



**PLANNING COMMISSION
AGENDA
Special Meeting
Wednesday, January 11, 2023
7:00 p.m.**

**Hoyer Hall at Clayton Community Library
6125 Clayton Road, Clayton, California
and
Via Zoom Webinar
Webinar ID: 829 0484 2373**

This meeting is being held with accommodations for both in-person and virtual attendance and participation by the public. Members of the public who prefer to view or listen to the meeting and to address the Planning Commission remotely during the meeting may do so using the methods listed under "Instructions for Virtual Planning Commission Meeting Participation" below.

Chair: Daniel Richardson
Vice Chair: Richard Enea
Commissioner: Justin Cesarin
Commissioner: Maria Shulman
Commissioner: Ed Miller

Agendas are posted at: 1) City Hall, 6000 Heritage Trail; 2) Library, 6125 Clayton Road; and 3) Ohm's Bulletin Board, 1028 Diablo Street, Clayton. A digital copy of the Agenda with a complete packet of information including staff reports and exhibits related to each agenda item is available for public review on the City's website at <https://claytonca.gov/community-development/planning/planning-commission/planning-commission-agendas/>.

Any writings or documents provided to a majority of the Planning Commission after distribution of the Agenda Packet and regarding any public item on this Agenda are available for review on the City's website at <https://claytonca.gov/community-development/planning/planning-commission/planning-commission-agendas/>.

If you have a physical impairment that requires special accommodations to participate, please call the City Clerk's office at least 72 hours in advance of the meeting at 925-673-7300.

Most Planning Commission decisions are appealable to the City Council within 10 calendar days of the decision. Please contact Community Development Department staff for further information immediately following the decision. If the decision is appealed, the City Council will hold a public hearing and make a final decision. If you challenge a final decision of the City in court, you may be limited to raising only those issues you or someone else raised at the public hearing(s), either in spoken testimony at the hearing(s) or in written correspondence delivered to the Community Development Department at or prior to the public hearing(s). Further, any court challenge must be made within 90 days of the final decision on the noticed matter.

Instructions for Virtual Planning Commission Meeting Participation

The following options are provided as a courtesy for those who would prefer to view, listen to, or provide comments remotely for the meeting. While City staff will make every effort to facilitate virtual participation in the meeting, the City cannot guarantee that the public's access to teleconferencing technology will be uninterrupted, and technical difficulties may occur from time to time.

Videoconference: To join the meeting on-line via smart phone or computer, click on the link: <https://us02web.zoom.us/j/82904842373>; or, through the Zoom application, enter **Webinar ID: 829 0484 2373**. No registration or meeting password is required. Attendees indicate their request to speak on an item during the meeting by using the "Raise Hand" feature in the Zoom application.

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Email Public Comments: If preferred, please email public comments to the Community Development Director at danaa@claytonca.gov by 5:00 p.m. on the day of the Planning Commission meeting. All emailed public comments received prior to 5:00 p.m. on the day of the Planning Commission meeting will be forwarded to the entire Planning Commission.

Each person attending the meeting via video conferencing or telephone and who wishes to speak on an agendized or non-agendized matter shall have a set amount of time to speak as determined by the Planning Commission Chair.

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **PRESENTATIONS**
5. **ACCEPTANCE OF THE AGENDA:** The Planning Commission will discuss the order of the agenda, may amend the order, add urgency items, note disclosures or intentions to abstain due to conflict of interest on agendized public hearing or action items, and request Consent Calendar items be removed from the Consent Calendar for discussion. The Planning Commission may also remove items from the Consent Calendar prior to that portion of the Agenda.
6. **PUBLIC COMMENT (Non-Agenda Items):** This time has been set aside for members of the public to address the Planning Commission on items of general interest within the subject matter jurisdiction of the City. Although the Planning Commission values your comments, pursuant to the Brown Act, the Planning Commission generally cannot take any action on items not listed on the posted agenda. At the Chair's discretion, up to three minutes will be allotted to each speaker.
7. **CONSENT CALENDAR:** The following routine matters may be acted upon by one motion. Individual items may be removed by the Planning Commission for separate discussion at this time or under Acceptance of the Agenda.
 - A. **MINUTES:**
Planning Commission Meeting of December 13, 2022
8. **PUBLIC HEARING**
 - A. **Roadside 22 Beer and Wine Bar Use Permit (UP-02-2022).**
This is a public hearing is to consider a request by Nichole Simpson for approval of a Use Permit (UP-02-2022) to allow the operation of a beer and wine bar in an existing tenant space in the Clayton Station shopping center. The business is proposed to include a parklet (outdoor area) to be located in the existing parking spaces directly in front of the tenant space. The business is proposed to be located at 5439 Clayton Road in Suite E and F (Assessor's Parcel No. 118-031-052) and to operate Wednesday through Sunday at the following times: Wednesday, 4:00 p.m. to 9:00 p.m.; Thursday, 4:00 p.m. to 9:00 p.m.; Friday, 4:00 p.m. to 10:00 p.m.; Saturday, 12:00 p.m. to 10:00 p.m.; and Sunday, 8:00 a.m. to 3:00 p.m.

Environmental Determination: This project is categorically exempt from the California Environmental Quality Act (CEQA, Public Resources Code Section 21000 *et seq.*), pursuant to Section 15301 (Class 1, Existing Facilities) of the State CEQA Guidelines (California Code of Regulations, Title 14, section 15000 *et seq.*)

9. **COMMUNICATIONS:** This time is set aside for the Planning Commission to make requests of staff, and/or for issues of concern to Planning Commissioners to be briefly presented, prioritized, and set for future meeting dates. This time is also provided for staff to share any informational announcements with the Commission.
10. **ADJOURNMENT**
The next Planning Commission Regular Meeting is Tuesday, January 24, 2023.

**Minutes
City of Clayton Planning Commission
Regular Meeting
Tuesday, December 13, 2022**

1. CALL TO ORDER

Chair Dan Richardson called the meeting to order at 7:15 p.m.

2. PLEDGE OF ALLEGIANCE

Chair Richardson led the Pledge of Allegiance.

3. ROLL CALL

Present: Chair Daniel Richardson
 Vice Chair Richard Enea
 Commissioner Justin Cesarin
 Commissioner Maria Shulman
 Commissioner Ed Miller (arrived at 7:17 p.m.)

Planning Commission Secretary/Community Development Director Dana Ayers and Assistant Planner Milan Sikela were present from City staff.

4. PRESENTATIONS

There were no presentations.

5. DELETIONS AND CONTINUANCES

A. Roadside 22 Beer and Wine Bar Use Permit (UP-02-2022)

Director Ayers advised that noticing for the public hearing on this application had been mailed out but not completed. Since noticing had not been completed, she said that the public hearing could not be held this evening, and that the item would be re-noticed for a future meeting date.

6. ACCEPTANCE OF THE AGENDA

There were no changes to the agenda as submitted.

7. PUBLIC COMMENT

There were no public comments on any item not on the agenda.

8. CONSENT CALENDAR

A. Minutes of Planning Commission Meeting of September 13, 2022.

There being no member of the public attending in person or virtually who wished to comment on the Consent Calendar, Chair Richardson invited a motion.

Vice Chair Enea moved to adopt the Consent Calendar with Meeting Minutes of the November 22, 2022 meeting, as submitted. Commissioner Cesarin seconded the motion. The motion passed by vote of 5 to 0.

9. PUBLIC HEARING

A. Recommendation on the City of Clayton 6th Cycle Housing Element Update and Associated Land Use Element Amendments, and Consideration of the Final Environmental Impact Report Prepared for the Project

The purpose of the public hearing is to consider the update to the City of Clayton General Plan Housing Element for the 6th housing cycle (2023-2031). The updated Housing Element includes programs, policies and actions to further the goal of meeting existing and projected housing needs of all income levels and identifies how the City of Clayton (City) plans to accommodate its Regional Housing Needs Allocation (RHNA) of at least 570 units. In addition to update of the Housing Element, associated amendments to land use descriptions, goals and policies in the Land Use Element of the General Plan are proposed to increase residential densities to support greater variety in housing types in the City. Amendments to the land use designations on the General Plan Land Use Map are also proposed for the following properties:

- 1578 Kirker Pass Road, Assessor's Parcel No. (APN) 118-031-054, proposed amendment from *Kirker Corridor Commercial* to *Institutional Density*
- Diablo Creek Place, APN 118-230-002, proposed amendment from *Public Park/Open Space* to *Single-Family Low Density Residential*
- 6955 Marsh Creek Road, APN 119-080-009, proposed amendment from *Public Park/Open Space* and *Single-Family Low Density Residential* to *Multifamily Low Density Residential*
- Clayton Road at Peacock Creek Drive, APN 118-370-073, proposed amendment from *Private Open Space* to *Multifamily Medium Density Residential*
- Oakhurst Golf Course Driving Range, portions of APNs 118-370-017, 118-370-086, 118-370-087 and 118-370-088, proposed amendment from *Private Open Space* to *Multifamily High Density Residential*
- 1970 Eagle Peak Avenue, portion of APN 118-370-040, proposed amendment from *Rural Estate* to *Multifamily Medium Density Residential*

Following the public hearing, the Planning Commission will be asked to make a recommendation to the City Council on the proposed update to the Housing Element and the associated Land Use Element and Land Use Map amendments. If recommended by the Planning Commission and approved by the City Council, the updated Housing Element and the amended Land Use Element land use descriptions, goals and policies would apply to properties throughout the City.

Environmental Determination: In accordance with the California Environmental Quality Act (CEQA, Public Resources Code section 21000 *et seq.*) and the State CEQA Guidelines (California Code of Regulations, section 15000 *et seq.*), a Final Environmental Impact Report (EIR; State Clearinghouse No. 2022030086) has been prepared to analyze the potential impacts on the environment that could occur with adoption of the Housing Element update and related land use amendments. The Planning Commission must consider the information in the Final EIR prior to making its recommendation to the City Council regarding certification of the EIR and adoption of the proposed General Plan amendments.

Director Ayers presented the item and shared a slide deck summarizing the staff report. Director Ayers also introduced Laura Stetson of the consulting firm MIG, who has been working with City staff to prepare the update of the Housing Element and who was joining the meeting remotely.

Chair Richardson invited comments from Commissioners.

Commissioner Miller asked about the programs in the draft Housing Element that called for streamlined permitting processes for new residential construction, and whether the reduced permitting would have financial impacts to the City's budget. Director Ayers advised that developers pay the costs for entitling their projects, reimbursing the City for the actual cost of staff time to process their development applications. She suggested that reducing the time needed to entitle residential development could result in some revenue loss to the City; however, staff did not believe that the loss would be significant. She gave an example of the Site Plan Review permit for certain residential building additions. Under current processes, a Site Plan Review permit for a single-family residence required Planning Commission approval. She noted that the staff time to process a permit like that was between \$1,000 to \$2,000, and that the City had processed one such application in 2021. She noted that, in her experience working with other jurisdictions, the permitting process was ministerial for residential building additions that met objective zoning standards such as maximum height and minimum setbacks and did not increase the number of units. She added that the City would still charge fees for processing building permit applications for such projects.

Commissioner Shulman asked if the General Plan amendments described in draft Housing Element program D1 were mandated by State legislation. Director Ayers advised that the specific and individual amendments listed in the policy were generally local and not required by State law. However, she explained that while State law was not so precise as to specify, for example, 30 units per acre as the required density in Clayton, the increases in density described in the program were needed for the City to have sufficient land zoned to meet its RHNA and facilitate residential development, which was statutorily required. Therefore, to the extent that the amendments in total were needed for the City to demonstrate its ability to achieve its RHNA, the amendments were necessary to comply with State law.

Commissioner Shulman asked if the reduction in setbacks from 20 feet to 10 feet, as called for in Program D1, would affect access for emergency or fire response. Director Ayers advised that she did not believe that a 10-foot setback would pose a challenge for emergency access. She explained that many jurisdictions allowed setbacks at 5 feet from property line, and that Building Code required a minimum 3 feet of clearance from building to property line. She added that State law allowed setbacks for accessory dwelling units to be as a little as 4 feet.

Chair Richardson opened the public hearing.

Alice Bristol requested to speak. Ms. Bristol asked if the area identified for housing at the base of 1970 Eagle Peak Avenue wrapped around the entirety of the base of the hill. She also asked for clarification on the location of the Oakhurst golf course driving range and whether that site would be across from and visible from Eagle Peak Avenue. She asked if inventory Site D (Diablo Creek Place) was an extension to the development proposed on Site B (Silver Oak Estates). She asked for further clarification on the changes to zoning in the Town Center. Lastly, she asked for the date of the City Council hearing to consider approval of the Housing Element.

There being no one else present who wished to speak, Chair Richardson closed the public hearing.

At the request of the Chair, Director Ayers responded to the questions that had been raised during the public hearing. Director Ayers advised that the portion of the property at 1970 Eagle Peak Avenue that was proposed to be designated for housing was in two distinct and separate areas that in combination constituted approximately 7 acres of the approximately 50-acre property. One of the two areas was next to the intersection of Eagle Peak Avenue and Oakhurst Drive, and the second area was on the north side of the hill. The Oakhurst golf course driving range was off of Clayton Road, behind the fountains as one traveled away from Town Center, and northwest of the country club building and tennis courts which themselves

were north of the intersection of Peacock Creek Drive and Clayton Road. Site D was at the terminus of Lydia Lane, near the Lydia Lane Park, and on the south side of the creek opposite from Site B, which was the 32-unit Silver Oak Estates single-family development proposal currently undergoing application review. Amendments described in the draft Housing Element program with respect to the Town Center would allow ground floor residential uses behind ground floor commercial uses, where the City currently only allowed residential uses above ground floor commercial uses. Residential densities in the Town Center would generally remain unchanged, as residential development potential in the Town Center was controlled more by floor area ratios than by density ranges. Director Ayers concluded by stating that the City Council was scheduled to hold a working session on the draft Housing Element on January 10, 2023; the working session would be similar to the one that occurred at the Planning Commission's meeting on November 22, 2022. The City Council public hearing to consider adoption of the Housing Element was scheduled for the Council's regular meeting of January 17, 2023.

Chair Richardson acknowledged the extensive work done by staff and the consultants, as well as the numerous meetings, numerous public hearings, and volumes of literature that had been prepared on the item. He stated that he had had the pleasure of sitting on the Planning Commission the last time the Housing Element was updated, and he complimented the work that had been done. He recognized that the Commission had read the volumes of information, asked many questions, and heard from the public on several occasions, including this evening. He explained that tonight's meeting was the Commission's opportunity to finalize those questions that had been posed and the discussions that had been held to date, and to make a recommendation to the City Council. He then invited questions, comments, or a motion from the Commission.

Vice Chair Enea made a motion to adopt the Resolution attached to the staff report, recommending that the City Council amend the Housing Element of the Clayton General Plan for the 6th housing cycle (2031-2031) and adopt corresponding amendments to the Land Use Element text and Land Use Diagram of the Clayton General Plan, and recommending that the City Council certify the Final Environmental Impact Report (EIR) prepared for the project. Commissioner Shulman seconded the motion.

Prior to the vote on the motion, Commissioner Miller asked if there had been language added to the Housing Element pertaining to the prohibition on new gas utility connections that had been identified as mitigation in the Final EIR. Director Ayers advised that, as part of the certification of the Final EIR, the City Council would need to adopt findings and a mitigation monitoring program that would document commitments to implementing the mitigation measures listed in the Final EIR. While related to the Housing Element

Update, the certification of the Final EIR was separate from the draft document being considered at tonight's meeting.

Chair Richardson invited further discussion on the motion. There being no further comments from Commissioners, Chair Richardson called for the vote on the motion. The motion passed by vote of 5 to 0.

Chair Richardson thanked the Commission for their hard work on this item.

10. COMMUNICATIONS

Director Ayers wished the Commissioners happy holidays. She stated that there were currently no items scheduled for the Commission's next regular meeting of December 27, 2022.

Chair Richardson also wished the Commissioners happy holidays and re-iterated his gratitude to Commissioners and staff and recognition of their efforts on the Housing Element.

11. ADJOURNMENT

The meeting was adjourned at 8:07 p.m. to the next regular meeting of the Planning Commission on December 27, 2022.

[Remainder of page intentionally left blank. Signatures on the next page.]

Respectfully submitted:

Dana Ayers, AICP, Secretary

Approved by the Clayton Planning Commission:

Daniel Richardson, Chair



AGENDA REPORT

To: Honorable Chair and Planning Commissioners

From: Milan J. Sikela, Jr.
Assistant Planner

Date: January 11, 2023

Subject: Agenda Item 8.A
Roadside 22 Wine and Beer Establishment (UP-02-2022)

SUMMARY

Nichole Simpson, the applicant, requests approval of a Use Permit (UP-02-2022) to allow the operation of a wine and beer establishment (Roadside 22) in an existing tenant space within the Clayton Station shopping center. The business is proposed to include a parklet (outdoor area) to be located in three existing parking spaces directly in front of the tenant space. The business is proposed to be located at 5439 Clayton Road in Suite E and F (Assessor's Parcel No. 118-031-052) and to operate Wednesday through Sunday at the following times: Wednesday, 4:00 p.m. to 9:00 p.m.; Thursday, 4:00 p.m. to 9:00 p.m.; Friday, 4:00 p.m. to 10:00 p.m.; Saturday, 12:00 p.m. to 10:00 p.m.; and Sunday, 8:00 a.m. to 3:00 p.m.

RECOMMENDATION

Staff recommends that the Planning Commission open the public hearing and accept written and spoken testimony, close the public hearing and adopt the attached Resolution approving the Use Permit for the proposed beer and wine bar to operate as herein described in the tenant space located at 5439 Clayton Road, Suites E and F.

PROJECT INFORMATION

Applicant: Nichole Simpson representing Roadside 22

Property Owner: Clayton Station Shopping Center, LLC

Location: 5439 Clayton Road in Suite E and F
Assessor's Parcel No. (APN) 119-031-052
See **Attachment B** for Vicinity Map

General Plan Designation: Kirker Corridor (KC)

Zoning Classification:	Planned Development (PD) District
Surrounding Land Uses:	Other commercial tenant spaces and buildings in the Clayton Station shopping center are north and south of the proposed project site. A line of commercial businesses on a separately-owned parcel is to the west. Surrounding businesses include banks, offices, health and service businesses, retail, and restaurants. Single-family detached residences in the Westwood subdivision are east of the site.
Environmental Review:	The subject Use Permit request is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to Categorical Exemption Class 1 (Existing Facilities), section 15301 of the State Guidelines for Implementation of CEQA.
Public Notice:	On or prior to December 22, 2022, a public hearing notice was posted at the proposed business site and on the notice boards at Clayton City Hall, Clayton Community Library, and in the Town Center. The public hearing notice was also mailed via first class or electronic mail to the applicant, to interested parties who had requested such notice, and to owners of real property located within 300 feet of the parcel on which the tenant space at 5439 Clayton Road is located.

ANALYSIS

Use Permit Required: Nichole Simpson, representing Roadside 22, is proposing to operate a business that serves high end wine and craft beers (no spirits or hard liquor) along with limited appetizers in a bistro-like setting within an existing tenant space in the Clayton Station shopping center. According to Section 17.60.030.C.13 of the Clayton Municipal Code (CMC), bars which are not part of a full-service restaurant require approval of a Use Permit. As a result, this item has been brought before the Planning Commission for review. As part of the proposed establishment, three existing on-site/off-street parking spaces located in front of the establishment are proposed to be used for a parklet to provide outdoor seating (please see **Attachment C** for the business description and **Attachment D** for the interior floor plan and parklet location diagram). The subject business is proposed to operate five days a week from Wednesday through Sunday with the following hours for each day listed below:

- Wednesday from 4:00 p.m. to 9:00 p.m.
- Thursday from 4:00 p.m. to 9:00 p.m.
- Friday from 4:00 p.m. to 10:00 p.m.
- Saturday from 12:00 p.m. to 10:00 p.m.
- Sunday from 8:00 a.m. to 3:00 p.m.

Parking: Using the off-street parking space requirements listed in CMC Section 17.37.030, staff analyzed the existing parking in Clayton Station as well as what would be required for the proposed business and proposed parklet associated with the business. Based on the ratio of required parking spaces per square footage floor area or number of seats (with the metric used being dependent on the particular type of business in each tenant space), the required number of off-street/on-site parking spaces for the entire Clayton Station shopping center combined would be approximately 500. Currently, there are 544 off-street/on-site parking spaces existing in Clayton Station. Given the type of business being proposed, 20 off-street/on-site parking spaces would be required using the higher metric of 60 seats (with the CMC requirement being one parking space per three seats). In addition, the use of three parking spaces for the parklet would amount to a maximum potential of 23 off-street/on-site parking spaces being used for the business. The 23 additional parking spaces would bring the total requirement for Clayton Station to approximately 523 parking spaces. The 544 off-street/on-site parking spaces currently existing in Clayton Station would be sufficient enough to comply with the 523-space requirement per the CMC. Other than the parklet, no new construction outside of the existing tenant space is proposed for the business.

Noise: As part of the construction of the Clayton Station shopping center, an 8-foot to 10-foot tall sound wall was built along the shared property line between Clayton Station and the rear lot lines of the single-family residences in the adjacent Westwood subdivision. The sound wall was installed to mitigate impacts of noise generate within Clayton Station. This sound wall is made of “woodcrete” with noise-mitigating technology and can withstand seismic activity (please see **Attachment F**). There is also a row of mature evergreen trees planted in the shopping center, next to the soundwall. The proposed business is located approximately 70 feet from the soundwall and the row of mature trees planted next to the wall. The combination of the soundwall, mature landscaping and distance from the tenant space to the nearest residential property line would reduce potential noise and visual impacts of the proposed business on the adjacent residential neighborhood. No live music is being proposed.

Other Agency Requirements: Staff routed the proposal to outside agencies as well as City departments. Staff corresponded directly with the Police Chief, Maintenance Supervisor, Contra Costa County Fire Protection District staff, and Contra Costa County Building Department staff and received no comments, concerns, or requests for additional requirements. Should the Commission approve the Use Permit request, these outside agencies and City departments would then review the tenant improvement and business plans, so additional scrutiny would be provided for specific compliance with Building Code, Fire Code, food safety and alcohol service licensing regulations.

Public Comments: Several letters of support and one letter of opposition were submitted (please see **Attachment E**). One of the grounds provided in the letter of opposition was that the Pavilion Bar and Grill already exists in Clayton Station. To this comment, staff notes that the Pavilion Bar and Grill is not located in the Clayton Station shopping center and was not part of the Clayton Station development. The Pavilion Bar and Grill is located on Kirker Pass Road southwest of Clayton Station behind the gas station at the intersection of Kirker Pass Road and Clayton Road and was built in the 1970s while Clayton Station was developed in 1990.

The applicant has provided responses to the other concerns raised in the letter of opposition. The applicant's responses to the concerns raised in the letter of opposition are provided as **Attachment G**.

ATTACHMENTS

- A. Planning Commission Resolution No. 01-2023 (Draft)
- B. Vicinity Map
- C. Business Description
- D. Interior Floor Plan and Parklet Location Diagram
- E. Letters Submitted for the Project
- F. Sound Wall Information
- G. Applicant Responses to Letter of Opposition

**CITY OF CLAYTON
PLANNING COMMISSION
PROPOSED
RESOLUTION NO. 01-2023**

**A RESOLUTION APPROVING A
USE PERMIT TO ALLOW THE OPERATION OF A WINE AND BEER ESTABLISHMENT LOCATED
IN THE CLAYTON STATION SHOPPING CENTER AT 5439 CLAYTON ROAD, SUITES E AND F
(UP-02-2022)**

WHEREAS, the City received an application from Nichole Simpson requesting review and approval of a Use Permit (UP-02-2022) to allow the operation of a wine and beer establishment (Roadside 22) in an existing tenant space within the Clayton Station shopping center at 5439 Clayton Road, Suites E and F, Wednesday from 4:00 p.m. to 9:00 p.m., Thursday from 4:00 p.m. to 9:00 p.m., Friday from 4:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 10:00 p.m., and Sunday from 8:00 a.m. to 3:00 p.m.; and

WHEREAS, pursuant to Section 17.60.030.C.13 of the Clayton Municipal Code (CMC), bars which are not part of a full-service restaurant require approval of a Use Permit; and

WHEREAS, the Project is categorically exempt from the California Environmental Quality Act (CEQA; Public Resources Code Section 21000 *et seq.*) pursuant to Categorical Exemption Class 1, Section 15301 (Existing Facilities) of the State CEQA Guidelines (California Code of Regulations Section 15000 *et seq.*); and

WHEREAS, on January 11, 2023, the Clayton Planning Commission held a duly-noticed public hearing on the Use Permit request (UP-02-2022), and received and considered testimony and evidence, both spoken and documentary.

NOW, THEREFORE, the Planning Commission does determine the foregoing recitals are true and correct and makes the following Findings based on the Use Permit Standards of Review in Section 17.60.040 of the Clayton Municipal Code:

A. The use is in conformity with the General Plan and any applicable Specific Plan.

The project is in conformity with the General Plan objectives, policies, and land use designation since the project is located within the Kirker Corridor land use designation, and the General Plan states that uses consistent with this designation include restaurant, bar and other retail and service commercial use.s

B. The use is in conformity with City-adopted standards in the Zoning Ordinance as related to Use Permits standards of review by:

- a. Not impacting the off-street parking for vehicles and bicycles since the use will increase the demand for parking by 23 parking spaces, bringing the total amount of off-street/on-site parking spaces needed in Clayton Station to 523 and there is a surplus of off-street/on-site parking since 544 off-street/on-site parking spaces currently exist in Clayton Station;

- b. Not generating significant traffic congestion since the use is located in the Clayton Station shopping center where there is adequate infrastructure to provide circulation for vehicular travel, including immediate access to arterial roadways (Clayton Road and Ygnacio Valley Road), seven locations for ingress to and egress from the Clayton Station shopping center, and 544 off-street/on-site parking spaces provided in the Clayton Station shopping center parking lot;
- c. Not generating intermittent or constant noise levels violating the General Plan Noise Element since the use will be conducted primarily indoors with noise generated in the outdoor parklet area being mitigated by the existing sound wall located between the Clayton Station shopping center and the Westwood residential subdivision to the east;
- d. Not generating significant levels of toxic or non-toxic dust, airborne particulates, fumes, smells or other impacts to air quality since the use will be located inside of an existing tenant space in the Clayton Station shopping center and no new construction proposed;
- e. Not generating exterior lighting or significant litter since the use will incorporate existing lighting already provided in the Clayton Station shopping center and will use the existing trash/recycling disposal containers that are already provided in the Clayton Station shopping center;
- f. Not resulting in crime or negative influences on minors since the use will operate pursuant to age-restrictions in compliance with applicable laws for drinking establishments; and
- g. Not representing a concentration of an activity that would be a detriment to the health, safety, and welfare of nearby residents, businesses, property owners, or employees since the closest establishment within the community where consumption of alcohol is the primary use is located 1.6 miles away at the Clayton Club, resulting in no similar businesses immediately adjacent to the property.

C. The use shall not negatively affect the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area.

The use preserves the general safety of the community regarding seismic, landslide, flooding, fire, and traffic hazards since the use will be conducted at the Clayton Station shopping center which is an existing development that was previously permitted and constructed under applicable building and fire codes, and there is no new construction proposed for the project.

D. The use shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City.

The use shall not have significant negative impacts on the health or general welfare of residents, businesses, property owners, or employees in the City since the use will be a community-oriented business that fosters connection between members of the community in a bistro-like setting.

E. The permit will be in accord with the purpose of Use Permits as stated in Section 17.60.020 of the Clayton Municipal Code.

By implementing the land use objectives of the General Plan; being in conformance with City-adopted standards; not negatively affecting the general safety (e.g., seismic, landslide, flooding, fire, traffic) of the City or surrounding area; and not being detrimental to the health, safety, and welfare of residents, businesses, property owners, and employees in the City; Use Permit application UP-02-2022 complies with the purpose of Use Permits as stated in Section 17.60.020 of the Clayton Municipal Code.

NOW, THEREFORE, BE IT RESOLVED, that the Planning Commission does hereby approve Use Permit UP-02-2022 to allow the operation of a of a wine and beer service establishment (Roadside 22) in an existing tenant space within the Clayton Station shopping center at 5439 Clayton Road, Suites E and F, subject to the following Conditions of Approval:

1. The applicant shall indemnify, protect, defend, and hold harmless the City and its elected and appointed officials, officers, employees, and agents from and against any and all liabilities, claims, actions, causes, proceedings, suits, damages, judgments, liens, levies, costs, and expenses of whatever nature, including, but not limited to, attorney's fees, costs, and disbursements arising out of or in any way relating to the issuance of this entitlement, any actions taken by the City relating to this entitlement, and any environmental review conducted under the California Environmental Quality Act for this entitlement and related actions.
2. The days and hours of operation of the business shall be Wednesday from 4:00 p.m. to 9:00 p.m., Thursday from 4:00 p.m. to 9:00 p.m., Friday from 4:00 p.m. to 10:00 p.m., Saturday from 12:00 p.m. to 10:00 p.m., and Sunday from 8:00 a.m. to 3:00 p.m.
3. Any project-related signage shall require review and approval by the City in accordance with the Clayton Municipal Code sign provisions.
4. Any expansion to the business operation, including increase in business hours of operation, service of alcoholic beverages other than beer and wine, expansion of business hours of operation, or expansion of the business beyond the described tenant spaces and outdoor area, shall require Planning Commission review and approval prior to commencement.
5. No permits or approvals, whether discretionary or mandatory, shall be considered if the applicant is not current on fees, reimbursement payments, and any other payments that are due.
6. The applicant shall comply with the California Building Standards Code and all applicable regulations including, but not limited to, those of the Contra Costa County Fire Protection District, State of California, and any other agencies that are pertinent to the operation of the tutoring service business.

PASSED AND ADOPTED by the Planning Commission of the City of Clayton at a Regular Meeting on the 11th day of January, 2023.

AYES:

NOES:

ABSTAINED:

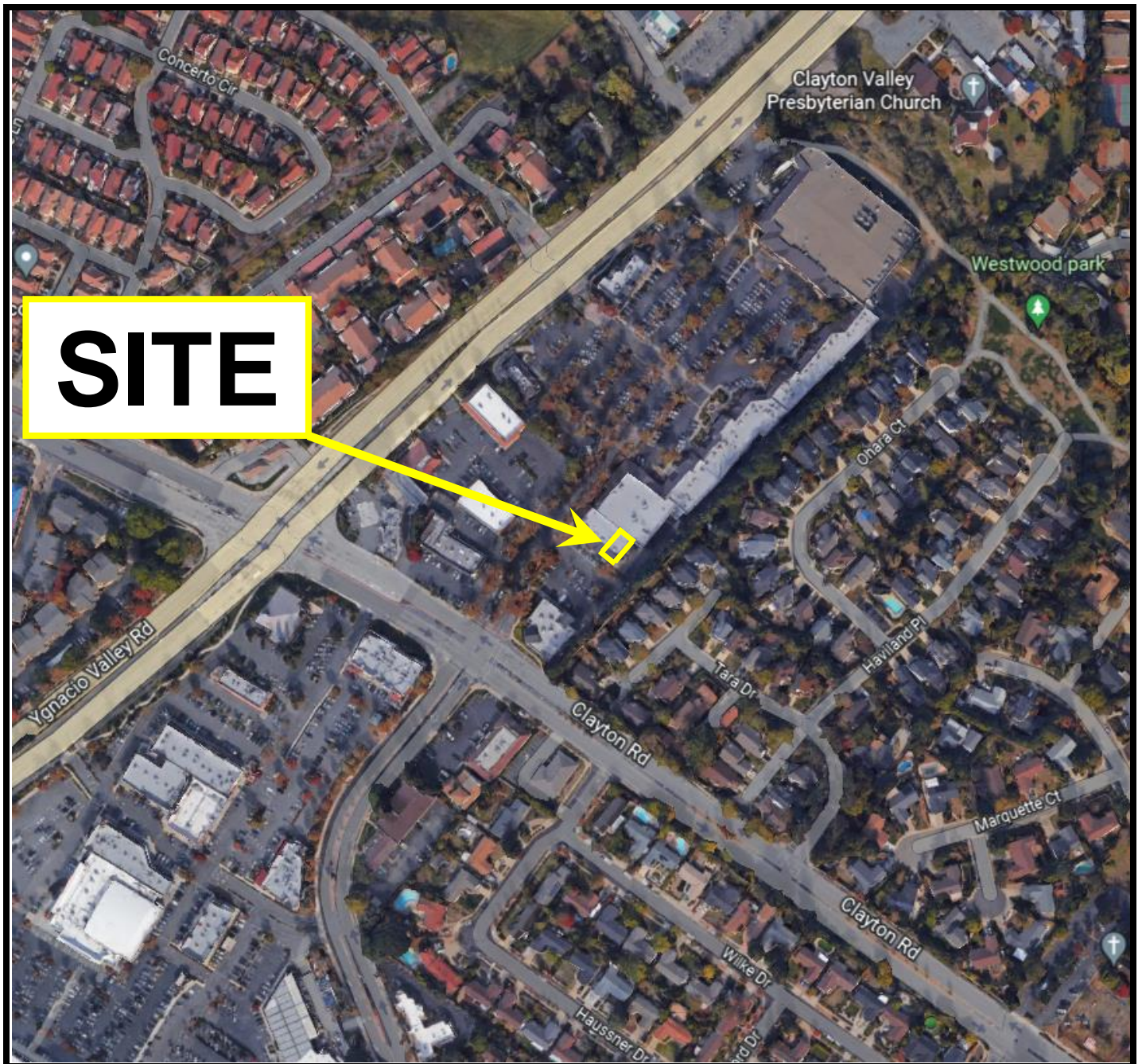
ABSENT:

APPROVED:


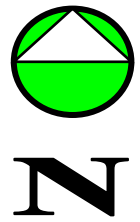
ATTEST:

Daniel Richardson, Chair

Dana Ayers, AICP, Secretary



VICINITY MAP

 <p>CITY OF CLAYTON FOUNDED 1911</p>	<p>Roadside 22 Use Permit UP-02-2022 5439 Clayton Road, Suite E and F APN 119-031-052</p>	 <p>N</p>
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(Not to Scale)



EXECUTIVE SUMMARY

Roadside22 is a high-end establishment serving wine, beer, and a limited menu of appetizers. The first store will be in Clayton, CA and will be an LLC with Nichole Simpson as the President.

The Market

The market will be middle to high income individuals over the age of 21. Roadside22 will be operating within the niche of the high-end wine and beer bar competing against other taverns.

Services and Products

Roadside22 will offer wine, beer, and limited appetizers.

Competitive Edge

Roadside22 will be in an area that lacks small gathering spaces. We will feature wines and beers from small, local companies, and have fresh made snacks. The focus will be on supporting local schools, charities, and small businesses, to build community support.

Ownership/Management

Nichole received a BA in management from St. Mary's College in 2005 and worked in the financial industry for 20 years. She has owned and operated a successful event planning company (2 Friends Events) for 13 years. She is also co-owner of a vintage mobile bar rental business (Roadie Mobile Bar), which she started in 2019.

Nichole and her husband Jim were raised in Concord and reside in Concord, near Clayton with their two children. Their oldest child attended Ayers Elementary, Pine Hollow Middle School, and is currently a freshman at Clayton Valley Charter School. Their youngest started at Ayers Elementary and is now attending King's Valley.

Nichole served on the PTA for Ayers and Pine Hollow for many years and is currently on the King's Valley PTA. During that time, she planned multiple fundraisers, community building events for the schools, and the annual school auction. That experience built many friendships and strengthened her love for community and small business.

They have many friends and family that live in both Clayton and Concord, and love the community. It has always been Nichole's dream to open a place for people to come together, get to know each other, and support each other and local businesses.

Mission

The mission of Roadside22 is to become the premier neighborhood gathering space. This will be accomplished by offering a unique menu, providing excellent service, and supporting local schools, charities, and businesses.

Objectives

- To become the go to space for local residents.
- To support local schools, charities, and small businesses.
- To serve high-end snacks, and beverages with a focus on small, local wineries and breweries.

Company Summary

Roadside22 will offer a limited menu of appetizers that do not require cooking such as charcuterie, and various dips with breads. The menu will feature local wines and beers. The design will be based on current trends and will be updated monthly, with major updates annually.

Company Ownership

Nichole Simpson is the owner of 2 Friends Events. She will be the sole owner of Roadside22. She is the co-owner of Roadie Mobile Bar. An LLC will be formed to protect personal assets.

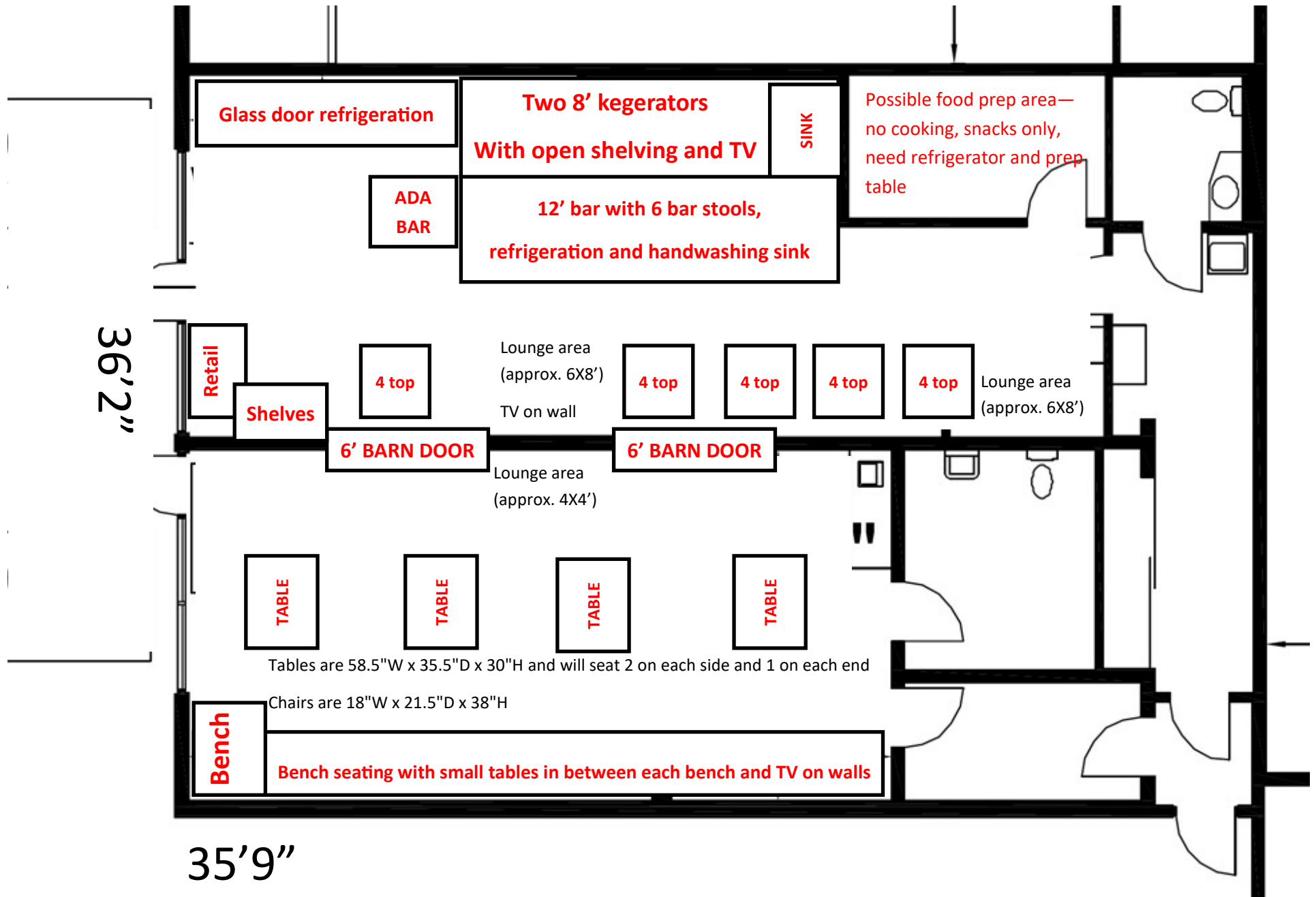
Staffing


Initial staffing projection will be three PT staff members in addition to Nichole Simpson.

The Space

Roadside 22 will be located on the border of Concord and Clayton in the Clayton Station Shopping Center. The lease will take two currently vacant spaces in the center. Outside, three spaces will be used for a parklet. The inside capacity is approximately 50 guests. There is ample parking for guests in this shopping center.

ATTACHMENT D



A satellite map view of a commercial building with a grey roof and several air conditioning units. A location pin is placed on the building. In the foreground, there is a parking lot with a few cars and some greenery. A white text box is overlaid on the map, providing address and parking information.

Clayton Yoga Shop

5439 CLAYTON
ROAD
SUITE E-F

PARKLET TO TAKE
3 PARKING
SPACES DIRECTLY
IN FRONT OF THE
ESTABLISHMENT



My name is Wendi Laughlin and I'm a friend of Nichole Simpson for over 20 years. I am a homeowner and resident of Clayton for over 10 years and love it here. I have worked on the Concord/Clayton border across the street from this location for close to 10 yrs as well. I'm writing this letter to show my support to Nichole and her future business addition to our community.

Nichole is one of the hardest working people I have ever met. She has 2 very successful businesses for over 10 years. She is a wife and mother of two amazing boys. She believes in family first and is always there to help anyone in need. She has many years in the industry of event coordinating as well as food and beverage. She is very involved with the community and giving back. She is extremely dedicated to her dreams and motivated to make them a reality. She is continuously trying to better the community and create a safe space for future employment opportunities. Nichole is a wonderful employer and is extremely generous to her teams.

As a member of the Clayton community, I would like to express my support to Nichole and her business endeavor with the city. I think a beer and wine bar, especially in that location would be a great addition to our city. The plans that she has to help increase our economy for the City of Clayton will be very beneficial. As of now the space is empty and not anything but an eye sore. The city needs more variety and a new place to get together with friends. Nichole has a plan and is ready to show the residents what she has to offer. She knows how to run a business and run it well! The opportunities for employment and revenue for our city is welcomed and much needed. I know many people who are also in support of this business and love this idea.

I ask that you welcome Nichole Simpson and her family to the City of Clayton with this amazing opportunity that we as residents will enjoy and benefit from.

Thank you for your support,
Wendi Laughlin
(925) 348-2100
227 Stranahan Cr
Clayton, Ca 94517

City of Clayton
Planning Department

December 5, 2022

RE: New Business Space 5439 E/F Clayton Road, Clayton Shopping Center

Dear City of Clayton Planning Department:

On behalf of my husband and I, I am writing in support of Nichole Simpson and her application to open a wine bar in Space 5439 E/F Clayton Road in the Clayton Valley Shopping Center.

I live in the neighborhood surrounding the Clayton Valley Shopping Center. I shop there multiple times a week and work out daily at Snap Fitness.

I want to see my local shopping center occupied and operating at its fullest potential. Longtime vacant store fronts invite crime and diminish the vibrancy of the shopping center. I personally would love to see a wine bar open in this shopping center.

Please approve this project and bring more opportunity for local residents to enjoy a variety of experiences and spend money in our local community.

Thank you for your consideration.

Shannon Collins

Solomon Ets-Hokin
Executive Vice President

1423 Broadway, #1032
Oakland, CA 94612

C: 510.427.0096

Solomon.etshokin@betaagency.com

License: 01248264

City of Clayton
Planning Department

November 18, 2022

**Subject: Support Letter for Wine Bar Application,
Clayton Station Shopping Center**

Dear City of Clayton Planning Department:

I am writing this letter in support of Nichole Simpson and her application to occupy Space 5439 E/F Clayton Road in the Clayton Station Shopping Center for the purpose of a Wine Bar with outdoor seating.

I have lived in Clayton since 2007 and have done the leasing for Clayton Station since 2015. I have been familiar with Nicole and her 2 Friends Events company for several years. Nichole is a first-class operator, socially responsible and financially successful. As the leasing agent for the Shopping Center, along with the center's owners, viewed Nicole's positive attributes as a business operator and community member as definitively qualifying her company for this venture.

The portion of the center Nichole is leasing is in an unimpacted area, with plenty of parking and a need to be activated by a use like hers. The uses that are back in that area now will benefit and be more sustainable from the traffic Nichole's community gathering place will bring.

In general, the center and the area lack quality gathering places. Nichole's use fills a void, and again, activates a portion of the center that is difficult to lease due to its lack of prominence and hidden nature.

To summarize, as an agent and a long-standing member of this community, I wholeheartedly recommend and support this use for Clayton.

Kindest Regard,
Beta Agency, Inc



Solomon Ets-Hokin
Executive Vice President

Kelly Scholes
47 El Portal Dr
Clayton, CA 94517
kelly@kellyscholes.com

11/18/2022

City of Clayton / Clayton Planning Commission
6000 Heritage Trail
Clayton, CA 94517

I am writing today in support of Nichole Simpson's proposed Beer & Wine Bar, intended to be located in Clayton Station.

As a Clayton resident and Realtor I trust that this business would fulfill a need in our city and community. This business would offer residents and business owners an ideal local option to host small to moderate sized client appreciation events or gatherings, professional meet and greets, as well as an additional restaurant option for daily/evening dining. This upscale addition would be welcomed due to our city's limited selection of full-service restaurants. With the extremely minimal hours and access of Oakhurst Country Club, the limited capacity of Moresis, Groveside and La Veranda, and the casual nature Ed's Mudville Grill and Skipolini's Pizza there is a need.

As I watch more and more storefronts remain empty in Clayton Station, I would be thrilled to welcome another locally owned small business. As an active member of the Clayton Business and Community Association, current events director and co-treasurer for Clayton Valley Little League, past president of the Mt Diablo Elementary Parent Faculty Club and active resident in our community I ask that you kindly consider the request of Nichole Simpson and allow her to contribute to our community.

Nichole has successfully created and run 2 small businesses and has the experience needed to bring this business to life. It is my hope that the City of Clayton will consider her application and allow her to move forward with her proposal, gifting our residents with this creative and unique new business.

Thank you for your time and service.

Kelly Scholes



KELLY SCHOLES REALTOR® | DRE# 02102047
925.997.2177 | [KELLY@KELLYSCHOLES.COM](mailto:kelly@kellyscholes.com) | [KELLYSCHOLES.COM](http://kellyscholes.com)

I HAVE NOT AND WILL NOT VERIFY OR INVESTIGATE INFORMATION PROVIDED OR SUPPLIED BY THIRD PARTIES.

DUDUM
REAL ESTATE GROUP
DREA 01802902

Dear members of the City Council,

I am writing this letter to show my support for a new wine bar in the Clayton Station shopping center. I am a nearby resident who lives in the Kirkwood neighborhood and have noticed an increase in the homeless population loitering in this area. It is my opinion that they tend to hangout near the vacant units. By having this business and its varied hours open, I believe it will help discourage them from loitering. It will also bring revenue to the city.

I met Nichole while our children attended Ayers Elementary and she was president of the PTA. She was instrumental in organizing most of the fundraising activities for both the staff and students. Her ability to manage events is impressive. She is professional and her personality made me want to get involved. I have no doubt that this venture will be successful.

Respectfully,
Jeannine Owens
1924 Baxter Ct
Concord, CA 94521
(925) 595-0105 cell



Jeannine Owens
Fire Dispatcher - C shift
Email: jowen@cccfpd.org
Phone: 925-941-3330

Contra Costa County Fire Protection District
4005 Port Chicago Hwy, Suite 250
Concord, CA 94520



www.cccfpd.org

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Hello,

We are writing to express our opposition to the proposed Roadside 22 Beer and Wine Use Permit (UP-02-2022).

We live at 5474 Tara Drive which is directly behind the proposed location and have lived at this location for 18 years.

Here are the reasons why we oppose this use permit:

- 1) There is already a bar in the Clayton Station shopping center, The Pavilion Bar and Grill. If people want to go someplace to have a drink they can go to that establishment.
- 2) We do not think a bar is appropriate for this location, at least the Pavilion is a full restaurant with a full kitchen so that people are not drinking on an empty stomach. We are concerned that a bar will result in people drinking and driving and specifically driving drunk in our neighborhood. Clayton is a family friendly place with lots of residents and adolescents walking and riding their bicycles. We do not need people driving under the influence of alcohol in our community.
- 3) The use permit states that the owner of Roadside 22 plans to remove parking spaces and turn them into outdoor seating (a parklet). We are also opposed to this. We patronize businesses at Clayton Station shopping center regularly and frequently there is not adequate parking, so the idea of a new tenant removing parking is definitely a bad idea.
- 4) We live close enough so that any noise generated by this establishment (recorded music, disk jockey, live music, televisions) or its patrons would easily be heard in our home a) if there was any outdoor seating at all, and b) when patrons leave the establishment they may hang out outside and talk in the parking lot. The noise would easily carry into our home.

Thank you,
Suzanne Yorkunas
Peter Yorkunas

5474 Tara Drive Clayton, CA 94517

**WOODCRETE®**

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timeless look and feel of
wood – except
WOODCRETE®.





WOODCRETE®

Our **WOODCRETE®** series pairs the warm appearance of genuine wood with the added benefits of precast concrete. If you value durability, longevity, cost-savings and timeless visual appeal, it's time to explore **WOODCRETE®** for your fence and wall needs.

Over time, traditional wood walls and fences suffer at the hands of Mother Nature, which can quickly result in hefty repair costs. Splintering, rotting, termite damage, burning and cracking are just a few of the downsides of using traditional wood. But where wood falls short, **WOODCRETE®** excels. Our engineers crafted our **WOODCRETE®** concrete wall system using the latest manufacturing technology to ensure strength, visual appeal and versatility. You can see and feel the quality down to the smallest wood grain. But don't take our word for it; come feel the difference for yourself.

Benefits of **WOODCRETE®** Precast Concrete Fence and Wall Systems

Whether you're an architect designing a commercial space or a public works team seeking a cost-effective wall or fencing solution, it's time to take a closer look at precast concrete. Our **WOODCRETE®** series marries the best attributes of wood with the tremendous benefits of precast concrete. The result? A material you can count on, no matter what life throws its way.

- **Cost-Effective Construction:** Our **WOODCRETE®** is less expensive than traditional wood. In the rare case that it needs to be replaced, our quick-install system cost down on labor and time.
- **Seamless Installation:** Our modular interlocking system and range of panel heights (1' to 14') make it easy to achieve the ideal wall for your property's needs. No bracing or shoring is required during positioning.
- **Security Never Looked Better:** Premium design, unwavering durability and steel-reinforced panels make **WOODCRETE®** a popular choice for public works security walls.
- **Sound-Blocking Technology:** Our **WOODCRETE®** series is engineered with sound-buffering technology that reduces noise pollution.
- **Aesthetic Appeal:** Designed to deliver an authentic wood look and feel. Choose from a variety of color options to match your aesthetic.
- **Engineered for Strength:** Our interlocking modular design is reinforced by steel and virtually maintenance-free.
- **Built for Resistance to Weather:** **WOODCRETE®** is designed to withstand a variety of weather conditions. Thanks to our manufacturing process, the color, look and feel of your **WOODCRETE®** fencing won't diminish with time.

Key Features:

- Authentic wood look and texture on both sides of each panel

[Get A Free Estimate!](#)

Hi Milan,

Attached are the letters of support I collected and below is a response to the email. Please let me know if you need anything else. As I mentioned, ABC required that I mail a notice of the bar to all residents within 500 feet so including the city of Clayton notice, these residents were notified twice. I am happy to see there was only one letter written, which I hope shows most people are in support of my project.

- 1) There is already a bar in the Clayton Station shopping center, The Pavilion Bar and Grill. If people want to go someplace to have a drink they can go to that establishment.

RESPONSE: In all of Clayton Station there are only two places that serve alcohol (my proposed location and the Pavilion). The concept for Roadside 22 is very different than Pavilion. In addition, to serving alcohol, we hope to host many community events and serve as a place to bring people together to support the local community.

- 2) We do not think a bar is appropriate for this location, at least the Pavilion is a full restaurant with a full kitchen so that people are not drinking on an empty stomach. We are concerned that a bar will result in people drinking and driving and specifically driving drunk in our neighborhood. Clayton is a family friendly place with lots of residents and adolescents walking and riding their bicycles. We do not need people driving under the influence of alcohol in our community.

RESPONSE: I live in the community and am a mother of 2 children that are out in the community daily. Roadside 22 will not serve hard alcohol and will have small bites. There are also many restaurants in the shopping center that we hope to partner with so patrons can order food.

- 3) The use permit states that the owner of Roadside 22 plans to remove parking spaces and turn them into outdoor seating (a parklet). We are also opposed to this. We patronize businesses at Clayton Station shopping center regularly and frequently there is not adequate parking, so the idea of a new tenant removing parking is definitely a bad idea.

RESPONSE: Confirmed with management that there is an abundance of spaces (more than the required amount).

- 4) We live close enough so that any noise generated by this establishment (recorded music, disk jockey, live music, televisions) or its patrons would easily be heard in our home a) if there was any outdoor seating at all, and b) when patrons leave the establishment, they may hang out outside and talk in the parking lot. The noise would easily carry into our home.

RESPONSE: We will be closed Monday and Tuesday, open until 9pm Wednesday and Thursday, and 10pm Friday and Saturday. We will not have a DJ, live music, and TVs will be inside only. We hope the noise will be no more disruptive than early morning deliveries and the typical sounds that come from a large shopping area. There is also a large sound wall between the center and the nearby neighborhood.