

CITY COUNCIL AGENDA: FEBRUARY 3, 2015

PUBLIC HEARING

SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT (PRC 2014-021-C) TO ALLOW FOR THE SALE OF ALCOHOL UNDER A TYPE 41 ON-SALE BEER AND WINE LICENSE FOR BONA-FIDE PUBLIC EATING PLACE FOR WINGSTOP LOCATED AT 1375 W. HENDERSON AVENUE, SUITE #2B

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT- PLANNING DIVISION

COMMENT: On December 3, 2014, the applicant submitted an application to the Project Review Committee (PRC) to consider a Conditional Use Permit to allow for the sale of beer and wine under a Type 41 On-Sale Beer & Wine license for Bona-Fide Public Eating Place for Wingstop located at 1375 W. Henderson Avenue, Suite 2B, within an existing tenant space at the Porterville Marketplace Shopping Center.

During the PRC meeting, the Police Department indicated that the location of Wingstop has sufficient exterior lighting to illuminate the parking lot and the entire site during business hours. The Project Review Committee also acknowledged that the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity.

The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 36.02; this tract contains 17 licenses for alcohol sales; six (6) on-sale and eleven (11) off-sale. In Census tract 36.02, five (5) on-sale and seven (7) off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the seventh (7<sup>th</sup>) on-sale license, two (2) above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

ANALYSIS: It is not anticipated that this use would have a negative impact on the surrounding properties. Conditions of approval are in place to protect the public's safety and interest. Due to the close proximity of Monache High School (110 feet from property line to property line), alcohol advertisement visible from the outside of the proposed building shall not be allowed. The applicant is conditioned to operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and to operate the business in compliance with all laws, ordinances and regulations regarding the

DD JDP Appropriated/Funded N/A CM J Item No. 15  
ACTING

sale of alcohol. Furthermore, at all times the facility shall be operated and maintained to comply with State Laws, the City of Porterville Development Ordinance, adopted Building Codes and all other applicable laws and ordinances.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for Retail Centers (CR). The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with the requested Conditional Use Permit.

ENVIRONMENTAL REVIEW: On January 20, 2015, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

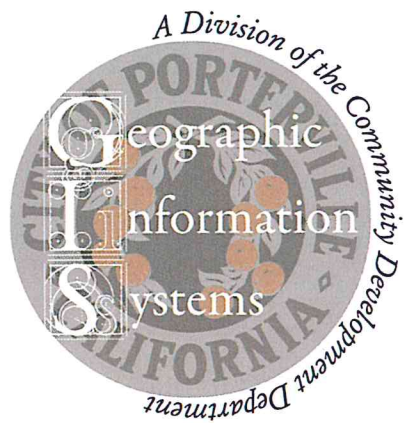
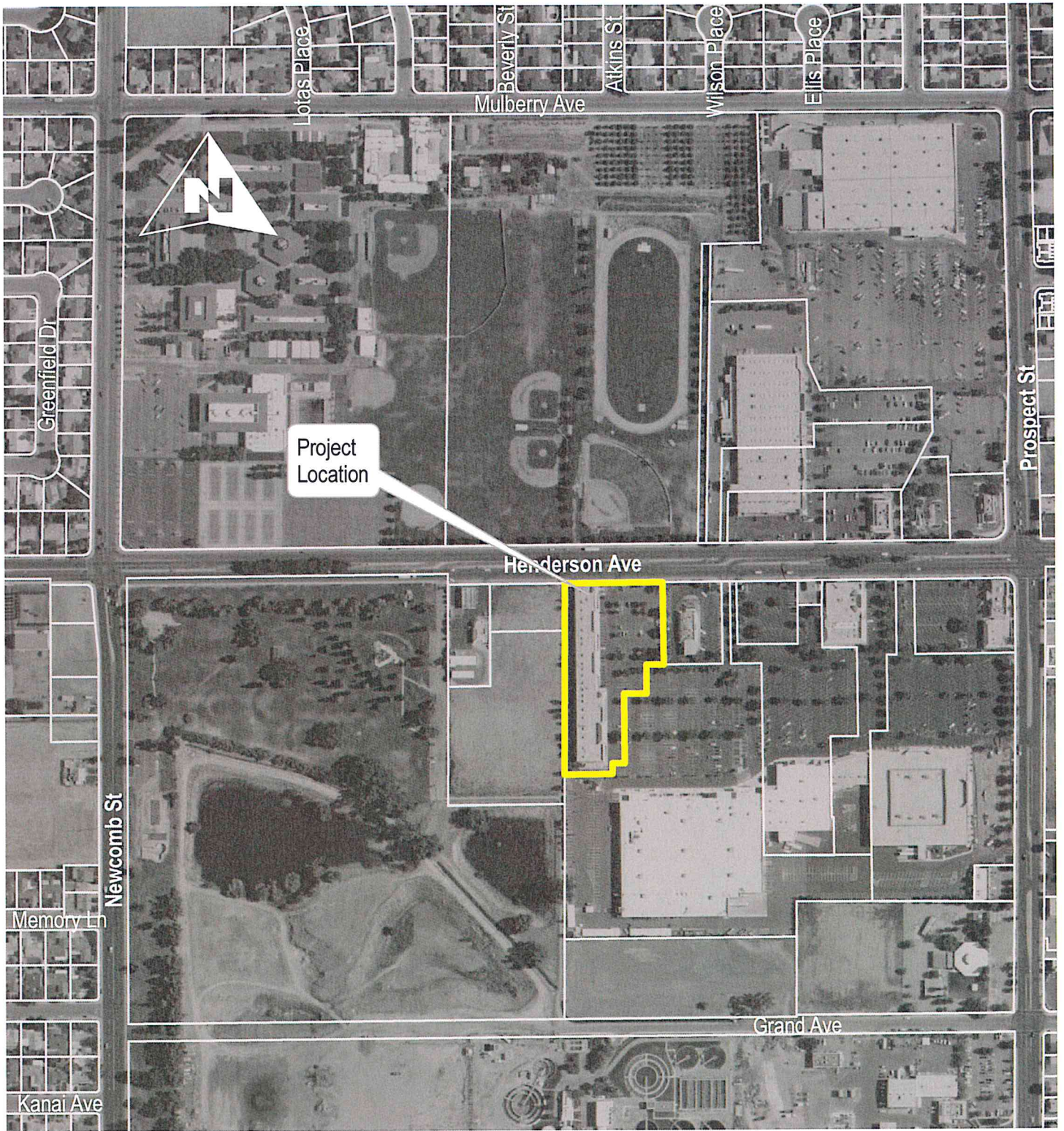
RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit (PRC 2014-021-C) subject to conditions of approval; and
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

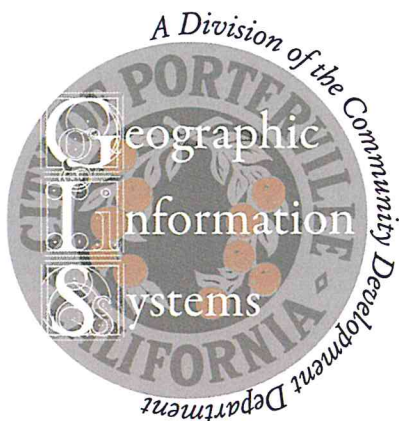
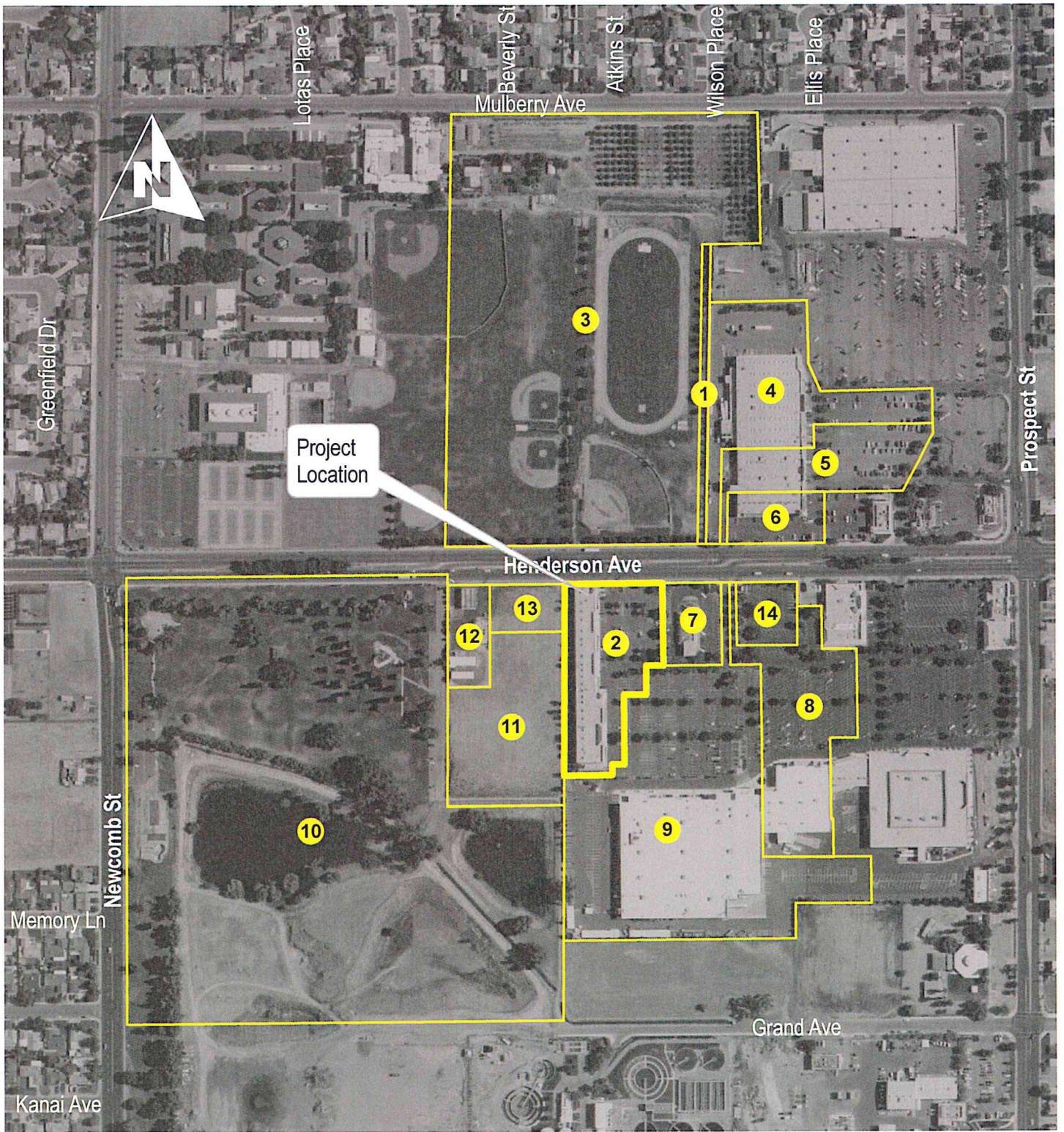
1. Locator Map
2. 300' Radius Map of noticed parties
3. Floor Plan
4. Existing licenses in Census Tract 36.02
5. Draft Resolution
6. Letter of Public Convenience or Necessity





PRC 2014-021  
Wingstop @ 1375 W Henderson Ste 2B  
Project Locator Map  
1" = 400 ft. ATTACHMENT  
ITEM NO. 1



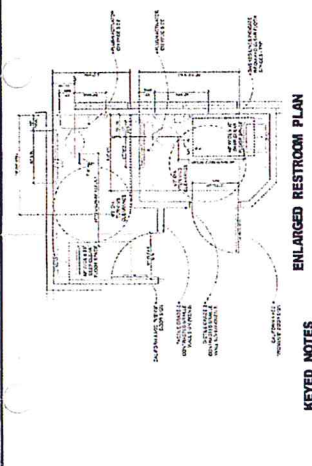


PRC 2014-021  
Wingstop @ 1375 W Henderson Ste 2B  
300' Radius Map  
1" = 400 ft. ATTACHMENT  
ITEM NO. 2





NO.	DATE	REVISIONS



- KEYED NOTES**
1. RESTROOM ACCESSIBLE TO ALL. ALL RESTROOMS TO BE CONFORMING TO THE 2010 ADA STANDARDS FOR ACCESSIBILITY. THIS RESTROOM IS TO BE CONFORMING TO THE 2010 ADA STANDARDS FOR ACCESSIBILITY. IF ACCEPTED BY THE LOCAL HEALTH DEPARTMENT, THIS RESTROOM IS TO BE CONFORMING TO THE 2010 ADA STANDARDS FOR ACCESSIBILITY.
  2. ALL RESTROOM PARTITIONS TO BE REMOVED AS INDICATED BY THE ARCHITECT.
  3. PROVIDE ONE COMPLIANT RESTROOM SHOWN ON DRAWING.
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  5. PROVIDE 1.75" MIN. ACCESSION PARTITION. PROVIDE 1.75" MIN. ACCESSION PARTITION.
  6. PROVIDE 1.75" MIN. ACCESSION PARTITION. PROVIDE 1.75" MIN. ACCESSION PARTITION.
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**GENERAL NOTES**

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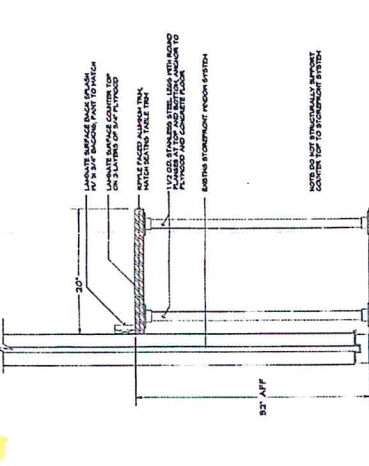
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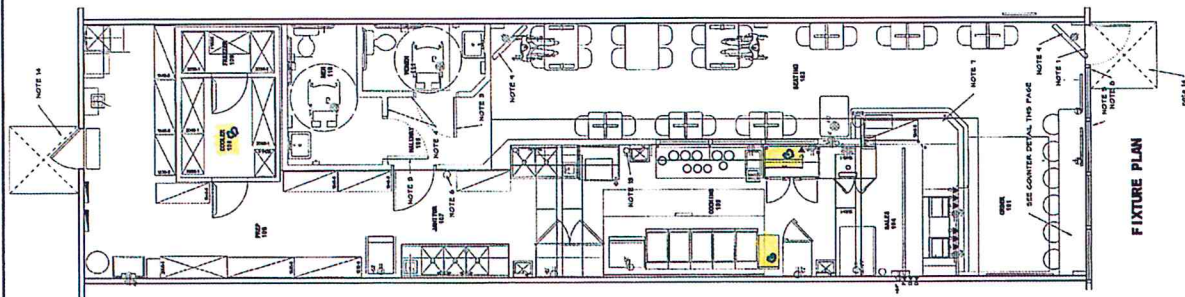
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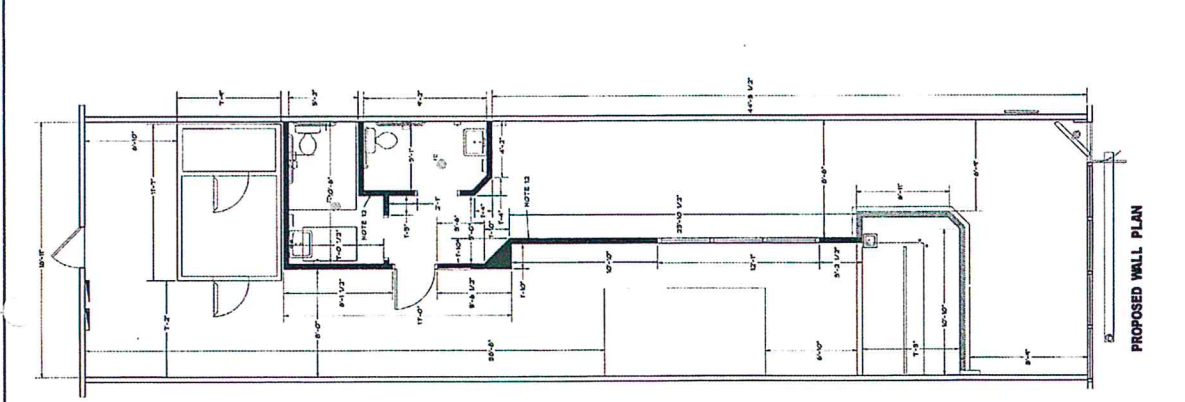
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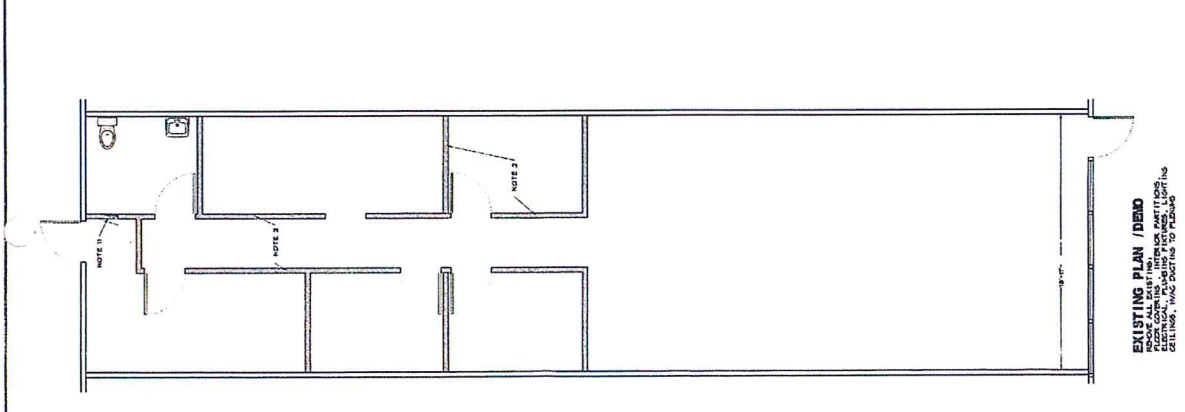
COUNTER SEATING DETAIL



FIXTURE PLAN



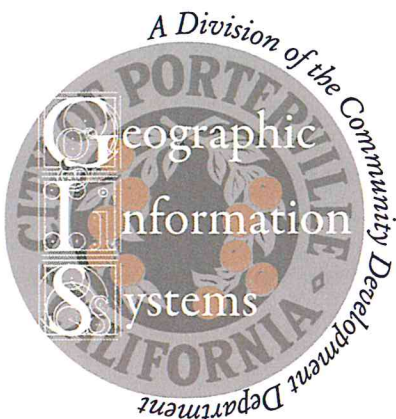
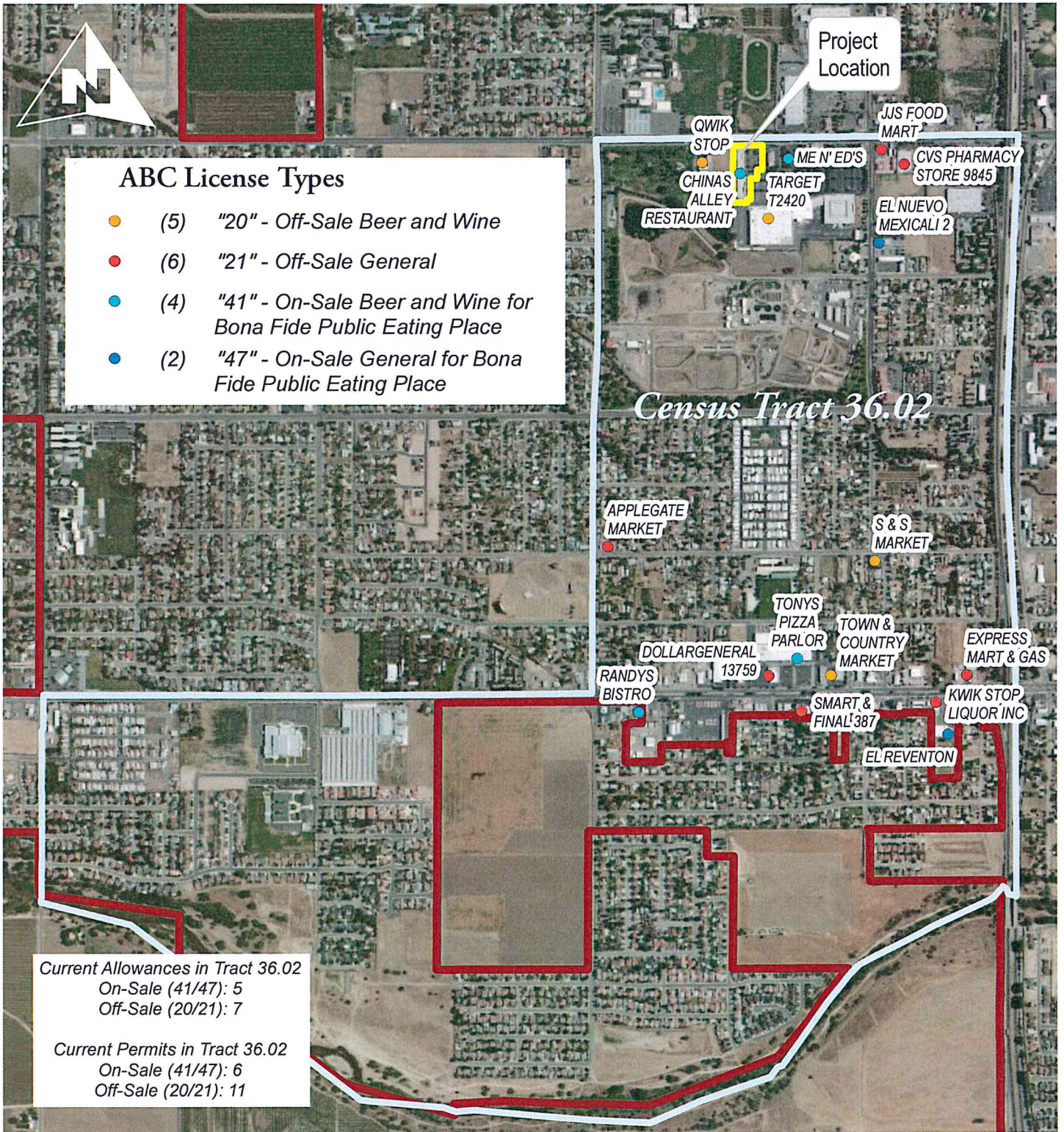
PROPOSED WALL PLAN



EXISTING PLAN / DEMO

DEMO PLAN / PROPOSED FLOOR PLANS





PRC 2014-021  
 Wingstop @ 1375 W Henderson Ste 2B  
 ABC Permit Map  
 1" = 1,350 ft. ATTACHMENT  
 ITEM NO. 4



RESOLUTION NO. \_\_\_\_\_

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE  
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE  
PERMIT (PRC 2014-021-C) TO ALLOW FOR A TYPE 41 ON-SALE BEER AND WINE  
LICENSE FOR A BONA-FIDE PUBLIC EATING PLACE FOR WINGSTOP  
LOCATED AT 1375 W. HENDERSON AVENUE, SUITE #2B

WHEREAS: On January 20, 2015, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines); and

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of February 3, 2015, conducted a public hearing to consider Conditional Use Permit (PRC 2014-021-C), to allow for a Type 41 On-Sale Beer and Wine license for a Bona-Fide Public Eating Place for Wingstop located at 1337 W. Henderson Avenue, Suite #2B; and

WHEREAS: The City Council of the City of Porterville authorized the mayor to sign the Letter of Public Convenience or Necessity because of the regional nature of the shopping center within which the restaurant is located; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted.

The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate development standards are met. The project is located within an existing building in a regional shopping center that has been well maintained since its original development. Further, all land owners within the city of Porterville are held to performance standards identified in Chapter 306 of the Development Ordinance. Specifically, Section 306.03 of the Ordinance states, "Land or buildings shall not be used or occupied in a manner creating any dangerous, injurious, or noxious fire,

explosive, or other hazard; noise, vibration, smoke, dust, odor, or form of air pollution; heat, cold, dampness, electrical or other disturbance; glare, refuse, or wastes; or other substances, conditions, or elements which would substantially adversely affect the surrounding area.”

3. This project is Categorical Exempt pursuant to CEQA Guidelines §15061(b), (3) - General Rule: the approval of alcohol sales in a bona-fide eating establishment would have no physical change to the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 36.02. This tract contains 17 licenses for alcohol sales: six (6) on-sale and eleven (11) off-sale. In Census tract 36.02, five (5) on-sale and seven (7) off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the seventh (7<sup>th</sup>) on-sale license, two (2) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2014-021-C) subject to the following conditions:

1. The developer/applicant shall keep the beer and wine in a secure place with access only available to the employees, shown herein as the walk-in cooler and ice box areas in Exhibit “A.” Any future changes in operation which substantially alter the condition or nature of the subject business will require approval by the City Council if such modification involves expansion, relocation, or change in accessibility to the conditioned uses.
2. The facility shall be operated and maintained to comply with applicable State and Federal laws, and the City of Porterville Development Ordinance at all times.
3. The applicant shall maintain the security lighting on the exterior of the building and in the parking lot in a manner to allow reasonable surveillance of the area to the satisfaction of the Police Department and Zoning Administrator.
4. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.



5. The elements of the conditional use permit approving on-site alcohol sales will be subject to modification or revocation if the State of California imposes sanctions on the on-sale license.
6. The entire site shall be permanently maintained free of accumulated dirt and litter and in an otherwise neat and attractive manner.
7. No alcohol advertising shall be displayed and/or viewed from the outside of the proposed building.
8. The consumption of alcoholic beverages shall be prohibited off-site or outside of the building.
9. Upon approval of the conditional use permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.
10. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two (2) years after the date of approval if the on-sale Type 41 Beer and Wine Alcohol License for a Bona-Fide Eating Place is not active or actively pursued. The alcohol license permits sale of beer and wine in conjunction with the serving of meals.
11. The hours of operation during which alcoholic beverages may be sold and served under the on-sale license shall be limited to only during business hours.
12. That a Letter of Public Convenience or Necessity shall be required.

PASSED, APPROVED AND ADOPTED this 3<sup>rd</sup> day of February, 2015.

\_\_\_\_\_  
Milt Stowe, Mayor

ATTEST:  
John D. Lollis, City Clerk

By \_\_\_\_\_  
Patrice Hildreth, Chief Deputy City Clerk



WINGSTOP CL#S021  
 1761 HENDERSON SUITE C-2B  
 HENDERSON AND PROSPECT STREET  
 PORTERVILLE CA

KENT P. RODRIGUES ARCHITECT  
 2090 W. MACILLI, FRESNO, CA  
 PLANNING • DESIGNING • ARCHITECTURE PH. 559-438-1790  
 PLEASE DIRECT ALL INQUIRIES REGARDING THESE PLANS TO:  
 PROJECT MANAGER KELLY BRAY 559-440-8000

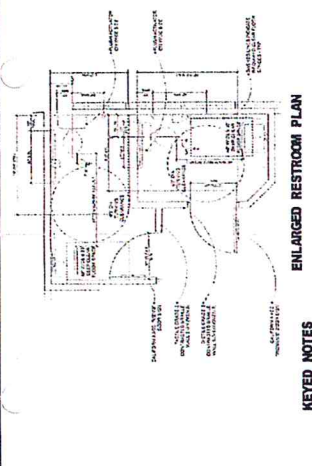


REVISIONS


JOB #1  
 SHEET 001/04

**A-4**

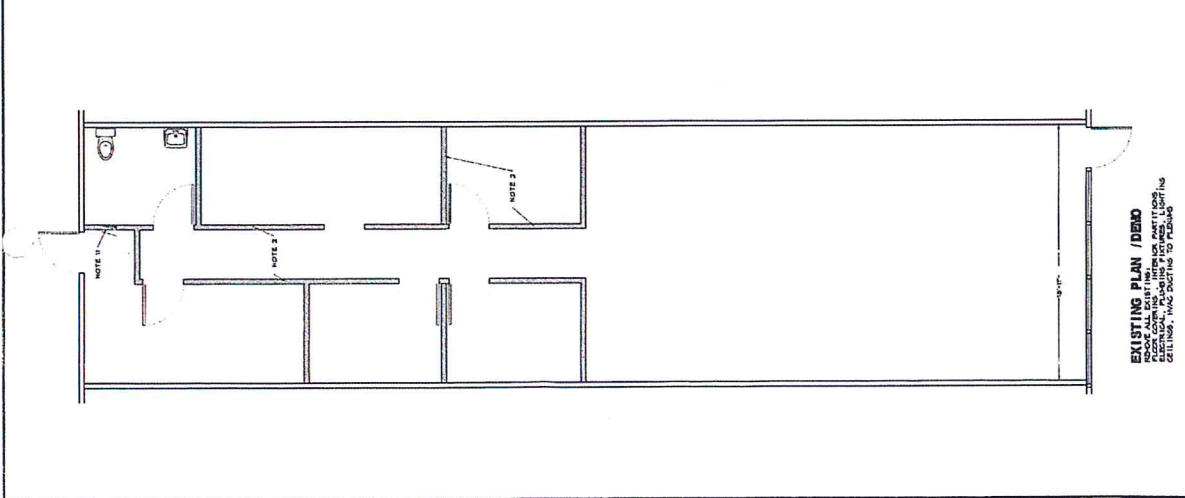
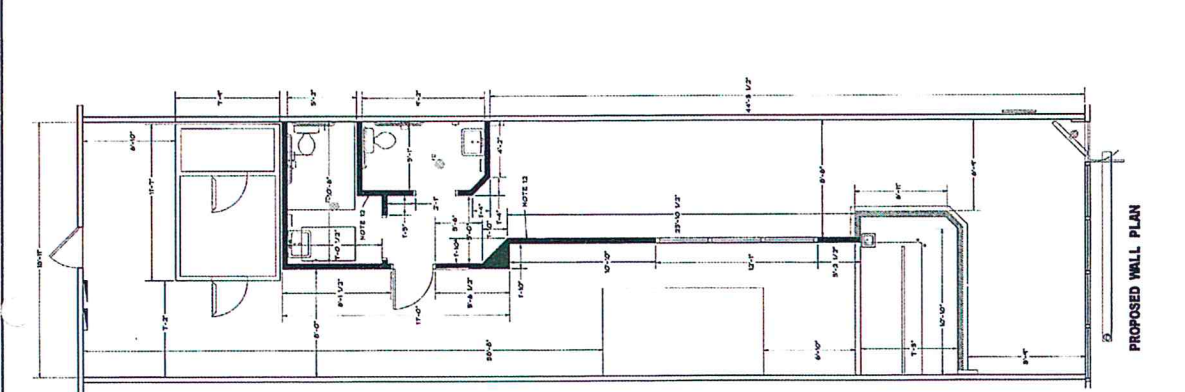
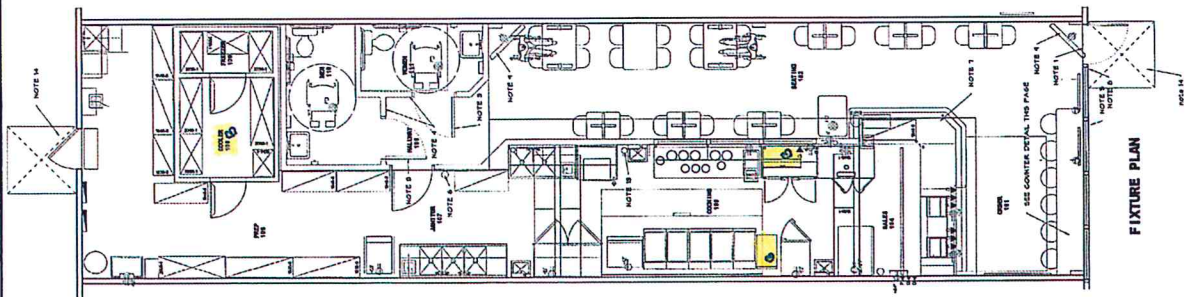
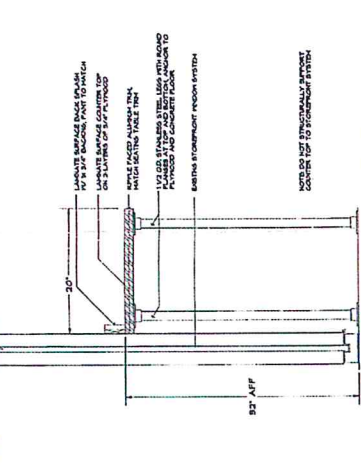
DATE



- KEYED NOTES**
1. SEE PLAN ABOVE CORRIDOR IN "A" FOR ATTENTION TO A CONTINGENCY BARRICADE THAT MUST BE IN PLACE TO MAINTAIN BARICADE POSITIONING. IS ACCEPTED.
  2. PROVIDE NON-BURNING PARTITIONS TO BE REMOVED AS INDICATED BY ARCHITECT.
  3. PROVIDE ONE COMPLIANT RESTROOM SIGN ON CORRIDOR.
  4. PROVIDE ONE COMPLIANT RESTROOM SIGN ON CORRIDOR.
  5. PROVIDE 17" HIGH BARRICADE PARTITION V. SIDE 2 FROM CORRIDOR.
  6. PROVIDE 17" HIGH BARRICADE PARTITION V. SIDE 2 FROM CORRIDOR.
  7. RESTROOM SIGNAGE SHALL BE 14" HIGH, 14" WIDE, 1/2" THICK.
  8. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  9. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  10. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  11. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  12. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  13. PROVIDE ONE COMPLIANT SIGNAGE AT EACH END OF RESTROOM DOOR.
  14. VERIFY ALL TO BE LOCAL UNIFORM AT ENTRANCES AND EXITS.

**GENERAL NOTES**

1. ALL INTERIOR WORK SHALL BE IN ACCORDANCE WITH THE 2019 CALIFORNIA BUILDING CODE (CBC) AND ALL APPLICABLE LOCAL ORDINANCES. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL FIRE DEPARTMENT AND ALL APPLICABLE LOCAL ORDINANCES. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL FIRE DEPARTMENT AND ALL APPLICABLE LOCAL ORDINANCES. THE GENERAL CONTRACTOR SHALL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE LOCAL FIRE DEPARTMENT AND ALL APPLICABLE LOCAL ORDINANCES.



DEMO PLAN / PROPOSED FLOOR PLANS





**Community Development  
Department**

February 3, 2015

California Department of Alcoholic Beverage Control  
Fresno District Office  
3640 East Ashlan Ave  
Fresno, CA 93726  
ATTN: Christine Weldon

RE: Wingstop – 1375 W. Henderson Avenue, #2B

Dear Ms. Weldon:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 41 (beer and wine) On-Sale Beer & Wine for Bona Fide Public Eating Place license for Wingstop located at 1375 W. Henderson Avenue, Suite 2B. The shopping center within which the proposed restaurant will be located is a regional center, and has significant economic draw beyond the boundaries of the census tract.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code,” the subject site is located within Census Tract 36.02; this tract contains 17 licenses for alcohol sales; six (6) on-sale, eleven (11) off-sale. In Census tract 36.02, five (5) on-sale and seven (7) off-sale are allowed without being deemed over-concentrated. Approval of this on-sale licenses would be the seventh (7<sup>th</sup>) on-sale licenses, two (2) above the allowable as determined by ABC. Due to the over concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.
2. On February 3, 2015, the City Council conditionally approved Conditional Use Permit (PRC 2014-021-C), review attached resolution, to allow the on-sale of beer and wine under a Type 41 License located at 1375 W. Henderson Avenue, #2B. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an on-sale beer and wine license.

Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for Retail Centers

**ATTACHMENT NO. 6**



(CR). The CR designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant is a permitted use in the CR Zone, and alcohol sales may be permitted in that zone with the requested Conditional Use Permit.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 41 (beer and wine) License for Wingstop located in the Porterville Marketplace Shopping Center at 1375 W. Henderson Avenue, #2B.

Sincerely,

Milt Stowe, Mayor