



**City of Sebastopol**  
*Incorporated 1902*  
Planning Department  
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## **APPROVED MINUTES**

PLANNING COMMISSION  
CITY OF SEBASTOPOL  
MINUTES OF June 28, 2022

### **PLANNING COMMISSION:**

The notice of the meeting was posted on June 23, 2022.

1. **CALL TO ORDER:** Planning Director Svanstrom called the meeting to order at 6:00 P.M. and read a procedural statement.
2. **ROLL CALL:**
  - Present:** Vice Chair Fernandez, and Commissioners Burnes, Fritz, and Kelley
  - Absent:** Chair Oetinger (excused)
  - Staff:** Kari Svanstrom, Planning Director

### **3. APPROVAL OF MINUTES:**

**April 26, 2022**

Members of the Commission amended the minutes.

Commissioner Fritz moved to approve the minutes as amended.

Commissioner Burnes seconded the motion.

AYES: Vice Chair Fernandez, Commissioners Burnes, Fritz, and Kelly  
NOES: None  
ABSTAIN: None  
ABSENT: Chair Oetinger

4. **COMMENTS FROM THE PUBLIC ON ITEMS NOT ON AGENDA:** None.

5. **STATEMENTS OF CONFLICTS OF INTEREST:** None.

### **6. REGULAR AGENDA ITEMS:**

- A. **APPEAL – 7233 HEALDSBURG AVENUE, PIALA** – A Public Hearing to consider an appeal from Lowell Sheldon regarding the decision of City staff to deny on the conditional use permit for an alcohol use permit at 7233 Healdsburg Avenue. The

applicant submitted to transfer an alcohol use permit from the previous owner, Sukhothai, to the new ownership, Piala, on March 29, 2022. *The application was reviewed by City staff and a denial from the Planning Director was issued on May 4, 2022.*

Director Svanstrom presented the staff report.

Vice Chair Fernandez asked for Commission questions for staff.

**Paul Fritz, Commissioner**

Typically when we have public comment at meetings we ask that the public provide their name for the record, and I noted that all the letters of support for the applicant were anonymous. Do we treat those any differently in terms of entering them into the public record, or do they go in the public record anonymously just like anything else?

**Kari Svanstrom, Planning Director**

They go into the public record anonymously. Ed, do you have anything in terms of consideration of the public testimony before the public hearing is opened?

**Ed Grutzmacher, Attorney**

You're not required to give your name in order to give public testimony. The Commission can make a determination about how to weigh anonymous testimony versus non-anonymous testimony.

**Deborah Burnes, Commissioner**

Does the City of Sebastopol have any liability if they grant an alcohol permit to an establishment and then something happens?

**Kari Svanstrom, Planning Director**

In general anyone who comes forth in our standard conditions of approval and our Zoning Ordinance does require an indemnification by the applicant for any decision the City might grant. Ed, are there any further issues with that other than indemnifying the City means that they would agree to defend should something happen?

**Ed Grutzmacher, Attorney**

Generally the approach with any permit is we ask for an indemnification from the applicant. The applicant is responsible for paying attorney's fees for defending that and paying any judgment that might come against the City based upon that. So generally speaking, no, the applicant would bear the responsibility for any liability that would come out of the issues of a permit.

**Linda Kelley, Commissioner**

In our packet a public member included a police report, or was that copy from the City? Is there any follow up with that? Did it move forward through the legal system?

**Kari Svanstrom, Planning Director**

When we received the original application we did receive a protest letter from a couple of folks that included some of the evidence that is posted separately on our website, just so the initial information I based my determination on is clear. The public comment included the Sheriff's report with the redactions. My understanding from speaking with the commenter is that there were no charges pursued in that matter, however, we can confirm that was a valid Sheriff's report filed in Sonoma County. I believe the applicant may speak more to this, but I wanted to note that yesterday and this morning we received from the

applicant's team a number of potential conditions of approval to restrict Mr. Sheldon's activities at the site in response to the staff report and consideration. That is posted to the website and it was forwarded to the Planning Commission as well. I don't know if Mr. Haroche, who represents Mr. Sheldon, is going to speak to that or not, but we could go into more detail of that with questions to the applicant as well.

The applicant gave a presentation and was available for questions.

Vice Chair Fernandez asked for Planning Commission questions for staff.

**Linda Kelley, Commissioner**

I was reading about trying to clarify what an unanticipated staffing shortage is and how many hours might be required. Was there a resolution or recommendation from staff about how to make sure that that was satisfied by the City?

**Kari Svanstrom, Planning Director**

Because I know a number of the public here may not have seen the applicant's proposed conditions, I'll go over that briefly. As noted earlier, we received from the applicant some potential conditions of approval that they're willing to place on the project: "Lowell Sheldon shall not exercise personnel related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation any of the hiring, training, management, supervision, review, discipline, or termination of any employee, or the fielding review investigation of, or response to, any employee complaints or concerns." I think Mr. Berlin also addressed that in his presentation. The next condition is: "Lowell Sheldon shall not undertake any work within the subject business premises during public hours unless required by unanticipated staffing shortages, but then only provided that he exercises no managing or supervisory role, and that he at all times refrains from consuming alcohol while working in any capacity." And then the third condition was: "Piala LLC would engage and retain the outside human resources firm to manage all aspects of employee complaints." I think Commissioner Kelley's question was what does "unintended staffing shortages" mean? It is more unanticipated, not vacation or personal days. It's more sick days where there is no staff coverage or an unexpected staff quitting. One thing regarding staff I was concerned about if that's a condition of approval is what if you have a staff shortage for three or four months? Is that considered unanticipated or not? Looking for some clarification on the limitations that the applicant is proposing of his involvement, Mr. Haroche, could you add to that if you have any other comments?

**Bob Haroche, Attorney**

As I indicated in my email to you earlier this morning, unanticipated clearly means unplanned, so if a staff employee has a planned vacation or planned sick days, that's not unanticipated. If the employee calls in sick, there's COVID, what have you, and we can't find someone to backfill that position, that would be unanticipated, it would be a fire drill situation where Lowell would come in and wash dishes, perform busing duties, maybe serve people, but all the time he's not going to be managing anybody and he's not going to be consuming any alcohol while he's doing any of those chores. As I indicated previously, Lowell has opened a number of successful businesses. It is not his life's dream—and I don't mean to denigrate those positions—to be a dishwasher, so he's not going to be on the premises filling in like that on a regular basis at all. He has more important chores and duties to do with respect this and other projects he has.

**Evert Fernandez, Vice Chair**

How often on a regular or planned basis will he be on the premises?

**Bob Haroche, Attorney**

Not at all is what Lowell is reporting.

**Deborah Burnes, Commissioner**

I had the same question about in case of emergency Lowell would be there. To clarify a little bit, owning a small business in Sebastopol has become extremely hard and staffing is a real situation here. East West Café closed due to staffing issues. I'm uncomfortable in a gray matter like that, and also I think some of what I read in the testimony was if you're an owner, regardless of whether he's taking a managerial role or not, when an owner is on the premises they have a position of authority. Even the way that you state that it's not his dream or his desire to be a dishwasher and he has more important things to do, to the dishwasher that job is very important, so you're even showing that he would be above that, so it leaves a power differentiation and a very gray area if there are staffing needs, and I can tell you every restaurant right now in Sebastopol is having extreme staffing issues, so I think that should be hashed out and we should have more clarification on that.

**Jeff Berlin, Applicant**

Just to reiterate, this will be basically like my restaurant project, and I've run restaurants at least three to four times this size and have always done whatever I needed to do to make sure that my business is operated properly, including dishwashing, busing tables, whatever. This is a small space; we'll seat barely 40 people. When you're starting a business you plan for a worse case scenario, and I'm setting this place up to be able to do everything almost by myself if I need to. I'll be there all the time working in the dining room and helping with cooking and kitchen. If we get this thing off the ground and we get busy enough where I hire some extra people to help out, I'll still be there at all times. Lowell is not even part of the equation in the way that we're approaching this. It's a small and easy to manage business for one or two really strong restaurant professionals that have ownership and that care about everything being done right, so I don't even think that Lowell being around even in emergency situations is a factor, because this is my baby. I'll be running this and doing pretty much everything myself with a little bit of help from a couple of employees here and there: Irma Hernandez in the kitchen and myself. So that's the plan. I don't see Lowell really being a factor in any of that.

**Deborah Burnes, Commissioner**

It does, but as a small business owner who has been there, done that, it just doesn't seem sustainable. I think looking at this situation we need a little bit more than I'll be there 24/7 forever. With young children, but yeah, we can table that.

**Jeff Berlin, Applicant**

The good thing is we won't be open 24/7, we'll only be open five days a week for a few hours each day, so that's more manageable for me than 24/7.

**Deborah Burnes, Commissioner**

Good point.

**Evert Fernandez, Vice Chair**

Would your business plan support not having Mr. Sheldon as the emergency backup? Would that cause problems?

**Jeff Berlin, Applicant**

I'm approaching it as though he's not even a factor at all. Once we open the doors it will be my place to operate and make it function in whatever way I would normally need to in order to run a small restaurant, and he will not be someone that I would even be considering

when we're short staffed. I'll have to take whatever necessary steps I would normally take to bring other people in to help me with whatever I need help with. I can't emphasize enough that it's a small place and worst case scenario is I can do most everything there and I'm not anticipating ever really needing more than a few people to help in our busiest capacity. I recognize what the current climate is with labor shortages and staffing in general, and I've experienced that throughout my entire career running restaurants, so I know how to deal with staffing issues and I know what needs to be done. Like maybe we don't have enough people to do full seating capacity, then we don't seat the full amount of restaurant space. That's just standard: when you don't have enough staff you don't fill the place up, you work with what you have. This is all just basic running a small business and I'm prepared for all aspects of it on my own without Lowell's presence.

**Evert Fernandez, Vice Chair**

My question is if he were not an option for you at all to come in, would you be able to have other backup?

**Jeff Berlin, Applicant**

Yes, absolutely. That would be the plan, for me to have other backup if I needed it. I'm not even planning to have him as an option in any circumstance. It will be just always having other options.

**Paul Fritz, Commissioner**

Does your business plan depend on the alcohol permit? As Kari mentioned in her presentation, you are at this point allowed to open as a restaurant. Could that work for you, or do you think you need the alcohol component?

**Jeff Berlin, Applicant**

It's not 100% dependent. We could do it, but to be a prosperous, profitable, successful restaurant of any kind you have to have the alcohol sales, absolutely. The margins on food are very small. Wine and beer is where you would make your margins happen; that's the common route to running a successful restaurant.

Vice Chair Fernandez opened public comment.

**Jacqueline Gleason**

My name is Jacqueline Gleason and I live in Freestone with my two children and partner. We learned of Lowell Sheldon's purchase of the Freestone Hotel and were appalled to read former employee statements about his sexual harassment and abusive work environment. As a woman who has worked in the food industry, their stories were all too familiar. Since then these women have become my friends, and it is an honor to stand with them. They bravely came forward to the public, not for their own benefit, but to prevent any more women from being harmed. When Lowell's abusive behavior became public knowledge, each of his three businesses decided to end their partnerships with him. No one is asking that Sheldon be prevented from earning a living. The survivors of his abuse and their allies, many of whom have been continually harassed by him and his friends and family leading up to this hearing, are simply asking that he not be allowed to serve alcohol in our community. This is an appropriate response to a well-documented ten-plus year history of sexual assault, harassment, and workplace abuse involving alcohol. Many of these incidents took place after operational hours and involved alcohol and/or illegal drug use. Any provision in place for Sheldon not having an operational role doesn't safeguard workers or guests. Sheldon frequently drank at his former businesses, and one business had provisions in place for Sheldon that he still crossed those boundaries and they ultimately led to them parking ways with him. Why should they have these provisions in place if he's not a threat?

Sheldon's predatory behavior is well known to his business partners. He sexually assaulted at least one woman in our community, as documented in a September 2021 police report and reported by the North Bay Bohemian. Many of Sheldon's supporters point to their positive experiences in his restaurants as a reason to ignore the voices of so many people in our community. Others say he has suffered enough and is a reformed man, but does a reformed man continue to harass the women who came forward? Does a reformed man try to intimidate them into silence? Does a reformed man deny responsibility for almost all of the allegations against him? The Planning Commission should uphold the Planning Director's fair and proper decision to deny Lowell Sheldon a liquor license. Thank you.

### **Leslie Young**

I've lived in Sebastopol about 45 years. Being young and inexperienced, being oblivious, being ignorant, these character defects or challenges are one that we've all experienced at some time or another in our lives, and we've fought against them and hopefully come to some deeper self knowledge. I've seen Lowell flounder socially, and I've seen him work hard to gain awareness and understanding. I've heard him speak with carelessness, and I've heard him speak with great kindness. I've never heard him speak with cruelty. A few years ago I watched him struggle with separation from his partner, with parenting two small children, and with losing his father, Steve Sheldon, all at the same time as founding and participating in and running several successful Sebastopol restaurants, ones that have put our City on the dining map of Northern California. His visions are creative and his work ethic in achieving them is strong. He has realized that his strength is not in managing employees; therefore he's taken steps for others on his team to do the managing and to have help from an HR firm. This in itself is an indication of wisdom gained. He's had the courage to step up and admit his shortcomings and address them. He's grown a lot since his twenties when he started his first restaurant, Peter Lowell's, in 2007. So I'm asking the Planning Commission to please carefully consider the promises and the changes he's made, and believe him, and allow him to continue his life's work. Born and raised and residing in Sebastopol, and raising his two sons here, he loves this town and wants to do his best for his family and for his community and for the people who are sure to benefit from the excellent Georgian wine and cuisine that Piala will offer. Thank you.

### **Naomi Minturn**

My name is Naomi Minturn and I'm a resident of Sebastopol. I'd like to thank Commissioner Kelley for bringing our attention to the police report filed on September 27, 2021. It appeared that former commissioner Douch had not received this report and may have missed other crucial pieces of evidence that led to his endorsement of Mr. Sheldon, but I believe a second copy was forwarded to the rest of the Commission today. At the time of the account detailed in this report it is known that Mr. Sheldon already had a documented investigation of sexual harassment underway from his role at Fern Bar. He had already been removed from direct supervisory contact with employees and asked not to be onsite. In fact, he disclosed all this to Miss Doe. He spoke about the work he was doing on himself, including therapy, and his newfound desire to understand consent. He spoke with convincing sincerity, expressed remorse, and tearfully expressed a genuine desire to learn from the experience. And yet, within a matter of hours he would go on to violate Miss Doe while she was incapacitated after spending the evening drinking with him. In addition to the accounts of his employees that include experiences of unwanted touching and inappropriate comments, you have also received written comments from multiple community members who detail their own experiences with the way Mr. Sheldon attempted to wield his power. Despite his claims that he will have no role in daily operations, to grant him a license to sell alcohol not only places any future employees of Piala in harm's way, it also increases the risk to the greater community of Sebastopol. Mr. Sheldon and his supporters reference the facts that criminal charges have not been pursued. The police report in your possession

includes a statement from Jane Doe that she did not wish to endure a criminal trial and discouraged the Sheriff's office from pursuing further investigation. Without her participation the investigation could not proceed. Perhaps she and the other survivors of Mr. Sheldon's abuse held out hope that some measure of accountability and reformation could be achieved through a restorative justice process. It is my understanding that this process was terminated early in part due to Mr. Sheldon's noncompliance. While it has only been nine months since the public revelation of Mr. Sheldon's well-documented behavior, which is too short to enact meaningful change, I believe that the statute of limitations on felony forced oral copulation is ten years in the State of California. I thank Kari and John for their initial denial of the alcohol license to Mr. Sheldon's new venture. As leaders in our community I urge you to uphold this decision for the safety of the citizens of Sebastopol. Thank you.

### **Jesse Hom-Dawson**

My name is Jesse Hom-Dawson and I was born and raised in Sebastopol. I was the director of marketing at three of Sheldon's restaurants as well as the victim of his sexual harassment, an incident that can be confirmed by a formal investigation from an outside HR firm. Many of Sheldon's letters of support mention making mistakes and how people deserve second chances. Harassing and assaulting is more than a mistake; it is a purposeful action to assert your position of power over others and use it to get what you want. This is behavior that goes back over 13 years. This is not his second chance or his tenth or his twentieth. When Sheldon tells you the problem is three disgruntled former employees, not the consequences of his own actions, he does not understand the harm he has caused and has demonstrated no meaningful change. The proposed conditions that Bob Haroche sent to the Commission would not have prevented any of Sheldon's more serious past transgressions as they occurred after hours when the restaurant was closed. In addition, these were similar provisions made by Khom Loi when it opened and Sheldon broke them by contacting a female employee and the other owners chose to remove him from the restaurant. One does not set such guidelines unless they believe Sheldon will continue his inappropriate behavior. If Sheldon must clarify that he won't be involved in day-to-day operations at Piala, that shows a lack of faith from his current partners that he can't be trusted in the restaurant environment and counter Sheldon's claims that all he's done are mistakes. Furthermore, Sheldon had no formal supervisory role at Fern Bar and Handline, but exerted his authority over employees, drank frequently at the restaurants to the point of excess, exhibited inappropriate behavior, and made employees uncomfortable. With Piala almost directly across from Sheldon's house I have no doubt that he will be a frequent visitor. We are not asking to shut down the restaurant; we are asking to deny them an alcohol approval use permit. He may tell you he won't be running the restaurant, but the fact is the alcohol application was in his name, not any of his partners. The Piala LLC is also held only under Lowell's name. In addition, my attempts to reach out to Sheldon's partners to discuss my concerns about him were rebuffed. I have seen Sheldon reach out to us repeatedly as recently as June 9<sup>th</sup> after we told him we wanted no contact with him. I've seen him reach out to my mother when I ignored his missives. He has sent emails to us meant to be intimidating, telling us that by speaking out we are turning the community against him. I've seen him invalidate our experiences and excuse his behavior. I have seen him use illegal drugs multiple times during workplace hours and in workplace settings, including with one of his current business partners. He has also offered illegal drugs to me and other employees while we were working. I have seen him removed from the partnerships of three local restaurants for his actions and banned from multiple local businesses for inappropriate behavior unrelated to the sexual harassment. To those who call this power or money hungry, I have gained no power or money. I am here because I truly believe he has not changed and will continue to harm women as long as he gets away with his behavior. Sheldon thinks he is above the law and untouchable and I hope you will show him that his actions must have consequences.

## **Haley Moore**

I'm here to actually talk about Jeff Berlin, who is the person who I understand will be running the restaurant on a daily basis. My name is Haley; I'm the owner of a hospitality company here in the Bay Area. I've worked as a sommelier and wine director for many, many years in San Francisco and I actually had the good fortune of working with Jeff. When I was 22 years old I fell into this tiny restaurant called Oquerte in Oakland. I had gone to hospitality school, I went to culinary school, and I wanted to work in restaurants. That was all I knew, that I wanted a career in hospitality, and I found Jeff and Jeff actually started teaching me about wine, and I had an incredible experience working there. It was really the place where I learned about what wine could be; it's where I basically decided to dedicate my life and career to this goal of being a sommelier, being a wine director, and when anyone asks me who has single-handedly had the biggest impact on my career I say without a shadow of a doubt, Jeff Berlin. Jeff is an incredible person. When you talk about creating community and sense of place there is no stronger person in the hospitality industry than Jeff. I would love to tell you that my story is unique, that this is something that happened for me and to me, but this is actually something that's happened to countless people that have come across Jeff's path. I can name on two hands over many continents people that started working at Oquerte as a waiter, young, not really knowing what they wanted to do with their lives, met Jeff, ended up in long-term careers in the hospitality business literally all over the world, and it's pretty incredible to see the impact that he's had on our little hospitality community here in the Bay Area and beyond. Beyond that, Oquerte and Jeff were interchangeable. Oquerte didn't exist without Jeff. There was a brief stint where he went to work at a very nice restaurant in Yountville and that restaurant, like the soul and energy and space was Jeff; it always that way. I miss him terribly here in the Bay Area, because I constantly think about being able to go to Oquerte and see him. I can't explain to you how lucky you would be to have this space open up, to have someone like him who is not only such a charismatic leader, but also just an incredible hospitality professional in your community, building space and sharing something that he's so incredibly passionate about. He has created the voice for Georgian wine. He for all intents and purposes spearheaded it as a sommelier to bring awareness to this category. I visited the restaurant on Sunday and it looks amazing and I'm so, so excited to dine there. Food and wine exist together in the culture of restaurants and in the culture of culture; you need the two things to exist together. One doesn't exist without the other, so the wine license is super imperative for this concept to be successful, and I can't wait for you guys to see what these guys can do, because I think Jeff is incredible. Thank you.

## **Freddie Francis**

My name is Freddie Francis and I live in Sebastopol. Today I'll summarize the story of my friend Lisa, which is also available in full as a written comment. My friend Lisa's elderly mother lived in the complex behind Peter Lowell's from 2008 to 2017. From 2016 to 2017 Sheldon took over \$100,000 from her mother, calling the money a line of credit for the restaurant. This sum was paid in advance with no written agreement. By the end of Lisa's mother's time there Sheldon was having open wine bottles delivered to her door at 8:00 in the morning. She had developed a serious drinking problem for the first time in her life. Lisa met with Sheldon to express her concerns and requested paperwork and receipts, which Sheldon responded to with dismissiveness and refusal to provide any proof of their arrangement. Ultimately, the situation was remedied when Lisa threatened Sheldon with an elder abuse charge and moved her mother to a retirement community. Thankfully Lisa's mother's health has vastly improved and she hasn't had a sip of alcohol since she left that apartment. Lisa's family never pressed charged out of a desire to move on with their lives. A woman should not have to be our mother, daughter, or spouse for us to stand up for them when they are mistreated. Lisa's story drives home the fact that Lowell's mistreatment of



women is not limited to sexual harassment as assault. It also illustrates how much is at stake when he holds an alcohol license. I'm under the impression that Piala's funding comes from payouts from his former establishments, money Sheldon received directly as a result of his predatory behavior. What message does it send women in our community, especially those he harmed, if we grant this man an alcohol permit to continue to profit off their pain and trauma. Expressing remorse and taking accountability are different things. Personal transformation takes time and Sheldon hasn't for a second taken a pause in his pursuit of power. I have personally read emails that Sheldon sent to a survivor in the weeks leading up to this hearing attempting to bully them into silence. Lowell Sheldon is far from reformed. We can't change the past, but we have the power to influence the future. I want to live in a Sebastopol that uplifts those who have been harmed and where there are appropriate consequences for perpetrators of harm. Please keep our community safe and uphold this denial. Thank you.

### **Alexandria Lopez**

My name is Alexandria Lopez. I work in West County and I'm a former employee and survivor of Lowell Sheldon's abusive behavior. Sheldon says the claims of abuse against him are empty allegations. I would like to go over the facts. It is a fact that in 2019 an investigation conducted by an outside HR firm hired by Fern Bar interviewed witnesses, reviewed documents, text, and video footage and concluded that Sheldon's conduct violated Fern Bar policies. It is a fact that the same evidence was reviewed by the legal teams of the San Francisco Chronicle and North Bay Bohemian and found to be accurate and credible. It is a fact that despite clearly stating my boundary to have no direct contact with him Sheldon has ignored that boundary three times by sending me emails with manipulative and threatening language, most recently on June 9<sup>th</sup>. It is a fact that before he was removed from his businesses he was not involved in day-to-day operations and during this time sexually assaulted one woman in this community. In a recent letter written by Sheldon he used various therapies as a way to show he is reformed, including his engagement with a restorative justice program. It is a fact that he withdrew from this restorative justice program. His facilitators agreed to end their work because he was not meaningfully participating in the program and actively went against their guidance. Furthermore, Sheldon signed a written agreement with the organization agreeing not to mention their work in any public-facing way, which he violated. This shows me that he is only willing to put in effort insofar as it serves his public persona. Sheldon and his partners in Piala have stated that he will not be part of day-to-day operations presumably as a safeguard to temper the fear that he will be a threat to workers. It is foolish to think that he will not ever be present on the premises. When he shows up as a diner consuming alcohol he has the potential to be a threat to workers and guest safety. Additionally, this so-called safeguard does not address that most of Lowell's abuse happened after hours while he was not part of the day-to-day operations. Jeff Berlin states that he does not consider Sheldon to be a factor in the operations of Piala. Then why is Lowell necessary to Piala's existence at all? It is important to note the language in the denial letter from the Planning Director. It states that granting an alcohol beverage license in this case would therefore have the potential to be detrimental to the health, safety, morals, and general welfare of the community. The Commission has the opportunity as leaders to uphold the Planning Director's original decision and show definitively that they see the potential risk of granting Sheldon an alcohol use permit and support and protect their community. Thank you.

### **Will Haines**

Hi, my name is Will Haines. I'm speaking tonight in support of granting the transfer of the alcohol license. I worked at Peter Lowell's from 2011 through 2014, so three years, and not to discount any of the negative experiences or interactions anyone else has had, I just wanted to speak about my own experiences and observations working there at that time.

What I observed at the time was a generally upbeat and positive work environment. The restaurant was run professionally and the people that I worked with there were happy to be there and there was good camaraderie amongst the employees. The overall environment was not what I would describe as toxic. It was professional, and I have full faith that Piala will be run in a professional way. Jeff has the skills and experience to spearhead that, and I think that Lowell also has learned through this whole experience that he needs to keep his personal life and his work life very separate and that he will really bring professionalism to this new endeavor, and I think it can be a real benefit to our community, both economically and in support of local farmers and winemakers. Thank you.

### **Leah Engel**

Good evening, my name is Leah Engel and I am a lifelong Sonoma County resident. I have worked in the restaurant industry in our community for almost 20 years, and six of those years were spent working for businesses owned by Lowell Sheldon. During that time I experienced and witnessed an extremely toxic, manipulative, and inappropriate work environment while under his leadership. Mr. Sheldon would like you to believe that he has learned from his mistakes, that he has done the work and changed his behavior, when the truth is that to this day he has denied all but one allegation brought against him, showing that he is unwilling and incapable of taking accountability for his actions. He has publicly disregarded our experiences as untruthful, treating us like second-class citizens in our own community. He touts his ethos for community, but refuses to acknowledge that we are his community. We were born here, we live here, and we work here. We have been abused, mistreated, and assaulted by Mr. Sheldon here, and we deserve to feel safe here. It's clear he does not care or understand the extent of harm he has caused us. Since going public with our story, many of us have been subjected to intimidation and harassment from Mr. Sheldon and his family members, including his mother, Leslie Young, who spoke earlier this evening, as have her allies, deepening our trauma. I ask you tonight how can we believe that he is reformed if he refuses to take accountability for the harm he has caused his employees and his community members? Should a known predator with at least a decade long pattern of abuse, often fueled by alcohol and drugs, be allowed to open a restaurant that serves alcohol in our community? And would a person who is truly rehabilitated from their abusive behavior willingly choose to put themselves back in an environment that fuels that behavior? I've seen nothing that makes me believe that Mr. Sheldon is truly reformed, and I have no doubt that if given the opportunity he will continue to use his position of power to cause harm and trauma to our community members. I commend Kari and John on their initial denial and I urge the Planning Commission to uphold this decision. Thank you for your time.

### **Timothy Ryan**

My name is Timothy Ryan and I'm a resident of Graton, California currently. I submitted a written comment detailing my experiences with Mr. Sheldon while I was an employee of Handline in 2016 for a couple of years. At the time of my interactions with him he had no formal oversight over myself or other employees of Handline, as he was not a manager or general manager or somebody working front of house or back of house, but his power and influence was very clear working there, because he would often be in there as a "silent partner" or somebody that is an investor, but he definitely made his presence known and his influence and his investment. After my comment was published on the website of the City of Sebastopol, which everyone can read as a public statement, I began receiving text messages from Mr. Sheldon mocking me and accusing me of back stabbing directly, and gloating about the number of supporting comments that he had received in favor of him versus the protests on that Sebastopol Planning Commission website. Though I asked him to discontinue the communication he continued to text me asking if he would see me at this meeting today, sort of mocking me. To grant him a license to sell alcohol would condone his

past and current behavior and put future employees and community members in harm's way. Thank you for the decision to deny his application initially, and I urge you to please uphold it. In reading through the public comments that express support for Mr. Sheldon I was surprised to see that he had instructed people to write anonymously out of fear of retaliation when in fact it was Mr. Sheldon who planned to retaliate against his detractors. Should the Planning Commission wish to see proof of Mr. Sheldon's communications towards me I can forward the screen shots to your office any time. I urge you to please listen to everybody and be very considerate of everybody's statements. Thank you.

### **Stuart Gross**

I want to talk mainly about Jeff Berlin and amplify what Laura said. I'm a resident of Sebastopol and have known Jeff for a couple of years. Just the other day we had Jeff over for my father's 80<sup>th</sup> birthday. I have a newborn and it was stressful to have a party with relatives flying in, and Jeff showed up with his son Arlo and they were a force to bring it together and give us all the love and nurturing we needed. Lowell clearly has a lot of history with folks, and I don't know what that history is. Is he a weirdo? Yeah, he's a weirdo. I'm not trying to diminish anybody's experience. Do I have really bad feelings about Lowell? I don't. Lowell and his weirdness is what it is. I don't discount what people are saying and I have no reason to know one way or the other about what happened, but I think it's important to focus on what we're talking about here, which is a restaurant to be run by Jeff Berlin, who is an amazing guy, and who has this amazing family and wants to bring that to the community. I understand this has gotten wrapped up a lot in litigation about who Lowell is and what his place is, but it's important for the Planning Commission to not feel its role is to adjudicate that. That's not its role; it's not sitting as the judge of Lowell's character. It's sitting to decide will this restaurant be a threat to the community, and knowing Jeff Berlin both personally, socially, and professionally in a limited capacity, but in one that's pretty informative, he came and cooked this amazing meal for my family, and it was beautiful. I'll finish with just the statement that I think the Planning Commission should grant his license and do it on the basis of what actually is proposed. Thank you very much.

### **Brenna Sheldon**

My name is Brenna Sheldon, I'm from Sebastopol, and Lowell is my brother. Lowell is capable of great good, generosity, and contribution to his community. He is also capable of acting carelessly and thoughtlessly. He has made mistakes and he has paid dearly for those mistakes. He has caused people here with us today to feel uncomfortable and disempowered, even if inadvertently. I am ashamed of that behavior and I know he is as well, and I'm not here to defend it. Rather, I'm here today to share what I know of Lowell's hard work to change his life and behavior moving forward. He has thought deeply about these mistakes he has made, he has acknowledged the harm he has caused, and he has made good faith efforts to better himself and learn from his mistakes. I strongly believe in second chances, and I do not believe our community should permanently blacklist Lowell, particularly as he has taken concrete actions to make amends and learn from his mistakes. I know he will continue his work and his commitment to making amends for these mistakes in the years ahead. Please give Lowell, Jeff Berlin, and Irma Hernandez the chance to bring this wonderful new restaurant to the City of Sebastopol. Thank you for your time.

### **Ray Gonzalez**

Good evening, my name is Ray Gonzalez and I live in Sebastopol with my two children and partner. Today you've heard many people speak about Lowell Sheldon's predatory nature and the harm he has inflicted on so many women in our community. I want to talk about the type of community I want to live in and raise my children in, which is one that uplifts survivors of abuse, that listens to and believes women, and that holds people accountable for their actions. Over a dozen women have come forward with their stories of sexual

harassment, workplace abuse, and sexual assault at the hands of Lowell Sheldon. Three of his restaurants have parted ways with him when these stories of his predatory behavior became public knowledge. Allowing him to open another establishment that serves alcohol and puts him in a position of power says what to our community? That you can spend over a decade inflicting harm on women and workers and still be trusted with the responsibility and power of a liquor license? He has shown us who he is. A man who shows no remorse nor takes any accountability for the harm he has caused as he continually harasses the survivors and their allies and continues to push for the one thing that they ask him not to do, which is be in yet another position to abuse alcohol and his power over employees and people in the community. I urge you to uphold the Planning Director's fair and proper decision to deny Lowell Sheldon a liquor license. Let's keep Sebastopol safe and help us build a community we're all proud to live in. Thank you.

### **Wyatt Underhill**

My name is Wyatt Underhill and I'm a member of Lowell's community. I think everyone deserves a second chance, particularly when the person has acknowledged their mistakes and worked hard to change their ways, as Lowell has done and continues to do. Lowell is really, really good at creating great community spaces for people to come together and enjoy good food and drink. In the case of Piala, he has helped to create and build the space, but as has already been stated many times, will not be involved in daily operations. Jeff Berlin will be, and I know Jeff, and any establishment run by him will an excellent, respectful, and fun place to go. I want to urge the Commission to grant this license so the City of Sebastopol can enjoy this wonderful new space that Jeff and company are trying to create. Thank you.

### **Sandra Lee Sheffield**

I strongly support the Piala Georgian Cuisine restaurant. I do not think that there is another Georgian restaurant in the area, and believe Piala will be a unique contribution to the North Bay food scene, which is what this meeting is really about. Furthermore, I have known members of the Sheldon family for over 18 years and Lowell personally for 14 years. Lowell may not be perfect, but he is no more or less flawed than anybody else I have ever met. That said, I could also personally attest that Lowell is an ethical and thoughtful person, a generous and creative force in the restaurant scene both locally and nationally, and I am grateful for the opportunity to have known him personally and enjoyed his restaurants. On a personal level, I want to state that I am a feminist and victims' rights advocate and greatly distressed that a handful of former employees, out of the hundreds and hundreds that worked at Lowell's café, as well as people who have had no personal experience with Sheldon, have been allowed to receive their 15 minutes of fame by slandering him. If it weren't for their attacks on Sheldon, these disgruntled former employees and their friends would not have the agency or celebrity they are currently basking in. Please do not allow a handful of disgruntled employees using McCarthyism-style bullying to continue to make news by ruining the career of a much beloved local business leader. Please remember that Sheldon has not been arrested or convicted of any crime, especially not sexual assault, and if anyone has read the reports of harassment in the newspaper or by the police, they will see that the harassment complaints are petty and the woman at issue of the so-called sexual assault stated she never said no and that the intimate experience was consensual. Sheldon, like anyone else, should be considered innocent until proven guilty. I really feel like if there were anything criminal, the crazies would have already had Sheldon arrested. Worst of all, when people make false accusations, and in this case mountains out of molehills, this leads to disbelief of people who have faced real workplace harassment and abuse. I know my opinion is not popular, but I feel like somebody has to say the king has no clothes. It's ridiculous.

**AnnMarie Ginella**

My name is AnnMarie Ginella and I'm here with Lisa Clyde. We have known Lowell since before he opened Lowell's restaurant. My comments are not meant to diminish any of the women's experiences. We know that it is human to make mistakes and that the true test of character is what a person does in response to those mistakes. I would like us to be considerate to the belief that all people are redeemable and that all people need to be given a chance to make change and prove their worth. We believe in restorative justice. We believe that Lowell has faced many consequences. He has lost his businesses, his marriage, and had his name smeared over and over and over again. When is it enough? I'm worried about our community, which we have lived in all of our lives, that doesn't allow for mistakes. When does a person get a chance to show the depth of his character? When does he get the chance to support yet another restaurateur who wants to make a way in Sonoma County? We support Piala in its full capacity as a restaurant serving alcohol and food. We know Lowell's reputation of putting Sonoma County on the map with his original, unique attempts to features farmers, healthy food, and unique cuisine. Thank you very much for your time.

**Lori Sacco and Wolfgang Dilger**

My name is Laurie Soko. I've lived in Sebastopol since 1994. Wolfgang has lived here since 1996. We've both known Lowell and his family in various capacities and through business associations. Wolfgang built the Fern Bar and we both worked with Lowell's, father Steve. I have to say that the comment that made me raise my hand was the one about how I'd like to see our community, and I would like to see our community be willing to move past difficulties. I'm not discounting peoples' experience, but there is a way that one can use it to drag the community down or we can bring our community together to heal everyone and move forward, and I believe that the standard Lowell is being held to is way above and beyond any standard that any restaurateur in this town or county could be held to. I would also question this whole community sitting right here. Is there no one here who has made grievous mistakes that they say they wish they hadn't done. I can say myself that I have, and I am sorry and I have moved on, and the people that I hurt have moved on, but stopping a person from being able to run a business from the back side of the restaurant, not the front facing managerial part, is just simply cruel. It's cruel and it's wrong, so I would urge the Planning Commission to please see what is actually here on the table, which is a great new restaurant that's coming to our town. We've actually turned down restaurants before for I would say other silly problems, and this is silly in that he is not going to be there daily. He is not going to be serving food nor cleaning dishes nor bussing tables, nothing. He's not going to be there, so it seems to me a poor reason to deny a restaurant from opening, and I would urge the Planning Commission to please approve this permit. Thank you.

**Pia Gheen**

My name is Pia Gheen. I am an employee of the San Francisco Planning and Urban Research Association, SPUR, here in San Francisco. It's a broadly based civic organization that promotes good planning and good government in the Bay Area. Commissioners, I am very familiar with the processes you have to undertake to approve things and grant liquor licenses, and I wanted to individually express my opposition to Piala not being granted a liquor license. I believe doing so would write discrimination into your process based on hearsay, and I would find it hard to believe that the Planning Commission, or any government agency for that matter, could simply ban a liquor license in this fashion. I'm assuming you did have legal reasons about the premises and the design originally, and I believe that Lowell Sheldon has met the requirements of the law in that manner. Commissioners, you say it is on the applicants to demonstrate a burden of proof, and he has done just that. There is no evidence that Lowell Sheldon has committed a crime. There

is no evidence that he has broken any law, and no evidence that he has harmed anyone. I have had the privilege of knowing Lowell for over two decades. He is one of the few individuals I know who is guided by values and vision, and I have spent the past 20 years watching Lowell learn how to create sustainable change and how to do it effectively. He's always believed that there is a better way that we could be living and a better way that we could construct our society, and not granting Píala this license would be harmful to the City of Sebastopol and the county. I stand with Lowell, Jeff, and Irma and ask you to resist this divisive effort to deny Píala a liquor license. Doing so would impact Jeff, Irma, and others at a chance for upward mobility. Thank you.

### **Emily Crumley**

I'm a resident of Freestone. I've lived in Sebastopol for about five years and in Sonoma County for 25 years. I've worked in the restaurant industry for 15-plus years and I want to show my support for the Píala project. It would be great for the community as a whole, and I support Lowell Sheldon, and I think a lot of due process is being trampled on right now. I just want to say that and that is it.

### **Christopher Terrell**

I'm biased in my perspective, because I've supported Georgian wines for most of my career. My first customer was Jeff Berlin, a guy who really supported this when few other people saw the potential in it. I find him visionary and his work has been really impressive over the years, and that was demonstrated by the success of Oquerte in the Rockridge area of Oakland. I got to know Lowell because my in-laws would eat there pretty much every week and they loved the food that the restaurant put out. I've gotten to know Lowell personally and our children have played together over the years. I do not in any way reduce the importance of the perspective of the folks who have had an experience here that we're all concerned about, and I love that Sebastopol has given everyone a chance to share their perspectives and voices. I do though think that in the long term I fail to see how we can really benefit a society if we deny the rights of business owners and people who have ideas to come to market and create opportunities for the labor force, and also I feel like it's fundamental that we make it possible for new ideas to come out there, and they're not going to come out there if we don't let them. In terms of Lowell, he's indicated he won't be there. This is the proof. Just give them the opportunity. You can always deny this alcohol permit for good cause and good reason. Let's give them a chance. Let's encourage them, let's cheer them on their way, and let's see how it goes. That's all.

### **Jeff Churma**

I'm here to support Lowell. I don't want to really talk about the situation with Lowell. I've heard the women speak and I respect their views, but I've also spoken with Lowell and I know he's tried to make changes in his life and I think he's a good person. I've worked in law enforcement as a counselor with people from prison, predators. Lowell is not a predator. He may have made some judgment issues, but he's never committed a crime, and I think he should be given a chance to develop this restaurant from a distance like he wants to and to allow Jeff to run it. It's about Jeff running the restaurant now. I feel in a lot of ways that this hearing is a morality play of sorts, and I think we need to move beyond that. The issues with Lowell, if his accusers want to continue addressing that, go ahead, but give the guy a chance to change his life, and give Jeff a chance to open a restaurant that he's dreamed of. If anybody knows Jeff, I guarantee you Lowell will not step foot in there. Jeff is a hard ass about that, because he takes pride in what he does. I've been around Jeff; I think I've known him almost two years. He's a no nonsense guy, and what we've talked about today will be adhered to, I guarantee it, and anybody that knows Jeff knows this about him. And I want to give Lowell a chance. He's a father with two kids in this community and I feel that when is enough enough? How much blood do we want here? We need to have forgiveness.

We need to address the wrongs if there were some done, but let's do that in a way that's positive and that everybody walks away with some growth in that, and us as a community. I want to share one more thing. I sense with the Planning Commission that this is loaded. The tone that I'm hearing I'm abhorred about, and I want to stress that. But I do support Lowell and I put my name up there as a supporter. I'm not going to be anonymous. I've known him, and I trust him, and I respect him. Thank you.

### **Julia Green**

I've known Lowell for about 13 years. At first it was just my husband and he playing basketball together and meeting him up in the restaurant, and we have grown to be amazing close family friends. Our kids have all played together, and I've been intimate in the knowledge of all the proceedings of the last several years. This has gone on a lot longer behind the scenes than the media frenzy has just gotten wind of, and Lowell had to step back from both of the amazingly incredible restaurants besides Peter Lowell's that he had helped Natalie create, and they're still good co-parents together. As a person in this community he's done so many amazing things for local farmers and the sustainable food and farm-to-table movement. Personally, he's helped my family and I more than almost any of our other friends when we were in rough times in a transition from another community, and he took us in and he and Steve really helped us get onto our next place in life. He continues to just be a person who is willing to admit that he did do wrong and he was ignorant of a lot of things that in a statement he has said I want to learn and I want to change and please give me the chance. And he, as someone else just said, would not be on the front lines of that restaurant, like he had stepped back from the other two, so I don't see a problem with any of the interactions that he would have with this restaurant besides building a beautiful and amazing place to eat and gather, which he's done three other times now. Jeff as a chef is amazing and I think that the vision is beautiful, and I've eaten there and I really think that the Commission should grant this. I'm in full support of Piala.

### **Joseph Barnwell**

Joseph Barnwell, lifetime resident of Sonoma County. I've been following this case and it really is very important for our community to realize the impact that individuals have on this. Jeff I'm hearing is a great guy. Not sure what would be needed from Lowell, who has had roles that has not been in the front of the house but has attacked individuals, and also the fact that he is getting a second chance, third chance, hundredth chance, but he has yet to follow what the victims have asked of him, and that is to work with the restorative justice program that he quit, and that he is engaging with the individuals who ask them at this time to not speak with them. Moving forward in this direction puts our community at risk, and I hear these individuals that say the individuals that we need to give these second chances to are people that are following what they need to get that second chance, and in no way has he been able to do this. Thank you for your time.

### **Soggy Waffles**

I am in opposition to Lowell being a part of this business. Basically approval of the liquor license for another of Lowell's business at this time is irresponsible and dismissive of countless sexual harassment claims. The employees are most of the people coming forward opposing this. The employee pool of Sebastopol is what we're talking about, and a lot of family friends are the ones coming in hoping to engage in the food, which is a beautiful thing and I do love art and the art of food and wine, but putting Lowell in a position to have part of a business with a liquor license feels still dangerous for the community. I haven't worked with him. I am friends with a lot of his employees, and so I've only interacted with him after hours where I've only seen a not so pleasant side of him, but I haven't seen anything for me to come forward to say I've witnessed anything, but I have seen the discomfort in people around him. An after hour element of him being around liquor, and the

City deciding to support putting more liquor in places just for more business is disheartening as an employee in the area, and so I hope that people traveling to come to live in town that may be employment opportunities there don't end up caught in positions that past employees have been caught up into. Thank you.

**Barbara Hom**

My name is Barbara Hom; I'm a 43 year resident of Sebastopol. I am the mother of one of the victims, and I can tell you it has been very hard on her and her colleagues. I've met them, I've heard their stories, and it is not allegations, it is not hearsay. These are real and they've been hurt. I moved to Sebastopol because I thought it was a safe place to raise my daughter, and I feel this whole thing with the Planning Commission that's happening now is really showing about what Sebastopol is. Are we a town like other big cities or other places that can allow these predators to come into our town and overlook it because for the sake of business and furthering a good restaurant? I have no problem with the restaurant, and Piala I'm sure will be wonderful, or could be wonderful, and I'm sure Jeff Berlin is a wonderful person, but the whole involvement of Lowell Sheldon is unacceptable. Letting him back in our community is saying that it was okay that he did all these things to these young women, and it is not okay, and Sebastopol can't let that happen. I am actually shocked at some of the comments of some of these other people that say well he's a good guy and he made a mistake. He's been making a mistake for ten years, and to me a mistake is you forget to bring the milk home. A mistake is not rubbing up against a person's body or touching someone inappropriately. We are women. We need to stand up for other women and not allow this to happen for future generations. I strongly oppose giving the alcohol license.

**Bob Haroche, Attorney**

I'm speaking on behalf of Piala LLC. You've heard and you've read a lot of terrible things about Lowell this evening. Some of them are grounded in fact, some sensationalized and exaggerated through rumor, and some are simply incorrect. Many of the letters in opposition refer to well documented incidents as reported in the media, but none of those letters, or for that matter the media accounts, would be admissible in a court of law because they are, frankly, pure hearsay. It's also worth noting that no civil or criminal action has been taken based on these described incidents, and even the City's own police department did not reference them in response to this application. Fortunately, the Commission is not sitting as a court of law to adjudicate whether Lowell committed the things he stands accused of. Your role instead is to consider whether the proposed use will adversely affect the health, safety, or welfare of area residents and whether the proposed use will detrimentally affect nearby residentially zoned communities. Note that the City code referred to proposed use, not proposed owner. No one is suggesting that a restaurant in this location, even one that serves alcohol, is by itself a threat to public health, safety, or welfare. Instead, the opponents object to the involvement of a one-third owner of Piala who they claim does not behave properly when consuming alcohol or managing employees. We've offered a number of mitigation measures to directly address those concerns. Lowell will have no involvement in personnel and management. Lowell will have no involvement in day-to-day restaurant operations. Lowell will not consume alcohol on the premises except if he's dining as a patron. It's hard to imagine what additional mitigation measure could be imposed here to address the opponent's concerns. They demand instead that the restaurant be completely denied the same right that all other restaurants have in this community, namely the ability to serve alcohol with meals. To our knowledge, and that of the City Manager, there is no precedent of a business in this town being denied an ABC permit on the basis of such allegations against one of its owners. For what it's worth, state law does not even list such misconduct as one of the bases for suspending or revoking an ABC permit, yet that is exactly what the opponents are asking you to do, to deprive Lowell and



his partners the ability to earn a living in this community. If their objection is based on Lowell's use of alcohol, that has been addressed. If it's based on Lowell's poor management of staff, that too has been addressed. And finally if it's based on Lowell being a daily presence in the restaurant, that as well has been addressed. That leaves as the only reason to deny this permit the desire to punish and economically ostracize an entrepreneur and lifelong member of this community. We ask that you don't hang a scarlet letter around this man, but let him and his partners open what will undoubtedly be an outstanding new addition to Sebastopol's food scene. Thank you for your time and consideration.

Vice Chair Fernandez closed public comment.

Vice Chair Fernandez asked for Commission questions of the applicant. Seeing none, he moved on to Commission deliberation.

The Commission discussed the application as follows:

**Paul Fritz, Commissioner**

As I'm sure people who are familiar with what the Planning Commission does, this is a rather unusual role for us. In my time on the Planning Commission I've never encountered a use permit wrapped around the issues that have been discussed tonight, so I'm trying to wrap my head around how to address this. But hearing and reading so much testimony, either supporters of the restaurant or people that hope to deny the alcohol permit, it's a difficult issue. I appreciate hearing from Jeff and the idea for the restaurant. It sounds like it would be a wonderful addition to the community in terms of the restaurant scene and I would be excited to dine there, but I also hear so many issues of concern about how Lowell has operated in his other restaurant and people that have been hurt by his being there. There have been several people who have made comments that he has never been tried for anything, no charges have ever been filed against him, and I'm sure we all recognize that in the world of sexual assault and sexual harassment that many of these never get tried; they never go to trial. People have whatever their own reasons are for not wanting to continue on and pushing this, and I think we need to hear and respect that and not deny that these are real allegations. I also feel that there are so many times when someone is indicted and convicted of a crime and the close friends and family always say, "That's not the person that I know," and I appreciate the support. Lowell obviously has a great amount of support in the community, and that's great for him, but I do have concerns that it's easy to not see those kinds of things. What the Planning Commission has to find is that the operation of this restaurant with its alcohol license will not harm people in the community, and at this point I don't know that I can say that if Lowell is involved. I don't think the proposed conditions of approval would go far enough. I don't know what the conditions would be. I don't know if I would agree to this or not, but how about a condition that he never enters the premises, either as an owner or a diner? He just is not allowed to go to the restaurant, because it's been mentioned that even if he's there as a diner, people in the restaurant will know who he is, people who work there will know who he is, and he will have a position of authority, and during business hours or after business hours I do have concerns and I don't know that I can make the finding that this will not harm members of the community. It's not just about the use; it's about how the business operates. Obviously, I have no problem with a restaurant here serving alcohol. I don't think that's generally a harm to the community, but I do have concerns about Mr. Sheldon's involvement. I'm all for second chances and restorative justice, and I do think people can change, but I'm very disturbed to hear that Mr. Sheldon has had communication with his victims very recently, victims who have repeatedly asked to not be contacted, and that to me shows that he has not learned and he is not respecting peoples' boundaries. I think that's what a lot of this comes down to and I'm concerned that if he is allowed to participate in any way with the restaurant that that

could be an issue, and I don't know if we were to allow this to go forward with the alcohol use permit—and this is a question for staff or counsel, because I know it's possible—how would we go about revoking a use permit? If we decided to allow this to go forward, they open up, and someone has an issue, what can the City do to revoke the alcohol use permit? From what I've seen and heard tonight, I don't know that I believe that Lowell is a changed person and I think I'm personally feeling that we have to err on the side of caution, given events and claims that were made tonight that I think are certainly valuable and believable, and yes, while they haven't been adjudicated in a court of law, and this isn't a court of law, I can't really weigh in on that specifically. I can't say oh yes, Lowell is a changed man based on what I've read and what I've heard tonight and I have no concern that he will not be a threat in the future. I just don't have that background, I don't have that understanding, and so again, I feel like at this point I have to err on the side of caution in terms of moving forward. I hope there is a way that we can move forward in some capacity, because like I said, I have nothing against Mr. Berlin, I think this sounds like a great idea, he sounds like a great restaurateur, and I think this would be an exciting restaurant to have in our community, but I do really have concerns about Mr. Sheldon's involvement at this point and what it could mean to the health, safety, and welfare of workers at the restaurant.

### **Deborah Burnes, Commissioner**

I want thank everybody for coming tonight. It really shows the gravity of this decision and what we have to take on as a commission, and I commend both sides for coming and really speaking, and I have to grapple with what are we challenged with tonight. We are challenged with the health and safety of our community and whether we feel that Lowell Sheldon has exhibited change in respect to his behavior in the past. I too believe in second chances and in rehabilitation, and I think we need to live in a world where we believe justice can prevail, however, I feel very uncomfortable with a lot of the comments tonight leading me to believe not only does Lowell not take what happened and has done his piece in his own self, but also that his supporters haven't. I heard his friends and family say that weirdness is weirdness, he's weird, we just need to let that go, that he's paid dearly, but I haven't seen any exhibit of how he has. I would like to know if it is fact that he did stop his treatment early. We also read in a public comment that he was asked to not pick up children at Waldorf School that his kids go to, to wait in his car, because there was one of the survivors there, and that he also disrespected that and came into the school. We also have seen that he has reached out to them, which is very concerning to me, and emailed them. When I think of the health and wellness of our community I keep thinking if I was one of this survivors and I was hearing this tonight, how would I feel, and would this feel like the community is embracing me, like I'm being held with my health and wellness, because I can only imagine that they're probably not feeling very healthy. It was probably very difficult for them to be here tonight. And again, we heard that he has worked very hard to change, but we saw little evidence of that. As I stated, we saw evidence to the opposite. I'm very challenged with this, because I have eaten at the restaurant in Rockridge and I love it, and I love food, I love wine, and I think this would be an amazing attribute to our community, however, that's not what we're tasked with tonight. I also was uncomfortable with some of his supporters' comments that they were petty things that happened, that they were no big deal, that people are making mountains out of molehills, and these just felt very concerning to me. It doesn't sound like the community supporting him understands or is even expecting him to do the work and to change, because everything was belittling the acts that happened, and even to the point where someone said, "Who here has not made a grievous mistake?" The old cliché that two wrongs don't make a right could never make more sense, but we're not talking a grievous mistake, we're talking about women who have been violated, and somebody misusing their power in order to do that. And again, I've eaten at restaurant in Rockridge, I loved it, and it sounds like you're a great guy and I'm still a little confused about the details as well. I don't know if this was true, but somebody

said that only Lowell Sheldon's name is on the LLC and ABC license, that it doesn't even have partners, so I'm so confused by all of that, but the bottom line is what we're tasked with her today is do we think by granting this is there any issue with the health and well being of our community? And this point I think our Planning Director made... I can't see any evidence to the contrary, so I'm concerned about what we heard and what we listened to tonight.

**Linda Kelley, Commissioner**

I echo what the two Planning Commissioners ahead of me said. This is a difficult situation, because I love Georgian food and also like Georgian wine, which you probably have never heard of all the varietals, so I do want the restaurant to open. I just don't believe that Mr. Sheldon is the right person to receive an ABC license. I have a 23 year old daughter who works in the food industry in town, and when I first read about these accusations and experiences, which of course there's always so many that never come forward, I sat and talked to her and gave her permission to share with us if she's feeling intimidated, pressured, touched, anything like that. It sort of scared me to have her be in the industry when the vulnerability of young women are involved. If there is a way that everything can be shifted away from Mr. Sheldon in the ABC license application, and it sounds like the restaurant is also in his name, but we're not looking at the restaurant right now, we're looking at the ABC license. I know that I don't personally feel comfortable for the employees of any restaurant in Sebastopol at this time. I'm not convinced there is enough taking personal responsibility; I heard too much discounting. At a time when women, and also men, are vulnerable to being pressured into uncomfortable situations, I think we have to be very, very careful, and so at this point I'd like to figure out a way of having the restaurant be able to get an ABC license and get that good Georgian wine in there, but not have Sheldon be as involved; Mr. Lowell Sheldon, not his other family members. I don't know what we need to do with our counsel that's here representing the City and if he has any recommendations after hearing the comments from the Commission, and I would like to get a little help from him if it's possible about any pitfalls with us moving in this direction. I'd like to thank the women, all of them who showed up, and also their supporters, that we're concerned about this issue.

**Evert Fernandez, Vice Chair**

Just clarifying what some of the Commissioners have said, I've heard comments about Jeff Berlin and his background; that's not in question. It would be great to have that type of restaurant here in Sebastopol; that's also not in question. With second chances, to me it seems we need a bit more time to see the results of that, and the bottom line is the potential is there, and if I were on the fence with this the question for myself would be would I feel comfortable to have my daughter work there? The answer to that is I couldn't say honestly I wouldn't feel a little concerned about it. I don't know that any conditions can be placed to ensure that, other than not being part of it. Even with the best intentions to not have him come in unless they need it, it's still allowable and still can happen, and that goes back to providing that environment for that. It's a risk and the burden of proof, I'm not 100% convinced honestly I could to go through with this, to reverse the denial, and feel like I've made the right decision. It's not a decision where like we're giving a permit to open a certain type of business and if it doesn't work out, it's unfortunate. We're talking about peoples' lives and their rights, and with everything going on I don't want to add to that. I appreciate the support that he has, and I'm sure as an individual I have no doubt as to his skills and experience and his artistic abilities when it comes to the restaurant, and that's again not what's in question here. I guess I'm in line with the other Commissioners in my concerns with this, to deny this. Director Svanstrom, I think you wanted to clarify the difference between an ABC and what's really being applied here.

**Kari Svanstrom, Planning Director**

Thank you, and there were a couple of questions from Commissioner Burnes as well. What is under review tonight is the use permit for an alcohol license at the local level. This does not include the ABC license process. John is the closest contact with the individual at ABC who is overseeing this application. One of the requirements is that all owners, including the third owner who is silent and not involved and my understanding is cross-country, are all required to be on the ABC license. One of the requirements of the ABC license is that the local zoning permit is granted, so what we're reviewing tonight here is the local permit based on the testimony and evidence in the record, as well as the criteria in the zoning ordinance, and I'll ask Ed to give a little bit more guidance on that. What I am hearing from some of the Commissioners are questions about potentially conditioning further restrictions on Mr. Lowell's involvement, and that is certainly something that can be discussed. The applicant would need to accept those proposed conditions or be acceptable to them. The way a conditional use permit works is we have, say, a restaurant, which is allowed by right. There are whatever regulations in the City's code that they need to comply with, whether that's the noise ordinance, or maintaining the parking, and those types of things, but there's no discretion to that. For a conditional use permit, what we do is the conditions are in place to ensure that the criteria of the use permit are met. So can it be conditioned in a way that you feel comfortable that the burden of proof regarding the health, safety, and welfare of the community can be met with the conditions of approval? We have not provided either a resolution with findings either way or draft conditions for you tonight. If that is a direction you'd like to go, it's actually why staff drafts these prior to the Commission's review, because they do need to be done in a way that's enforceable and objective in their metrics, and we can do that for you if that's the direction tonight. What happens with a conditional use permit is those conditions apply in perpetuity to the license, and if those conditions are not adhered to the Planning Commission and staff can refer an application back to the approval body, in this case it would be the Planning Commission, for review and it can be revoked due to noncompliance with the conditions of approval, so that would be a subsequent public hearing after the use has started and if staff is hearing reports, or the City is hearing complaints, about non-adherence to the conditions of approval. In terms of your options tonight, because I realized this is one of the more difficult decisions before you, the options that you have in terms of your decision-making tonight is you can direct staff to work with the applicant, or you can try to negotiate with the applicant if they have suggestions, or you have requirements of conditions that you would want to look at for the project. If it takes a little bit more time, we can always continue that to a date certain for those details to be worked out or for the applicant to come back with additional information. But if you know the direction, and if there's a direction here tonight, we would suggest that you provide that direction to staff and we will prepare the materials, whether that's a formal vote or just direction to staff, and we can get to that a little bit further down the road based on the rest of the Commission's deliberations. Ed, if you could say a few words about how they're looking at the evidence in the testimony, and any other thoughts you have.

**Ed Grutzmacher, Attorney**

You covered a lot of it, but I did want to go over again where we're at and what you're looking at. The code, as people have talked about today, is whether or not the use would adversely affect the health, safety, or welfare or detrimentally affect nearby communities. In this case the burden of proving that you won't have any of those effects is on the applicant, and the burden of proof is by clear and convincing evidence. Now, clear and convincing evidence isn't 100%, probably more like 75%, but the burden is on the applicant to satisfy you with clear and convincing evidence that the use will not have any of these adverse effects. Again, as Kari mentioned, the Commission does have the ability to condition—the point of a conditional use permit is to be able to condition it—and if there are conditions that you think would relieve your concerns about any of the potential adverse

effects on health, safety, or welfare, then you can certainly propose those conditions and we can work with the applicant to draft them up and figure that out.

**Kari Svanstrom, Planning Director**

One of the other things that you and I had spoken about, the question came up that there was no actual conviction, and I want to be clear that the Planning Commission is not acting in deciding either guilt or innocence here. What you're doing is weighing the testimony that you've heard tonight as well as in the public records, the comments you've received, the staff report, and the applicant information in terms of determining the use permit criteria that Ed was just talking about.

**Ed Grutzmacher, Attorney**

That's right, this is not a mini-trial, either civil or criminal, for past conduct. What we're looking at is, again, whether or not you think the use will have an adverse effect on health, safety, or welfare. You can certainly take into consideration evidence that Mr. Sheldon's involvements might have an adverse effect on health, safety, and welfare, but we're not here to determine guilt or innocence for previous conduct.

**Evert Fernandez, Vice Chair**

One term that was used initially when the applicant was speaking referred to him as a "silent partner," but that's actually a business legal term where if somebody is a silent partner basically that person is only an investor and not involved with the day-to-day operations. That was used I think not in a legal term.

**Paul Fritz, Commissioner**

Ed partially answered my question in terms of the question of will the use adversely effect, but it's not just the fact that this is a restaurant that serves alcohol, but that it's a restaurant that serves alcohol and one of the owners of the restaurant has had a history of allegations made against him that we are able to take into consideration as part of that use, so that's where I'm coming from. Again, as Mr. Haroche said, I have no desire to punish or ostracize Mr. Sheldon in any way, but I do feel like as a planning commissioner I have a responsibility to this community, and from what I have seen and heard in this testimony, and has been mentioned, this is not a trial, I don't know his guilt or innocence, but I don't think that I'm comfortable at this point. I agree with what has also been said by some of the other commissioners, I hope we can find a way to allow this restaurant to open, because I think it would be a good addition to the community. I have no doubt that Mr. Berlin can make this happen, but I do have concerns about Mr. Sheldon's involvement, so I don't know. Like I said, if there's a condition that he is not allowed to go on the premises during business hours or after hours or at any time, I don't know if that's acceptable to Mr. Sheldon or Mr. Berlin, or if that would be acceptable to the other Commissioners. I don't know if it's acceptable to myself, I'm just kind of throwing it out there as a possible condition, so I guess I'd like to hear other people's opinions about that, including the applicants, if they think that's something that's workable or if they have any other ideas about how we could make this workable. And again, maybe Lowell has changed. I just don't feel like from what I've seen and heard today that I can make that judgment call, and I also feel like no matter what the Commission decides tonight, it's very possible that this will get appealed by someone to the City Council, so we probably don't have the last word, but I think we can do our best to make our best decision tonight, or I guess we're not making a full decision tonight, we'll make a decision at a future meeting, but in terms of giving staff direction on which way we're going tonight.

**Deborah Burnes, Commissioner**

This is a really heart wrenching situation, because I feel for people on both sides, and like I said before, I commend both sides coming. I also, like I said, have eaten at the restaurant in Rockridge and I would love to have that restaurant here, so to be on the side of not feeling comfortable with it is really very difficult for me. As a commissioner, I feel a responsibility to the community and to the health and safety, so I will speak to what you said, Commissioner Fritz, about could we put a condition where he would not be there at all, and I can say for myself that wouldn't make me feel comfortable, because I haven't seen him demonstrate the ability... And I don't want to go through taking away a liquor license. One of his supporters said let's just let it go and see if it works, and if it doesn't we can take it away. Well, if it doesn't, another woman has been at the other end of that, and I'm just not willing to be the person to say let's see if this time he can adhere to it. I really wish we were in a different situation where he went to that program and didn't take himself out, where he wasn't contacting the survivors and victims up until June 9<sup>th</sup>. I really wish we were in a situation where, as our lawyer said, he had proven to us as a commission that he has changed and that he does see the errors of his ways. Even his community, the mountains out of molehills, petty little things he did, and we all do bad things; talk to any woman who has been victimized and this is not a mountain out of a molehill. Someone rubbing their body against you, this is a clear violation, and this is a history of violation after violation, and so I am not comfortable with making the condition that he won't be there, because I haven't seen him show us that he has respect for the rules when they're set in place. I would say let's give it a year. Let's let the restaurant open. I will be a patron, I will eat the food, and let's see that he really does do the work, that he does go through a program, and we can reevaluate it, and/or as other bar and restaurants did, having Lowell not be there. I hope he opens many restaurants. I think he's creative. I've loved all of his restaurants, but I think in this community it's too hot, and there are too many victims here, and too much that's happened.

**Evert Fernandez, Vice Chair**

Even if we were to deny, and let's say that he's no longer involved and the remaining owners apply for a license and they run their business, there's nothing to stop them from having him come in. But at least we would have done our part; we can't control that part of it. I have a hard time thinking of any conditions that wouldn't be unfair to the remaining owners, because the difficult part as well is we've got people involved that really deserve this opportunity. It's just unfortunate that through those actions this is what has caused it, but again, we're not here to judge that, we're just here to make that determination, and if it's appealed and it's upheld, fine. I'm not chastising him and if he's willing to (inaudible) some stuff I'd be one to encourage him, but I want to see some results, I guess. I think that's the very least we can do out of respect for the victims that have been wronged.

**Paul Fritz, Commissioner**

I'm not sure, based on what you said, Evert, if you would be supportive of a condition that prohibits him from being there at any time or not. I would also like to hear from the applicants, what they think about that condition, or if they have any other ideas based on what they've heard us discuss; and with our desire to have the restaurant open but given our concerns do they have any ideas about how that might happen and how we might condition that.

**Evert Fernandez, Vice Chair**

I would possibly be open to that condition, but it would also have to be that he is not the principal applicant for that, so that somebody else would be the applicant and that would help my consideration, but I'd also like to hear from the applicants, based on some of our

discussion, if it's something that could be workable or not. We're trying to figure out a way to allow this to happen, but again, I don't know what conditions they would be okay with.

**Paul Fritz, Commissioner**

I'd also like to hear if Commissioner Kelley has any thoughts about that.

**Linda Kelley, Commissioner**

I was looking towards a condition of how could you ask an owner not to visit his own business? I feel very conflicted about how one would do that. Certainly I am interested in no after hours, no patronizing at the restaurant, not working there, the conditions that the applicant passed on through his attorney, the part about whether Mr. Sheldon would be allowed to work even if it's short and under the criteria with that, no supervisor or that kind of thing. I would like to remove that aspect, that whole paragraph. The first one I felt comfortable with. This is the attorney letter that was written yesterday with their offered conditions. If I'm looking at those, the first two conditions are fine. The second group with, "Lowell Sheldon shall not undertake any work within the subject business premises during public hours..." I think that whole paragraph and the two criteria are not acceptable to me. I was thinking of reviewing in a year or so. Mostly, I think I'm agreeing with Commissioner Fritz in trying to figure out a way of mitigating this. My preference would be, as the Vice Chair noted, the applications are not in Mr. Sheldon's name, and so I don't know if we can work around those and see how that goes.

**Bob Haroche, Attorney**

We're amenable to Lowell not working on the premises, period, when the public is present, and we're amenable to a one-year mandatory review so we see how this follows through. Those are the conditions that we came up with while we were listening to your discussion. I think Lowell wants to say something in addition that would respond to your comments.

**Lowell Sheldon**

I just wanted to reiterate that I'm willing to not work there at all in any capacity, ever, and I'm not willing be barred from ever coming in as a customer with my kids or otherwise. I'm happy to not come in after hours, only during business hours to dine, but if the Commission can't find a way for me to be able to come in to this restaurant as I come into any restaurant in Sebastopol, except for those in which the owners have other opinions about, if the ownership group wants me to be a member, then I should be free to do that, to be a customer, a guest in the dining room. I can agree to every other mitigation. We would agree to not come in after hours, or in any work capacity, but if we can't find a way to allow me to be a citizen in this town, then we can't agree to that.

**Paul Fritz, Commissioner**

I'm not sure how I feel about all that. It's not the public I'm concerned about. I'm not concerned about Lowell being in a restaurant with other people. I haven't heard any stories of harassment of other members of the public; it's staff and back of house. This is not super enforceable, but barring him from the back of house or from entering the kitchen. I wish I was more comfortable with this, and I'm struggling, as I think we all are, on how to allow this restaurant to move forward in a way that we're confident that there won't be any issue with employee harassment or intimidation that we've heard has happened, and I wish that I had confidence at this point, but I haven't heard it and I don't feel it.

**Evert Fernandez, Vice Chair**

For example, let's say you don't want him involved with the restaurant and we're also stipulating that he not go there as a public member. The issue is that as a person in authority as an owner, not that he can't go into any restaurant.

**Paul Fritz, Commissioner**

I'd maybe like to hear from Mr. Berlin about this, because he would be the one that would be tasked with monitoring this if we were to allow that to happen. Is he comfortable saying I'm sorry, Lowell, you can't come in the kitchen, you've got to stay out there. Once we close, you're out the door, you're off the premises, don't come back. I don't know if I'm comfortable with that or not. I'm just wondering what he would have to say about that, because we're not going to have a Planning Commissioner parked out there every day, or a member of City staff parked there monitoring Lowell's comings and goings, so Mr. Berlin would be the one to do that, and I'm wondering how he would feel about that. Again, I don't know if I'm comfortable with it personally.

**Evert Fernandez, Vice Chair**

And I think also don't want to put in position that just anybody can say anything and he's now on the defensive that now we're going to pull a license. How do you define at what point he crosses the line, but also if possible give him the benefit of the doubt, but again, based on the history? Bob, if you have any comments on those things it would be appreciated. We were talking about the conditions, if any of those make any sense or concern. I mean, how do you enforce them? Asking somebody to not even be a patron of the restaurant, how much leeway is there and at what point kind of get out of line? The same thing, if the owner of a restaurant, we're acknowledging that he has to go in at some point, but I'd be curious of any comments.

**Bob Haroche, Attorney**

What I think would be a condition that could possibly satisfy what Commissioner Fritz was speaking to is Lowell's right to enter the premises would be no greater than that of any other member of the public. So when the business hours are done, he's out of there. A member of the public does not go into the back room, into the kitchen. He's just as a diner, like anyone else, and because of that that's going to be his role, as a diner and a silent investor at that point. And how do you monitor that? Believe me, you've got a lot of people on the Zoom call and who have written you who are going be, with their eagle eyes, calling up the Planning Department saying I saw Lowell go in the back kitchen, I saw Lowell there after hours. You will learn about it quickly if he violates it, but that is a condition we are willing to abide by, that he has no greater rights to be on the premises than any other member of the public, and Jeff, who just returned, I'm sure would be able to enforce that.

**Jeff Berlin, Applicant**

I caught half of it coming back, but essentially of course opening and running this business is the ultimate of importance to me for my own personal reasons, but I don't want to open a business in this town that's not in a way that's going to work for everyone or as many people in this community as possible, and I would be willing to do whatever it takes to work with everyone on this Commission through this process to make whatever kind of amendments are necessary to make it function for everyone who wants to come visit our establishment in as much of a way as that's possible. It would be in my personal best interest to create a business that is as welcomed in this community as possible and that I would always be working towards trying to help make people feel good about being here.

**Evert Fernandez, Vice Chair**

One other is the fact that the application is in Lowell's name for the alcohol permit or for the restaurant.



**Lowell Sheldon, Applicant**

I'll just speak to that real quick, and then Jeff can clarify. The application to the City is under Piala. I am on the application as the person that's a representative of Piala. The LLC is in all three of our names. There are three people on the LLC; we're all one-third partners, as is the liquor license. That is legally how those two things must be. There are no requests on the application for the City; that's different. Of course if you want us to change anything about the application, we're happy to work with you on that. The other question was if we agree that I will only come in as a patron, how would you manage that? I think Jeff can speak to that, because we're both going to agree to it and it's in our interest to do it. But how would you manage that? I think it's simple. You would let me know that you would enforce what we agreed to.

**Jeff Berlin, Applicant**

Of course, if it were something we all agreed to through this process, then I wouldn't even see it as something that would ever need to be enforced. If Lowell and I are partners and part of this process together, then clearly I wouldn't even see it as something that would need to be enforced, but of course I would do whatever it would take to make sure we adhere to our agreements.

**Evert Fernandez, Vice Chair**

I'm hearing some interest possibly in some conditions, so I'm wondering, Kari, from here would it be too vague to say some of these things that we talk about to come back and add some more conditions, or see what the language is. I know Commissioner Burnes said she's not comfortable with any type of conditions. I see that she's got her hand up, so I'll give her a chance to respond to that, but maybe you can give us a little direction based on the comments.

**Kari Svanstrom, Planning Director**

If there's direction to draft conditions, we can certainly continue an item to the next meeting and then Ed and I and Bob and the Piala folks can work on bringing conditions of approval back to the Commission for their consideration. I think in that case, because it sounds like there is some concern about what the wording of those conditions would be, I would probably recommend that you not take a vote at this time, but just do either a straw poll or direct staff to work with the applicant to see if we can come up with conditions of approval and the Planning Commission then can continue the hearing and consider those as well as any other conditions or things that maybe come up in the meantime between us and the applicant.

**Deborah Burnes, Commissioner**

I still don't feel comfortable with conditions, and I will say what's going on for me and what I feel like is being lost here is my desire to have this restaurant for selfish reasons in this town and what I think is my responsibility as a commissioner, and I guess when we gave Lowell the chance right now to say if you were never allowed on the premises and we give you what you're asking for tonight, would you do that? And he said no, I won't do it, I want to come as a customer, and at this point I would just be willing to do anything for my partners to get it. But more than that, what we've heard from testimony and what I can speak to as a business owner is if I go to my business as a customer, I still am there with a power of authority. You cannot go to an establishment that you are a part owner of and not have authority, and so some of the comments we heard earlier were some of this happened when Lowell was a customer, and so I think allowing him to be in that power, having authority, until the onus has been proven that he has done the work feels very uncomfortable to me. I wish I wasn't on the Commission right now, but it's a very difficult, difficult topic. I feel extremely terrible for his business partners, and then the other part of

me is do your due diligence. It's like I want the restaurant here. I wish there was a way that I could say I was hoping that Lowell would be like absolutely, there are a million wonderful restaurants in town, we can give him takeout, but to be in a situation with authority with what we've heard in testimony, and to be responsible for the health and wellness of our community, and seeing has there been demonstration of change, I just feel absolutely uncomfortable, and I'm really uncomfortable saying if the conditions aren't met, then fine, we'll take it back. Well, I don't want to make a choice. I say err on the cautious side. I don't want any other woman to have to go through anything again with someone in a position of power. So again, my condition would be the restaurant opens and Lowell demonstrates that he has the willingness and the desire to do the work to be in a position of power, and come back and lets revisit the alcohol piece of it.

**Evert Fernandez, Vice Chair**

I think that's a valid point, and it's if you do anything apart from can't go there at all, it's hard and starts getting to kind of a gray area, so I see where you're coming from.

**Kari Svanstrom, Planning Director**

Vice Chair Fernandez, I'm not sure if the Commission has any further direction this evening. I do see a desire from the various Commissioners to have some way for Mr. Berlin to open the restaurant, and I don't know if taking a recess until the next Commission meeting and having some conversations with the applicant or allowing them to consider what it sounds like some of the Commission's conditions might be would help move the project forward. I don't know if there is a consensus. Ed and I don't have any advice at this point.

**Evert Fernandez, Vice Chair**

I'd like to give an opportunity to see if there's something, but I might be siding with Commissioner Burnes that it's hard to do anything in between that. What I was saying is it's still a position of authority there, so we're still putting someone potentially to have an issue, as unlikely as it may be, but still, knowing the history, we're doing that. It's not like last week where we were discussing an apartment situation and a permit for Peacetown music, and if something doesn't work out right, it's hurt feelings and so forth. This is a lot more serious than that, so the idea of let's try it out and see how it works out, I have a difficult time with that. Would the Commissioners support perhaps continuing this on to another meeting and giving an opportunity to the Planning Department and the applicant, if they're amenable to it, maybe they're not, and then coming back with those conditions? I won't be Chair at the next meeting, but as a Commissioner I want to let everybody know that I'm going to request to reopen public comment again, because if we put in all these new conditions, it's a change, it's different, and I know probably Kari doesn't want to hear this, and the rest of the Commissioners may not want that, but I think it's only fair that because things change and we're adding all these conditions, to reopen public comment, but maybe I'm the only one thinking that.

**Paul Fritz, Commissioner**

Staff, Ed, Bob, and the applicants have heard our concerns. I think it's clear where the Commission is coming from, the four of us here tonight, and I would like to continue to the next meeting to see if we can come up with some conditions that would be acceptable, and maybe they won't, but I'd like to give it a try. I also personally don't feel we need to open public comment. I think we've heard from the public a lot, and I don't think that the conditions are going to change what the public has to say. I think we know clearly what the two sides are and with a specific condition some people are going to be unhappy with it, some people will be happy with it, and that's going to be what it is. I don't think we need to spend another hour-and-a-half of public comment at that point. I appreciate everyone's participation in this. I've been on the Commission for about six-and-a-half years and I've

never heard so much public comment. I think we had about 200 pages of public comment. I've never experienced that before. Obviously, people are very passionate on both sides of this and I hope you can appreciate the difficult situation that the Commission is put in trying to make this decision, and we're trying to do the best we can for the business community, but also the rest of the community. I'm sure you've heard from all of us, this is a very difficult and very trying decision, and not a typical Planning Commission type of application or what we usually decide issues on, so please bear with us as we try to muddle our way through this unusual application.

**Ed Grutzmacher, Attorney**

Correct me if I'm wrong, but it seems to me you're at a decision point of the evening, and so I wanted to lay out the options for you. I'm not hearing consensus for approval with conditions as written, so here are your three options, and you would need one of the Commissioners to make a motion on this. One is to vote to deny it outright tonight and ask staff to come back with findings and a resolution for denial. Option number two is to continue the hearing to a date certain, leave the public comment open, and direct staff to work with the applicant's attorneys to come back with conditions of approval that would alleviate the Commission's concerns. The third option is similar, except you would close the public comment period and direct staff to do the same thing in terms of the conditions of approval.

**Kari Svanstrom, Planning Director**

Ed, can I ask one clarification on this. The public hearing has been closed. When you say closing public comment, does that include written comments that the City might receive in the interim, or just simply not opening public comment again in the future.

**Ed Grutzmacher, Attorney**

The public is free to write letters as much as they want. It's whether or not the Commission wants to hear further testimony at the next meeting or not.

Vice Chair Fernandez asked for a motion from the Commission.

Commissioner Fritz made a motion to continue the public hearing for 7233 Healdsburg Avenue (Piala) to a date certain of the Planning Commission meeting of July 12, 2022 without reopening public comment.

Vice Chair Fernandez seconded the motion.

**Deborah Burnes, Commissioner**

I'd like clarification on if the Planning Commission is just tabling it, then what is staff doing between now and time the application is brought before the Planning Commission again?

**Paul Fritz, Commissioner**

To bring it back with possible conditions for approval of the appeal to allow the restaurant to open with an alcohol use permit. I'd like to see conditions based on what we've discussed tonight and our concerns. I'm not guaranteeing that I would vote for approval of that. We haven't taken a straw poll or anything, I'm just curious to see what we can come up with, and it think it would give us all some more time to sit with this to figure out how we feel and how we want to move forward. Again, it's not an easy situation, but I want to be able to say we put our best foot forward to do what's best for the community, so I'm willing to continue the hearing with staff coming back after consultation with the applicants to come up with some conditions that would allow the Commission to move forward. And I hear that Commissioner Burnes is not comfortable with the alcohol portion at all, and that's fine, and

maybe I'm not either, but I'm willing to give it an opportunity to hear how we might resolve it.

**Kari Svanstrom, Planning Director**

The direction that I'm also hearing is that one of the concerns is the position of power, whether as a customer or there as someone working at the restaurant.

**Evert Fernandez, Vice Chair**

I think if I understood Commissioner Burnes correctly, the only thing she would consider would be not to be allowed on the premises, even as a customer, is that correct?

**Deborah Burnes, Commissioner**

No, it's not.

**Evert Fernandez, Vice Chair**

Not do it at all. Okay.

**Deborah Burnes, Commissioner**

Because what I'm understanding from our legal team is the onus is on Lowell Sheldon to demonstrate that he has done the significant due diligence that he needs to understand the ramifications of the actions he took, and in my opinion he has not exhibited that to us today, nor has any of the testimony on his behalf. They all minimize what happened to these women. I wish it were different. I want this restaurant, I want this to happen, but because of this there is no condition at this point. I would say let the restaurant happen, let Lowell do his due diligence, and then come back to us in a year. That's exactly where I stand.

**Evert Fernandez, Vice Chair**

Right, but we can't control that he can go into the restaurant.

**Deborah Burnes, Commissioner**

Absolutely, we can't control that, and I think that will give us a good reference to see how does the staff feel and is there any abuse of power? Yes, we can't, and he made it very clear that he will go as a patron, which again, to me, showing that you understand the gravity of the situation would be like whatever it takes. In a year can we revisit it? But yes, you're right, and I think that will give us some more information. I can only imagine how the victims felt, because I have felt intimidated at this meeting by other people, and I'm just trying to do my due diligence as a Commissioner and listen to the letter of the law and to not be emotionally involved or invested, and it's a very difficult situation that we're tasked with. Again, like everybody else I would love to see the restaurant here, but I just can't let my desire possibly put someone else in harm's way.

**Evert Fernandez, Vice Chair**

I don't want to put the applicant and staff through work that's going to be fruitless, so I want to make sure that it's worth looking at this. I know one Commissioner wouldn't be supportive of that, I know we have one Commissioner who is not here, so I wanted to hear from Paul and Linda. Paul, you mentioned you'd be supportive, at least to see what they come up with, and Linda, what is your stance on this?

**Linda Kelley, Commissioner**

I'm willing to see if you can come up with some conditions that essentially reflect what this Commission has been talking about in terms of not intimidating as a customer. I know that's not the whole Commission, but I tend to lean towards Commissioner Burnes in that

even though I'm willing to look at conditions, but I'm not quite sure if I'm going to support them either and if it can come up to what is satisfactory. I don't like to hamstring with extra conditions.

**Bob Haroche, Attorney**

I have a procedural question. With the Chair of the Commission not being here tonight, would she have the ability to participate at the next hearing, assuming she listens and watches this on the YouTube channel?

**Kari Svanstrom, Planning Director**

It would be up to her as to whether she felt she could participate fully. Ed, do you have anything?

**Ed Grutzmacher, Attorney**

There's nothing about her absence that would preclude her from voting on it next time if she got up to speed. There may be other reasons for recusing oneself, but I also would like to remind the Commission that we have a motion and a second on the floor and have not taken a vote on it.

**Paul Fritz, Commissioner**

I'd like to ask a procedural question as well. If we do come back with conditions and the Commission reviews the conditions and decides they're not acceptable, we're going to deny it, do we then have to come back again at the next meeting for findings for denial at that point? Or should we have findings for denial prepared as well at the next meeting?

**Ed Grutzmacher, Attorney**

You can certainly modify your motion to instruct staff to come back with alternative resolutions at the next meeting, one with proposed conditions of approval and one with findings for denial so that we wouldn't have to do another meeting. The only wrinkle in all of this is if for some reason you end up with a tie vote, that is a denial of the appeal, which you're unable to make findings, so then you would adopt to deny the resolution.

**Evert Fernandez, Vice Chair**

And to further complicate this—and I think I may have to take back my second—I have already informed the Planning Director before this meeting that I would not be able to attend the next meeting, so I don't know if it would be appropriate for me to second that motion or not, or if that matters.

**Kari Svanstrom, Planning Director**

I don't believe that matters, because you're at this meeting as a voting member. However, I will ask that if you do, ask for two motions that it be continued to the July 26<sup>th</sup> meeting, because that is the holiday week and the posting requirements, it would give us like three days to do two resolutions.

**Evert Fernandez, Vice Chair**

I'm sure the applicant would like to resolve this, but I can see how that possibility would be.

**Kari Svanstrom, Planning Director**

I have certainly done two motions. From my perspective, if we can work out conditions with the applicant I think from what I'm hearing they would need to go further than what was currently offered this evening in order for approval, and if that isn't the case then obviously the resolution for denial. At 9:00 o'clock at night I can't think of any creative conditions of approval.

**Paul Fritz, Commissioner**

I'd like to propose sticking with my current motion, and that if we don't like it, we decide we want to go for denial, it's going to push it back to the 26<sup>th</sup> meeting anyway.

**Kari Svanstrom, Planning Director**

Right.

**Paul Fritz, Commissioner**

It's not like we'd be saving any time at this point, given what you've requested, so I think I'll stick with my current motion, which is to come back with proposed conditions based on what we discussed, and again, if we don't like it at the next meeting, then we can ask you to come back with findings for denial at the 26<sup>th</sup> meeting.

**Evert Fernandez, Vice Chair**

The next meeting doesn't necessarily mean the very next meeting, but when like you said, if you can't put it all together or whatever.

**Paul Fritz, Commissioner**

I think we do need to make it the next meeting. We have to say it's going to be the next meeting.

**Evert Fernandez, Vice Chair**

Got it. So July 12<sup>th</sup>.

**Paul Fritz, Commissioner**

Yes, the July 12<sup>th</sup> meeting. So we have a motion and a second on that.

**Evert Fernandez, Vice Chair**

A motion and a second. I think we've had enough discussion here, so go ahead and do the vote, please.

AYES: Vice Chair Fernandez, and Commissioners Fritz and Kelley.

NOES: Commissioner Burnes

ABSTAIN: None

ABSENT: Chair Oetinger.

- B. Capital Improvement Plan General Plan Consistency** - A Public Hearing to consider the General Plan compliance requirements of the proposed Capital Improvement Program budget for fiscal year 2022-23. The Planning Commission does not adopt the proposed budget, which will be done at a subsequent City Council meeting.

Director Svanstrom introduced the item.

**Evert Fernandez, Vice Chair**

Can I clarify, when we're saying General Plan consistency, is that also like priorities?

**Kari Svanstrom, Planning Director**

It's not about priorities at all, actually. The Budget Subcommittee of Council reviews the CIP as well as department budgets, so this is simply to ensure that for each of the items in the CIP we outline the General Plan's goals and policies that they are consistent with. Not everybody does that in their CIP, but the format of ours is wonderful and Tony and I worked

to make sure that those are all identified for you. This is your opportunity to review the projects and determine whether or not these are all consistent with the General Plan policies.

**Evert Fernandez, Vice Chair**

Could you give us an example, say, of something that wouldn't be consistent?

**Kari Svanstrom, Planning Director**

Something like removing pedestrian structures and increasing vehicle lanes, or removing sidewalks to widen a road.

Engineering Manager Toni Bertolero presented the staff report.

**Paul Fritz, Commissioner**

I can't remember if this is a new item or not, but one of the items is about undergrounding utilities and in the description of that item it discussed a \$6,000 a year penalty because we don't have an undergrounding district. What is that about? How do you go about creating an undergrounding district so we wouldn't be losing that money?

**Toni Bertolero, Engineering Manager**

That is correct. Right now PG&E has what's called Rule 20A monies that the City currently has, about \$1 million in this Rule 20A, and PG&E recently passed a regulation that states that if you do not have an undergrounding district, which means you have not formally formed an undergrounding district, you don't have a district that's identified as going to be undergrounding the overhead power utilities, if you haven't done it by December then PG&E will take away \$6,000 each December and put it into another pot of money for other districts that have been formed, because undergrounding districts is a very costly thing to do and there is never enough money to be able to do a viable project. A million dollars is a lot of money, and I think certainly the City has some opportunities there. We are looking at Bodega Avenue. Parts of Bodega Avenue have already been undergrounded, but as you head farther west it has not been undergrounded, so that's one of the areas that we're looking at. There might be others; I think Petaluma Avenue was identified. It's a pretty big process to create an undergrounding district, because obviously first of all we have to identify which is the most feasible, we'd have to work that out with PG&E as well, and then we would look at different options as to which roadways would be the best or the most opportune for the City, and then we would bring that to Council. They would identify which district would be formed, and then there's actually a public hearing; it's quite a process. We're looking at 2024 to 2025, and so perhaps starting around 2023 we'd be starting our discussions with PG&E and then bringing that forward to Council later in 2023-2024.

**Paul Fritz, Commissioner**

I also had a question about the new project to work with Sonoma County Land Trust to purchase market rate homes. It seems like the \$400,000 is not enough to buy anything in Sebastopol, so I'm wondering where the other money comes from?

**Kari Svanstrom, Planning Director**

The Housing Land Trust has actually worked with the City of Rohnert Park already to do this. They have received a community development block grant, so there is additional funding potentially that we would apply for through grants. What happens is you purchase a market rate property, and that may a home or a duplex or something like that, place a deed restriction on it, and then resell it to a moderate or low-income household. I do know that they've had some issues with working with Rohnert Park, just because of the housing market, however, things are starting to cool off and that may actually help a program like

this, but it is recognizing that retaining housing resources at an affordable level is an important part of our Housing Element. This is actually to be an admin draft of the draft Housing Element and it's coming to you on July 26<sup>th</sup> for presentation, but it will be one of the draft policies in that. In our current Housing Element we have goals regarding preserving housing resources. The reason it's not so much is because you're reselling the property, and so you're not actually holding onto the property, you're simply deed restricting it and then selling it, and so there is a cost to that, because obviously you might be buying it at market, or a seller who is interested in paying it forward or something like that, but you're still selling the property on the outcome, but it's not as much as a full property purchase would be.

**Paul Fritz, Commissioner**

Regarding the Burbank Farm restroom, the write up is a little confusing. I think maybe there was a typo or something, because it sounded like we got the grant but then we were waiting to see if we got the grant, so I'm wondering if we got the grant to do that? Like the City applied for it, it was awarded, and then we have not heard if it's awarded.

**Kari Svanstrom, Planning Director**

I actually sit on the Sonoma County Community Development Commission, which voted on the CDBG grants as well as some other home grants and housing related grants, and what happens is they came to us with a list of projects and we held a public hearing and the notification at the next meeting. The Community Development Commission and City and Towns Advisory Committee approved the project and all the other projects that were on the list for approval, and so it needs to go to the Board of Supervisors. We're advisory, but they generally approve it on consent, so I don't know if that has happened yet, and Toni, I don't know if you've been notified about that from the CDC or not.

**Toni Bertolero, Engineering Manager**

I have not been notified yet.

**Kari Svanstrom, Planning Director**

So I don't know if that vote has happened yet. I think it is required to happen in June, because there's always a deadline for the cities and towns to get it done by a certain time so it gets to the Board of Supervisors by a certain time, so I'm not sure on that last step, but they generally take the Committee's recommendations.

**Paul Fritz, Commissioner**

Where are we on the Ives Park repaving of the pathways process?

**Kari Svanstrom, Planning Director**

I've already given a little context, which were the revisions to the creek naturalization and some changes to the pathway. We did meet with engineering and Jessica, the Fellow who is working on the concept, and Public Works, and the landscape architect and talked about what makes sense to do that we're not going to just tear up in a few years? That was sort of the handoff to Engineering, so Toni, I'll let you give the status on that.

**Toni Bertolero, Engineering Manager**

At this point the City has contracted out with RHAA Landscape Architects. They actually did the original pathway replacement project, and with all these changes they're going to have to go back and make some changes to their plans. We're going to be, in fact, kicking off that part of the project in about another two weeks, and I think the changes won't be too difficult for them to design since they did the full design in the first place and so they're



simply modifying their plans. We hope that the plans could be completed and the project would be going to Council for approval of the plans and specifications around August.

**Paul Fritz, Commissioner**

So the construction will start maybe later this year?

**Toni Bertolero, Engineering Manager**

Correct, it will be this year.

**Kari Svanstrom, Planning Director**

And there's also a portion of it that is along the creek where we will be removing that, and Toni, is that going to be part of that CIP, or is that going to be done separately?

**Toni Bertolero, Engineering Manager**

Are you talking about the trees?

**Kari Svanstrom, Planning Director**

Yes, the area by the trees.

**Toni Bertolero, Engineering Manager**

My understanding is that Public Works will be doing some pre-work. They'll be removing the trees beforehand.

**Paul Fritz, Commissioner**

I know there have been some discussion by members of the community about the Bodega Avenue improvements and the bike lanes on Bodega Avenue. I know it's in the Bike Master Plan, and we've gotten a lot of comments from people who don't think bike lanes on Bodega Avenue are a great idea. Are the bike lanes on Bodega Avenue primarily a striping exercise, or is there any kind of infrastructure curb changes or whatever that needs to happen to make the bike lanes happen? Is it basically like a stripe and the bike symbol and some signage designating a bike lane?

**Toni Bertolero, Engineering Manager**

Primarily that, however, the reason why the project is very costly is because of the street resurfacing.

**Paul Fritz, Commissioner**

That's what I figured. It's mostly street resurfacing and the bike lane is basically a stripe.

**Toni Bertolero, Engineering Manager**

That is correct. I did want to make a comment about that, because we received a lot of public comments with respect to the Apple Blossom Trail that people were very supportive of. Being supportive of one doesn't mean that it goes away. In other words, just because of this Bodega Avenue project doesn't mean the Apple Blossom Trail cannot move forward at some time. There's a process for it to get started, and I had explained that to the Council, and when we go back to Council with respect to updating the Bike and Pedestrian Master Plan, that's really the time to bring that up, because the Apple Blossom Trail doesn't really exist in any formal plan and it needs to be in a master plan of some sort. Both the County and the City will be updating their plans early next year, and that's really the venue to place those types of trail projects. So really with the Bodega Avenue bike trails, the idea is to make it safer for bicycles. Having the bike lanes is better than not having the bike lanes, and just because we have them there doesn't mean there can't be alternative routes such as the Apple Blossom Trail.

**Evert Fernandez, Vice Chair**

I think the bike lane is required, because I believe they got funding to repave it and as part of the deal you have to install the bike lanes in order to get that funding. It does preclude the Apple Blossom Trail, but some of the concern is if you get funding for one project like Bodega Avenue, then additional monies for another project is reduced. I don't know if that's accurate or not, but it seems logical that once they give us money for whatever it is, it can be lawful to get additional; I remember hearing that as a concern.

**Toni Bertolero, Engineering Manager**

First of all, I would like to confirm that the Bodega Avenue, the phase one project, which is going from Main Street to Nelson or Robinson depending on how much money is available, does require the bike lanes, because I guess that's how the City got the funding in the first place. You typically don't get money just to fix your roads, otherwise all the roads would be fixed, but that's not how it works. It's kind of like HOV lanes. You can only expand your freeways if you have HOV lanes, so it's similar in concept to that, so it was limited to making sure that it remains that. The phase two part of it is the same way. We're applying for grant funding for that, and again, it's to add bike lanes to that, but in the meanwhile, because we are adding the bike lanes we can also fix the road while we're at it, and as you know, Bodega Avenue, that western half especially, is woefully inadequate, and so that's something that the City is very much interested in doing. The ATP project, the grant project that was recently submitted, not only included the Bodega Avenue portion of it, but there were other parts on Ragle Road that were also included, and that again is for a bike trail. I guess to answer the question about whether or not once you start applying for these projects, does that mean other projects are not going to be funded, there is a lot of competition for grants, and the City applied for the ATP grant in 2018 and got close but was not awarded that grant, and so the only thing I can say about Apple Blossom Trail is the proponents of that project really have to get started on getting that into a master plan. Nothing can happen until it is in a master plan, and that takes a long time to do. I'm not that familiar with the Apple Blossom Trail, but my understanding is there were a lot of right-of-way concerns. A lot of it went through private property, and so it's not an easy project, it's a multi-year planning process, but it's got to get started, otherwise if you never start it never is going to happen. So we'll be letting the folks who made a lot of comments know. They were very, very active in making their comments, which is good, and with the master planning process I had already alerted the county that there is a lot of activity and interest in this trail, and also Dana Turrey with the Sonoma County Transportation Authority, so SCTA already knows that there is a lot of interest in that trail and that they will be reaching out during the public process so that can be considered.

**Evert Fernandez, Vice Chair**

By putting it on the master plan, what's important is as projects are happening, and rather than if there's a potential for a trail to go through there to take that into consideration for the future and plan for that. Also, one of the concerns is right now the owner of the cemetery is open and agreeable to have the trail go through there, but he's getting up there in age and if that changes hands we could lose that completely and that's a big part of it, so I think that's important. The paving on Palm Avenue, it's going to be westbound. Farther down where Main Street meets up with Petaluma Avenue, if you were to continue where it meets, that's kind of tied together because people, say, coming from Litchfield Avenue, either shoot across on Palm Avenue to get onto Petaluma Avenue, or what I usually do is make a right turn and go to the end, because it's so much easier to see traffic coming, but I'm wondering if more cars are going to be using that because they can't take Palm, and is that being taken into account as part of that project in any way?

**Toni Bertolero, Engineering Manager**

I know that W-Trans actually designed this and I believe they made that recommendation, and so I think it certainly would have been incorporated, and I could ask them if there is a traffic analysis that was done for that.

**Kari Svanstrom, Planning Director**

They did do an assessment, but it was fairly limited. The capacity at that intersection where it comes together, there are actually two or two-and-a-half lanes, so there is some ability to restripe that to make it clearer, if needed. That would be working with Caltrans, it's not part of the City project, but there is definitely right-of-way there that could be accommodated.

**Evert Fernandez, Vice Chair**

The 116 Fellers Lane crosswalk, I couldn't tell what they're going to do there. They're adding, right?

**Toni Bertolero, Engineering Manager**

Caltrans is adding some flashing lights at the crosswalk. It's not actually going to be a City project, but I thought it would be helpful to have it in here, because the City would be advocating in supporting Caltrans on adding this, because a lot of the crossings on state highway have been installed by the City with City funds, and this one would be paid for by Caltrans.

**Evert Fernandez, Vice Chair**

Is this a new crosswalk, or are they just adding lights to the existing crosswalk?

**Paul Fritz, Commissioner**

The one farther down already has lights, I believe, so I think this is an entirely new crosswalk.

**Kari Svanstrom, Planning Director**

Yes. It says new pedestrian crosswalk.

**Toni Bertolero, Engineering Manager**

Yes, it does say new.

**Toni Bertolero, Engineering Manager**

But it's far down the road, because the shop projects, they're Caltrans projects and they take forever. They applied for this shop for this fiscal year and it didn't make the priority list, so it's going to be put on the list again for next year.

**Kari Svanstrom, Planning Director**

Let me review this quickly. We did include all of the General Plan goals and policies that are related, and then page four is a resolution of the Planning Commission of the City of Sebastopol finding that the proposed capital improvement plan for fiscal year 2022-2023 is consistent with the adopted General Plan, and that does include those policies in that resolution, so that is what we are asking to adopt.

Vice Chair Fernandez opened public comment. Seeing none, he closed public comment.

Commissioner Fritz made a motion to adopt the resolution to find that the proposed capital improvement plan for fiscal year 2022-2023 is consistent with the adopted General Plan.

Vice Chair Fernandez seconded the motion.

AYES: Vice Chair Fernandez, and Commissioners Fritz and Kelley.

NOES: None

ABSTAIN: None

ABSENT: Chair Oetinger, Commissioner Burnes

**7. SUBCOMMITTEE UPDATES** – None.

**8. PLANNING DIRECTOR’S REPORT**

Director Svanstrom provided updates.

The Commission asked questions of Director Svanstrom.

**9. ADJOURNMENT:** Vice Chair Fernandez adjourned the meeting at 10:13 p.m. The next regularly scheduled Planning Commission meeting will take place on Wednesday, July 12, 2022 at 6:00 p.m.