

**RESOLUTION NO. 44-07**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RICHMOND,  
CALIFORNIA  
SETTING FORTH THE COUNCIL'S DECISION REGARDING THE APPEAL OF  
PLANNING COMMISSION APPROVAL OF APPLICATION CU-1103497, A  
CONDITONAL USE PERMIT TO ALLOW ALCOHOLIC BEVERAGE SALES AT 2171  
MEEKER AVENUE  
(ASSESSOR'S PARCEL 560-150-013)**

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WHEREAS on October 30, 2006, Ladonna Toliver submitted an application seeking a Conditional Use Permit to allow alcoholic beverage sales from 10:00 AM to Midnight daily at a Wingstop Restaurant – an eating and drinking establishment opening at **2171 Meeker Avenue in Richmond, California**, further identified as **Assessor's Parcel 560-150-013**; and

WHEREAS on February 2, 2007, the Planning Commission of the City of Richmond, California held a duly noticed public hearing to consider the Conditional Use Permit and the applicant's testimony, and voted unanimously to approve the Conditional Use Permit request with the condition that alcohol sales end at 10:00 PM daily instead of Midnight as requested by the applicant; and

WHEREAS on February 8, 2007, Ladonna Toliver filed a timely appeal of the Planning Commission's action requesting that the City Council extend the approved hours of alcoholic beverage service to the hours of 10:00 AM to Midnight daily; and

WHEREAS on March 20, 2007, the City Council of the City of Richmond, California held a duly noticed public hearing to consider the appeal, and hear testimony in favor of, and in opposition to, the Conditional Use Permit request; and

WHEREAS, following the public hearing and based upon all oral and written information presented at or before the hearing, the City Council does find and resolve as follows:

**SECTION I: FINDINGS**

1. The location of the proposed use is in accordance with the General Plan of the City of Richmond, California. The Richmond General Plan land use designation at the subject site is 922, Commercial/Office. The proposed use, an eating and drinking establishment, is a conditionally allowed use in the 922, Commercial/Office General Plan designation.
2. The location, size, design, and operating characteristics of the proposed eating and drinking establishment will be compatible with and will not be detrimental to the public health, safety, or welfare of persons residing or working in or adjacent to the proposed use and the surrounding neighborhood. The proposed eating and drinking establishment will operate inside a commercial tenant space that is consistent with the size and design of other existing commercial tenant spaces and restaurants located within the Harbour Gate Commercial Center. The sale of alcoholic beverages will not be detrimental to the health and safety of the surrounding neighborhood because it is limited to the sale of beer and wine for on-site consumption only. Alcohol service will be provided as a secondary amenity and will not be the primary source of restaurant sales. The proposed eating and drinking establishment will be located within a primarily commercial and industrial area and will not be near sensitive uses including residences, schools, community centers, or hospitals.
3. The proposed use is compatible with all applicable portions of the City of Richmond Zoning Ordinance and specifically with the requirements of Section 15.04.910.080-H which regulates eating and drinking establishments. The

Knox/Cutting Specific Plan designates the subject property for Commercial Office use. The proposed use, an eating and drinking establishment, is a conditionally allowed use in the Commercial Office designation of the Knox-Cutting Specific Plan. The regulations in Section 15.04.910.080-H of the Zoning Ordinance are intended limit the proliferation of nuisance generating drinking establishments such as off-sale liquor stores found in residential neighborhoods. According to the City's Crime Analysis Division, on-premise only licenses that are exercised in association with a legitimate restaurant do not typically generate alcohol-related nuisances or crime. The proposed license is an on-premise only license that would be exercised in association with a reputable restaurant chain with over 550 franchise restaurants in operation nationally in 25 states. The proposed eating and drinking establishment would be approved with the Planning Director's Standard List of Conditions of Approval per section 15.04.910.080-H of the Zoning Ordinance.

4. The subject property is located in an area adequately served by highways and streets, including the Interstate Freeway 580, Marina Bay Parkway, and Meeker Avenue and public service facilities incorporated into the existing Harbour Gate Commercial Center.

## **SECTION II: RESOLUTION**

NOW, THEREFORE BE IT RESOLVED that the City Council of the City of Richmond, California hereby modifies the Planning Commission's action and approves Conditional Use Permit application CU-1103497 subject to the following conditions:

1. Allowed Privileges: This Conditional Use Permit is granted for the exercise of on-sale privileges (on-site consumption) as allowed by a Type-41 "On-Sale Beer & Wine – Eating Place" ABC License only. The sale of alcoholic beverages for consumption off the premises is strictly prohibited.
2. Where allowed: This Conditional Use Permit is granted for the exercise of the on-sale privileges at Unit A4 at 2171 Meeker Avenue, Richmond, CA. 94804 only.
3. Documents: A copy of these Conditions of Approval and the California Department of Alcoholic Beverage Control license are required to be kept on the premises and presented to any law enforcement officer or authorized City official upon request.
4. Hours of Service: The sale of alcoholic beverages shall be limited to 10:00 AM to Midnight daily.
5. Primary Purpose of Operation: The premises shall operate primarily as a bona-fide eating establishment and must make actual and substantial sales of meals, during the normal meal hours that it is open.
6. Percent Sales Record Keeping: The proprietor/owner shall make actual and substantial sales of meals to guests for compensation. The quarterly gross sales of alcoholic beverages shall be limited to no more than 25% of gross sales of meals during the same period. The proprietor/owner shall maintain records of the above-described sales, and such records and any related tax records shall be made available to the City of Richmond upon request.
7. Graffiti Removal: The proprietor/owner is responsible for the removal of all graffiti from the walls, fences, pavement, or buildings within 72 hours of its appearance on the property.
8. Litter Control: The proprietor/owner shall be responsible for maintaining free of litter at all times the parking lot and the area adjacent to the premises over which they have control.

9. Noise Disturbances: Any noise disturbance, as defined by Section 9.52 of the Richmond Municipal Code, occurring in the parking lot area is prohibited.
10. Prohibited Activities: There shall be no bar or electronic or coin-operated amusement devices at the subject site.
11. Illumination: The exterior of the premises, including adjacent public sidewalks and the parking lot area, shall be illuminated during all hours of darkness when the premises are open for business in a manner so that persons standing in those areas at night are identifiable by law enforcement personnel.
12. Required Signage: The proprietor/owner shall erect and maintain signs at all entrances/exits of the premises prohibiting the removal of alcoholic beverages.
13. Validity of CUP: Authorization of a Conditional Use Permit granted pursuant to the provisions of Section 15.04.900 of the Richmond Zoning Ordinance shall run with the land and shall continue to be valid upon a change of ownership of the site or structure which was the subject of the use permit application provided all provisions of the ordinance, the Zoning Ordinance, and all conditions placed on approval of the Conditional Use Permit are continually met.
14. Revocation of CUP: Pursuant to Section 15.04.900 of the Richmond Zoning Ordinance, this Conditional Use Permit may be revoked if the exercise of rights granted by the Conditional Use Permit is discontinued for six (6) consecutive months. The use may not be resumed if the Conditional Use Permit is revoked.

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I certify that the foregoing resolution was passed and adopted by the City Council of the City of Richmond, California at a meeting held on February 20, 2007:

Ayes: Councilmembers Bates, Marquez, Rogers, Sandhu, Thurmond, and Mayor McLaughlin

Noes: None

Abstentions: None

Absent: Councilmembers Butt, Lopez, and Viramontes

DIANE HOLMES  
Clerk of the City of Richmond

[SEAL]

Approved:

GAYLE McLAUGHLIN  
Mayor

Approved as to Form:

LOUISE RENNE, Interim  
City Attorney

State of California            }  
County of Contra Costa    : ss.  
City of Richmond            }

I certify that the foregoing is a true copy of Resolution No. 44-07, finally passed and adopted by the Council of the City of Richmond at a meeting held on April 17, 2007.