic uses: parks and a school)
<b>General Plan:</b>	Neighborhood Center Mixed Use
<b>Zoning:</b>	CN-2 Neighborhood Commercial Zone - 2
<b>Environmental</b>	Exempt, Section 15301 of the State CEQA Guidelines:
<b>Determination:</b>	Existing Facilities (operations); Section 15183 of the State CEQA Guidelines:
<b>Historic Status:</b>	Projects consistent with a community plan, general plan, or zoning Potential Designated Historic Property; Survey rating: Dc2+ (ASI contributor, minor importance)Lake Shore Avenue historic district (ASI/Area of Secondary Importance)
<b>Service Delivery District:</b>	III
<b>City Council District:</b>	2
<b>Date Filed:</b>	September 21, 2011
<b>Staff Recommendation:</b>	To Approve the application with Conditions
<b>Finality of Decision:</b>	<i>Appealable to City Council</i>
<b>For Further Information:</b>	Contact case planner <b>Aubrey Rose, Planner II</b> at (510) 238-2071 or <a href="mailto:arose@oaklandnet.com">arose@oaklandnet.com</a>

**SUMMARY**

The applicants request a Major Conditional Use Permit and a Variance to allow sale of alcoholic beverages (beer and wine) at a limited service restaurant (WingStop) located within 1,000-feet of other alcohol sales locations, parks and a school.

Staff recommends approval of the application subject to Conditions of Approval as described in this report.

# CITY OF OAKLAND PLANNING COMMISSION



Case File: CMV11-180  
Applicant: Emon & Ladonna Toliver  
Address: 528 Lake Park Avenue  
Zone: CN-2

## **PROPERTY DESCRIPTION**

The property is a commercial lot containing two vacant, one-story buildings at zero lot line with no parking lot. The subject activity relates to the western (left hand) structure built circa 1934 or 1935. It measures 25-feet wide by 120-feet deep with an L-shaped rear. The façade is stucco and contains a nonconforming cabinet wall sign and a blade sign, exterior illumination, and a set-in entrance. The most recent active use in the building was a full service restaurant that closed September 2011. That restaurant held an ABC license to serve beer and wine. The space contains a dining room to the front and commercial kitchen and restrooms to the rear.

The site is located between the Lake Shore and Grand Avenue commercial districts and across a four lane street from an elevated portion of the 580 freeway. These pedestrian oriented commercial districts consist of establishments including numerous food and beverage businesses. These businesses consist of both formula retail franchise and independent establishments including a few bars and liquor stores. Metered parking is located on street and in a City lot located beneath the freeway. A bar is located directly to the west (left), "Heart and Dagger Saloon," set back from the subject building to expose a brick wall along its left side. To the north (rear) is a residential neighborhood consisting of homes and apartments. Alongside the freeway is a City park, Splash Pad, with heaviest use during the Saturday Farmer's Market. Lakeview Elementary school is located further west beyond Grand Avenue.

## **BACKGROUND**

### Zoning Clearance for activity

On July 5, 2011 the City Planning and Zoning Division issued zoning clearance #111603 to operate a Limited Service Restaurant and Café Commercial Activity known as "WingStop" at the premises (with no sale of alcoholic beverages). A limited service restaurant is characterized by a dining room (same as with a full service restaurant), no table service necessary/patrons pay before dining (unlike full service), and no drive through (as with a typical fast food restaurant). The Planning Code permits a limited service restaurant, as defined in Planning Code Section 17.10.272, by-right (automatically) in the CN-2 zone. Design review for exterior modifications

On November 21, 2011 staff also approved a design review at the zoning counter for a façade renovation and new signage at the premise pursuant to the Planning Code. The renovation consists of:

- removing existing signage/exterior lighting/alarm box/awning
- attaching a matching stucco false front to the roofline at the same height of the adjacent buildings ("Cana" and "Lanesplitter" Restaurants) with a left side to "wrap" back at the corner of the roofline
- applying new stucco to the façade and repainting
- adding decorative elements at the location of the wall sign being removed
- attaching illuminated channel letters to the false front
- attaching decal signage on the doors

The interior will be completely renovated. The dining room will contain 12 tables and 34 chairs with a counter surrounding an open kitchen. The renovation is to include an odor reduction system on the deep fryer venting apparatus and replacement of one rooftop mechanical unit at the rear that would not be visible from the public right-of-way.

## PROJECT DESCRIPTION

The current application is a request to serve beer and wine for patrons dining at the premise. Beer would be bottled. The restaurant is considered a Limited Service Restaurant as described in the previous Background section of this report. The dining room would feature televisions for patron viewing including sporting events. Requested hours of operation would be 11:00am to 12:00am (midnight) daily. The sale of alcoholic beverage is expected to comprise less than one percent of revenues. Alcohol will be stored in a cooler measuring 4'-6.5" wide by 6'-7" tall by 2'-6" deep and located behind the counter, facing forward. The business would utilize security cameras. Staff would monitor the site and public right-of-way fronting the site to ensure cleanliness and eliminate nuisances such as noise or loitering, as required by Conditions of Approval.

## GENERAL PLAN ANALYSIS

The premise is located in a Neighborhood Center Mixed Use area of the General Plan's Land Use & Transportation Element (LUTE). The intent of the area is: *"to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses."* The property is located in a "Maintain and Enhance" strategy area under the LUTE. The proposal to renovate an existing restaurant space and establish a new limited service restaurant there, including maintaining beer and wine service, conforms to this intent and strategy and to the following LUTE Objective and Policies:

### Objective I/C1

Expand and retain Oakland's job base and economic strength

### Policy I/C3.2 Enhancing Business Districts

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and uses automobile sales and related uses through urban design and business retention efforts.

### Policy I/C3.3 Clustering Activity in "Nodes"

Retail uses should be focused in "nodes" of activity, characterized by geographic clusters of concentrated commercial activity, along corridors that can be accessed through many modes of transportation

Staff finds the proposal to conform to the General Plan because beer and wine attracts customer activity in retail areas.

## ZONING ANALYSIS

The premise is located in a Neighborhood Center Mixed Use (CN) Zone, the CN-2 Neighborhood Commercial Zone – 2. The intent of the CN Zones is: *"to create, preserve, and enhance mixed use neighborhood commercial centers. The centers are typically characterized by smaller scale pedestrian oriented, continuous and active store fronts with opportunities for comparison shopping."* The intent of the CN-2 Zone is: *"to maintain and enhance vibrant commercial districts with a wide range of retail*

*establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping."*

#### Conditional Use Permit

A CUP is required for alcohol sales in all restaurants that are not full service. The restaurant will not be full service and requests a Major Conditional Use permit to sell alcoholic beverages. Under the Planning Code, a limited service restaurant serving alcohol is subject to the same criteria as a bar or liquor store even though the potential for nuisance activity is less than would be the case for a bar or liquor store. The purpose of the CUP review is to address the possibility of nuisance activities that sometimes are associated with alcohol sales outlets. Through the CUP, potential concerns such as litter, loitering, and noise can be addressed through implementation of conditions of approval.

#### Variances

In addition to a Major CUP to regulate operations, the Planning Code requires a 1,000-foot distance separation between Alcoholic Beverage Sales Commercial Activities. Additionally, premises located in over-concentrated areas (that is, census tracts with liquor licenses exceeding County median *or* police beats with reported crime rates exceeding Citywide mean) must not be located within 1,000-feet of civic activities such as parks and schools *or* in police beats with calls for police service exceeding Citywide median. The subject site is in an over-concentrated area as follows: Census Tract 4038 is over-concentrated for number of establishments; Police Beat 14Y is not over-concentrated in terms of police calls. The premise is located within 1,000-feet of alcohol sales, parks, and a school as shown in the following table. (The table also indicates restaurants serving alcohol, which, as explained, are not considered alcohol activities when paired with a full service restaurant):

	<u>Address</u>	<u>Distance (approx)</u>	<u>Description</u>
<b>On-sale</b>	504 Lake Park Ave	Adjacent	bar (Heart and Dagger Saloon) - ABC lic type 48/on-sale general
	4259 Lake Shore Ave	405-ft	bar (Easy Lounge) - 48/general
	3339 Grand Ave	995-ft	bar (Kingman's) - 48/on-sale general
<b>Off-sale</b>	3250 Lake Shore Ave	600-ft	supermarket (Trader Joe's) - 21/off-sale general
	3293 Lake Shore Ave	610-ft	liquor store (Buckingham's) - 21/off-sale general
	3217 Grand Ave	670-ft	liquor store (New Grandlake Market) - 21/off-sale general
<b>Restaurant</b>	478 Lake Park Ave	210-ft	restaurant (Chao Thai) - 41/on-sale beer and wine
	3257 Lake Shore Ave	370-ft	restaurant (Lakeshore Café) - 41/on-sale beer and wine
	3232 Grand Ave	495-ft	restaurant (Boot and Shoe Service) - 47/on-sale general
	3276 Lake Shore Ave	615-ft	restaurant (Flavors of India) - 41/on-sale beer and wine
	3268 Grand Ave	650-ft	restaurant (Ikaros) - 41/on-sale beer and wine
	3331 Lake Shore Ave	690-ft	restaurant (Rolling Dunes) - 41/on-sale beer and wine
	3343 Lake Shore Ave	865-ft	restaurant (Yayu) - 41/on-sale beer and wine
	3355 Lake Shore Ave	920-ft	restaurant (Spettros) - 41/on-sale beer and wine
	3407 Lake Shore Ave	965-ft	restaurant (Mezze) - 47/on-sale general
<b>Civic</b>	Lake Park Way	270-feet	park (Splash Pad)
	Grand Ave	365-feet	park (East Shore)
	Grand Ave	590-feet	school (Lakeview Elementary)

Sources: ABC and City of Oakland GIS data

Variances are thus required for the project. The general purpose of the distance separation is to prevent alcohol outlet types that can be problematic such as liquor stores and bars from locating and proliferating adjacent to residential and civic uses.

The issues related to this application for these permits are discussed in the Key Issues And Impacts section of this report.

## ENVIRONMENTAL DETERMINATION

The California Environmental Quality Act (CEQA) Guidelines categorically exempts specific types of projects from environmental review. Section 15301 of the State CEQA Guidelines exempts project involving *operation of existing private...facilities*. The proposal to serve beer and wine at a limited service restaurant located in a commercial district meets this description: the project would constitute operation of a restaurant serving beer and wine. The project is therefore exempt from Environmental Review.

## KEY ISSUES AND IMPACTS

The project is for a limited service restaurant to serve beer and wine. The project requires a conditional use permit and variance because it involves alcohol sales at a limited service restaurant in an over-concentrated area, and under the Planning Code an Alcoholic Beverages Sales Commercial Activity can consist of a stand-alone full bar and a Limited Service Restaurant and Café Commercial Activity can consist of a café with no food. For a conditional use permit application staff must consider what potential issues could occur as a result of the project or future use of an approval, and attach appropriate conditions of approval to the activity to ensure it operates compatibly with its surroundings. In this case, the proposal involves alcohol sales with proximity to alcohol sales activities, parks, and a school: a bar, park, and school are in closest proximity (the bar is next door to the premise). To justify the operation, the proposal cannot constitute a nuisance to these uses or contribute to a proliferation of alcohol sales around them. Typical problems that can result from alcohol sales include litter, loitering, noise, public intoxication and associated nuisances.

### Alcohol regulations

Staff finds that alcohol regulations are sufficient to control nuisances due to the following factors:

- Consumption of beer and wine would occur on site with food in a newly renovated dining room at a premise admitting children and containing restrooms
- There would be several requirements attached to the establishment that are more restrictive than requirements applying to other similar establishments located in the district and throughout the City
- Restaurants rarely require Planning Commission decision; this establishment is being regulated similar to a bar except that it will have an earlier closing time
- The ABC often mandates a standard closing time for all restaurants serving alcohol in a given district. Should that time be earlier than midnight for this district, the establishment will be further restricted to that early closing time

- Unlike with ABC approvals for a restaurant (license type #41), no off-sale (to go) of alcoholic beverages would be permitted
- With a license type #41 the ABC does not differentiate between full service and limited service; the Planning Code is, therefore, more restrictive than the ABC in this regard in requiring a CUP for the project
- Under the Limited Service Restaurant or Café use classification, the Planning Code does not distinguish between restaurant and café and a Major Conditional Use Permit does not distinguish between types of alcohol; therefore, this limited service restaurant is being regulated the same as a café with a full bar or a stand-alone bar for that matter
- The Code also does not distinguish between types or quantity of alcohol at a full service restaurant. In the case of a limited service restaurant, the permit type would be restricted to beer and wine where some restaurants also serve liquor/distilled spirits
- Quantity would be restricted to a minimal sales display area of twelve square feet
- Should the business be sold, a future operator of similar nature could utilize an approved CUP but would be subject to its conditions

#### Location analysis

The area is over-concentrated for liquor licenses in the Census Tract only and not for crime in the Police Beat; crime is, therefore, not a major concern at this location but potential proliferation adjacent to alcohol outlets and civic uses is still a consideration. Staff finds the reduced distance separation is acceptable due to the following factors:

- While the premise is located next to a bar it would function as a restaurant with different hours of operation and only serve beer and wine with food
- The adjacent park is across the street and down the block and the school is further west across Grand Avenue; the park is primarily used on Saturdays
- The majority of school children are not expected to pass by the premise and patrons are not expected to pass directly by the school on foot, although staff does not find a clear concern with either scenario. Other bars, markets, and a park beyond the freeway are at greater distances
- Due to these locations as well as differing hours of use and the primary restaurant nature of the establishment, the potentially undesirable situation where intoxicated patrons pose a nuisance to civic uses is considered very unlikely
- The proposed activity would differ greatly from a bar or liquor store; required findings especially for a variance could likely not be made for those types of establishments; the character of a restaurant serving beer and wine is very different
- Conditions of approval (Attachment B) would require the litter clean-up by the establishment and signage to discourage loitering, litter, and noise with a contact telephone number to report transgressions

Due to the nature of the operation and setting, staff supports the proposal with the inclusion of conditions of approval.

Community concerns

Issues raised by the community regarding the establishment relate to the restaurant use itself, the design of façade improvements, the quantity of alcohol that may be consumed on site given the establishment will contain televisions broadcasting sports, and any possible precedence of permitting various types of alcohol outlets. Under the Oakland Cultural Heritage Survey, the building is a Potential Designated Historic Property (Survey rating: Dc2+) and is of minor importance and a contributor to the Lake Shore Avenue historic district, an area of secondary importance. Staff worked with the applicant to reduce new signage area and to add decorative elements to the façade. Revised plans were shown to community members prior to approval as a courtesy; there was no requirement for public notice and/or hearing. The type and sales display area of alcoholic beverages sold at full service restaurants is subject to very limited zoning restrictions. However, type and sales display area would be restricted with this limited service establishment. As mentioned earlier in this report, consumption of alcohol would be on-site and only while the kitchen is open. The Planning Code does not control how long an individual or group remain in an eating or drinking establishment and how much alcohol they are legally allowed to consume while there. Staff finds there to be a clear distinction between an alcohol sales activity involving a restaurant serving beer and wine and such an activity involving a full bar or liquor store. Conditions of approval such as informational signage generally associated with more impactful types of alcohol outlets such as bars will aid in eliminating any nuisances that may occur. The Planning and Zoning Department has received fifteen letters: four in support, nine in opposition and two neutral to the project. (Attachment D)

In conclusion, staff finds the proposal to not pose a nuisance to civic uses or constitute a proliferation of alcohol outlets in the district. With conditions of approval, staff supports the application.

**RECOMMENDATIONS:** 1. Affirm staff's environmental determination.

Approve the Major Conditional Use Permit and Variances subject to the attached Findings (Attachment B)




Prepared by:

  
AUBREY ROSE, AICP  
Planner II

Approved by:

  
SCOTT MILLER  
Zoning Manager

Approved for forwarding to the  
City Planning Commission:

  
ERIC ANGSTADT  
Deputy Director  
Community and Economic Development Agency

**ATTACHMENTS:**

- A. Findings for Approval
- B. Conditions of Approval
- C. Plans
- D. Correspondences: 15 email letters - 4 in support, 9 in opposition, 2 neutral

## Attachment A: Findings for Approval

This proposal meets the required findings under Conditional Use Permit Procedure/General Use Permit Criteria (OMC Sec. 17.134.050), Special Regulations Applying To Certain Establishments Selling Alcoholic Beverages (OMC Sec. 17.102.210(A)), Findings of Public Convenience or Necessity (OMC Sec. 17.102.210(B)(3)), and Variance Procedure/Findings Required (OMC Sec. 17.148.050) under the Planning Code (Title 17), as set forth below. Required findings are shown in bold type; explanations as to why these findings can be made are in normal type.

### **CONDITIONAL USE PERMIT PROCEDURE/GENERAL USE PERMIT CRITERIA (OMC SEC. 17.134.050)**

**A. That the location, size, design, and operating characteristics of the proposed development will be compatible with and will not adversely affect the livability or appropriate development of abutting properties and the surrounding neighborhood, with consideration to be given to harmony in scale, bulk, coverage, and density; to the availability of civic facilities and utilities; to harmful effect, if any, upon desirable neighborhood character; to the generation of traffic and the capacity of surrounding streets; and to any other relevant impact of the development.**

The proposal is to serve beer and wine to patrons dining at a limited service restaurant. The dining room will feature televisions for patron viewing including sporting events. Hours of operation will be 11:00am to 12:00 am daily unless further restricted by the ABC. Sale of alcoholic beverages is expected to comprise less than one percent of revenues. The business will utilize security cameras to increase safety. Staff at the establishment will monitor the site and public right-of-way for noise, loitering, and cleanliness as required by Conditions of Approval. As evidenced by visits to other WingStop restaurants that serve beer and wine, and as confirmed on floor plans, the space devoted to sales of beer and wine is very limited, approximately twelve square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood.

The project requires a conditional use permit because it involves alcohol sales at a limited service restaurant, and under the Planning Code an Alcoholic Beverages Sales Commercial Activity can consist of a stand-alone full bar and a Limited Service Restaurant and Café Commercial Activity can consist of a café with no food.

The premise is located in a Neighborhood Center Mixed Use (CN) Zone, the CN-2 Neighborhood Commercial Zone – 2. The intent of the CN Zones is: *“to create, preserve, and enhance mixed use neighborhood commercial centers. The centers are typically characterized by smaller scale pedestrian oriented, continuous and active store fronts with opportunities for comparison shopping.”* The intent of the CN-2 Zone is: *“to maintain and enhance vibrant commercial districts with a wide range of retail establishments serving both short and long term needs in attractive settings oriented to pedestrian comparison shopping.”*

Due to the nature of the operation and setting and conditions of approval, the proposal is consistent with the intent of the zoning district and with the Planning Code.

**B. That the location, design, and site planning of the proposed development will provide a convenient and functional living, working, shopping, or civic environment, and will be as attractive as the nature of the use and its location and setting warrant.**

The location formerly contained a restaurant and the building façade and interior are being renovated. As evidenced by visits to other WingStop restaurants that serve beer and wine, and as confirmed on floor plans, the space devoted to sales of beer and wine is very limited, approximately twelve square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood.

**C. That the proposed development will enhance the successful operation of the surrounding area in its basic community functions, or will provide an essential service to the community or region.**

The restaurant will contribute to a variety of choices for consumers and will include new jobs. The proposal will bring additional customers to a retail district.

**D. That the proposal conforms to all applicable design review criteria set forth in the design review procedure at Section 17.136.050.**

The proposal for alcohol sales does not require design review; façade improvements and new signage were approved after non-mandatory community review and prior to this application for sale of alcohol at a restaurant.

**E. That the proposal conforms in all significant respects with the Oakland Comprehensive Plan and with any other applicable plan or development control map which has been adopted by the City Council.**

The premise is located in the Neighborhood Center Mixed Use area of the General Plan's Land Use & Transportation Element (LUTE). The intent of the area is: *"to identify, create, maintain and enhance mixed use neighborhood commercial centers. These centers are typically characterized by smaller scale pedestrian-oriented, continuous street frontage with a mix of retail, housing, office, active open space, eating and drinking places, personal and business services, and smaller scale educational, cultural, or entertainment uses."* The property is located in a "Maintain and Enhance" strategy area under the LUTE. The proposal to renovate an existing restaurant space and establish a new limited service restaurant there, including maintaining beer and wine service, conforms to this intent and strategy and to the following LUTE Objective and Policies:

Objective I/C1

Expand and retain Oakland's job base and economic strength

Policy I/C3.2 Enhancing Business Districts

Retain and enhance clusters of similar types of commercial enterprises as the nucleus of distinctive business districts, such as the existing new and uses automobile sales and related uses through urban design and business retention efforts.

Policy I/C3.3 Clustering Activity in "Nodes".

Retail uses should be focused in "nodes" of activity, characterized by geographic clusters of concentrated commercial activity, along corridors that can be accessed through many modes of transportation

The proposal conforms to the General Plan.

**SPECIAL REGULATIONS APPLYING TO CERTAIN ESTABLISHMENTS SELLING ALCOHOLIC BEVERAGES (OMC SEC. 17.102.210(A))**

1. That the proposal will not contribute to undue proliferation of such uses in an area where additional ones would be undesirable, with consideration to be given to the area's function and character, problems of crime and loitering, and traffic problems and capacity;

The proposal is for on-sale of beer and wine at a limited service restaurant in a commercial district. Consumption of beer and wine will occur on site with food in a newly renovated dining room at a premise admitting children and containing restrooms. The previous establishment at the premise consisted of a full service restaurant that included sale of beer and wine. The area consists of commercial establishments including several food and beverage businesses along Lake Park, Lake Shore and Grand Avenues. Food and beverage businesses include formula retail franchises, independents, establishments serving alcoholic beverages, and establishments not engaged in serving alcohol. On-sale alcohol establishments such as restaurants and bars are appropriate for this area do not constitute nuisance such as litter, noise, loitering, or crime when controlled by operational conditions or conditions of design. As evidenced by visits to other WingStop restaurants that serve beer and wine, and as confirmed on floor plans, the space devoted to sales of beer and wine is very limited, approximately twelve square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood. The premise is at zero lot line with no driveway or parking lot and has one entrance and exit, so vehicular and pedestrian circulation as well as capacity will not be an issue. Nuisances and capacity will be regulated by conditions of approval.

Alcohol regulations are sufficient control nuisances due to the following factors:

- Consumption of beer and wine would occur on site with food in a newly renovated dining room at a premise admitting children and containing restrooms
- There would be several requirements attached to the establishment that are more restrictive than requirements applying to other similar establishments located in the district and throughout the City
- Restaurants rarely require Planning Commission decision; this establishment is being regulated similar to a bar except that it will have an earlier closing time
- The ABC often mandates a standard closing time for all restaurants serving alcohol in a given district. Should that time be earlier than midnight for this district, the establishment will be further restricted to that early closing time
- Unlike with ABC approvals for a restaurant (license type #41), no off-sale (to go) of alcoholic beverages would be permitted
- With a license type #41 the ABC does not differentiate between full service and limited service; the Planning Code is, therefore, more restrictive than the ABC in this regard in requiring a CUP for the project
- Under the Limited Service Restaurant or Café use classification, the Planning Code does not distinguish between restaurant and café and a Major Conditional Use Permit does not distinguish between types of alcohol; therefore, this limited service restaurant is being regulated the same as a café with a full bar or a stand-alone bar for that matter

***Findings for Approval***

- The Code also does not distinguish between types or quantity of alcohol at a full service restaurant. In the case of a limited service restaurant, the permit type would be restricted to beer and wine where some restaurants also serve liquor/distilled spirits
- Quantity would be restricted to a minimal sales display area of twelve square feet
- Should the business be sold, a future operator of similar nature could utilize an approved CUP but would be subject to its conditions

**2. That the proposal will not adversely affect adjacent or nearby churches, temples, or synagogues; public, parochial, or private elementary, junior high, or high schools; public parks or recreation centers; or public or parochial playgrounds;**

The premise is located within 1,000-feet of two parks and one elementary school. One park is across the street, the school is further west across another street, and the second park is on the other side of the freeway. Patrons of the restaurant are not expected to pass by the civic uses due to the site and street configurations. Similarly, pedestrian users of these civic spaces are not expected to frequently pass the premise negative impacts are not anticipated to those pedestrians who do pass.

**3. That the proposal will not interfere with the movement of people along an important pedestrian street;**

This finding is met; the establishment will utilize an existing premise at zero lot line to the sidewalk with no driveway or parking lot where the previous activity was essentially the same, a restaurant with a dining room.

**4. That the proposed development will be of an architectural and visual quality and character which harmonizes with, or where appropriate enhances, the surrounding area;**

The project sponsors recently obtained an approved design review permit for façade improvements and new signage that harmonizes with the surrounding area..

**5. That the design will avoid unduly large or obtrusive Signs, bleak unlandscaped parking areas, and an overall garish impression**

The project will avoid unduly large or obtrusive signs, bleak unlandscaped parking areas, and an overall garish impression. The project sponsors recently obtained an approved design review permit for façade improvements and new signage that avoids these issues.

**6. That adequate litter receptacles will be provided where appropriate;**

The establishment will contain litter receptacles within the premises and the City contains litter receptacles outside along the sidewalk; additionally, conditions of approval require the business to ensure the public right-of-way (sidewalk and gutter) fronting the restaurant and for a distance in either direction remain free of litter.

**7. That where the proposed use is in close proximity to residential uses, and especially to bedroom windows, it will be limited in hours of operation, or designed or operated, so as to avoid disruption of residents' sleep between the hours of ten (10) p.m. and seven (7) a.m. The same criteria shall**

*Findings for Approval*

apply to all conditional use permits required by subsection B of this section for sale of alcoholic beverages at full service restaurants.

The rear of the building abuts a residential building and a residential zone; however, no windows or doors that open from the dining room face to the rear.

**8. That proposals for new Fast-Food Restaurants must substantially comply with the provisions of the Oakland City Planning Commission "Fast-Food Restaurant--Guidelines for Development and Evaluation" (OCPD 100-18).**

This finding is inapplicable; the proposal does not involve a fast food restaurant.

**PUBLIC CONVENIENCE OR NECESSITY (OMC SEC. 17.102.210(B)(3))**

**a. That a community need for the project is clearly demonstrated. To demonstrate community need, the applicant shall document in writing, specifically how the project would serve an unmet or underserved need or population within the overall Oakland community or the community in which the project is located, and how the proposed project would enhance physical accessibility to needed goods or services that the project would provide, including, but not limited to alcohol; and**

The applicants have submitted documentation as required. Their findings are shown in italics.

*There are a limited number of restaurants that offer a 41 (that is, ABC license for beer and wine at a restaurant) on Lake Park Avenue. There is an existing 41 in the space that we will occupy and we request to continue its use. Wingstop will have less than 1% in total alcohol sales. We wish to give our guests the option of enjoying wings and beer together as a supplement to their dining experience. Wings and beer have always been a traditional pairing and we request approval to offer this experience to our guests.*

The proposal will utilize and enhance a restaurant space with a new, popular vendor in a renovated space and building. As with the previous business at this location, the premise will continue to serve beer and wine with food as do many area establishments to provide a variety of consumer choices within one district. Variety in this district is important to serve visitors and residents

**b. That the overall project will have a positive influence on the quality of life for the community in which it is located, providing economic benefits that outweigh anticipated negative impacts, and that will not result in a significant increase in calls for police service; and**

**Applicants' response:**

*Wingstop brings dine in guests together with shared affinity for sports. We have always had great guest interactions in our current restaurant and we have not required police assistance related to guest's abuse of alcohol. We strictly abide by ABC regulations. Our guests have not used our restaurant to consume large amounts of alcohol. Instead, guests drink an average of one bottle of beer per dining experience. We want guests to have a unique opportunity to pull tables together or just share commentary with other guests while enjoying the best wings in town.*

The project will provide consumer variety, jobs, a gathering place, and involves renovation of the building's façade and interior. As noted elsewhere in the staff report and findings, there is not a substantial risk of anticipated negative impacts nor an anticipated significant increase in police calls. As a result, the economic and other benefits outweigh anticipated negative impacts.

***Findings for Approval***

c. That alcohol sales are typically a part of this type of business in the City of Oakland (for example and not by way of limitation, alcohol sales in a laundromat would not meet this criteria).

Applicants' response:

*Wingstop offers over 25 different varieties of bottled beer. Wing restaurants (Wingstop, Buffalo Wild Wings, Wing Fiesta) typically offer beer with wings and our franchise advertises this as well. Our space will have seating for 30 and we expect to have many guests choose to dine in.*

Alcohol sales are a typical component of many limited service restaurants. There are other restaurants in the City, including limited service restaurants, that serve beer and wine and other alcoholic beverages.

**ADDITIONAL PUBLIC CONVENIENCE OR NECESSITY FINDINGS (OMC SEC.**

**17.102.210(B)(4))**

a. The proposed project is not within one thousand (1,000) feet of another alcohol outlet (except full service restaurants), school, licensed day care center, public park or playground, churches, senior citizen facilities, and licensed alcohol or drug treatment facilities; and

This finding is *not* met and a variance is required; the premise is located within 1,000 feet of a bar, public park, and school. Variances findings are provided in the following section of this attachment.

b. Police department calls for service within the "beat" where the project is located do not exceed by twenty percent (20%), the average of calls for police service in police beats citywide during the preceding twelve (12) months.

This finding is met: average calls for police service in police beat 14Y did not exceed the citywide average plus twenty percent during the most recent calendar year for which data has been provided.

**VARIANCE PROCEDURE/FINDINGS REQUIRED (OMC SEC. 17.148.050(A))**

1. That strict compliance with the specified regulation would result in practical difficulty or unnecessary hardship inconsistent with the purposes of the zoning regulations, due to unique physical or topographic circumstances or conditions of design; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution improving livability, operational efficiency, or appearance.

The project is for a limited service restaurant to serve beer and wine. The project requires a variance because it involves alcohol sales at a limited service restaurant in an over-concentrated area, and under the Planning Code an Alcoholic Beverages Sales Commercial Activity can consist of a stand-alone full bar and a Limited Service Restaurant and Café Commercial Activity can consist of a café with no food. The project meets neither the distance separation requirement of 1,000-feet to the next closest alcohol outlet (it is located next to a bar) nor the required of 1,000-foot distance from civic uses (across the street and down the block is a park; beyond the park across another street is an elementary school). Other alcohol sales (bars and markets) and a park are also located within a 1,000-foot radius of the site.

The area is over-concentrated for liquor licenses in the Census Tract only and not for crime in the Police Beat; crime is, therefore, not a major concern at this location but potential proliferation adjacent to alcohol outlets and civic uses is still a consideration. The variance finding can be made with respect to the deficient distance separation for the reasons, including not limited to, the following:

*Findings for Approval*

- The premise is located next to a bar but will have different types of alcohol, hours of operation and amenities for guests than the bar
- The adjacent park is across the street and down the block and the school is further west across Grand Avenue. The park is primarily used on Saturdays
- The majority of school children are not expected to pass by the premise and patrons are not expected to pass directly by the school on foot, although there is no clear concern with either scenario. Other bars, markets, and a park beyond the freeway are at greater distances
- Due to these locations as well as differing hours of use and the primary restaurant nature of the establishment, the undesirable situation where intoxicated patrons pose a nuisance to civic uses is considered unlikely
- The proposed activity will differ greatly from a bar or liquor store; required findings especially for a variance could likely not be made for those types of establishments
- Conditions of approval require the litter clean-up by the establishment and signage to discourage loitering, litter, and noise with a contact telephone number to report transgressions

Due to the nature of the operation and setting, the proposal with conditions of approval is justified. As evidenced by visits to other WingStop restaurants that serve beer and wine, and as confirmed on floor plans, the space devoted to sales of beer and wine is very limited, approximately twelve square feet of floor space. The limited space devoted to alcohol sale further indicates the ancillary nature of such sales, and reduces the potential for nuisance activities that could adversely affect abutting properties and the neighborhood.

**2. That strict compliance with the regulations would deprive the applicant of privileges enjoyed by owners of similarly zoned property; or, as an alternative in the case of a minor variance, that such strict compliance would preclude an effective design solution fulfilling the basic intent of the applicable regulation;**

There are other establishments in the district that serve alcoholic beverages and are not full service restaurants. These establishments do not meet the regulations for required distance separation between alcohol outlets, or civic uses given the area is over-concentrated.

**3. That the variance, if granted, will not adversely affect the character, livability, or appropriate development of abutting properties or the surrounding area, and will not be detrimental to the public welfare or contrary to adopted plans or development policy;**

The restaurant is not full service and is located next to a bar and across the street from a park and school. To allow the restaurant to sell beer and wine for on-site consumption with food while adhering to conditions of approval will not negatively affect pedestrians, patrons of adjacent businesses, park users, or children attending the school. The proposal will attract customers to the retail district.

**4. That the variance will not constitute a grant of special privilege inconsistent with limitations imposed on similarly zoned properties or inconsistent with the purposes of the zoning regulations;**

There other similar establishments in the district, not subject to proposed conditions attached to this establishment. Other similar establishments, if approved in the future, will be subject to such heightened

***Findings for Approval***



restrictions. Other limited service restaurants in the City of Oakland have been granted approvals, some including similar variances.

**5. That the elements of the proposal requiring the variance (e.g., elements such as buildings, walls, fences, driveways, garages and carports, etc.) conform with the regular design review criteria set forth in the design review procedure at Section 17.136.050;**

This finding is inapplicable; the variances are required due to insufficient distance separations which are elements not subject to design review.

**6. That the proposal conforms in all significant respects with the Oakland General Plan and with any other applicable guidelines or criteria, district plan, or development control map which have been adopted by the Planning Commission or City Council.**

The proposal conforms to the General Plan as described in the preceding Conditional Use Permit section of this Attachment under Finding E.

## Attachment B: Conditions of Approval

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### 1. Approved Use

#### *Ongoing*

a) The project shall be constructed and operated in accordance with the authorized use as described in the application materials, **staff report**, and the plans dated **October 26, 2011** and submitted on **September 21, 2011**, and as amended by the following conditions. Any additional uses or facilities other than those approved with this permit, as described in the project description and the approved plans, will require a separate application and approval. Any deviation from the approved drawings, Conditions of Approval or use shall required prior written approval from the Director of City Planning or designee.

b) This action by the **City Planning Commission** ("this Approval") includes the approvals set forth below. This Approval includes:

- i) **Major Conditional Use Permit with additional findings and variance to allow a limited service restaurant at 528 Lake Park Avenue located within 1,000 feet of alcohol sales activities, parks and a school, to serve beer and wine from a limited sales display area to patrons dining on site**

### 2. Effective Date, Expiration, Extensions and Extinguishment

#### *Ongoing*

Unless a different termination date is prescribed, this Approval shall expire **two calendar years** from the approval date, unless within such period all necessary permits for construction or alteration have been issued, or the authorized activities have commenced in the case of a permit not involving construction or alteration. Upon written request and payment of appropriate fees submitted no later than the expiration date of this permit, the Director of City Planning or designee may grant a one-year extension of this date, with additional extensions subject to approval by the approving body. Expiration of any necessary building permit for this project may invalidate this Approval if the said extension period has also expired.

### 3. Scope of This Approval; Major and Minor Changes

#### *Ongoing*

The project is approved pursuant to the **Planning Code** only. Minor changes to approved plans may be approved administratively by the Director of City Planning or designee. Major changes to the approved plans shall be reviewed by the Director of City Planning or designee to determine whether such changes require submittal and approval of a revision to the approved project by the approving body or a new, completely independent permit.

### 4. Conformance with other Requirements

#### *Prior to issuance of a demolition, grading, P-job, or other construction related permit*

a) The project applicant shall comply with all other applicable federal, state, regional and/or local laws/codes, requirements, regulations, and guidelines, including but not limited to those imposed by the City's Building Services Division, the City's Fire Marshal, and the City's Public Works Agency. Compliance with other applicable requirements may require changes to the approved use and/or plans. These changes shall be processed in accordance with the procedures contained in Condition of Approval 3.

b) The applicant shall submit approved building plans for project-specific needs related to fire protection to the Fire Services Division for review and approval, including, but not limited to automatic extinguishing systems, water supply improvements and hydrants, fire department access, and vegetation management for preventing fires and soil erosion.

**5. Conformance to Approved Plans; Modification of Conditions or Revocation**

***Ongoing***

- a) Site shall be kept in a blight/nuisance-free condition. Any existing blight or nuisance shall be abated within 60-90 days of approval, unless an earlier date is specified elsewhere.
- b) The City of Oakland reserves the right at any time during construction to require certification by a licensed professional that the as-built project conforms to all applicable zoning requirements, including but not limited to approved maximum heights and minimum setbacks. Failure to construct the project in accordance with approved plans may result in remedial reconstruction, permit revocation, permit modification, stop work, permit suspension or other corrective action.
- c) Violation of any term, **Conditions** or project description relating to the Approvals is unlawful, prohibited, and a violation of the Oakland Municipal Code. The City of Oakland reserves the right to initiate civil and/or criminal enforcement and/or abatement proceedings, or after notice and public hearing, to revoke the Approvals or alter these **Conditions** if it is found that there is violation of any of the **Conditions** or the provisions of the Planning Code or Municipal Code, or the project operates as or causes a public nuisance. This provision is not intended to, nor does it, limit in any manner whatsoever the ability of the City to take appropriate enforcement actions. The project applicant shall be responsible for paying fees in accordance with the City's Master Fee Schedule for inspections conducted by the City or a City-designated third-party to investigate alleged violations of the Conditions of Approval.

**6. Signed Copy of the Conditions**

***With submittal of a demolition, grading, and building permit***

A copy of the approval letter and **Conditions** shall be signed by the property owner, notarized, and submitted with each set of permit plans to the appropriate City agency for this project.

**7. Indemnification**

***Ongoing***

- a) To the maximum extent permitted by law, the applicant shall defend (with counsel acceptable to the City), indemnify, and hold harmless the City of Oakland, the Oakland City Council, the City of Oakland Redevelopment Agency, the Oakland City Planning Commission and its respective agents, officers, and employees (hereafter collectively called City) from any liability, damages, claim, judgment, loss (direct or indirect) action, causes of action, or proceeding (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) (collectively called "Action") against the City to attack, set aside, void or annul, (1) an approval by the City relating to a development-related application or subdivision or (2) implementation of an approved development-related project. The City may elect, in its sole discretion, to participate in the defense of said Action and the applicant shall reimburse the City for its reasonable legal costs and attorneys' fees.
- b) Within ten (10) calendar days of the filing of any Action as specified in subsection A above, the applicant shall execute a Letter Agreement with the City, acceptable to the Office of the City Attorney, which memorializes the above obligations. These obligations and the Letter of Agreement shall survive termination, extinguishment or invalidation of the approval. Failure to timely execute

the Letter Agreement does not relieve the applicant of any of the obligations contained in this condition or other requirements or conditions of approval that may be imposed by the City.

**8. Compliance with Conditions of Approval**

***Ongoing***

The project applicant shall be responsible for compliance with the recommendations in any submitted and approved technical report and all the Conditions of Approval set forth below at its sole cost and expense, and subject to review and approval of the City of Oakland.

**9. Severability**

***Ongoing***

Approval of the project would not have been granted but for the applicability and validity of each and every one of the specified conditions, and if one or more of such conditions is found to be invalid by a court of competent jurisdiction this Approval would not have been granted without requiring other valid conditions consistent with achieving the same purpose and intent of such Approval.

**10. Job Site Plans**

***Ongoing throughout demolition, grading, and/or construction***

At least one (1) copy of the stamped approved plans, along with the Approval Letter and Conditions of Approval, shall be available for review at the job site at all times.

**11. Special Inspector/Inspections, Independent Technical Review, Project Coordination and Management**

***Prior to issuance of a demolition, grading, and/or construction permit***

The project applicant may be required to pay for on-call third-party special inspector(s)/inspections as needed during the times of extensive or specialized plancheck review or construction. The project applicant may also be required to cover the full costs of independent technical review and other types of peer review, monitoring and inspection, including without limitation, third party plan check fees, including inspections of violations of Conditions of Approval. The project applicant shall establish a deposit with the Building Services Division, as directed by the Building Official, Director of City Planning or designee.

**PROJECT SPECIFIC CONDITIONS**

**12. Sale of Alcoholic Beverages**

***Prior to commencing activity***

**a) Additional Permits Required**

Necessary ABC permits (license type 41) must be obtained prior to commencement of activity. Only beer and wine may be sold for alcoholic beverages. Beer shall be served from bottles only.

***Ongoing***

**b) Operation**

The restaurant must operate with an open kitchen at all times beer and wine are sold pursuant to limited service defined by the Planning Code (OMC Sec. 17.10)

**c) Location and manner**

Only on-sale (on-site consumption) is allowed; alcoholic beverages are intended for consumption with meals.

**d) Minors**

Minors shall be admitted at all times

**e) Hours of Alcohol Sale**

The proprietor voluntarily agrees to limit hours of alcohol sales to no later than 12:00am or earlier if required by the ABC.

**f) Sales display area**

Maximum sales display area shall be limited dimensions equivalent to 4'-6.5" wide by 6'-7" tall by 2'-6" deep and located behind the counter or in another employees-only area

**g) Entry**

Admission shall never be charged for events or otherwise

**h) Future operators**

Any future operators of any restaurant at this premise are subject to the requirements of this approval

**i) Nuisances**

Crime, litter, noise, or disorderliness conduct associated with alcohol sales at the establishment will result in a revocation of the Major Conditional Use Permit or a review to revoke.

**j) Police Department**

The operator shall register with the Police Department's Alcoholic Beverage Action Team and adhere to their regulations

**13. Inclusion of conditions in State Department of Alcoholic Beverage Control license**

***Prior to signing of State Department of Alcoholic Beverage Control zoning affidavit***

The applicant shall submit a letter to staff signed by the applicant addressed to the State Department of Alcoholic Beverage Control stipulating that they wish to include conditions of their ABC license to conform to all of the conditions and requirements in this approval. The letter shall request the ABC restrict its license to only those uses allowed under City permits. The Oakland Planning Commission may, after notice and hearing, revoke this Conditional Use Permit if the Applicant fails to include the above conditions in the ABC license.

**14. Conformance with State Department of Alcoholic Beverage Control regulations**

***Ongoing***

This use shall conform to all provisions of the State ABC license. The State license and State conditions shall be posted along with these Conditional Use Permit conditions in a place visible to the public. This use shall also conform to all State Retail Operating Standards, Section 25612.5 of the Business and Professions Code and local Performance Standards, Section 15210, where applicable including any future changes in the above regulations. The intent of these standards is to reduce nuisance, litter, loitering, and crime associated with alcohol outlets. The City Conditions of Approval shall be forwarded to the Department of Alcoholic Beverage Control.

**15. Compliance with City of Oakland special regulations for Alcoholic Beverage Sales Commercial Activities**

***Ongoing***

**a) Signage**

Within 30 days of the date of decision, at least one sign (one square foot maximum) shall be posted and maintained in a legible condition at each public entrance to the building prohibiting littering

and loitering. Required signage prohibiting open containers and drinking in public shall also be maintained in legible condition near each public entrance to bar. The "No Open Container" signs are available from the cashier located on the second floor of 250 Frank H. Ogawa Plaza.

**b) Graffiti**

Graffiti shall be removed from the premises within 72 hours (3 days) of application.

**c) Loitering**

The owner, manager, and employees of this establishment shall make appropriate efforts to discourage loitering from the premises including calling the police to ask that they remove loiterers who refuse to leave. Persons hanging around the exterior of the establishment with no apparent business for more than ten minutes shall be asked to leave. Techniques discussed in the manual entitled "Loitering: Business and Community Based Solutions" may be used and are recommended by the Alcoholic Beverage Action Team.

**16. Trash and litter**

***Ongoing***

The licensees/property owners shall clear the gutter and sidewalks along Lake Park Avenue plus twenty feet beyond the property lines along this street of litter twice daily or as needed to control litter. In addition to the requirements of B&P Section 25612.5, (sweep or mechanically clean weekly) the licensee shall clean the sidewalk with steam or equivalent measures once per month.

**17. Performance standards**

***Ongoing***

The establishment shall adhere to performance standards for noise, odor, and all environmental effects of the restaurant activity as regulated under OMC Chapter 17.120.

**18. Design Review**

***Ongoing***

**a) Exterior modifications**

Any exterior modifications to the building must first be approved by the Planning and Zoning Department

**b) Sidewalk dining**

Sidewalk dining, if proposed, requires additional approvals

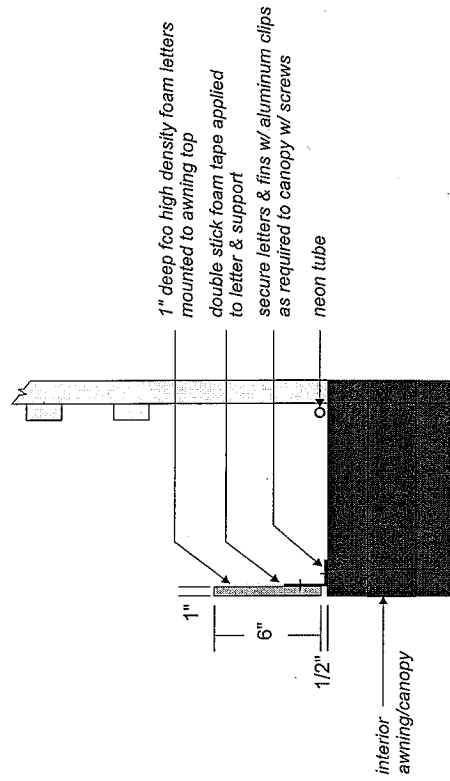
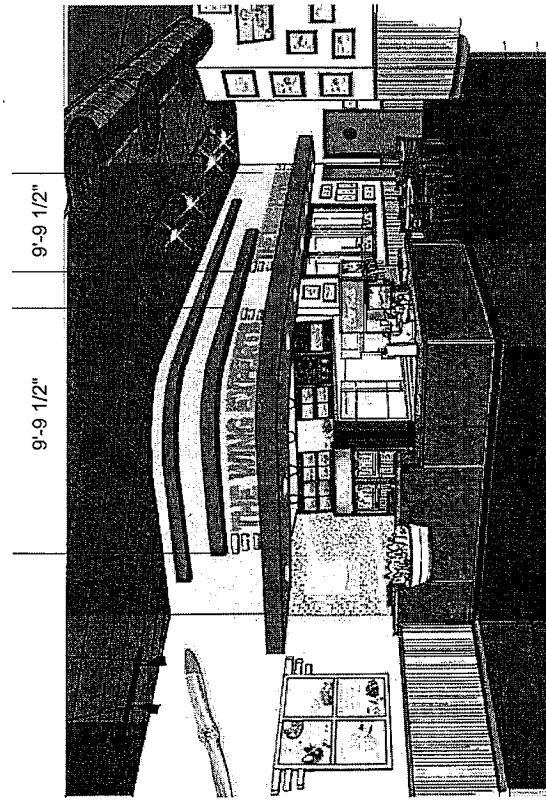
**APPROVED BY:**

City Planning Commission: \_\_\_\_\_ (date) \_\_\_\_\_ (vote)



THE WING EXPERTS

Signs B: (2 sets req'd) Fco Hdf Painted Interior Canopy Mounted Signs / Scale 1 1/2"=1'-0"  
1" deep non-illuminated fco letters & "deco-bars", letters finished 3630-156 green with returns painted to match brushed aluminum.  
"deco-bars" painted to match brushed aluminum, all to mount on top edge of curved interior awning with appropriate hardware.  
illumination to be supplied by single tube neon around base of awning behind letters.



End View

Photo Elevation (typ. interior view)

[illegible]



Rose, Aubrey

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From: Jeffrey Lipsett [jeff.lipsett@gmail.com]  
Sent: Wednesday, December 07, 2011 9:20 PM  
To: Rose, Aubrey  
Subject: Wingstop

Dear Aubrey Rose,

I am writing to express my opposition to granting a conditional use permit for serving alcohol at the Wingstop on Lake Park Avenue. I live very close by just off Lakeshore and walk or travel by that intersection nearly every day. I am aware of issues with alcohol with the prior business where Heart & Dagger is now located and am concerned another liquor vendor could devolve what is now becoming a very active, lively anchor to the intersections of Grand & Lakeshore commercial corridors. We do not need liquored up people in this area- many of whom drive on busy, congested streets that are in close proximity to freeway on off ramps, compound that with a school across the way and the recipe is wrong for an orderly but lively neighborhood for all those who live and visit. Wingstop is fast food therefore people eat fast and leave fast adding alcohol to the mix seems foolish. Simply there are enough alcohol vendors in the area, why jeopardize an area with what we know are the negative effects of alcohol?

Again, I am opposed to granting a conditional use permit to Wingstop.

Thank you for your consideration,

Jeffrey Lipsett

ATTACHMENT D

## Rose, Aubrey

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**From:** Richard Hart [richard\_p\_hart@yahoo.com]  
**Sent:** Wednesday, December 07, 2011 9:46 PM  
**To:** Rose, Aubrey  
**Subject:** Oppose alcohol permit for Wingstop on Lake Park

I am writing in advance of the Planning Commission's hearing on the Conditional Use permit for the new Wingstop restaurant.

As a resident of the neighborhood (I live on Scott St @ Weldon), I oppose the granting of this permit for 3 reasons:

1. Fast food restaurants operate on fast turnover. When applied to beer and wine, this means fast drinking. When people consume alcoholic drinks quickly, they get drunk quickly, which is likely to lead to unsafe driving, even at low alcohol levels.
2. Restaurants like Wingstop serve a large number of kids. It is inappropriate for a kid-oriented facility to be serving alcohol.
3. Wingstop is likely to employ people who are under 21. Do we want people who cannot legally drink alcohol to be serving it to customers?

Thank you for your consideration.

- Richard Hart

e: richard\_p\_hart@yahoo.com | m: 510-325-9427

**Rose, Aubrey**

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**From:** Susan Lehman [susan@rockpointpr.com]  
**Sent:** Wednesday, December 07, 2011 10:20 PM  
**To:** Rose, Aubrey  
**Subject:** Wingstop permit

Dear Mr. Rose,

I live on Trestle Glen, three blocks from where the Wingstop restaurant will be located.

I've been a homeowner in this neighborhood for 14 years. Frankly, I don't understand the big deal of a small restaurant wanting to be able to offer beer and wine to its patrons. If the business has shown good faith in operating its other stores legally, not selling alcohol to minors and has been a good tenant and neighbor, I don't see a reason to deny the permit.

Therefore, I am in support of the conditional use permit for Wingstop.

Thank you,

Susan Lehman

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**Susan Lehman**  
**President**  
**Rockpoint Public Relations**

12/8/2011

**Rose, Aubrey**

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**From:** HARDYIC@aol.com  
**Sent:** Thursday, December 08, 2011 6:40 AM  
**To:** Rose, Aubrey  
**Subject:** Wing Stop Alcohol Permit

I submit a brief missive.  
I am opposed to allowing an alcohol permit to Wing Stop, slated to move into the Lake Park location here in Oakland.  
I live on Elwood right off of Grand and have lived here 28 years.  
Thank you

Jana Hardy  
Crime Block Captain

12/8/2011

**Rose, Aubrey**

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**From:** grace.webber@gmail.com on behalf of Grace Webber [grace.webber@sloan.mit.edu]

**Sent:** Thursday, December 08, 2011 7:22 AM

**To:** Rose, Aubrey

**Subject:** Alcohol permit for Wingstop on Lake Park - can we please wait?

Planners,

In deciding whether to grant the permit for alcohol at Wingstop, can we wait please? I think it would be good if we have Wingstop in operation for a substantial time period - e.g. six months or a year - and then consider the permit application when we have a chance to see if we have evidence that the franchise is being run well with good practices that help the neighborhood (picking up Wingstop customers' litter, for instance) and if it remains free of any issues that cause neighbor complaints. If indeed this branch is tidying up after itself and hasn't seemed to cause any criminal littering/loitering/noise or any other disturbance for a substantial period (beyond the "honeymoon period" when the owners are paying attention as a novelty), then it would be good to grant the permit. Otherwise, we can not do so.

I think this would provide an incentive for the owners and management of the outlet to put in place good practices to ensure that they do eventually get their permit. Those good practices would help bring a positive boost to our commercial center. And once they are in place it will be much easier to sustain them through the granting of the permit and beyond.

Thank you.

Grace Webber

I live on Newton Ave up from Leaning Tower of Pizza, an exemplary local business that does have an alcohol license. I walk the neighborhood and eat on Grand Ave and Lakeshore Ave frequently.

Please use [grace.webber@sloan.mit.edu](mailto:grace.webber@sloan.mit.edu)

It's my "email for life".

12/8/2011

**Rose, Aubrey**

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**From:** Tracy Arrowsmith [tracy\_arrowsmith@yahoo.com]

**Sent:** Thursday, December 08, 2011 7:43 AM

**To:** Rose, Aubrey

**Subject:** Wingstop on Lake Park

Aubrey:

I cannot attend the meeting on Wednesday, December 14th but I wanted to express my support.

Thank you,  
Tracy Arrowsmith  
811 York St., #303 (at Mandana)  
Oakland, CA 94610  
510-763-7472

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<http://www.facebook.com/tracy.arrowsmith>  
<https://twitter.com/TArrowsmith>  
<http://tracina.yelp.com>  
<http://www.linkedin.com/in/tracyarrowsmith>  
<http://www.youtube.com/Tracinabeena>  
Google Voice: 510-545-2230

12/8/2011

**Rose, Aubrey**

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**From:** Russell Spitzer [russell.spitzer@gmail.com]  
**Sent:** Thursday, December 08, 2011 9:14 AM  
**To:** Rose, Aubrey  
**Subject:** Wingstop Alcohol Permit

Dear Aubrey Rose,

I'm writing to you to inform you that I don't believe there is any problem with Wingstop obtaining their alcohol permit. While I personally don't like the restaurant I feel like most of the sentiment behind denying them their permit is out of hatred of the brand rather than of the appearance of another alcohol selling establishment in the area. The grand lake area is full of restaurants all of which serve alcohol so I believe it would be singling out Wingstop if they are the only eatery unable to obtain one.

Thanks for your time,  
Russell Spitzer, Erie St and Mandana

12/8/2011

**Rose, Aubrey**

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**From:** Deirdre Cherry [deirdrecherry@att.net]  
**Sent:** Thursday, December 08, 2011 9:19 AM  
**To:** Rose, Aubrey  
**Subject:** Wingstop on Lake Park

I am disappointed that the City is considering another alcohol permit next to a bar. Too much! Please consider denying the permit.

Deirdre Cherry  
725 Calmar Ave

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deirdrecherry@att.net  
Mobile: 415-722-8832  
Home: 510-350-7510

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Sent: Thursday, December 8, 2011 9:19 AM  
Subject: Wingstop on Lake Park

I am disappointed that the City is considering another alcohol permit next to a bar. Too much! Please consider denying the permit.

Deirdre Cherry  
725 Calmar Ave

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Sent: Thursday, December 8, 2011 9:19 AM  
Subject: Wingstop on Lake Park

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Sent: Thursday, December 8, 2011 9:19 AM  
Subject: Wingstop on Lake Park



**Rose, Aubrey**

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**From:** Ray McFadden [ray@simboli.net]  
**Sent:** Thursday, December 08, 2011 10:22 AM  
**To:** Rose, Aubrey  
**Subject:** wingstop application for alcohol sales

Greetings. I live on Ashmount Ave in the Crocker Highlands neighborhood above Lakeshore. I also own a multi-family apartment building on Mandana between Lakeshore and Grand. I feel that the Grand/Lakeshore neighborhood is (finally) hitting its stride as some of the older & seedier shops have been making way for some new local talent. The worst section of our commercial strip has been the section of Lake Park Ave between the theater and Lakeshore. It has improved with the recent addition of Cana, and Heart & Soul and the updated Kwik Way. I believe approving a conditional use permit to allow Wingstop to sell alcohol would significantly erode this area, which is under heavy transition. These storefronts have a very mixed and occasionally sketchy crowd being that it fronts a park, a large under-highway parking area and is within a block of multiple highway on- & off-ramps. Making alcohol available from a fast-food, mainly take-out, establishment could lead to serious issues particularly given its proximity to our local library, children's playground and schools. I would appreciate the planning department giving due consideration to the concerns of the surrounding neighbors.

Thanks for your time.  
Ray McFadden

12/8/2011

**Rose, Aubrey**

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**From:** J. Burns [jennifer.aburns@yahoo.com]  
**Sent:** Thursday, December 08, 2011 11:10 AM  
**To:** Rose, Aubrey  
**Subject:** Wingstop Alcohol Permit: AGAINST

Hi,  
We are residents who live on Longridge Road, and I am writing to represent my family as being against a liquor license being granted to Wingstop.

In general, the square area between Grand Avenue, Lake Park, Lakeshore, and Madana is a wonderful stroll for most Oakland residents. For me however, there are stretches along this route that are, for lack of a better word, seedy. Lake Park has always had that effect on me with the presence of the bar by Kwik Way, and the tiny stretch by the bus stop just next door. Adding a liquor license to Wingstop would be adding to that scuzz factor in my opinion.

As a family woman, I do think about my children's being exposed to adult things too early, but quite frankly, this would affect everybody who passes through that area, old and young alike. So I won't write a dissertation here, I just wanted to speak out against the liquor license. We can enjoy wings just as easily with lemonade and water!

Thank you for listening,

***Jennifer Burns Pope***

12/8/2011

**Rose, Aubrey**

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**From:** Victoria A. Barbero [vabarbero@comcast.net]

**Sent:** Thursday, December 08, 2011 11:11 AM

**To:** Rose, Aubrey

**Subject:** Against Alcohol Permit for Wingstop

Audrey,

Please note that my husband Reinaldo Barbero and I strongly oppose the alcohol permit for Wingstop. Oakland has enough establishments in the area that serve alcohol. Moreover Oakland is beset with violence and killings. Alcohol just adds to the mix.

Please do not give Wingstop license to serve alcohol.

Victoria Barbero

Victoria A. Barbero  
Barbero Communications, LLC.  
[vabarbero@comcast.net](mailto:vabarbero@comcast.net)  
510-387-3071

12/8/2011

## Rose, Aubrey

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**From:** dcmarla@gmail.com  
**Sent:** Thursday, December 08, 2011 11:50 AM  
**To:** Rose, Aubrey  
**Subject:** Wingstop alcohol permit - SUPPORT

Aubrey,

I am a neighbor of the proposed Wingstop on Lake Park and wanted to write in support of their alcohol permit. I'm glad businesses are investing in my neighborhood in such a difficult time and think that beer is an obvious choice to have when consuming wings - so, why not? Heart and Dagger is doing well next door. The area is becoming more of a destination for young people like myself who want to go out and have a good time. Serving alcohol attracts more customers for sure. And believe it or not, I think it contributes to the safety of the neighborhood - I'd think that having more people out and about means less crime overall.

I support the alcohol permit and hope the City will too. Nightlife is driving Oakland's revitalization (and boosting public safety in previously desolate places), and this is something I wish the more puritanical forces in my neighborhood would acknowledge and accept as a reality.

I live just a 5-minute walk away, on Crescent Street, right off Santa Clara Avenue.

Thanks for your consideration of my opinion.

Marla Wilson  
466 Crescent St. #117  
dcmarla@gmail.com

**Rose, Aubrey**

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**From:** Renee Grimani-Kardener [kardener632@gmail.com]

**Sent:** Thursday, December 08, 2011 12:15 PM

**To:** Rose, Aubrey

**Subject:** Wingstop Alcohol Permit

I am opposed to Wingstop Alcohol Permit request. There is a bar right next to it. I assume that there will be a lot of families and teens who will become patrons at Wingstop as it is already at Kwik Way.

Also, in the past we had a very bad experience with Wine and their application for an Alcohol Permit.

Thank you,  
-Renee Kardener  
632 Trestle Glen Road  
Oakland, CA 94610

12/8/2011

**Rose, Aubrey**

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**From:** Mary Ann Walsh [walshmaryann@yahoo.com]  
**Sent:** Thursday, December 08, 2011 12:39 PM  
**To:** Rose, Aubrey  
**Subject:** Wingstop franchise liquor license: STRONGLY OPPOSED

I am strongly opposed to the approval of a liquor license for the Wingstop franchise on Lake Park.

We do not need yet another liquor vendor in that short block, which is right across from a park and near the Bayhill High School. I seriously doubt that a fast-food restaurant will be able to control where their customers go with the liquor that they buy at the restaurant. Do we need people carrying bottles of beer to Splashpad or Astro parks, or to the Grand Lake Theater?

Please turn down this permit.

I live on Calmar Avenue, and I spend a lot of time on Lakeshore, Grand, and Lake Park. I'm very concerned about the effect that the approval of this permit would have.

Mary Ann Walsh

**Rose, Aubrey**

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**From:** PAMELA A DRAKE [pamelad205@sbcglobal.net]

**Sent:** Thursday, December 08, 2011 12:56 PM

**To:** Rose, Aubrey

**Subject:** Wingstop application

Aubrey and Planning Commission Members:

The Lakeshore BID has heard from some of its members that they do not want another liquor outlet on Lakepark Avenue, especially connected to a fast-food- type establishment.

Among there concerns are that training for staff who clerk the shop will be much more limited than that in a bar or full service restaurant; and further, that the fall-out for the lack of training and oversight when selling alcohol products, will leak out to the Avenue and cause problems for their establishments or be blamed directly on them.

If a license is granted, please consider imposing strict conditions.

Sincerely,

Pamela Drake for the Lakeshore BID

Pamela A Drake

510-834-9198

[DrakeTalkOakland.wordpress.com](http://DrakeTalkOakland.wordpress.com)

[LakeshoreOakland.com](http://LakeshoreOakland.com)