


Agenda Report Reviewed by:
 City Manager: 

**CITY OF SEBASTOPOL
 CITY COUNCIL
 AGENDA ITEM**

Meeting Date: August 31, 2022
To: Honorable Mayor and City Councilmembers
From: John Jay, Associate Planner/Kari Svanstrom, Planning Director
Subject: Appeal of Planning Commission decision
Recommendation: Deny the Appeal and Uphold the Planning Commission’s Approval
Funding: Currently Budgeted: _____ Yes _____ No X N/A
 Net General Fund Cost: \$

Appellant: Jesse Hom-Dawson
Applicant/Owner: Lowell Sheldon
File Number: 2022-020, 2022-033, 2022-060
Address: 7233 Healdsburg Avenue
CEQA Status: Exempt
General Plan: Commercial Office
Zoning: Office Commercial (CO)

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION/PURPOSE:

This is an appeal by Jesse Hom-Dawson for the decision that was made by the Planning Commission to approve the alcohol permit for the restaurant Píala at 7233 Healdsburg Avenue. An appeal to the City Council of a Planning Commission decision requires a public hearing be held to review the appeal. Per Zoning Ordinance Section 17.455.030.B.1: “In its review of an appeal from the Planning Commission, the City Council shall consider the purpose and intent, as well as the letter, of the pertinent provision, and shall affirm, modify, or reverse the Planning Commission determination or interpretation. The decision of the City Council shall be final.”

BACKGROUND:

Original Application

The alcohol transfer permit was first applied for by the applicant, Píala LLC, Lowell Sheldon, on March 29, 2022. After reviewing the application and receiving a letter of protest the Planning Director issued a letter of denial stating that staff was unable to make multiple findings required:

- 1) in relation to the venue being a ‘bona fide restaurant’ (serving full meals); and,
- 2) in regards to the burden of proof of the applicant that the use would meet the use permit criteria, SMC Section 17.350.020.C and D, “the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.”

Appeal by Lowell Sheldon of Planning Director’s decision

As part of the appeal of the Planning Director’s decision, the applicant, Lowell Sheldon, modified the name of the restaurant to “Piala Georgian cuisine” and provided a new menu that reflected meals and a brief wine list the restaurant would serve. The Applicant provided evidence that the kitchen will be maintained to prepare food and no “bar” would be constructed. The Applicant also presented potential Conditions of Approval for the Commission to consider in relation to the use permit criteria as noted above in relation to SMC Section 17.350.020.C and D. These included: 1) prohibiting the applicant (Lowell Sheldon’s) from any personnel-related responsibilities or any type of management role; refraining from consuming alcohol while working; and, retaining an outside human resources firm to manage any complaints.

Mr. Sheldon’s appeal of the Planning Director’s decision was heard by the Planning Commission at a duly-noticed public hearing on June 28th, 2022 meeting where the Commission heard a staff report, heard a presentation from the applicant, and heard public comments. As part of its deliberations, the Planning Commission concurred with Staff’s assessment that the restaurant portion of the denial letter had been resolved with the revised restaurant name and full menu and wine list as provided by the applicant. (Note, this item was not appealed by the appellant, so is no longer an item that requires review). Therefore, this item is not under consideration in the current appeal the Council is reviewing.

Regarding the second item, use permit criteria (SMC 17.350.020.C and D.) “the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.”, the Commission discussed the proposed conditions by the applicant, and potential modifications to those conditions. The Commission expressed concerns regarding the authority of an owner in a business, whether working or dining, and how this could impact the health, safety, and welfare of employees or the public given the public testimony. They asked questions of staff and the applicant, including if Mr. Sheldon would be willing to not be present at the restaurant for a period of time, which Mr. Sheldon declined. After careful deliberation, the Planning Commission provided direction to staff to work with the applicant to further develop conditions of approval that would address the Commission’s concerns. The Commission then made a motion to close the public hearing, and continued the item to the July 12, 2022 regular Planning Commission meeting.

The applicant met with staff to discuss conditions of approval that would meet the required findings for an alcohol use permit. Mitigation measures were drafted and were a part of the staff report as conditions of approval for the Planning Commissions July 12, 2022 meeting. The primary conditions related to limiting Mr. Sheldon’s interactions with alcohol and with staff at the site, since this is the direct nexus with the City’s requirement for an Alcohol Use Permit. As noted in the July 12, 2022, staff report, a restaurant is a permitted use in the zoning district, which means that anyone could operate a restaurant without a Use Permit (without serving alcohol, as requested by this Alcohol Use Permit application). This means Mr. Sheldon would be free to own, manage, handle human resources, staff oversight, etc. any restaurant that did not serve alcohol. Staff and the applicant team therefore found that the link to alcohol, which is also critical to the success of the restaurant given industry economics, is a critical component where conditions could satisfy both parties.

The Conditions of Approval presented to the Planning Commission at its July 12, 2022, meeting included conditions proposed by the applicant, as well as additional conditions recommended by staff, including:

- 1) Application modifications
 - a. Applicant would be modified to be Jeffery Berlin
- 2) Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, discipline, or termination of any employee; or
 - b. the fielding, review, investigation of, or response to any employee complaints or concerns.

- 3) Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.
- 4) This Use permit shall be reviewed after a period of one year after the restaurant commences operations by the Planning Commission. At that time, the Planning Commission may modify the Conditions of Approval to allow Lowell Sheldon to consume alcohol on the premises as a member of the dining public. This shall constitute a request for an Amendment to a Use Permit, with the applicant responsible for applying for this review.
- 5) Violation of any of Conditions 2 and/or 3 may, by itself, constitute a ground for revocation of the subject use permit.
- 6) Piala LLC shall engage and at all times retain an outside human resources firm to manage all aspects of employee complaints, issues, or concerns, including without limitation receiving, reviewing, investigating, and recommending appropriate action, if any, in response to such issues or concerns.

Should any of these conditions be broken, the City would hold the right to revoke the alcohol use permit at a staff level (i.e. without a hearing).

The Planning Commission approved the project and reversed the denial decision made by the Planning Director.

Appeal of Planning Commission Decision

An appeal was received on July 19, 2022 from Jesse Hom-Dawson appealing the Planning Commission's decision (see attachments).

The basis of appeal is twofold:

- a) That the applicant did not meet the burden of proof to show the use would not adversely affect the health, safety, or welfare of the community, and
- b) That the provisions of the conditional use permit are unenforceable.

The appellant submitted further communications (see attachments for appeal and further communications).

Burden of Proof

As noted above, the burden of proof regarding an alcohol use permit's impact on the health, safety, and welfare of the community is on the applicant for an Alcohol Use Permit. The Planning Commission carefully discussed and deliberated and determined that the burden of proof was met with the conditions as proposed. While there was much discussion, and one descending vote, the majority of the Commission felt the set of conditions was stringent and clear in terms of who was responsible for implementing the conditions (the new applicant, Jeffrey Berlin). Mr. Berlin will be the primary operator of the restaurant as discussed in both the application/supplemental information and in the public testimony by the applicant team. He will be the owner in charge of all human resource functions, including hiring, discipline, training, and management of all employees. As noted, he or the main chef will be managing the restaurant operations on a day-to-day basis, and Mr. Berlin will arrange vacation coverage in the event of his absence so that Mr. Sheldon will not be tasked with any management or oversight of employees. Several members of the public testified that they knew Mr. Berlin from his Oakland restaurant or from the industry, and supported his endeavor and ability to operate the restaurant.

The Planning Commission did not express any concerns with issuing a Use Permit to Mr. Berlin, and indeed required this change through Condition of Approval 1a), in part so that they could make the finding that the applicant met the "burden of proof" criteria. A majority of the Planning Commission, in approving the project, determined that the Burden of Proof was met through these measures.

Enforceability of Conditions

The conditions of approval adopted by the Planning Commission include clear, specific requirements, fully describing: 1) Who is responsible for each condition, 2) what the condition is, and 3) where/when the condition

must be implemented. These are generally required and considered the basis of crafting ‘enforceable’ conditions of approval.

These include requiring the applicant to be changed to be Jeff Berlin, one of the other two owners of “Piala”, and that he would then be responsible for ensuring that all conditions of approval are met (Condition of Approval [COA] 1.a.). The other conditions are clear in that they require Mr. Sheldon to abstain from any supervisory/human resources duties (and, that the restaurant retain a professional human resources firm), which is a clear requirement (COAs #2, 6). Lastly, there is a condition of approval that Mr. Sheldon shall not engage in the consumption of alcohol on the premises – this is also a clear requirement. And a direct link to the alcohol use permit under review (COA #3) This is also a clear-cut requirement, therefore staff believes the conditions of approval imposed by the Planning Commission are enforceable.

The appellant notes that any violations of the Conditions would occur at the restaurant, and that those at the restaurant (customers or staff) would not likely report any violations, and that it would be ‘improbable’ that anyone involved would report a violation. First, the City cannot “pre-judge” a code violation (or, in this case a violation of a Condition of Approval) or disallow an activity because of a concern that a requirement may be violated. While the Commission and City cannot ‘guarantee’ that any applicant will fully adhere to a project’s Conditions of Approval, given that many of Mr. Sheldon’s critics were once employees of his establishments, the risk Mr. Sheldon would take to consume alcohol on the business premises would more than likely be noticed and reported. The other aspects are also likely to be met, in that the human resources firm has already been contacted/hired and, as a professional firm, is highly likely to adhere to the conditions of approval as in their client’s best interest.

Lastly, the Planning Commission included a condition of approval (COA #5) proposed by the applicant that specifically deems violation of any of the conditions, including any instance of Mr. Sheldon consuming alcohol on the premise or undertaking any type of staff supervision, is grounds for revocation of the alcohol use permit. This is more strict than a generalized use permit violation, in that it allows the revocation of the alcohol use permit by staff upon receipt of proof of a violation. Generally, when a violation of conditions of approval is reported to the city, staff tries to resolve at the staff level, and if not resolved or if the issue is more serious, it would need to schedule a hearing by the approval body to consider revoking the permit. The Commission specifically discussed the provision related to reports of violation and the potential revocation, and the staff-level review of material and revocation was confirmed in the record.

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, staff anticipates receiving public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public comment portion of the agenda item.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

None.

RECOMMENDATION:

Receive a staff report and presentation, hold a public hearing, and consider the appeal of the Planning Commission's decision.

Options:

- 1) Make a motion to deny the appeal and uphold the Planning Commission's approval based on the Findings for Approval and Conditions of Approval as adopted by the Planning Commission; or,
- 2) Make a motion to deny the appeal and uphold the Planning Commission's approval, but include modifications to the Findings for Approval and Conditions of Approval if the Council finds that alternative or additional conditions are required to meet the findings; or,
- 3) Make a motion to uphold the appeal, and deny the alcohol permit, and provide staff with direction for Findings for Denial of the alcohol use permit. In this case, the Council should continue the item to a date certain so staff can draft an appropriate resolution for adoption.

Attachments:

Draft Resolution denying the appeal and upholding the approval

Exhibit A – Recommended Findings For Approval

Exhibit B – Recommended Conditions of Approval

Exhibit C – Standard Conditions of Approval

PRIOR MATERIALS

Attachment 1: Original application - page 22

Attachment 2: Planning Director Denial – page 29

Attachment 3: Comments received during original application review – page 33

Attachment 4: Applicant's Appeal and supplemental information – page 40

Staff report and attachments from June 28, 2022 and July 12, 2022 PC meeting

Attachment 5: June 26, 2022 Planning Commission Staff Report – page 70

Attachment 6: Draft minutes for June 26, 2022 meeting – page 76

Attachment 7: July 12, 2022 Planning Commission Staff Report – page 112

Attachment 8: Planning Commission Approved Findings For Approval and Conditions of Approval – page 118

Attachment 9: Appeal from Jesse Hom-Dawson and additional communications from Appellant and Applicant – page 131

Attachment 10: Public Comments received through Planning Commission review – page 131

Attachment 11: Public Comments received after July 12, 2022 – page 147

RESOLUTION NUMBER: -2022

CITY OF SEBASTOPOL

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL DENYING THE APPEAL
AND UPHOLDING THE APPROVAL FOR AN ALCOHOL USE PERMIT FOR PIALA, LLC
AT 7233 HEALDSBURG AVE (FILE 2022-020, -033, 060)

WHEREAS, the applicant, Piala ,Inc., represented by Lowell Sheldon, submitted an application for an Alcohol Use Permit / Transfer Permit on March 29, 2022; and

WHEREAS, the City of Sebastopol Planning Department processed the application in accordance with the Sebastopol Municipal Code (SMC), Section 17.350 and, on May 4, 2022, the Planning Director denied the application as the application did not meet findings that required the use to be a ‘bona fide restaurant’ and that the applicant had not met the burden of proof for an Alcohol Use Permit as noted in SMC Section 17.350.020.c and D “, “the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities”; and

WHEREAS, the applicant appealed the denial on May 11, 2022, and provided additional information on May 23, 2022, including changing the name of the restaurant from “Piala Wine Bar” to “Piala Georgian Cuisine’, provided an updated menu, and provided was evidence that the kitchen will be maintained to prepare food and no “bar” would be constructed. The applicant also provided information in relation to the use permit criteria noted in SMC 17.350.020.C. and D; and,

WHEREAS, the Planning Commission held a duly-noticed public hearing on June 28th, 2022 meeting where the Commission heard a staff report, heard a presentation from the applicant, and heard public comments, and deliberated on the project. The Commission concurred with staff’s recommendation that the proposed use as modified in the appeal met the criteria for a ‘bona fide restaurant’. The Commission further deliberated the ‘burden of proof’ that the applicant presented and the public testimony regarding concerns of Mr Sheldon’s position at the restaurant, in regards to “clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.” And,

WHEREAS, the Planning Commission voted to close public comment and continue the item to its July 12, 2022 Planning Commission meeting, and directed staff to work with the applicant to draft conditions of approval for the Commission’s review that would meet the findings for approval, and

WHEREAS, the Planning Commission continued its deliberations at the July 12, 2022 meeting, including in-depth discussion of the conditions of approval proposed by the applicant as well as additional conditions recommended by Planning staff, and vote 3-1-0 to approve the use permit (Ayes: Chair Oetinger, Commissioner Fritz, Kelly; Nay: Burnes; Absent: Vice Chair Fernandez. And,

WHEREAS, an appeal was received on July 19, 2022 from Jesse Hom-Dawson appealing the Planning Commission’s decision on the basis that 1) that the applicant did not meet the burden of proof to show the use would not adversely affect the health, safety, or welfare of the community, and 2) that the provisions of the conditional use permit are unenforceable.

WHEREAS, the City Council held a duly-noticed public hearing on August 31st, 2022, held a public hearing, heard a staff report, heard a presentation from the applicant, and heard public testimony; and,

WHEREAS, the project is categorically exempt from the requirements of CEQA pursuant to Section 15301 Existing Facilities which includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The alcohol transfer permit would fit this exemption as it is for the use of a restaurant where one has existed in the past and will not create any new environmental impacts as it will be in an already developed area. And,

WHEREAS, the City Council finds that the proposed use is subject to the following provisions of the General Plan:

Action CHW 6c: Continue to require that all new or transferred Alcoholic Beverage Control (ABC) licensees and their employees participate in Responsible Beverage Service training, to promote public health and safety by reducing incidence of sales and service to minors and sales and service to obviously intoxicated persons, in that,

As conditioned, all servers would be required to participate in Responsible Beverage Service training.

Action CHW 6e: Continue to require bars to serve food in order to help counter the effects of alcohol consumption, in that:

The establishment is structured with table seating for dining. As conditioned, the establishment would be required to be maintained as a bona fide restaurant, serving full meals and with a balanced wine/beer and food menu.

Goal CHW 6: Reduce the Harmful Impacts of Alcohol, Tobacco and Drug Use on Individuals, Their Families, and the Larger Community

Policy CHW 6-1: Address responsible alcohol consumption through outreach and efforts intended to reduce adult high-risk drinking and its related problems, in that

As conditioned, alcohol consumption will be prohibited while on site by Lowell Sheldon, who would not otherwise be able to meet the criterion established in the Alcohol Use Permit section related to the applicant's burden of proof. And,

WHEREAS, the City Council finds that the proposed use meets the requirements of SMC 17.350, in that, as conditioned, Lowell Sheldon, part owner, will be prohibited from consuming alcohol on the proposed location the alcohol use permit is granted. His interactions with staff will also be limited, and an outside human resources firm will be monitoring the employee operations. As conditioned, this criterion can be met. And,

WHEREAS, the City Council further finds that, as conditioned, the applicant is able to meet the burden of proving by clear and convincing evidence that the proposed use, including its operations, will not adversely affect the health, safety, or welfare of the community, by limiting interaction for a minimum of one year of Mr Sheldon with staff involving any human resource or supervision/direction; prohibiting alcohol consumption by same; engaging an outside human resources firm; and, maintaining the venue as a bona fide restaurant. And,

WHEREAS, the City Council further finds that the Conditions of Approval contained in Exhibit B are reasonably related to the health, safety, and welfare of the community, and that these conditions of approval are clear and enforceable.

NOW, THEREFORE, BE IT RESOLVED that the City of Sebastopol City Council hereby denies the Appeal and Upholds the Approval of the Alcohol Use Permit for Piala, LLC (Planning File 2022-020, -033, and -060), subject to the Findings in this Resolution and Exhibit A, and the Conditions of Approval in Exhibit B and C.

The above and foregoing Resolution was duly passed, approved and adopted at a meeting by the City Council on the 31th day of August, 2022, by the following vote:

VOTE:

Ayes:

Noes:

Abstain:

Absent:

APPROVED: _____
Mayor Patrick Slayter

ATTEST: _____
Mary Gourley, Assistant City Manager/City Clerk, MMC

APPROVED AS TO FORM: _____
Larry McLaughlin, City Attorney

EXHIBIT A
FINDINGS OF APPROVAL
Piala Restaurant
Alcohol Use Permit
7233 Healdsburg Ave
APN 004-251-023 (File 2022-020)

Based on the evidence in the public record, the Planning Commission finds that:

1. The project is categorically exempt from the requirements of CEQA pursuant to Section 15301 Existing Facilities which includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The alcohol transfer permit would fit this exemption as it is for the use of a restaurant where one has existed in the past and will not create any new environmental impacts as it will be in an already developed area.
2. The project/use/proposal is consistent with the following provisions of the General Plan:

Action CHW 6c: Continue to require that all new or transferred Alcoholic Beverage Control (ABC) licensees and their employees participate in Responsible Beverage Service training, to promote public health and safety by reducing incidence of sales and service to minors and sales and service to obviously intoxicated persons.
As conditioned, all servers would be required to participate in Responsible Beverage Service training.

Action CHW 6e: Continue to require bars to serve food in order to help counter the effects of alcohol consumption.

The establishment is structured with table seating for dining. As conditioned, the establishment would be required to be maintained as a bone fide restaurant, serving full meals and with a balanced wine/beer and food menu.

Goal CHW 6: Reduce the Harmful Impacts of Alcohol, Tobacco and Drug Use on Individuals, Their Families, and the Larger Community

Policy CHW 6-1: Address responsible alcohol consumption through outreach and efforts intended to reduce adult high-risk drinking and its related problems.

As conditioned, alcohol consumption will be prohibited while on site by Lowell Sheldon, who would not otherwise be able to meet the criterion established in the Alcohol Use Permit section related to the applicant's burden of proof.

As conditioned, this criteria is met.

3. The use is consistent with the Sebastopol Zoning Ordinance, including the specific criteria of the following sections as described:

Section 17.350.020 Alcohol Use Permits of the Sebastopol Municipal Code the additional findings applicable to Alcohol Use Permits as follows:

- A. *On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City.*

Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.

As conditioned, the establishment would be maintained as a bone fide restaurant at all times. The granting of this Alcohol Conditional Use Permit satisfies this criterion.

- B. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.*

As conditioned, this criterion will be met.

- C. In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.*

As conditioned, Lowell Sheldon, part owner, will be prohibited from consuming alcohol on the proposed location the alcohol use permit is granted. His interactions with staff will also be limited, and an outside human resources firm will be monitoring the employee operations. As conditioned, this criterion can be met.

- D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.*

As conditioned, the applicant is able to meet the burden of proving by clear and convincing evidence that the proposed use, including it's operations, will not adversely affect the health, safety, or welfare of the community, by limiting interaction for a minimum of one year of Mr Sheldon with staff involving any human resource or supervision/direction; prohibiting alcohol consumption by same; engaging an outside human resources firm; and, maintaining the venue as a bone fide restaurant.

- E. The Planning Commission, or City Council on appeal, may impose any conditions on the applicant or proposed location reasonably related to the health, safety or welfare of the community.*

- F. Except as set forth in SMC 17.350.070, applications for conditional use permits herein shall be made in accordance with Chapter 17.415 SMC, together with amendments thereto. The applicant shall submit a processing fee as specified in the most current Planning Department schedule of fees. Any costs for processing an application that exceed the conditional use permit fee paid by the applicant shall be deemed a debt to the City and shall be paid within 30 days of issuance of the conditional use permit or said permit shall be revoked.*

As conditioned, this criterion will be met.

EXHIBIT B
CONDITIONS OF APPROVAL

Alcohol Use Permit
7233 Healdsburg Ave
APN 004-251-023 (File 2022-020)

1. The Use shall be in substantial conformance with the proposed operations as described in the application materials prepared by Piala, LLC, and stamped received on March 29, 2022, as modified on May 11, 2022 appeal letter, and on file at the City of Sebastopol Planning Department, except as modified herein:
 - a) The applicant shall be modified in all application materials to the City to be Jeffery Berlin. All references to the Applicant's responsibilities below shall be assigned to said Applicant.
2. Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, discipline, or termination of any employee; or
 - b. the fielding, review, investigation of, or response to any employee complaints or concerns.
3. Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.
4. This Use permit shall be reviewed after a period of one year after the restaurant commences operations by the Planning Commission. At that time, the Planning Commission may modify the Conditions of Approval to allow Lowell Sheldon to consume alcohol on the premises as a member of the dining public. This shall constitute a request for an Amendment to a Use Permit, with the applicant responsible for applying for this review.
5. Violation of any of Conditions 2 and/or 3 may, by itself, constitute a ground for revocation of the subject use permit.
6. Piala LLC shall engage and at all times retain an outside human resources firm to manage all aspects of employee complaints, issues, or concerns, including without limitation receiving, reviewing, investigating, and recommending appropriate action, if any, in response to such issues or concerns.
7. The establishment shall be maintained as a bone-fide restaurant as described in the revised application materials supplied by the applicant on May 11, 2022, including the requirements of Section 17.350.080.C, and as follows:
 - a) The menu shall at all times serve full meals, in addition to any such smaller plates proposed.
 - b) The beer/wine list shall remain in proportion with the menu as generally submitted in the revised application materials.
 - c) The seating in the restaurant shall continue to accommodate dining at table seating, and shall not transition to 'bar' style seating for more than 20% of the seating.

8. The applicant shall be responsible for implementing an Alcohol Awareness and Security Plan, which shall be submitted to the Police Department for review and approval within 60 days from the effective date of the Use Permit approval. The Plan shall describe building security and fire safety; how the operation will address staff training relative to alcohol consumption and operational security; and how the operation will coordinate with the Police Department.
 - a. Applicant shall submit a copy of the approved plan to the Planning Department, to be added to the project file.
9. All persons serving or distributing alcoholic beverages are required to attend the Responsible Beverage Service training program or an equivalent, either in-person or online to the satisfaction of the Police Chief.
10. No sound may emanate from the building, which violates the Noise Ordinance or causes an undue disturbance to site neighbors.
11. Hours of operation shall be consistent with the hours stated in the application. The Planning Director shall have the authority to modify the hours of operation.
12. A Business License is required and shall be obtained prior to operation of the use.
13. Food, including meals, must be made available during all times that alcohol is served. This may include incidental food items.
14. Any minimum purchase requirement may be satisfied by the purchase of food or beverages. In no case shall a "drink minimum" be imposed.
15. Off-sale of beer and wine is not permitted with this approval.
16. Placement of bottles into outdoor recycling bins shall take place only between the hours of 9:00 A.M. – 9:00 P.M.
17. The business owner shall ensure that employees are drug and alcohol free while on duty.
18. The establishment is not approved as an entertainment venue. Dancing and/or regular live music shall not be permitted on the premises without prior City approval. As an incidental use, recorded background music and occasional live acoustic music may be conducted inside the establishment only. All doors and windows shall be closed during any such activity. The Police Department or Planning Director may require termination or modification of such activity.
19. The business owner shall ensure that exterior areas, including the adjacent courtyard area and sidewalk, are free of trash and other debris that may be generated by patrons.
20. The business owner shall be responsible for removing any graffiti on the outside of the establishment.
21. A copy of the conditions of approval for the Alcohol Use Permit must be kept on the premises of the establishment and posted in a place where any member of the general public may readily view it.

22. Occupancy limitations shall be established by the Building Official and clearly posted prior to issuance of a Certificate of Occupancy for any building, including a use requiring a Use Permit.
23. All applicable permits shall be obtained from other approving agencies prior to commencement of this use, including, but not limited to Building and Safety Department, Department of Alcoholic Beverage Control, Fire Department, and County Health Department.
24. As required by the Sonoma County Department of Health Services;
 - a. A review and approval of the menu, plans, and/or specification sheets is required for any changes to the food service operation, facility remodel, addition of any equipment or expansion of any food or alcohol storage or food preparation areas prior to use of the area of equipment.
25. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
26. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.
27. This approval does not include any signs. Any new signs that will identify the use of this property are subject to the prior approval of the Design Review Board or City staff, as appropriate.
28. Approval is valid for three (3) years, except that the applicant may request a one (1) year extension of this approval from the Planning Director, pursuant to Section 17.400.100 of the Zoning Ordinance.
29. The Use Permit shall be in effect unless it is abandoned or closed for 12 months or longer or otherwise rescinded.

EXHIBIT C
STANDARD CONDITIONS OF APPROVAL

Alcohol Use Permit
7233 Healdsburg Ave
(file 2022-020)

1. All plans shall include a brief description of the project on the cover sheet.
2. All submitted building permit plan check sets shall include a plan sheet incorporating these conditions of approval.
3. Except as otherwise noted in these conditions of approval, the plans submitted to the Building Department for plan check shall be in substantial conformance to those approved by the review body. If any changes are made to submitted plans which were approved by the review body the applicant shall work with the Planning Department to determine if the changes are significant enough to once again be seen by the review body, or if staff can approve the changes. Any changes that have not been approved by Planning staff are not approved. Construction or demolition work that does not conform to the Planning approval is not valid and shall be subject to stop work orders and may require removal.
4. Site landscaping shall be generally consistent with the Landscape Plan included as part of "Exhibit A" on file with the Sebastopol Planning Department. The final landscape plan shall be stamped by a licensed landscape architect and filed with the Planning Department prior to occupancy. Plans for any irrigation of the site shall be incorporated into the landscape plan. All planting shown on the approved plan shall be installed prior to occupancy of the proposed project. Upon the request of an Applicant to receive a Temporary Certificate of Occupancy and at discretion of the Planning Director, landscape installation may be suitably guaranteed by posting a cash bond equal to 100% of the cost and installation of any landscape improvements.
5. Acceptance of the construction drawings and specifications does not release the applicant and owner from correction of mistakes, errors, or omissions contained therein. If, during the course of construction, the field conditions or other previously unknown conditions require a modification or a departure from the accepted plans, the applicant shall provide the modifications or departure and specify the correction of mistakes errors, or omissions in compliance with the CBC and City Standards.
6. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
7. A Construction Management Plan (CMP) shall be submitted to the City as part of the Building Permit and/or Grading Permit and shall be incorporated into the plans, unless waived by staff. The City's CMP template, provided by the Planning Department, may be used for small, infill projects. Revisions to the CMP to increase or add on time to the construction timeline shall be coordinated with the Building Official and any additional requests will be at the applicant's responsibility.

This CMP shall be a binding document. Failure to adhere to the CMP may result in a

“Stop Work Notice” being placed on the project. An electronic copy of the APPROVED CMP shall be submitted to the City, and may be posted to the city’s website. The CMP shall be updated as project conditions warrant. Updates to the CMP shall be provided to the City for review and approval. The CMP shall include but not be limited to:

- a) Work schedule (start of construction date, road or lane closure intent/dates, important milestones and proposed final dates)
- b) Construction Hours
- c) Travel routes and turn-around locations with staff approval
 - Impact to state highways
- d) Road and/or lane closures (Applicant to provide information on how many anticipated road closures, and the reasons for each road closure).
- e) Worker auto parking space locations/construction parking
- f) Phasing (if applicable)
- g) If construction improvements are located in areas of slopes 15% or greater, the Contractor shall provide safe temporary hard surface stair access to the improvements, unless waived by the Building Official. This access shall be shown on the CMP.
- h) Projects that require a grading permit shall comply with the City’s grading ordinance.

The CMP may be more stringent if the project is located close to schools or in impacted neighborhoods. A CMP may be required to be modified if a neighborhood becomes “impacted” during the course of the construction. Impacted neighborhoods are defined as areas in geographic proximity (i.e. using the same streets for access) with a significant number of simultaneous construction projects.

The hours of construction activity shall be limited 7:00 a.m. to 8:00 p.m., Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturdays with staff approval, depending on scope of work being done, or unless modified by a project’s Specific Conditions of Approval.

A **24-inch by 36-inch** weatherproof copy with items A-F posted on site. The remaining Construction Management Plan shall be made available on site. The Construction Management Plan shall be posted on the site as part of the job site signage and should include:

- a) Address of the project site.
 - b) Permitted hours of construction and of deliveries/off-haul.
 - c) Name, e-mail address and direct phone number of the General Contractor.
 - d) Name, e-mail address and direct phone number of the person responsible for managing the project.
 - e) Name and direct phone number of the party to call in case of an emergency.
 - f) City of Sebastopol Building Department (707-823-8597).
8. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Public Works Department prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way. The fee for using the right-of-way for storage of construction materials or equipment is \$10.00 per day. A minimum of 11’ passable auto traffic clearance (paved travel way) shall be maintained at all times along the roadway. The placing of portable restroom facilities in the City right-of-way will not be permitted.

9. All portions of the job site shall be maintained in an organized and professional condition. All trash, debris, construction scraps and broken/deteriorated machinery shall be removed from the site by the end of each week. If off loaded construction materials are not used within 2 weeks, they shall be screened from public view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each business day.
10. A pre-construction meeting is required with city staff for projects that:
 - a) Require a City encroachment permit, a Caltrans encroachment permit, or a City grading permit; or
 - b) Have 5 dwelling units or more; or
 - c) Have a total of 5,000 square feet of building or more; or
 - d) Have a creek setback requirement; or
 - e) Are required to have a pre-construction meeting under a specific condition of approval.
11. All permits and/or inspection fees required shall be paid in full prior to final occupancy being granted unless otherwise stipulated by the City.
12. All required construction signage and any required tree-protection shall be posted and available for City inspection at the time of the Pre-construction meeting or, if no pre-construction meeting is required, prior to commencing construction. If these measures are not in place at the time of the pre-construction meeting, a re- inspection fee will be required, and issuance of building permit will be delayed.
13. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.

Planning Department Standard Conditions of Approval:

14. This approval is valid for a period of three (3) years during which time the rights granted must be exercised. However, the applicant may request one (1) one-year extension of this Use Permit from the Planning Director, pursuant to Zoning Ordinance §17.400.100.
15. The light source for all exterior lighting fixtures shall be shielded from adjacent properties. Cut sheets for all exterior lighting shall be submitted as part of the Design Review or other planning application.
16. For projects with new foundations or retaining walls less than 10' away from a required setback property lines shall be physically identified (string line or equal), and the applicant shall submit a letter or certificate from a licensed surveyor that confirms that the structure complies with the approved setbacks prior to placing the foundation. For any project that includes new foundations or retaining walls more than 10' away from a required setback, the applicant may apply for a waiver from this requirement from the City Engineer and Planning Department.
17. For any project that includes new structures within 2 feet of the allowed height limit, a letter or certificate from a surveyor confirming that the height of the roof complies with the approved plans shall be submitted to the Planning Department at the earliest point possible.

18. All landscape and irrigation plans must be designed in accordance with the most current City of Sebastopol landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the Planning Department must review and approve the project's working drawings for planting and irrigation systems. Any question regarding the City of Sebastopol current water conservation and Landscape Ordinance should be directed to the Planning Department.

New construction and rehabilitated (renovations or changes made to sites with an existing irrigation system) landscape projects will be affected by these requirements if the altered landscape area is greater than 500 square feet.

19. For any new housing unit development, the developer/owner shall submit the total amount of fees and exactions associated with the project prior to issuance of certificate of occupancy or final inspection.

Engineering and Public Works Department Standard Conditions of Approval:

20. All projects are subject to Impact Fees as adopted by the City Council, which are due at the time of issuance of the Building Permit unless otherwise stipulated by the City.
21. An Encroachment Permit is required from the Public Works Department for any and all work within the public right-of-way. If the work is within a CalTrans right-of way, an Encroachment Permit from CalTrans shall also be procured by the applicant. Encroachment Permit shall not be issued until the City Engineer approves the applicant's site improvement plans.
22. Construction within the public right-of-way is limited to that necessary to support the lot's use. This may include but is not limited to: driveways, sidewalks and any utility connections. For all improvements within the public right of way, the applicant shall submit plans to adequately describe the work. Plans shall include but not be limited to drainage details, cross-sections, driveway/roadway grades and utility locations as necessary.
23. The applicant shall prepare and submit site improvement plans for the construction of all improvements including water, sanitary sewer, storm drain, water quality facilities, roadway improvements, curbs, gutters, sidewalks, elevated or structural pedestrian walkways, landscaping, landscape irrigation, signing, striping, joint trench and streetlights. All design and construction shall conform to the latest edition of the City of Sebastopol Design and Construction Standards and other applicable codes, standards, guidelines and specifications. Public improvement drawings shall be drafted in the City-approved sheet format.
24. Once approved by the City Engineer, the applicant shall submit PDF files of the signed improvement plans. As-Built record drawings shall also be submitted as PDF files.
25. Deviations from City Standards and applicable Code requirements shall be approved by the City Engineer. The applicant's engineer shall request all design exceptions in writing.
26. Any improvements, public or private, damaged during construction shall be replaced,

by the applicant, in-kind or with new improvements. All cracked, broken, or uplifted sidewalk, driveway and/or curb and gutter fronting the property shall be replaced. Applicant shall coordinate with the Public Works Department prior to the first submittal of project improvement plans to identify the extents and limits of replacement.

27. An erosion and sediment control plan are required as part of the building permit application. The plan shall be prepared by a certified erosion control specialist and in full compliance with CASQA standards, The plan is subject to review and approval by the Engineering Department prior to the issuance of the building or grading permit. No modifications to the approved plans shall be made without approval of the City Engineer.
28. Mailbox plans and locations shall be approved by the Sebastopol Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Sebastopol Postmaster approving mailbox locations.
29. City Public Water and Sewer and Drainage utility easements as required by the City Engineer utility companies shall be provided within the development. Easement locations shall be subject to review and approval by the City Engineer.

Roadway Improvements:

30. The improvement plans for the first phase of development shall include and provide for the construction of all offsite improvements as required to support full project build-out. Each subsequent phase of development shall construct sufficient onsite roadway and utility improvements to support the cumulative development proposed to be constructed as approved by the City Engineer.
31. Road closures, if permitted by the Project Approval, will only be permitted with prior authorization from the Public Works Department consistent with the City's road closure policy. Signs containing details of the proposed closure must be posted 48 hours in advance. Coordinate road closures with the Sebastopol Public Works Department. Contact the Public Works Department at 707-823-5331 to obtain a road closure permit.
32. An emergency vehicle access, meeting the requirements of the Sebastopol Fire Department shall be constructed.
33. All private driveway areas less than 24-foot wide shall require the approval of the Sebastopol Fire Department.
34. Sidewalk warps shall be provided to allow a clear five-foot walkway at all locations, including areas where mailboxes, street furniture, streetlights, street signs and fire hydrants are to be installed, or as otherwise approved by the City Engineer.
35. The structural section of all public road improvements shall be designed using a soil investigation which provides the basement soils R-value and expansion pressure test results. A copy of Geotechnical report and structural section calculations shall be submitted with the first improvement plan check.
36. The structural section of the private on-site drive aisles and parking areas shall meet the requirements and recommendations of the geotechnical report for the project.
37. Retaining walls and retaining curbs may be required to protect damage to trees as determined by a licensed Arborist. All retaining structures shall be designed and

constructed to minimize damage to trees.

38. Pedestrian curb ramps, meeting City standards and current accessibility requirements, shall be provided at all intersections and crosswalks where sidewalks are proposed.

Drainage Improvements:

39. All project related flooding impacts shall be mitigated by the project developer. Drainage improvements shall be designed by a Civil Engineer registered in the State of California in accordance with the Sonoma County Water Agency's Flood Management Design Manual (FMDM). Public and private drainage improvements shall be shown on the improvement plans and the City Engineer may require the applicant to acquire the review and recommendations by the Sonoma County Water Agency (Sonoma Water) prior to approval by the City Engineer. Private storm drain easements will be required for any portions of the private storm drain not entirely located with the lot being served or for any portion of a private utility located on an adjacent parcel.
40. No lot-to-lot drainage will be allowed between the project site and any adjacent parcels. No concentrated drainage may discharge across sidewalks. All site drains must be connected to the public storm drain system or discharged through the face of curb or to an established waterway.
41. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the City's Flood Ordinance, to the satisfaction of the Building Official and City Engineer. Building finished floor elevations shall be constructed at a minimum of 2 foot above the 100-year storm event water surface elevation as determined by the City and certified by the project engineer. The Engineer of Record shall provide a signed and stamped letter indicating the project meets the requirements of the Ordinance before plan approval.

Stormwater Quality:

42. Projects that create or replace 10,000 square feet or more of impervious surface area are subject to design and construction requirements of the most recent edition of City of Sebastopol Low Impact Development (LID) Technical Design Manual. Improvement plans with required LID design features shall be approved by the City Engineer.
43. Projects that will disturb 1.0 acre or more of developed or undeveloped land shall provide evidence that a Notice of Intent (NOI) has been submitted by the applicant and received by the State Water Resources Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan (SWPPP) shall be provided to the City prior to issuing a grading permit, encroachment permit, or building permit.
44. For required LID features constructed on private property or on street frontage, the owner shall provide a Declaration Letter to the City Manager regarding the owner's commitment to ongoing maintenance of said LID features (LID Declaration) prior to occupancy.

Grading:

45. The improvement plans shall include a site-grading plan prepared by a Civil Engineer registered in the State of California as part of the required improvement drawings. Lots shall be generally designed to drain to public and private streets or parking areas, unless otherwise approved in the interest of tree preservation or other unusual circumstances.
46. The City of Sebastopol shall require a grading permit for projects that meet these requirements.
 - a) Cut or fill exceeding 50 cubic yards
 - b) Cut or fill greater than 3 feet in depth
 - c) Cut creating a cut slope greater than 5 feet in height and steeper than 2 units horizontal to 1 unit vertical
 - d) Fill intended to support a structure or surcharge greater than 1 foot in depth or placed on terrain with a natural slope steeper than 15 percent
47. When required by the Building Official the applicant shall submit to the City for review and approval, a detailed Geotechnical Report prepared by a Geotechnical Engineer registered in the State of California. The grading plan shall incorporate the recommendations of the approved Geotechnical Report.
48. Where soil or geologic conditions encountered during grading operations are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
49. Existing wells, septic tanks and/or underground fuel storage tanks that are defective or will no longer be in use shall be permanently destroyed or removed under permit and inspection by the Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. Underground fuel storage tanks are subject to UST regulations of the State Water Resources Control Board.
50. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved. Should monuments be damaged or destroyed during construction, they shall be replaced by the developer.
51. Improvements plans shall include an erosion control (winterization) plan. The plan shall include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed.
52. Sewer services and laterals shall be CCTV inspected to determine if the service needs to be removed and replaced. A copy of the CCTV report shall be provided to the City Engineer. A waiver for CCTV inspection may be waived by the City Engineer, if the sewer lateral has been replaced within ten years of the submittal of the improvement plans. A copy of the documentation evidencing such replacement shall be included in the submittal package.
53. If the proposed project is located in or adjacent to a waterway, within an area designated as habitat for threatened or endangered species, or other special status

area, it possibly falls under the jurisdiction of another agency such as the United States Army Corps of Engineers, the California Regional Water Quality Control, or the California Department of Fish & Wildlife, U. S. Fish & Wildlife Service, etc. These agencies shall be contacted to determine if the project lies within their respective jurisdictions. All necessary permits and/or approvals shall be obtained prior to the City issuing any permits. If permits are not required, a letter stating so shall be submitted to the City as part of the record.

54. Trees and vegetation shall be trimmed according to Section 8.12 of the Sebastopol Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide a clearance of not less than eight (8) feet over sidewalks and not less than twelve (12) feet over streets.

Fire Department. Standard Conditions of Approval:

55. The address shall be posted in accordance with requirements of the California Building Code and California Fire Code. The Fire Chief shall review and approve all requests for new addresses. Inspection and signoff of address posting shall be coordinated through Building Department.
56. Smoke and CO detectors shall be installed in accordance with the California Building Code. Final inspection and signoff of smoke detectors shall be coordinated through Building Department.
57. Noncombustible roofing shall be provided for:
- a. All new roofs shall be non-combustible.
 - b. Roof Repairs or replacement:
 - i. Less than 25% - no requirement
 - ii. 25Hr to 50% - Class C minimum
 - iii. 50% or more — Non-Combustible
 - c. In no case shall the roofing material used to be less fire resistive than the existing roof.

NOTE: A "noncombustible" roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the California Building Code and approved by the Building Department.

58. Prior to occupancy, a spark arrester shall be installed on the chimney(s) 3/8" mesh minimum.

Building Department Standard Conditions of Approval:

59. All construction shall comply with all applicable Title 24 Codes in effect at the time of building permit submittal. It is the responsibility of the designer(s) to ensure that all applicable Title 24 codes, as well as any applicable Sebastopol Municipal Codes are incorporated into the design.
60. The project shall comply with the Green Building regulations contained in the Sebastopol Municipal Code that are in effect at the time of building permit submittal.

END OF STANDARD CONDITIONS OF APPROVAL



City of Sebastopol

Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472
(707) 823-6167

MASTER PLANNING
APPLICATION FORM

APPLICATION TYPE

- | | | |
|---|---|---|
| <input type="checkbox"/> Administrative Permit Review | <input type="checkbox"/> Lot Line Adjustment/Merger | <input type="checkbox"/> Temporary Use Permit |
| <input checked="" type="checkbox"/> Alcohol Use Permit/ABC Transfer | <input type="checkbox"/> Preapplication Conference | <input type="checkbox"/> Tree Removal Permit |
| <input type="checkbox"/> Conditional Use Permit | <input type="checkbox"/> Preliminary Review | <input type="checkbox"/> Variance |
| <input type="checkbox"/> Design Review | <input type="checkbox"/> Sign Permit | <input type="checkbox"/> Other _____ |

This application includes the checklist(s) or supplement form(s) for the type of permit requested: Yes No

REVIEW/HEARING BODIES

- Staff/Admin Design Review/Tree Board Planning Commission City Council Other _____

APPLICATION FOR

Street Address: 7233 Healdsburg Ave Assessor's Parcel No(s): 004-251-023-000

Present Use of Property: Restaurant Serving Beer and Wine Zoning/General Plan Designation:

APPLICANT INFORMATION

Property Owner Name: Sebastopol Center, LLC

Mailing Address: 2347 Lombard Street, Phone: 415-250-3018

City/State/ZIP: San Francisco, CA 94123 Email: peter@realtyequities.com

Signature: *Peter S. - Authorized Agent* Date: 3/29/2022

Authorized Agent/Applicant Name: Lowell Sheldon

Mailing Address: 779 Dufranc Ave Phone: 7073385456

City/State/ZIP: Sebastopol CA 95472 Email: lpsheld@gmail.com

Signature: *[Signature]* Date: 3/29/2022

Contact Name (if different from above): Phone/Email:

PROJECT DESCRIPTION AND PERMITS REQUESTED (ATTACH ADDITIONAL PAGES IF NECESSARY)

A neighborhood restaurant serving beer and wine. This space is an existing restaurant and has been for over 40 years.

Current restaurant name - Sukhothai
New restaurant name - Piala

CITY USE ONLY

Fill out upon receipt:	Action:	Action Date:
Application Date: _____	Staff/Admin: _____	Date: _____
Planning File #: _____	Planning Director: _____	Date: _____
Received By: _____	Design Review/Tree Board: _____	Date: _____
Fee(s): \$ _____	Planning Commission: _____	Date: _____
Completeness Date: _____	City Council: _____	Date: _____

CONDITIONS OF APPLICATION

1. All Materials submitted in conjunction with this form shall be considered a part of this application.
2. This application will not be considered filed and processing may not be initiated until the Planning Department determines that the submittal is complete with all necessary information and is "accepted as complete." The City will notify the applicant of all application deficiencies no later than 30 days following application submittal.
3. The property owner authorizes the listed authorized agent(s)/contact(s) to appear before the City Council, Planning Commission, Design Review/Tree Board and Planning Director and to file applications, plans, and other information on the owner's behalf.
4. The Owner shall inform the Planning Department in writing of any changes.
5. **INDEMNIFICATION AGREEMENT:** As part of this application, applicant agrees to defend, indemnify, release and hold harmless the City, its agents, officers, attorneys, employees, boards, committees and commissions from any claim, action or proceeding brought against any of the foregoing individuals or entities, the purpose of which is to attack, set aside, void or annul the approval of this application or the adoption of the environmental document which accompanies it or otherwise arises out of or in connection with the City's action on this application. This indemnification shall include, but not be limited to, damages, costs, expenses, attorney fees or expert witness fees that may be asserted by any person or entity, including the applicant, arising out of or in connection with the City's action on this application, whether or not there is concurrent passive or active negligence on the part of the City.

If, for any reason, any portion of this indemnification agreement is held to be void or unenforceable by a court of competent jurisdiction, the remainder of the agreement shall remain in full force and effect.

NOTE: The purpose of the indemnification agreement is to allow the City to be held harmless in terms of potential legal costs and liabilities in conjunction with permit processing and approval.

6. **REPRODUCTION AND CIRCULATION OF PLANS:** I hereby authorize the Planning Department to reproduce plans and exhibits as necessary for the processing of this application. I understand that this may include circulating copies of the reduced plans for public inspection. Multiple signatures are required when plans are prepared by multiple professionals.
7. **NOTICE OF MAILING:** Email addresses will be used for sending out staff reports and agendas to applicants, their representatives, property owners, and others to be notified.
8. **DEPOSIT ACCOUNT INFORMATION:** Rather than flat fees, some applications require a 'Deposit'. The initial deposit amount is based on typical processing costs. However, each application is different and will experience different costs. The City staff and City consultant time, in addition to other permit processing costs, (i.e., legal advertisements and copying costs are charged against the application deposit). If charges exceed the initial deposit, the applicant will receive billing from the City's Finance department. If at the end of the application process, charges are less than the deposit, the City Finance department will refund the remaining monies. Deposit accounts will be held open for up to 90 days after action or withdrawal for the City to complete any miscellaneous clean up items and to account for all project related costs.
9. **NOTICE OF ORDINANCE/PLAN MODIFICATIONS:** Pursuant to Government Code Section 65945(a), please indicate, by checking the boxes below, if you would like to receive a notice from the City of any proposal to adopt or amend any of the following plans or ordinances if the City determines that the proposal is reasonably related to your request for a development permit:

- | | |
|---|---|
| <input type="checkbox"/> A general plan | <input type="checkbox"/> A specific plan |
| <input type="checkbox"/> An ordinance affecting building permits or grading permits | <input type="checkbox"/> A zoning ordinance |

Certification

I, the undersigned owner of the subject property, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury. I hereby grant members of the Planning Commission, Design Review Board and City Staff admittance to the subject property as necessary for processing of the project application.

Property Owner's Signature: [Signature] - Authorized Agent Date: 3/29/2022

I, the undersigned applicant, have read this application for a development permit and agree with all of the above and certify that the information, drawings and specifications herewith submitted are true and correct to the best of my knowledge and belief and are submitted under penalty of perjury.

Applicant's Signature: [Signature] Date: 3/29/2022

NOTE: It is the responsibility of the applicant and their representatives to be aware of and abide by City laws and policies. City staff, Boards, Commissions, and the City Council will review applications as required by law; however, the applicant has responsibility for determining and following applicable regulations.



City of Sebastopol

Alcohol Use Permit – Application Supplement

Purpose: This application supplement applies to any establishment that serves alcoholic beverages.

Please answer yes or no to the following questions:

1. The premises contain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises. Y N
2. The primary use of the premises is for sit-down service to patrons, and the establishment is not a drive-up, drive-through, or fast-food restaurant. Y N
3. The establishment serves food to patrons during all hours the establishment is open for customers. Y N
4. The establishment only serves alcohol in a dining area and not in an alcohol serving area that is separate from the dining area. Y N
5. Adequate seating arrangements for sit-down patrons are provided on the premises, not to exceed a seating capacity of 50 persons. Y N
6. Any take-out service is only incidental to the primary sit-down use and does not include the sale or dispensing for consideration of alcoholic beverage or beer or wine.
Y N
7. No alcoholic beverages or beer or wine are sold or dispensed for consumption beyond the premises. Y N
8. No dancing or live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities. Y N
9. An employee alcohol awareness training program and security plan is approved by the Chief of Police. (Ord. 1116 § 7, 2018; Ord. 1111, 2018)

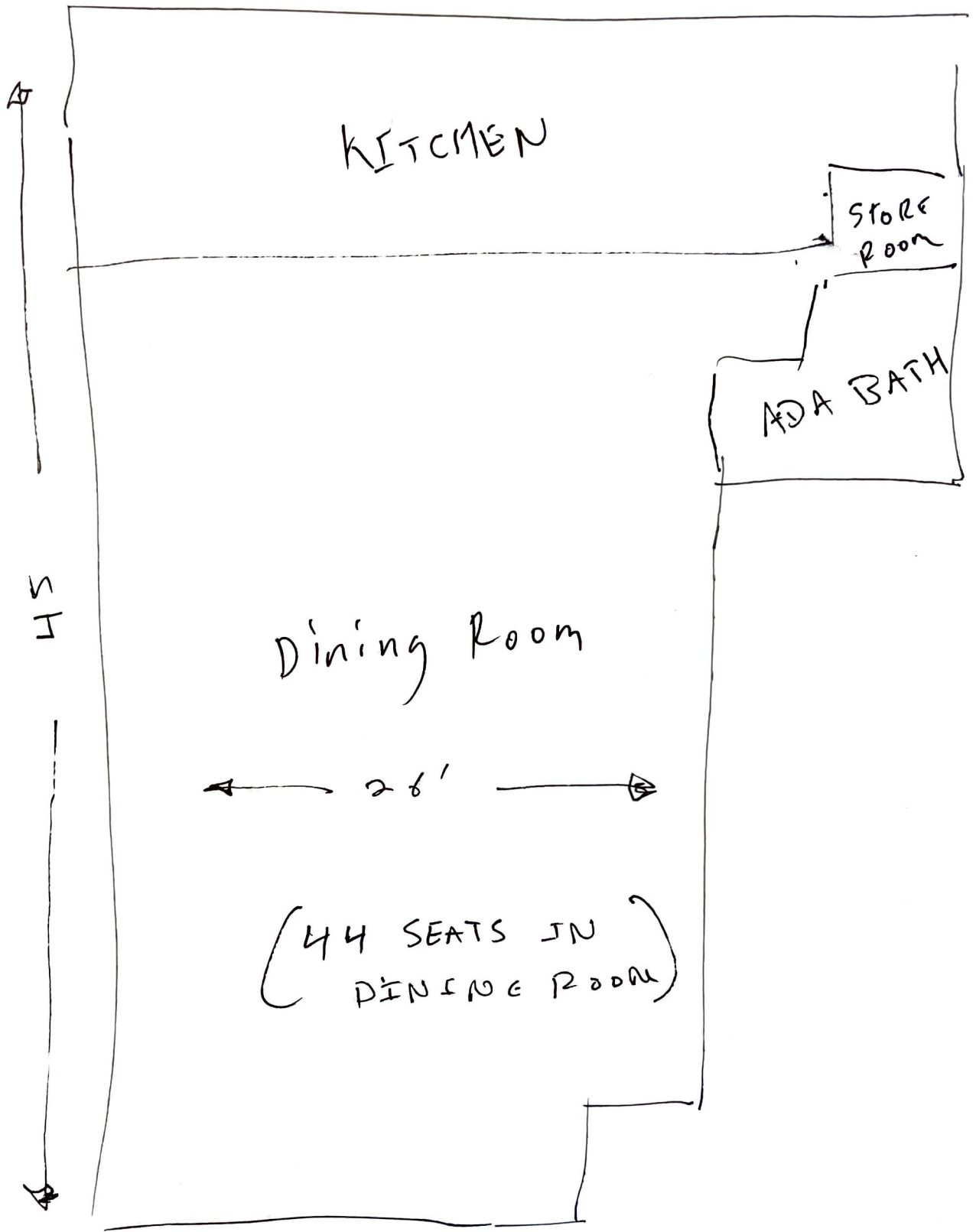
If yes to all of above and you're applying for an establishment with 50 or Less seats you are eligible for an Administrative Alcohol Permit: The following information shall be provided to the Planning Department for an application to be deemed complete:

Master Planning Application Form

- Completed and signed by the applicant *and* property owner.

Written Statement: *The written statement shall include the following information:*

- *Description of Business*
- *Food Service:* Please describe the type of food served at the establishment.
- *Type of ABC License*
- *Time of Operation:* Describe the days and times that the establishment will operate.
- *Employee Training for Alcoholic Beverage Service:* Describe all alcohol service training that will be provided for employees.
- *Operational Security Measures:* Describe security measures that will be implemented to ensure the safety of establishment employees and patrons.
- *Entertainment Features:* Describe all entertainment features of the establishment. These may include but are not limited to live music, amplified music, dancing, bar games, and video games.



7233 HEALDSBURG AVE

MedQIA



Cleveland Ave

D's Diner
Hamburger • \$



Rotten Robbie



ATM (Rotten Robbie)



WATSON & ANG

Healdsburg Ave

116



for Bistro

Papa Murphy's |
Take 'N' Bake Pizza
Pizza • \$



Namaste Kitchen
Free Delivery
on 1st Order



Bank of America
Drive-thru ATM)
Temporarily closed



Bank of America
ATM (Drive



Pitt Ave

Fidelity National Title



Snow St

Pitt Ave

West St



PIALA NATURAL WINE BAR

SRBC
SANTA ROSA
BUSINESS & COMMERCIAL
www.santarosabusinessandcommercial.com

Restaurant
for Sale / Lease
707-503-9335
Ryn Longmaid DRE# 01450190
www.santarosabusinessandcommercial.com

7233

PIALA MENU

Olives with Herbs and Garlic

Cheese Board

Bread and Sunflower Oil

House Salad with Herbs & Feta

Fried Corn Fritters

Pot of Herbed Beans

Grilled Meat Skewers

**ATTACHMENT 2
PLANNING DIRECTOR DECISION**



**City of Sebastopol
Planning Department**

May 4, 2022

Lowell Sheldon
Piala
779 Dufranc Ave
Sebastopol CA, 95472

Re: Alcohol Transfer Permit at 7233 Healdsburg Avenue
(File 2022-020)

Dear Mr. Sheldon:

The Planning Director has denied your Alcohol Transfer and Alcohol Use Permit application (2022-020) requesting approval for the transfer of, and approval for, an alcohol use permit, from the restaurant owner of Sukhothai to the owner of Piala. This denial is in accordance with the findings contained in this letter. This letter does not deny the use of a restaurant within the space, which is permitted by the Zoning Ordinance. However, this does deny the allowance for alcohol to be served on site.

This denial is based on two findings, as outlined in the Findings for Denial included with this letter. To sum, the proposed use is not a restaurant, but rather a bar, which requires a Conditional Use Permit review by the Planning Commission, and also has different parking requirements attendant thereto. Additionally, the alcohol license is being denied based on a letter of protest that was submitted by several individuals which indicates a history of inappropriate behavior in the workplace.

This denial is not effective until the Appeal Period has officially expired. Anyone dissatisfied with the decision of the Planning Director has the right to file an appeal within 7 calendar days of the decision. This requires the submittal of a completed City Appeal Form, written statement, and payment of the applicable fee delivered to the Planning Department at 7120 Bodega Avenue, Sebastopol, California no later than 5:00 P.M. on May 11, 2022.

Please feel free to contact me if you have any questions at 707-823-6167, or via email at kvanstrom@cityofsebastopol.org.

City Hall, 7120 Bodega Avenue, Sebastopol, CA 95472
T 707-823-6167 / www.ci.sebastopol.ca.us

Sincerely,



Kari Svanstrom
Planning Director
AICP, Architect, LEEDap

cc: Sebastopol Center, LLC, owner (via email)
City Manager Larry McLaughlin (via email)
Assistant City Manager Mary Gourley (via email)
Police Chief Kevin Kilgore (via email)
Alcohol Beverage Control (ABC), Santa Rosa office (via email)

**Findings for Denial
7233 Healdsburg Ave 2022-020
Alcohol Transfer Permit / Alcohol Use Permit**

A Conditional Use Permit is required by the Zoning Ordinance for the sale of alcohol in zoning districts which allow it. The following findings from Section 17.350.020 must be made:

A. On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City. Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.

The application states that the proposed use is a restaurant. However, the documentation submitted with the application indicates that the use, described in the proposed signage as a “wine bar” is not the same or similar as the prior restaurant use. This is further indicated by the submission of the proposed “menu”, which clearly indicates that food service items will be limited to a small number of appetizers, not a full service restaurant serving lunch and/or dinner. The prior use, Sukho Thai restaurant, was a bone fide restaurant with a full lunch and dinner, and wine/beer as a minor component of the offerings.

The current use, given the establishment’s name ‘Piala [meaning ‘cup’] Natural Wine Bar” and offerings, is classified in the City’s zoning ordinance as a “bar”. This use is a major change of use from the prior establishment of a restaurant. This use therefore does not qualify for an alcohol transfer permit.

This criterion is not met.

B. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.

This criterion could be met.

C. The establishment, maintenance, and operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area of such use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

The City has received a letter of protest from community members. Based on the content of that communication, the Planning Director has determined that, given the specifics of this case, the issuance of a Use Permit would be detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area. The letter indicates a history of inappropriate behavior by the proposed owner within and outside of the workplace in several establishments within Sebastopol and the immediate area. 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,

including potential employees, customers, and other members of the general public, and not be in the best interest of the City.

This criterion is not met.

D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.

As noted above, there is both a substantial change in the type of use and operations, and the proposed owner, Lowell Sheldon, has not met the burden of proof that the proposed use and proposed ownership involvement would not adversely affect the health, safety, and welfare of the community.

This criterion is not met.

ATTACHMENT 3
COMMENTS RECEIVED ON ORIGINAL
APPLICATION REVIEW

Agenda Item Number 2

April 19, 2022

To the Sebastopol Planning Commission:

We are writing to respectfully request a denial of a Public Convenience or Necessity (PCN) Letter for Piala LLC's pending Type 41 ABC License at 7233 Healdsburg Ave, Ste A, Sebastopol, CA 95472, posted on March 30, 2022. The authors of this letter respectfully acknowledge the discretion of the Planning Commission and Planning Director of Sebastopol in approving the development of Piala LLC with sexual predator Lowell Sheldon at the helm. We are also in communication with the Alcoholic Beverage Commission to specifically protest Piala LLC's pending application for a Type-41 beer and wine license.

The listed LLC owner, Lowell Sheldon, has proven himself to be a danger to the Sebastopol community, particularly to women, workers, and underage employees. Additionally, Sheldon is in violation of several of ABC's listed grounds of protest that the Commission should be made aware of in considering whether to allow Sheldon to pursue approval for his alcohol-serving business in Sebastopol:

1. Applicant Lowell Sheldon has a well documented, heavily reported history of sexual harassment, assault, worker abuse, and endangering minors as an employer. Although not convicted, he has been accused by over a dozen former employees of heinous offenses listed in the Alcoholic Beverage Control Act Section 24200, subdivision (b0). (Bus & Prof Code § 23952).
 - a. See the following article excerpts detailing Sheldon's history of sexual harassment, assault, worker abuse, and endangering minors in circumstances that involved alcohol and drug use:
 - i. San Francisco Chronicle 9/25/21: ["He built a powerhouse set of Wine County restaurants. Ex-staffers say he sexually harassed employees along the way."](#)
 1. For years, Sheldon created a toxic work environment where employees... constantly felt on edge and often dreaded his presence, 11 former employees allege. Six of the workers accused him of sexual harassment, saying he engaged in a pattern of unwanted touching and inappropriate comments.
 2. Shifts at Lowell's often ended in drinks and rowdy nights of drugs and partying until 4 a.m., according to staffers. Much of the lewd behavior ex-staffers objected to occurred after work, fueled by alcohol and what they said were blurred lines about what was acceptable.
 3. In response to [a former employee's] letter [demanding accountability around abusive behavior], Sheldon's partners hired an outside investigator to examine his behavior and, eventually, worked to buy out his ownership stake in two of his restaurants: Fern Bar and Khom Loi. At Fern Bar, he was initially suspended for an extended period, though his partners now say he is no longer part of operations.
 4. That consultant determined that Sheldon's conduct violated Fern Bar policies, according to an email from [co-owner] to [former manager]. As a result, Fern Bar partners prohibited Sheldon from entering the restaurant for several months and forced him to take a sexual harassment class.
 - ii. North Bay Bohemian 9/27/21: ["Rotten Core: Former Employees Say Farm-to-Table Restaurateur is Toxic and Abusive"](#)
 1. [Former Peter Lowell's employee] says that Sheldon bought them all drinks, including one woman who was under 21 at the time.

2. Every former employee [of Sheldon] that the *Bohemian* spoke to said Sheldon was known to use cocaine regularly, sometimes with his staff. Two former Lowell's employees told the *Bohemian* that Sheldon used cocaine with them.
 3. At one point, [former employee] was taken aback to learn that someone under 21 was given an alcoholic drink at the end of her shift at Lowell's... [This employee] says that when she brought her concern to Sheldon and fellow managers, she was made to feel like a square. "I was saying, 'This is a big deal, this is illegal!' and I was shrugged off. The manager—in Lowell's presence—told me this was the culture and I just didn't get it," she says.
 4. [Former business partner] Sam Levy told the *Bohemian*, "After the investigation was completed, we drafted a good behavior clause, required in-depth harassment training, Lowell was immediately restricted from operational oversight as well as the management of our employees. We extended the existing restrictions on his ability to visit Fern Bar for a total of one year."
 5. [Former employee] says that in ending their partnerships with Sheldon, "[Fern Bar and Khom Loi] have removed such a person of power in the community. There's an obvious reason why they did that, but having no plan to speak to it [before we told our stories publicly] just allows him to go and open up another business and do this again." She continues, "[We as former employees] all knew in our hearts from what we experienced and what we witnessed that Lowell was capable of worse."
- iii. North Bay Bohemian, 9/28/21: ["Sebastopol Restaurateur Lowell Sheldon Accused of Sexual Assault"](#)
1. In November 2019, [Jane Doe] had dinner with Sheldon at his house. He allegedly told her there was a sexual harassment investigation about him happening at Fern Bar and said he was doing a lot of personal work to understand consent. Later that night, she says he sexually assaulted her.
 2. At the bar, Sheldon offered her cocaine, suggesting that it might sober her up. They both did it together. At one point, a friend at the bar invited them over to their house. Doe and Sheldon decided they would go. She says he took her hand and led her to his car. In the car, she realized that they weren't driving in the direction of the friend's home.
 3. Doe then remembers that Sheldon got on top of her and put his hands in her pants. "I remember thinking, 'I'm definitely not having sex with him.'" Doe says she sat up. "When I sat up, he quickly was standing in front of me and his pants were unbuttoned. He put his penis in my mouth—like all the way down my throat—and almost immediately ejaculated," Doe says.
 4. Doe lived with her then-husband at the time and told him what had happened with Sheldon that night. The *Bohemian* interviewed him to confirm what Doe shared with him. She said that, at the time, she felt disgusted and violated and thought Sheldon's actions might be criminal. Doe says that her then-husband told her, "It sounds like he raped you," but she responded, "Well, I'm not gonna let him have that power over me, so I'm not going to think about it like that."
- iv. See additional reporting on Sheldon's misconduct in and out of the workplace in the [SF Chronicle](#), [Press Democrat](#), [KSRO](#), [SF Eater](#), and [North Bay Business Journal](#).
- b. In reference to the above referenced sexual assault reported on and fact-checked by the North Bay Bohemian, San Francisco Chronicle, and Press Democrat, attached redacted police report filed September 27, 2021.
2. In addition to Sheldon's well-documented history of heinous conduct, especially while occupying the role of owner/employer, Sheldon has proven himself to be a dishonest business person who does not play by the rules. Sheldon is not the sole owner of the business to be licensed as the permit application declares (Bus & Prof Code §§ 23300, 23355, 23950, et seq.) It's common knowledge in the

Sebastopol community that Sheldon and his business partners Jeff Berlin and Noah Churma are engaged in this endeavor due to numerous massive barriers to their initial project, the Freestone House.

- i. For reasonable proof, see attached screenshots of Mr. Berlin’s public Facebook account that includes the job title “Owner / Wine Buyer at Piala Wine Bar,” his posts that include the declaration “I’m in freestone (sic) and opening a wine bar in Sebastopol,” a photo of him standing outside the business holding the key, and multiple series of photos of his involvement in interior design and renovations.
- ii. Although this has not been formally investigated, we have firsthand knowledge from multiple sources that Freestone Hotel, business partner, and long-time friend Noah Churma is also a co-owner of Piala LLC.

Lowell Sheldon has shown repeatedly that he lacks the professional and moral character to be allowed to operate an alcohol-related business. Omitting the names of ownership personnel displays a willingness to circumvent the rules for his benefit. Moreover, his repeated pattern of sexual misconduct and harassment of employees, including serving alcohol to underage employees, demonstrates that he is a threat to community safety. Over 700 concerned citizens [signed the petition](#) demanding not only that Sheldon be removed from the Freestone Hotel project, but also that he not be granted an alcohol license for future endeavors. Our community has spoken.

Your serious consideration and exercise of discretion makes a difference in creating safety and wellbeing for our beloved community of Sebastopol.

Very truly yours,

Joseph Barnwell, Sebastopol
Bob Engel, Graton
Leah Engel, Sebastopol
Pat Engel, Graton
Freddie Francis, Sebastopol
Jacqueline Gleason, Sebastopol
Ray Gonzales, Sebastopol
Marylee Guinon, Sebastopol
Shivani & Nicholas Hawkins, Sebastopol
Barbara Hom, Sebastopol
Jesse Hom-Dawson, Sebastopol
Gwenna McKee, Sebastopol
Alexandra Lopez, Hopland
Naomi Minturn, Sebastopol
Aaron Purtill, Sebastopol
Dr. Scott Seidman, Sebastopol
Eric Singer, Sebastopol
Marilyn Starts, Sebastopol



Jeff Berlin

1K Friends · 1 mutual



Add Friend

Message

- Posts
- About
- Friends
- Photos
- Videos
- Check-ins
- More ▾



Intro

- Owner / Wine Buyer at **Piala Wine Bar**
- Innkeeper, Wine Buyer at **Freestone House**
- Lives in **Freestone, California**
- From **San Diego, California**
- Followed by **22 people**

Posts

Filters

Jeff Berlin
6h ·

Piala Wine Bar, Week 3.
Dining Room coming together, procuring vintage rugs, silverware, artwork, etc. from Georgia.
Arlo's pitching in, this will be the second restaurant he's helped open in his long and illustrious career.





Jeff Berlin
Yesterday at 12:54 PM · 🌐

17 7 Comments

Like Comment Share

Charles Neal
Are you showing off your Toyota key?
Like Reply 1d

Gerald Weisl
Charles Neal Actually...



Like Reply 1d

Jeff Berlin
Charles Neal Piala wine bar, brought to you by our proud sponsors at Toyota
Like Reply 12h

Jeff Berlin
Gerald Weisl you want in on the ground floor to help make my dirndl store dreams come alive?
Like Reply 12h

Write a reply... 🗨️ 📷 🎬 🗑️

Audrey Rothblat
Yay 🍀🍀🍀



Jeff Berlin

7h · 🌐



Agenda Item Number 2



Piala Wine Bar, Sebastopol CA, Day 1. Time to make the magic happen!



👍❤️😮 38

4 Comments

👍 Like

💬 Comment

➦ Share

View 3 previous comments



Cristina Waltz
Yaaay! so exciting!

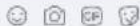
Like Reply 4h

Agenda Item Number 2

City Council Meeting Packet of August 31, 2022

Write a comment...

Page 38 of 375



Incident/Investigation Report

Agency: **Sonoma County Sheriff's Office**

Case #: **SD210927015**

Narrative

INITIAL NARRATIVE

Written by: **Mendoza, Ezra 1102804**

Date/Time: **09/27/2021 16:03:00**

On 9/27/2021, Deputy Fomasi and I were dispatched to the Main Lobby where the victim was waiting with her attorney. The victim, who would like her name to remain confidential and will be referred to in this report as Victim, wanted to report a sexual assault that occurred in 2019. Deputy Fomasi and I interviewed Victim in the 1st Floor interview room in the Main Office. Victim's attorney, Heather Wise, was present during our interview. Victim stated the following to me in summary:

Victim and the suspect, Lowell Sheldon, met in May of 2019 and had a few romantic dates during the summer of 2019. Victim and Sheldon went on between 6 to 9 dates during the summer of 2019. Their romantic relationship ended in August of 2019. On November 23rd 2019, Victim went to Sheldon's house, located at 779 Dufranc Avenue in Graton, for dinner. They had dinner and drank some wine. After dinner, they went to The Ruin, a bar, in Sebastopol and met up with some friends. Afterwards, they were supposed to go to one of the friend's house, however, Sheldon drove Victim back to his house instead.

[REDACTED]

Victim also stated that at this time she is unsure if she wants to be involved in a criminal investigation. She wants Sheldon to be held accountable for his actions but doesn't want to be involved with a trial at this time.

[REDACTED]

I provided Victim with a DVSA packet and included my name, the phone number to the Main Office, and the case number of this report. I notified the on-duty Sergeant who advised me to contact the on-call DVSA Detective. I contacted the on-duty DVSA Detective, Detective Sherman, and notified him of the above information.

Forward To DVSA for Follow-up

SUPPLEMENT

Written by: **Fomasi, John 1102172**

Date/Time: **10/12/2021 00:00:00**

On 10-12-2021, I contacted Victim via telephone for follow up.

Victim stated she did not want to participate in a criminal investigation.

[REDACTED]

ATTACHMENT 4
APPLICANT APPEAL OF PLANNING
DIRECTOR DECISION

Agenda Item Number 2



City of Sebastopol
APPEAL FORM

Date: _____
* Filing Fee Paid: _____
File #: _____

To: (check one):

- PLANNING COMMISSION (limited to the appeal of staff determination not involving design matters or Planning Director Use Permit decision)
- DESIGN REVIEW BOARD (limited to the appeal of staff determination on design matters)
- TREE BOARD (limited to the appeal of staff determination on tree removals)
- CITY COUNCIL (all other appeals)

FROM:

Lowell Sheldon
(Please print your name)

SUBJECT:

I wish to appeal the action of: (check one):

- CITY STAFF (please give name or title) _____
- PLANNING DIRECTOR PUBLIC HEARING
- TREE BOARD
- DESIGN REVIEW BOARD
- PLANNING COMMISSION

Taken or made on 5/4/22 with regards to Alcohol Transfer / Pitala Georgian Cuisine
(Date of action or decision) (Name of use, applicant, project or other description of item you are appealing)

I ask that the decision or determination made above be reversed and/or modified, and that the original application be:
(Check one): granted denied modified

The reason(s) that my appeal should be granted by the Board, Commission, or Council named above are set forth below: or, are attached.

SEE ATTACHED DOCUMENTS

I understand that there is a filing fee for appeal, whether the appeal is from a Staff Determination, Design Review Board Decision, or Planning Commission Decision, and that the fee must be paid on the date that the appeal is submitted. Appeals must be submitted within 7 calendar days from the day of the original staff determination, or of the Board/Commission action. (The date of the decision is not included in the calculation of 7 days.)*

You will be notified by mail of the date of the Board, Commission or City Council hearing on review of your appeal. All interested persons will be entitled to attend the meeting and be heard.

Lowell Sheldon Lowell Sheldon
Your Signature Print Name

779 Dupont Ave S.B. CA 95472
Your Mailing Address

707-338-5456 lsheld@gmail.com
Your Phone Number Your Email Address

* If a staff determination was mailed to you, and a public meeting has not been held, the appeal must be submitted within seven (7) days of the mailing of the letter.

May 11, 2022

Re: *Denial of Alcohol Transfer Permit at 7233 Healdsburg Avenue (File 2022-020)*

DEAR PLANNING COMMISSIONERS,

I hereby appeal the city's denial of an alcohol transfer permit for my new business on the following grounds:

Piala is a Full Restaurant

I understand there was some confusion about what sort of restaurant we are bringing to life at Piala, both due to the name and the menu submitted. In a rush towards submission, we only turned in a partial menu. What we have been preparing for months now, since we signed our lease, is indeed a classic restaurant with a full menu. (See sample menu enclosed.)

Piala will be a *full restaurant* serving food from the Republic of Georgia. We will also serve natural wine from both Sonoma County, California, and the Old World. This is a traditional restaurant where folks will order Georgian food prepared in our kitchen and sit in our establishment to eat it.

The name Piala is meant to give folks an understanding of the breadth of knowledge we will bring to our wine program. These days restaurant names such as Bar, Tavern and Pub often do not describe the full character of the establishment, but rather are intended to evoke a sense of atmosphere. Willi's Wine Bar, one of Sonoma County's premiere restaurants, is a perfect example of this point. Likewise, so is Barley and Hops Tavern. That said, to clarify the issue for the Commission and our community, we intend to expand our business name to better describe the breadth of its offerings. Our new name will be "Piala Georgian Cuisine."

Piala Georgian Cuisine is no different in its scope of offerings than the restaurant that preceded it, Suhko Thai, and before that, Peking Chef. Apart from a different décor, the only change will be a new menu inspired by the Republic of Georgia. In our restaurant we will serve food with wine as an accompaniment to our food – *exactly as the previous owners had done for over 30 years.*

No Threat to Morals or Safety Is Posed by Approval of the Permit

The planning director has raised concerns about my opening a restaurant based on a letter written by my detractors. This letter is painful to read. It details an incredible array of false assertions about my character and actions. If any number of these assertions were true, I surely would have been sued in for sexual harassment and/or investigated by the police. *The fact of the matter is that I was not.*

That is not to say that I ran Lowell's restaurant in a way I am proud of. My youth and hubris at the time led me to run a messy space that can rightly be described as a toxic work environment. Some of these actions include consensual relationships with my employees, including with the mother of my kids. This sort of behavior was not sexual harassment, but it had the ability to create an unprofessional atmosphere. And it did. And I have learned my lesson in the face of incredible public scrutiny and its attendant business and personal consequences.

I have opened and managed 4 successful and popular restaurants in the City of Sebastopol over the last 15 years. I have worked my entire adult life to bring honest food to Sebastopol. My work has helped build a locally driven food scene with a focus on organic, farm to table dining. I have supported hundreds of local women (and men) by employing them in establishments that brought meaning and fair wages to their lives.

In our new business, Piala Georgian Cuisine, we are going above and beyond what most businesses do to ensure a safe, respectful work environment. We have contracted with an HR firm to entirely remove myself and my partners from the employee complaint process and are devoting considerable time and resources to build a bulletproof training program to ensure everyone is fully educated and empowered around appropriate workplace standards. We are also continuing our extensive individual training on sexual harassment in the workplace. Our goal, both professional and personal, is to ensure that every member of our team, and every customer that walks in the door, feels safe and welcomed.

My business partner, Jeff Berlin, will be the operational partner at Piala. He has a stellar reputation in the Bay Area and has run restaurants for over 20 years. His management of Piala will offer further safeguard against the possibility of improper work standards. Irma Hernandez, who worked for me for over 10 years at Lowell's, will run the kitchen. She, as well, understands the imperative that each and every employee and customer has a healthy and safe environment. Together they form a team that will bring joy and health to Piala Restaurant.

Admittedly, there are members of our community who have been upset with my past management style, but city government should not govern on the basis of rumor, innuendo, and out-of-context, misleading information. It should instead evaluate the *facts* at hand to assess the propriety or risk of a particular entitlement. In this case, as demonstrated by the success of my prior businesses, my commitment to learn from past errors, and our present commitment to ongoing HR trainings, monitoring, and feedback, the *facts* indicate that Piala Georgian Cuisine will in no way be a threat to our community but rather a lovely, inviting and safe environment for workers and guests alike.

This vision is not an empty promise. I have two small children whom I am raising in my hometown of Sebastopol, teaching them by example how to grow into productive and honest members of our community. Piala will be managed with these principles in mind.

Thank you for your consideration.

Sincerely,

Lowell Sheldon

Encl.

PIALA GEORGIAN CUISINE MENU:

House Cured Olives

Local Cheese Plate, citrus greens, baguette

Shaved honey baked ham, mustard, baguette

Jonjoli – Fermented Bladdernut Flowers

T'gemali – Sour Green Plum Sauce

Jonoli – Fermented Red Pepper Sauce

Long Leg Farm Lettuces, burnt beets, yogurt dressing, sesame seeds

Soko – Sauteed oyster mushrooms with onion, mint, tarragon and chili

Ch'Visht'ari – seared corn cakes stuff, feta, smoked mozzarella

Lobo – Red Bean and Herb Stew

Mtsvadi – Grilled pork skewers, shaved onion and pomegranate sauce

Dandelian Panna Cotta

PIALA GEORGIAN CUISINE

PUBLIC NOTICE OF APPLICATION
TO SELL ALCOHOLIC BEVERAGES

7233





HAROICHE LAW

p: (707) 814-0028 f: (707) 289-7996 bob@haroiche.law 121 North Main Street, Ste 210 Sebastopol, CA 95472

May 23, 2022

VIA EMAIL

Ms. Kari Svanstrom
Mr. John Jay
City of Sebastopol Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472

Re: *Piala Use Permit Denial (2022-020)*
HL no. 213-01

Dear Ms. Svanstrom and Mr. Jay:

On behalf of the applicant/appellant in the referenced matter, I am now attaching additional documentation in support of our appeal of a use permit (ABC license transfer) denial for the new Piala Georgian Cuisine restaurant at 7233 Healdsburg Avenue:

- Exhibit A: Full dining and wine/beer menu along with description and photographs of the cuisine.
- Exhibit B: Piala's Sexual Harassment/Discrimination Policy to be provided all employees.
- Exhibit C: Letter from The Personnel Perspectives (www.personnelperspective.com) summarizing the human resources services they have been retained to provide Piala.

As the applicant is not intending to submit any additional information other than whatever public letters of support it may receive, we ask that you prepare this matter for hearing at the Planning Commission as soon as possible.

We also ask that this new submission, along with our May 11, 2022 letter of appeal, be forwarded to the Planning Commission in advance of the hearing. Thank you.

Ms. Kari Svanstrom
Mr. John Jay
May 23, 2022
Page 2 of 2

Sincerely,

A handwritten signature in blue ink that reads "Bob Haroche". The signature is written in a cursive style with a large initial "B".

Bob Haroche

Enc.
cc: Client

APPLICANT APPEAL OF PLANNING DIRECTOR DECISION -
SUPPLEMENTAL INFORMATION
(EXHIBITS A-C AND CORRESPONDENCE WITH STAFF)

EXHIBIT A

Piala menu is structured on the format that people from the Republic of Georgians use in both home and restaurant. Smaller plates shared by families and friends. In much of the world, menus are not structured as appetizers and entrees. Rather plates of food come at various times throughout the meal. This format informs the structure of Piala's menu. We want folks to order a number of items from our changing, Seasonal menu. Our focus will be on serving complete meals with grains, vegetables and meats including fermented foods and preserves.



PIALA

Georgian Cuisine

PLATES

- House Marinated Olives 8.
- Jonjoli ~ Fermented Bladdernut Flowers 10.
- Local Cheese Plate 12.
- Sliced Jamon Serrano 12.
- Nigvziani Badrijani ~ Walnut Paste
Wrapped in Fried Eggplant 15.
- Pkhlovani ~ Wild Greens, Herbs &
Cheese Pie 14.
- Roasted Beet Salad with Yogurt Dressing
And Toasted Sesame Seeds 12.
- Soko ~ Wild Mushrooms Sauteed with
Tarragon, Spring Onions & Chili Flake 15.
- Ch'Visht'ari ~ Fried Corn & Cheese Cakes 12.
- Lobio ~ Red Bean Stew with Herbs & Spices 14.
- Mtsvadi ~ Grilled Pork Skewers with
Pomegranate-Marinated Onions 18.
- Dandelion Panna Cotta 12.
- Espresso 5.
- Selection of Georgian Teas 6.

GLASSES

- Lapati Sparkling Chinuri, Georgia 10 / 40.
- Kikelet Sparkling Furmint, Hungary 15 / 75.
- Caleb Leisure, 'Caesura' Viognier Pet Nat
Sierra Foothills CA 12 / 60.
- Oszkar Maurer Mezes Feher, Serbia 12 / 48.
- Khme Rkatsiteli Karabakh, Armenia 14 / 56.
- Stereophonic Albarino, 'Blue Nile'
Edna Valley CA 12 / 48.
- Vino di Anna Nerello Mascalese Rosato
'Jeudi,' Mt. Etna, Sicily 12 / 48.
- Pheasant's Tears 'Poliphonia,' Georgia 14 / 56.
- Es d'Aqui 'Dasleztoiles' Rouge
Languedoc, France 14 / 56.
- Zorzal Graciano, Navarra, Spain 15 / 60.
- Guniava Otskhanuri Sapere / Tsolikouri
Imereti, Georgia 14 / 56.
- Bott Frigyes Kadarka, Slovakia 15 / 60.
- Yamakiri Pinot Noir, Mendocino CA 15 / 60.
- Golden State Gravenstein Cider 8.
- Seismic Brewing CO. Tremor Lager 8.















EXHIBIT B

Policy Prohibiting Unlawful Harassment, Discrimination, and Retaliation

We are committed to make every reasonable effort to provide a work environment free of unlawful harassment, discrimination, retaliation, bullying, or other disrespectful or unprofessional conduct. Pinal policy discourages conduct that is disrespectful and/or unprofessional, and prohibits harassment and discrimination based on sex (including pregnancy, childbirth, breastfeeding, lactation accommodation requests, or related medical condition), race (including traits historically associated with race, such as hair texture and hairstyles), religion (all aspects of religious beliefs, observance or practice, including religious dress or grooming practices), color, gender, gender identity, gender expression, national origin, ancestry, physical or mental disability, genetic information, marital status, registered domestic partner status, age (40 and over), sexual orientation, denial of pregnancy disability leave, military or veteran status, or any other basis protected by federal, state or local law or ordinance or regulation. Harassment and discrimination based on the perception that a person possesses any of these characteristics, or is associated with a person who possesses, or is perceived as possessing, any of these characteristics are also prohibited. All such conduct violates Company policy.

All persons involved in the operation of the Company, including supervisors and managers, as well as vendors, customers, independent contractors and any other parties with whom you come into contact while working, must comply with this policy. The Company specifically prohibits such persons from engaging in conduct that violates the California Fair Employment and Housing Act or this policy. Applicants, employees, unpaid interns, volunteers and independent contractors are all protected from unlawful harassment and discrimination.

Definition of Sexual Harassment

Sexual harassment is defined as unwelcome sexual advances, requests for sexual favors, and other verbal, visual or physical conduct of a sexual nature when (1) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, (2) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual, or (3) such conduct has the purpose or effect of unreasonably interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment, even if there are no tangible or economic job consequences.

Unlawful Harassment is Prohibited

Unlawful harassment and other disrespectful/unprofessional conduct may include, but is not limited to, the following behavior:

- Verbal conduct such as epithets, derogatory jokes or comments, slurs or unwanted sexual advances, invitations, or comments;
- Visual conduct such as leering, sexual gestures, derogatory and/or sexually-oriented posters, photography, cartoons, drawings, or gestures;
- Physical conduct such as assault, unwanted touching, blocking normal movement, or interfering with work;
- Threats and/or demands to submit to sexual requests in order for an employee to keep their job, or to avoid some other loss, and offers of employment benefits in return for sexual favors;
- Using electronic communications of any type (e.g., emails, social network posts, texts and blogs), to harass or frighten someone;
- Retaliation for reporting or threatening to report harassment;

- Abusive conduct including: repeated infliction of insults and epithets; verbal or physical conduct that a reasonable person would find threatening, intimidating, or humiliating; or the gratuitous sabotage or undermining of a person's work performance.

Sexual harassment does not need to be motivated by sexual desire to be unlawful or to violate this policy. For example, hostile acts toward an employee because of the employee's gender can amount to sexual harassment, regardless of whether the treatment is motivated by sexual desire.

Unlawful Discrimination is Prohibited

Piala prohibits unlawful discrimination against any job applicant, employee, person performing services for the Company, or unpaid intern by any employee of the Company, including supervisors and coworkers.

This policy applies to all terms of employment, including hiring, training, promotions, discipline, compensation, benefits, and termination.

Pay discrimination, as defined by the California Fair Pay Act and applicable federal law, is prohibited. Pay differentials may be valid in certain situations where not prohibited by law. Employees will not be retaliated against for inquiring about or discussing wages. However, Piala respects the privacy of its employees and is not obligated to disclose the wages of other employees.

Reasonable Accommodation

Unlawful discrimination can also include failing to reasonably accommodate religious practices or qualified individuals with disabilities where the accommodation does not pose an undue hardship to the Company.

The Company will make reasonable accommodations for the known physical, emotional or mental disabilities, legally protected medical conditions, or religious creed and practices of an otherwise qualified individual who is an applicant or an employee unless undue hardship would result.

Any job applicant or employee who requires an accommodation in order to perform the essential functions of the job should contact an owner and discuss the need for an accommodation. The Company will engage in a timely, good faith, interactive process with the employee or applicant to determine the need for a reasonable accommodation. If a reasonable accommodation exists and will not impose an undue hardship on the Company, an accommodation will be made.

Violations Will Not be Tolerated

Violations of this policy will not be tolerated. Anyone engaging in such activity is acting beyond the scope of their employment or any authority they may have from the Company. Any supervisor who is made aware of a complaint of harassment, discrimination, retaliation, or other disrespectful/ unprofessional conduct and fails to take action can be subject to corrective action, up to and including termination.

Reporting Procedure

1. If you feel that you have experienced or witnessed harassment, discrimination, retaliation or other prohibited conduct, you are permitted and encouraged to discuss it directly with the person(s) involved. You may tell the person that their conduct is unwelcome and that you want it to stop. If you are uncomfortable taking this action or the conduct does not cease after you have asked the person to stop, you should immediately report this to your supervisor or our HR consultant, [name],

- at [phone number and email address]. You are never required to report such conduct to your supervisor if you do not wish to do so.
2. When reporting potential violations of this policy, please provide a written or oral complaint to an owner or our HR consultant, [name], at [phone number and email address], as soon as possible after the incident. Your complaint should include a description of the nature and frequency of the conduct at issue, the names of the offending person(s) involved, the names of all witnesses to the conduct, your response to the conduct, and/or any actions demonstrating to the offending person(s) that the conduct is unwelcome.
 3. Any supervisor or manager who becomes aware of possible sexual or other unlawful harassment, discrimination, retaliation, or other prohibited conduct is required to report it immediately or as soon as practicable to an owner or our HR consultant, [name], at [phone number and email address].

No employee should feel they must tolerate an inappropriate or uncomfortable situation. The Company encourages all employees to report any incidents of harassment, discrimination, retaliation or other prohibited conduct immediately so that complaints can be thoroughly investigated and promptly resolved. The Company will take your concerns seriously.

Because of the seriousness of a complaint of prohibited harassment, discrimination, retaliation or other prohibited conduct, any employee who makes or knowingly participates in a false complaint shall be subject to discipline up to and including termination.

Investigating Complaints

Every complaint of harassment, discrimination, retaliation, or other unlawful or prohibited conduct that is reported will be investigated impartially on a fair, timely, and thorough basis by qualified personnel in as confidential and prompt a manner as possible. However, the Company cannot promise complete confidentiality as the duty to investigate and take corrective action may require the disclosure of information. Investigations will be documented and tracked for reasonable progress and closed in a timely manner. Pinal will endeavor to reach a reasonable conclusion based on evidence collected during the investigation. If an investigation determines that inappropriate and/or unlawful harassment, discrimination, retaliation or other prohibited conduct has occurred, the Company will take appropriate action commensurate with the severity of the offense. Any employee determined by the Company to be responsible for harassment, discrimination, retaliation, or other prohibited conduct will be subject to corrective action, up to and including termination of employment. In addition, appropriate action will be taken to prevent any future harassment or other prohibited conduct.

Once the investigation has started all involved employees must completely and honestly assist in the investigation. This includes, but is not limited to, providing honest and accurate statements, being available for interviews, and assisting in the successful completion of the investigation. Failure to do so on any involved employee's part may be cause for disciplinary action, up to and including termination.

No Retaliation

The Company prohibits retaliation against any employee for filing a complaint or participating in any workplace investigation, and will not knowingly tolerate or permit retaliation by any other employee of the Company. Any report of retaliation will be promptly and thoroughly investigated in accordance with the Company's investigation procedures outlined above. If a complaint of retaliation is substantiated, appropriate disciplinary action, up to and including termination of employment, may be taken.

Outside Resources for Employees

In addition to the internal process described above, persons subjected to discrimination or harassment, including sexual harassment, have the right to contact and file a complaint with the California Department of Fair Employment and Housing (DFEH) or the federal Equal Employment Opportunity Commission (EEOC). These agencies investigate claims of discrimination and harassment, act as neutral fact finders, and attempt to help the parties resolve disputes. For more information, employees may contact the DFEH online at www.dfeh.ca.gov or call 800-884-1684, or the EEOC online at www.eeoc.gov or call 800-669-4000, or go to the nearest agency office.

EXHIBIT C



May 23, 2022

To Whom it May Concern:

This letter serves to confirm that Piala LLC has retained The Personnel Perspective to provide HR consulting services on an ongoing basis.

The Personnel Perspective is based in Santa Rosa and has been providing HR consulting services since 1987. It works with many local employers in a variety of capacities. Piala LLC has requested we provide general HR support and also make ourselves available to its employees should they need to talk with an HR professional that can serve as an impartial third party regarding anything related to their employment.

In addition, The Personnel Perspective will work with ownership to make sure all employees receive harassment prevention training as dictated by California law.

Sincerely,

A handwritten signature in black ink that reads 'Karen Alary'.

Karen Alary, Managing Partner

Kari Svanstrom

From: Lowell Sheldon [REDACTED] >
Sent: Thursday, June 16, 2022 3:50 PM
To: Kari Svanstrom
Cc: Bob Haroche; John Jay
Subject: Re: follow-up for June 28 staff report/hearing

Hi Kari,

I am a 1/3 owner of Piala along with Jeff Berlin (1/3) and Noah Churma (1/3).

The ABC Permit application is for Piala LLC and lists each of us as owners with % ownership listed, as is required by law. Each member receives a thorough background check (live scan) which looks into criminal record (of which we have none) to determine if members are eligible for an ABC permit under state laws. This is normally where issues come up regarding eligibility and moral turpitude in the licensing process, but standards are in place and the legal system is used - meaning conviction of a crime is the standard, as apposed to accusations in the media.

I'm aware the city may have different standards, and of course this is the issue at hand. What are the city's standards and how are they fairly apportioned.

When applying for a use permit in the city I have never listed all members or the operational structure of the LLC as I was not aware this was necessary or desired.

Kindly,
Lowell

On Thu, Jun 16, 2022 at 2:57 PM Kari Svanstrom <kvanstrom@cityofsebastopol.org> wrote:

Thanks Lowell,

That helps. I assume you would still be a part owner, or another type of 'partner' (ie what would that title/role be). Or does 'complete' mean you're selling any interest in business at that time? (in that case, I'm not sure the alcohol license could even be in your name?)

Kari Svanstrom

Planning Director

From: Lowell Sheldon [REDACTED] >
Sent: Thursday, June 16, 2022 2:33 PM
To: Kari Svanstrom <kvanstrom@cityofsebastopol.org>
Cc: Bob Haroche <bob@haroche.law>; John Jay <jjay@cityofsebastopol.org>
Subject: Re: follow-up for June 28 staff report/hearing

Hi Kari,

Thank you for taking the time to check in with me on this issue. Your desire to accurately communicate our concept and management structure to the commission is greatly appreciated.

In our original appeal we communicated this:

“My business partner, Jeff Berlin, will be the operational partner at Piala. He has a stellar reputation in the Bay Area and has run restaurants for over 20 years. His management of Piala will offer further safeguard against the possibility of improper work standards. Irma Hernandez, who worked for me for over 10 years at Lowell’s, will run the kitchen. She, as well, understands the imperative that each and every employee and customer has a healthy and safe environment. Together they form a team that will bring joy and health to Piala Restaurant.”

For further clarification, Operational Partner description is as follows: the member of the ownership team that works at Piala and manages all aspects of daily operations including hiring/firing, ordering, opening and closing duties, and all customer facing activities.

Beyond this, I would like to say that I will have no daily roll in operations or management at Piala. My role was to execute the buildout and I will then move on to other projects. This is my complete and only hands on role at Piala.

Does this answer all your questions?

Kindly,

Lowell

On Thu, Jun 16, 2022 at 1:45 PM Kari Svanstrom <kvanstrom@cityofsebastopol.org> wrote:

Hi Lowell,

We are working on the staff report for this item. I know in our conversation you discussed that your involvement in the restaurant was not an active manager. I believe you discussed doing the permitting and startup as your role (that the

I also saw the same in the Press Democrat article. There wasn't any info included on that in the appeal response. Can you please provide us a description of that so we can include in the staff report? It would also be helpful to know what 'operational manager' (I think that Jeff was id'ed as that person? – if there's a description of what that role is that would be helpful, so those outside of the industry, including staff and the commission, can understand the roles). It would also be helpful to understand your role on say, a weekly or monthly basis after the restaurant is setup and open.

Thanks,

Kari

Kari Svanstrom, AICP, Architect

Planning Director

City of Sebastopol | Planning Department

[7120 Bodega Avenue | Sebastopol, CA 95472](https://www.cityofsebastopol.org/7120-Bodega-Avenue-Sebastopol-CA-95472)

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www.cityofsebastopol.org



City offices are open Monday - Thursday, 7:00 am - 5:30 pm, Closed every Friday/and holidays

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City of Sebastopol Planning Commission Staff Report

Meeting Date: June 28, 2022
Agenda Item: 6A
To: Planning Commission
From: John Jay, Associate Planner
Kari Svanstrom, Planning Director
Subject: Appeal of Planning Director (Administrative) decision denying a conditional use permit for an alcohol use permit
Recommendation: No Recommendation

Applicant/Owner: Lowell Sheldon
File Number: 2022-033
Address: 7233 Healdsburg Avenue
CEQA Status: Exempt
General Plan: Commercial Office
Zoning: Office Commercial (CO)

Introduction:

This is an appeal application requesting the Planning Commission to overturn the Planning Director's decision on the denial of an alcohol transfer permit for the restaurant, Piala, at 7233 Healdsburg Ave. The planning department received the application for an alcohol transfer permit on March 29, 2022. After reviewing the application and receiving a letter of protest from the public the Planning Director issued a letter of denial to the applicant stating that staff was unable to make multiple findings required.

Project Description:

The project as proposed is to open a new Georgian, Piala, restaurant at 7233 Healdsburg Ave in Sebastopol and serve alcohol along with full meals. A limited menu was submitted within the request for the alcohol transfer permit and was one of the bases of denial. A more complete menu has been supplied within this appeal application to satisfy that finding and is attached to this staff report.

Project Location and Surrounding Land Uses:

The project is located within an Office Commercial district and is surrounded by other restaurants. The surrounding uses are mostly restaurants located within the same shopping center and across the street, with other smaller uses including a martial arts use (classified as a gym) previously located adjacent to the restaurant space, and a barber shop is adjacent on the other side.

General Plan Consistency:

There are several Goals and Policies within the Community Health and Wellness Element of the Sebastopol General Plan that address the impacts of controlled substances such as alcohol and tobacco. The relevant policies are included below:

Goal CHW 6: Reduce the Harmful Impacts of Alcohol, Tobacco and Drug Use on Individuals, Their Families, and the Larger Community

Policy CHW 6-1: Address responsible alcohol consumption through outreach and efforts intended to reduce adult high-risk drinking and its related problems.

Actions in Support of Goal CHW 6

- Action CHW 6c: Continue to require that all new or transferred Alcoholic Beverage Control (ABC) licensees and their employees participate in Responsible Beverage Service training, to promote public health and safety by reducing incidence of sales and service to minors and sales and service to obviously intoxicated persons.
- Action CHW 6e: Continue to require bars to serve food in order to help counter the effects of alcohol consumption.
- Action CHW 6f: Develop and implement responsible beverage consumption practices by local businesses.

Zoning Ordinance Consistency:

The project is located within the Office Commercial (CO) district of Sebastopol. A restaurant is a permitted use within the CO district. However, alcohol served on the premises requires a Conditional Use Permit regulated by SMC Chapter 17.415, as well as the criteria found in the Alcohol Use Permit Chapter 17.350.

Further, the Alcohol Use Permit Ordinance allows bona fide restaurants where beer and wine are served as incidental to a meal qualifies for a reduced review authority from the Planning Commission to City staff provided the applicant meets the 9 criteria below:

Section 17.350.080.C

1. *The premises contain a kitchen or food-serving area in which a variety of food is prepared and cooked on the premises.*
2. *The primary use of the premises is for sit-down service to patrons, and the establishment is not a drive-up, drive-through, or fast-food restaurant.*
3. *The establishment serves food to patrons during all hours the establishment is open for customers.*
4. *The establishment only serves alcohol in a dining area and not in an alcohol serving area that is separate from the dining area.*
5. *Adequate seating arrangements for sit-down patrons are provided on the premises, not to exceed a seating capacity of 50 persons.*
6. *Any take-out service is only incidental to the primary sit-down use and does not include the sale or dispensing for consideration of alcoholic beverage or beer or wine.*
7. *No alcoholic beverages or beer or wine are sold or dispensed for consumption beyond the premises.*
8. *No dancing or live entertainment is permitted on the premises except with approval by the Chief of Police and Planning Director, who may impose conditions controlling such activities.*

9. *An employee alcohol awareness training program and security plan is approved by the Chief of Police.*

Environmental Review:

The project is categorically exempt from the requirements of CEQA pursuant to Section 15301 Existing Facilities which includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The alcohol transfer permit would fit this exemption as it is for the use of a restaurant where one has existed in the past and will not create any new environmental impacts as it will be in an already developed area.

City Departmental Comments:

The project was routed to the various city departments along with the Sonoma County Health Department. The Police and Sonoma County Health departments provided comments as they related to AB1221 for Responsible Beverage Service training as these are applied to all alcohol permits and are required to be completed by all members of the establishments staff.

Required Findings:

All alcohol permit requests within the City of Sebastopol are required to obtain a Conditional Use Permit.

Section 17.415.020.A Conditional Use Permits (CUP) contains the Criteria for approval of a CUP:

- A. General Conditional Use Permit Criteria. A conditional use permit may be granted only if the establishment, maintenance or operation of the proposed use or development applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the neighborhood of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Section 17.350.020 Alcohol Use Permits of the Sebastopol Municipal Code lays out the additional findings applicable to Alcohol Use Permits as follows:

- A. *On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City. Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.*
- B. *A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.*
- C. *In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.*

The Planning Commission, or City Council on appeal, shall also consider whether the proposed use will detrimentally affect nearby residentially zoned communities in the area, after giving consideration to the distance of the proposed use from the following:

1. Residential buildings;
 2. Churches, schools, hospitals, public playgrounds and other similar uses; and
 3. Other establishments dispensing, for sale or other consideration, alcoholic beverages including beer and wine.
- D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.
- E. The Planning Commission, or City Council on appeal, may impose any conditions on the applicant or proposed location reasonably related to the health, safety or welfare of the community.
- F. Except as set forth in SMC 17.350.070, applications for conditional use permits herein shall be made in accordance with Chapter 17.415 SMC, together with amendments thereto. The applicant shall submit a processing fee as specified in the most current Planning Department schedule of fees. Any costs for processing an application that exceed the conditional use permit fee paid by the applicant shall be deemed a debt to the City and shall be paid within 30 days of issuance of the conditional use permit or said permit shall be revoked.

Additional criteria for the review at a staff level are included in the Zoning Consistency section above.

Analysis:

The project was denied by the Planning Director, as the specific findings noted in Section 17.350.020 of the Sebastopol Municipal Code (SMC) could not be made. Firstly is the finding the application did not meet the requirements of a bona fide restaurant. Secondly, the City received a letter during the required public comment period and, based on the contents of the letter, could not find that the applicant had meet the criteria found in SMC 17.350.020(C) and (D), that the use would not adversely affect the health, safety, or welfare of the community (see attachments for full application materials and letter of decision).

SMC 17.350.080.C – staff level conditional use permit

The City of Sebastopol requires a conditional use permit for all alcohol-based operations. As noted above, Section 17.350.080.C of the Sebastopol Municipal Code allows for a restaurant or “bona fide” public eating place where alcohol is served incidentally to a meal be approved by the Planning Director, with the right to appeal by any interested party to the Planning Commission, assuming it meets the nine criteria listed in Section 17.350.080.C. As originally proposed, staff determined the requirements of a “bona fide” restaurant were not met, as the menu submitted offered snacks/appetizers and little meal options, and was closely related to a wine bar establishment. Additionally, the signage proposed, and erected on site, was “Piala Wine Bar”.

Staff found that the application should be classified as a wine bar or wine tasting room, not a bone fide restaurant. The project was denied as it did not meet the criteria in Section 17.350.080.C criterion A, as this would be a major change in use. Bars and tasting rooms required a Conditional User Permit reviewed by the Planning Commission and, additionally, would have different parking criteria the applicant likely could not provide, etc.

Since the denial letter was issued, the applicant has modified the name of the restaurant to “Piala Georgian cuisine “ and provided a new typical menu to staff that reflects meals and brief wine list such that a restaurant would serve. They also provided evidence in the appeal that the kitchen will be maintained and utilized to prepare food; no ‘bar’ will be constructed; and seating will be at traditional tables and long family-style tables. Staff recommends that, with these modifications, the proposed project would now meet the criteria and definition of a bone fide restaurant with less than 50 seats.

Section 17.350.020 Alcohol Use Permit

The application was also denied on the basis of not being able to meet Section 17.350.020, Criterion C and D of the required findings for an alcohol use permit. As noted above, the City received a letter of protest from the public regarding previous actions and encounters with members of the public and staff as well as a report to the Sonoma County Sherriff’s office.

The Planning Director, and city staff, considered this letter in that the letter mentions specific encounters that previous employees of the applicant had in a negative matter. In the case of alcohol use permits, the applicant bears the burden of proof in that this project will not adversely affect the health, safety or welfare of nearby community, which involves both employees and patrons of a venue. With that letter, the Planning Director and staff felt that the applicant did not meet the criteria for a conditional use permit (17.415.020.A) and Criteria C and D of Section 17.350.020.C

C. “In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents....”

D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.

As a part of this appeal for the project the applicant has submitted information about the restaurant’s proposed Sexual Harassment/Discrimination policy and human resources services agency. In it the applicant, Mr. Sheldon, notes that one of the business’ partners, Jeff Berlin, will be the operational partner at Piala. Staff worked with the applicant to understand his involvement in the operations and presence at the restaurant, and to understand the role of the operation partner.

Mr. Sheldon has noted that the Operation Partner’s role is the member of the ownership who “works at Piala and manages all aspects of daily operations including hiring/firing, ordering, opening and closing duties, and all customer facing activities.” He has also further clarified his role as follows: “

Beyond this, I would like to say that I will have no daily roll in operations or management at Piala. My role was to execute the buildout and I will then move on to other projects. This is my complete and only hands on role at Piala. Mr. Sheldon will remain a 1/3 owner in the restaurant.

Public Comment:

As prescribed by Section 17.460 of the Zoning Ordinance, the Planning Department completed the following: (1) Provided written notice to all property owners within 600 feet of the external

boundaries of the subject property; (2) provided a written notice that was published in the Press Democrat; and (3) posted three written notices publicly on and within vicinity of the subject property.

As of drafting this staff report the City has received both letters of support of the denial letter from the community and has also received letters of support in this letter being reversed. Public comments received as of this staff report are included in the Attachments to this staff report. Staff anticipates additional comments, and these will be forwarded to the Commission and posted to the website prior to the June 28 hearing date.

Recommendation and Commission's Options:

Staff believes the proposed use now complies with the requirement for a restaurant. As such, it is allowed to open as a Permitted use in the CO zoning district, with the issuance of a business license and an application for a sign permit for the sign that has been installed.

In the determination of meeting the criteria for an Conditional Use Permit, staff recommends that the Planning Commission hold a public hearing, hear the staff report and applicant presentation, and consider the public testimony, both written and oral, and deliberate whether or not this criteria is met. After deliberations, the Commission should direct staff to prepare a Resolution with the Commission's Findings for Denial, or Findings for Approval and Conditions of Approval, and Continue the item to the Commission's next regular meeting on July 12, at which time the Commission can continue considering the item and the draft resolution.

Additionally, if the Commission requires additional information, they may continue the item while such information is obtained. In such case, staff recommends it be continued to a 'date certain' if possible.

Attachments:

Application
 Letter of Denial
 Appeal letter and supplemental information
 Public Comments



City of Sebastopol
Incorporated 1902
Planning Department
7120 Bodega Avenue
Sebastopol, CA 95472

www.ci.sebastopol.ca.us

UNAPPROVED DRAFT 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 Píala, 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 Píala 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 Píala 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 9th 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 9th. 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 80th 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 be 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 Pila 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 Pila 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 Pila 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 9th. 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 to 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 26th 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 26th 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 26th 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 12th.

Paul Fritz, Commissioner

Yes, the July 12th 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 26th 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.



City of Sebastopol Planning Commission Staff Report

Meeting Date: July 12, 2022
Agenda Item: 5B
To: Planning Commission
From: John Jay, Associate Planner
 Kari Svanstrom, Planning Director
Subject: Appeal of Planning Director (Administrative) decision denying a
 conditional use permit for an alcohol use permit
Recommendation: No Recommendation

Applicant/Owner: Lowell Sheldon
File Number: 2022-033
Address: 7233 Healdsburg Avenue
CEQA Status: Exempt
General Plan: Commercial Office
Zoning: Office Commercial (CO)

Background:

This is an appeal application requesting the Planning Commission to overturn the Planning Director's decision on the denial of an alcohol transfer permit for the restaurant, Piala, at 7233 Healdsburg Ave. The planning department received the application for an alcohol transfer permit on March 29, 2022. After reviewing the application and receiving a letter of protest from the public the Planning Director issued a letter of denial to the applicant stating that staff was unable to make multiple findings required.

The Planning Commission held a Public Hearing, heard a staff report, and took public testimony, and closed the public hearing at its June 28, 2022 meeting. After deliberating, the Commission directed staff and the applicant to consider their direction, which included concerns related to the potential health and safety risks to the community given the public testimony. The Commission continued the item to its July 12, 2022 regular meeting to allow these discussions, and potential conditions of approval that addressed the concerns of the Commission, to be developed.

Discussion:

Staff has met with the applicant team and discussed potential conditions, related to limiting Mr. Sheldon's presence or activities on site as well as other human resources issues.

While it unclear from public testimony the extend of the relation of alcohol to the potential threat/harm Mr. Sheldon could pose to staff and the public, the impacts of alcohol on inhibitions and actions is well-documented in the public health arena. Indeed, it is the reason the City of Sebastopol requires a Use Permit for establishments that serve alcohol. Prior conditions

proposed by the applicant would have allowed Mr. Sheldon to consume alcohol on the site while there as a diner. Additionally, Mr. Sheldon stated at the prior meeting that he would not be amenable to accepting a condition that prohibited him from being on site. In discussions with the applicant, this was discussed at length in an effort to bring forth conditions that might be acceptable to both the Commission and the Applicant.

A restaurant is a permitted use in the zoning district, which means that anyone could operate a restaurant without a Use Permit (without serving alcohol, as requested by this Alcohol Use Permit application). This means Mr Sheldon would be free to own, manage, handle human resources, staff oversight, etc. any restaurant that did not serve alcohol. Staff and the applicant team therefore found that the link to alcohol, which is also critical to the success of the restaurant given industry economics, is a critical component where conditions could satisfy both parties.

It seems reasonable to limit this factor (alcohol) as it relates to Lowell Sheldon and the Commission's concerns for the health and safety requirements for a Use Permit, and the applicant's responsibility to meet the 'burden of proof' for this Use Permit criterion. The proposed condition for consideration would be to prohibit Mr. Sheldon from consuming or serving alcohol on the premises – essentially, denying him any aspect of the alcohol use permit as well as the ability to consume on premise as a diner. Mr. Sheldon has agreed to this condition:

Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.

The proposed conditions of approval would go further, however, to also include the limitation of Mr. Sheldon in human resources related issues, as was discussed at the prior Commission meeting:

Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:

(i) the hiring, training, management, supervision, review, discipline, or termination of any employee; or

(ii) the fielding, review, investigation of, or response to any employee complaints or concerns.

Additional conditions would require that the applicant on the City-related application for the alcohol use permit be modified to be in the name of Jeffrey Berlin, who would be the responsible party in monitoring and enforcing the conditions as discussed above. Additionally, any violation of said conditions would constitute grounds to revoke the Alcohol Use Permit for the restaurant (Exhibit A, Conditions of Approval [COAs] #5). The Applicant has requested that the Use Permit, and potential modification of these conditions, be reviewed 1 year after the restaurant has commenced operations This would be considered an Amendment to the Use Permit, and staff recommends this be the Applicant's responsibility to apply for such an amendment (COA #4). The Commission would have no requirement to modify the conditions, but would be allowed to do so at that time based on the evidence presented.

Lastly, while the applicant has proposed eliminating the outside human resources firm, staff recommends this condition remain, to ensure there is a third party to monitor and assist with any concerns related to the health and welfare of staff (COA #6)/.

General Plan Consistency:

There are several Goals and Policies within the Community Health and Wellness Element of the Sebastopol General Plan that address the impacts of controlled substances such as alcohol and tobacco. The relevant policy to the Commission’s specific concerns include the following:

Goal CHW 6: Reduce the Harmful Impacts of Alcohol, Tobacco and Drug Use on Individuals, Their Families, and the Larger Community

Policy CHW 6-1: Address responsible alcohol consumption through outreach and efforts intended to reduce adult high-risk drinking and its related problems.

Given the proposed conditions of approval, the consumption of alcohol would be prohibited by Mr. Sheldon.

Actions in Support of Goal CHW 6

- Action CHW 6f: Develop and implement responsible beverage consumption practices by local businesses.

The Planning Commission would be imposing specific conditions (Exhibit A, COA #3) to prohibit alcohol consumption as a responsible practice for the owner Lowell Sheldon to address concerns raised in the public testimony.

Environmental Review:

The project is categorically exempt from the requirements of CEQA pursuant to Section 15301 Existing Facilities which includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The alcohol transfer permit would fit this exemption as it is for the use of a restaurant where one has existed in the past and will not create any new environmental impacts as it will be in an already developed area.

City Departmental Comments:

The project was routed to the various city departments along with the Sonoma County Health Department. The Police and Sonoma County Health departments provided comments as they related to AB1221 for Responsible Beverage Service training as these are applied to all alcohol permits and are required to be completed by all members of the establishments staff.

Required Findings:

All alcohol permit requests within the City of Sebastopol are required to obtain a Conditional Use Permit.

Section 17.415.020.A Conditional Use Permits (CUP) contains the Criteria for approval of a CUP:

- A. General Conditional Use Permit Criteria. A conditional use permit may be granted only if the establishment, maintenance or operation of the proposed use or development applied for will not, under the circumstances of the particular case, be detrimental to the health, safety, peace, comfort and general welfare of persons residing or working in the

neighborhood of such proposed use or development, or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City.

Section 17.350.020 Alcohol Use Permits of the Sebastopol Municipal Code lays out the additional findings applicable to Alcohol Use Permits as follows:

- A. *On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City. Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.*
- B. *A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.*
- C. *In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.*

The Planning Commission, or City Council on appeal, shall also consider whether the proposed use will detrimentally affect nearby residentially zoned communities in the area, after giving consideration to the distance of the proposed use from the following:

- 1. *Residential buildings;*
 - 2. *Churches, schools, hospitals, public playgrounds and other similar uses; and*
 - 3. *Other establishments dispensing, for sale or other consideration, alcoholic beverages including beer and wine.*
- D. *In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.*
 - E. *The Planning Commission, or City Council on appeal, may impose any conditions on the applicant or proposed location reasonably related to the health, safety or welfare of the community.*
 - F. *Except as set forth in SMC 17.350.070, applications for conditional use permits herein shall be made in accordance with Chapter 17.415 SMC, together with amendments thereto. The applicant shall submit a processing fee as specified in the most current Planning Department schedule of fees. Any costs for processing an application that exceed the conditional use permit fee paid by the applicant shall be deemed a debt to the City and shall be paid within 30 days of issuance of the conditional use permit or said permit shall be revoked.*

Staff has recommended some conditions of approval related to Criterion A, to ensure that the establishment remains a bone fide restaurant as revised in the appeal revisions to the application. As noted above, the proposed conditions, to not permit Lowell Sheldon to consume

alcohol on-site, whether working or dining, and to not permit any staff management (COAs #2 and 3) relate to Criteria C and D above. Additionally, Condition of Approval 1.a requires owner Jeffery Berlin to be the recipient of the Alcohol Use Permit and the responsible party for ensuring the Conditions of approval are adhered to. Any violation of the Conditions 2 and 3 constitutes grounds for revocation of the permit (COA #5).

Public Comment:

Additional public comments received after the June 28, 2022 meeting are included as attachments.

Recommendation and Commission's Options:

Review the key conditions of approval, and provide any additional direction to staff. If the Planning Commission concurs that the permit, as conditioned, meets the requirements and criteria of an Alcohol Use Permit,

Regarding the restaurant as a bone fide restaurant:

- The restaurant shall maintain a menu that serves meals and provides a balance between food offerings, appropriate restaurant seating, etc. as proposed in the revised materials.

Regarding the Alcohol Use Permit use permit criteria:

- Applicant would be modified to be Jeffery Berlin
- Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:
 - 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.
- Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.
- Violation of any of Conditions 2 and/or 3 may, by itself, constitute a ground for revocation of the subject use permit.
- This Use permit shall be reviewed after a period of one year after the restaurant commences operations by the Planning Commission. At that time, the Planning Commission may modify the Conditions of Approval to allow Lowell Sheldon to consume alcohol on the premises as a member of the dining public. This shall constitute a request for an Amendment to a Use Permit, with the applicant responsible for applying for this review.
- Piala LLC shall engage and at all times retain an outside human resources firm to manage all aspects of employee complaints, issues, or concerns, including without limitation receiving, reviewing, investigating, and recommending appropriate action, if any, in response to such issues or concerns.

Attachments:

Proposed conditions from applicant
 EXHIBIT A – DRAFT FINDINGS FOR APPROVAL
 EXHIBIT B – DRAFT CONDITIONS OF APPROVAL
 EXHIBIT C – STANDARD CONDITIONS OF APPROVAL

Public Comments

PRIOR STAFF REPORT AND COMMENTS: <https://www.ci.sebastopol.ca.us/Meeting-Event/Planning-Commission/2022/Planning-Commission-Meeting-of-June-28th,-2022>

ATTACHMENT 8
PLANNING COMMISSION APPROVED
FINDINGS AND CONDITIONS OF APPROVAL

**EXHIBIT A
FINDINGS OF APPROVAL**

Piala Restaurant
Alcohol Use Permit
7233 Healdsburg Ave
APN 004-251-023 (File 2022-020)

Based on the evidence in the public record, the Planning Commission finds that:

1. The project is categorically exempt from the requirements of CEQA pursuant to Section 15301 Existing Facilities which includes interior or exterior alterations involving such things as interior partitions, plumbing, and electrical conveyances. The alcohol transfer permit would fit this exemption as it is for the use of a restaurant where one has existed in the past and will not create any new environmental impacts as it will be in an already developed area.
2. The project/use/proposal is consistent with the following provisions of the General Plan:

Action CHW 6c: Continue to require that all new or transferred Alcoholic Beverage Control (ABC) licensees and their employees participate in Responsible Beverage Service training, to promote public health and safety by reducing incidence of sales and service to minors and sales and service to obviously intoxicated persons.
As conditioned, all servers would be required to participate in Responsible Beverage Service training.

Action CHW 6e: Continue to require bars to serve food in order to help counter the effects of alcohol consumption.

The establishment is structured with table seating for dining. As conditioned, the establishment would be required to be maintained as a bone fide restaurant, serving full meals and with a balanced wine/beer and food menu.

Goal CHW 6: Reduce the Harmful Impacts of Alcohol, Tobacco and Drug Use on Individuals, Their Families, and the Larger Community

Policy CHW 6-1: Address responsible alcohol consumption through outreach and efforts intended to reduce adult high-risk drinking and its related problems.

As conditioned, alcohol consumption will be prohibited while on site by Lowell Sheldon, who would not otherwise be able to meet the criterion established in the Alcohol Use Permit section related to the applicant's burden of proof.

As conditioned, this criteria is met.

3. The use is consistent with the Sebastopol Zoning Ordinance, including the specific criteria of the following sections as described:

Section 17.350.020 Alcohol Use Permits of the Sebastopol Municipal Code the additional findings applicable to Alcohol Use Permits as follows:

- A. *On and after the effective date of the ordinance codified in this chapter, no place wherein alcoholic beverages are sold, served, or given away for on-site or off-site consumption, shall be established without first obtaining a conditional use permit from the City.*

Further, no existing site which substantially changes its mode or character of operation shall continue to operate without first obtaining a conditional use permit.

As conditioned, the establishment would be maintained as a bone fide restaurant at all times. The granting of this Alcohol Conditional Use Permit satisfies this criterion.

- B. A copy of the conditions of approval for the conditional use permit must be kept on the premises of the establishments and posted in a place where it may readily be viewed by any member of the general public.*

As conditioned, this criterion will be met.

- C. In making any of the findings required pursuant to this chapter, the Planning Commission, or the City Council on appeal, shall consider whether the proposed use will adversely affect the health, safety or welfare of area residents or will result in an undue concentration in the area of establishments dispensing, for sale or other consideration, alcoholic beverages, including beer and wine.*

As conditioned, Lowell Sheldon, part owner, will be prohibited from consuming alcohol on the proposed location the alcohol use permit is granted. His interactions with staff will also be limited, and an outside human resources firm will be monitoring the employee operations. As conditioned, this criterion can be met.

- D. In all determinations pursuant to this section, the applicant for the conditional use permit shall have the burden of proving by clear and convincing evidence that the proposed use will not adversely affect the health, safety or welfare, result in undue concentration of alcoholic beverage outlets, or detrimentally affect nearby communities.*

As conditioned, the applicant is able to meet the burden of proving by clear and convincing evidence that the proposed use, including it's operations, will not adversely affect the health, safety, or welfare of the community, by limiting interaction for a minimum of one year of Mr Sheldon with staff involving any human resource or supervision/direction; prohibiting alcohol consumption by same; engaging an outside human resources firm; and, maintaining the venue as a bone fide restaurant.

- E. The Planning Commission, or City Council on appeal, may impose any conditions on the applicant or proposed location reasonably related to the health, safety or welfare of the community.*

- F. Except as set forth in SMC 17.350.070, applications for conditional use permits herein shall be made in accordance with Chapter 17.415 SMC, together with amendments thereto. The applicant shall submit a processing fee as specified in the most current Planning Department schedule of fees. Any costs for processing an application that exceed the conditional use permit fee paid by the applicant shall be deemed a debt to the City and shall be paid within 30 days of issuance of the conditional use permit or said permit shall be revoked.*

As conditioned, this criterion will be met.

EXHIBIT B
CONDITIONS OF APPROVAL

Alcohol Use Permit
7233 Healdsburg Ave
APN 004-251-023 (File 2022-020)

1. The Use shall be in substantial conformance with the proposed operations as described in the application materials prepared by Piala, LLC, and stamped received on March 29, 2022, as modified on May 11, 2022 appeal letter, and on file at the City of Sebastopol Planning Department, except as modified herein:
 - a) The applicant shall be modified in all application materials to the City to be Jeffery Berlin. All references to the Applicant's responsibilities below shall be assigned to said Applicant.
2. Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, discipline, or termination of any employee; or
 - b. the fielding, review, investigation of, or response to any employee complaints or concerns.
3. Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.
4. This Use permit shall be reviewed after a period of one year after the restaurant commences operations by the Planning Commission. At that time, the Planning Commission may modify the Conditions of Approval to allow Lowell Sheldon to consume alcohol on the premises as a member of the dining public. This shall constitute a request for an Amendment to a Use Permit, with the applicant responsible for applying for this review.
5. Violation of any of Conditions 2 and/or 3 may, by itself, constitute a ground for revocation of the subject use permit.
6. Piala LLC shall engage and at all times retain an outside human resources firm to manage all aspects of employee complaints, issues, or concerns, including without limitation receiving, reviewing, investigating, and recommending appropriate action, if any, in response to such issues or concerns.
7. The establishment shall be maintained as a bone-fide restaurant as described in the revised application materials supplied by the applicant on May 11, 2022, including the requirements of Section 17.350.080.C, and as follows:
 - a) The menu shall at all times serve full meals, in addition to any such smaller plates proposed.
 - b) The beer/wine list shall remain in proportion with the menu as generally submitted in the revised application materials.
 - c) The seating in the restaurant shall continue to accommodate dining at table seating, and shall not transition to 'bar' style seating for more than 20% of the seating.

8. The applicant shall be responsible for implementing an Alcohol Awareness and Security Plan, which shall be submitted to the Police Department for review and approval within 60 days from the effective date of the Use Permit approval. The Plan shall describe building security and fire safety; how the operation will address staff training relative to alcohol consumption and operational security; and how the operation will coordinate with the Police Department.
 - a. Applicant shall submit a copy of the approved plan to the Planning Department, to be added to the project file.
9. All persons serving or distributing alcoholic beverages are required to attend the Responsible Beverage Service training program or an equivalent, either in-person or online to the satisfaction of the Police Chief.
10. No sound may emanate from the building, which violates the Noise Ordinance or causes an undue disturbance to site neighbors.
11. Hours of operation shall be consistent with the hours stated in the application. The Planning Director shall have the authority to modify the hours of operation.
12. A Business License is required and shall be obtained prior to operation of the use.
13. Food, including meals, must be made available during all times that alcohol is served. This may include incidental food items.
14. Any minimum purchase requirement may be satisfied by the purchase of food or beverages. In no case shall a "drink minimum" be imposed.
15. Off-sale of beer and wine is not permitted with this approval.
16. Placement of bottles into outdoor recycling bins shall take place only between the hours of 9:00 A.M. – 9:00 P.M.
17. The business owner shall ensure that employees are drug and alcohol free while on duty.
18. The establishment is not approved as an entertainment venue. Dancing and/or regular live music shall not be permitted on the premises without prior City approval. As an incidental use, recorded background music and occasional live acoustic music may be conducted inside the establishment only. All doors and windows shall be closed during any such activity. The Police Department or Planning Director may require termination or modification of such activity.
19. The business owner shall ensure that exterior areas, including the adjacent courtyard area and sidewalk, are free of trash and other debris that may be generated by patrons.
20. The business owner shall be responsible for removing any graffiti on the outside of the establishment.
21. A copy of the conditions of approval for the Alcohol Use Permit must be kept on the premises of the establishment and posted in a place where any member of the general public may readily view it.

22. Occupancy limitations shall be established by the Building Official and clearly posted prior to issuance of a Certificate of Occupancy for any building, including a use requiring a Use Permit.
23. All applicable permits shall be obtained from other approving agencies prior to commencement of this use, including, but not limited to Building and Safety Department, Department of Alcoholic Beverage Control, Fire Department, and County Health Department.
24. As required by the Sonoma County Department of Health Services;
 - a. A review and approval of the menu, plans, and/or specification sheets is required for any changes to the food service operation, facility remodel, addition of any equipment or expansion of any food or alcohol storage or food preparation areas prior to use of the area of equipment.
25. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
26. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.
27. This approval does not include any signs. Any new signs that will identify the use of this property are subject to the prior approval of the Design Review Board or City staff, as appropriate.
28. Approval is valid for three (3) years, except that the applicant may request a one (1) year extension of this approval from the Planning Director, pursuant to Section 17.400.100 of the Zoning Ordinance.
29. The Use Permit shall be in effect unless it is abandoned or closed for 12 months or longer or otherwise rescinded.

EXHIBIT C
STANDARD CONDITIONS OF APPROVAL

Alcohol Use Permit
7233 Healdsburg Ave
(file 2022-020)

1. All plans shall include a brief description of the project on the cover sheet.
2. All submitted building permit plan check sets shall include a plan sheet incorporating these conditions of approval.
3. Except as otherwise noted in these conditions of approval, the plans submitted to the Building Department for plan check shall be in substantial conformance to those approved by the review body. If any changes are made to submitted plans which were approved by the review body the applicant shall work with the Planning Department to determine if the changes are significant enough to once again be seen by the review body, or if staff can approve the changes. Any changes that have not been approved by Planning staff are not approved. Construction or demolition work that does not conform to the Planning approval is not valid and shall be subject to stop work orders and may require removal.
4. Site landscaping shall be generally consistent with the Landscape Plan included as part of "Exhibit A" on file with the Sebastopol Planning Department. The final landscape plan shall be stamped by a licensed landscape architect and filed with the Planning Department prior to occupancy. Plans for any irrigation of the site shall be incorporated into the landscape plan. All planting shown on the approved plan shall be installed prior to occupancy of the proposed project. Upon the request of an Applicant to receive a Temporary Certificate of Occupancy and at discretion of the Planning Director, landscape installation may be suitably guaranteed by posting a cash bond equal to 100% of the cost and installation of any landscape improvements.
5. Acceptance of the construction drawings and specifications does not release the applicant and owner from correction of mistakes, errors, or omissions contained therein. If, during the course of construction, the field conditions or other previously unknown conditions require a modification or a departure from the accepted plans, the applicant shall provide the modifications or departure and specify the correction of mistakes errors, or omissions in compliance with the CBC and City Standards.
6. The City of Sebastopol and its agents, officers and employees shall be defended, indemnified, and held harmless from any claim, action or proceedings against the City, or its agents, officers and employees to attach, set aside, void, or annul the approval of this application or the environmental determination which accompanies it, or which otherwise arises out of or in connection with the City's action on this application, including but not limited to, damages, costs, expenses, attorney's fees, or expert witness fees.
7. A Construction Management Plan (CMP) shall be submitted to the City as part of the Building Permit and/or Grading Permit and shall be incorporated into the plans, unless waived by staff. The City's CMP template, provided by the Planning Department, may be used for small, infill projects. Revisions to the CMP to increase or add on time to the construction timeline shall be coordinated with the Building Official and any additional requests will be at the applicant's responsibility.

This CMP shall be a binding document. Failure to adhere to the CMP may result in a

“Stop Work Notice” being placed on the project. An electronic copy of the APPROVED CMP shall be submitted to the City, and may be posted to the city’s website. The CMP shall be updated as project conditions warrant. Updates to the CMP shall be provided to the City for review and approval. The CMP shall include but not be limited to:

- a) Work schedule (start of construction date, road or lane closure intent/dates, important milestones and proposed final dates)
- b) Construction Hours
- c) Travel routes and turn-around locations with staff approval
 - Impact to state highways
- d) Road and/or lane closures (Applicant to provide information on how many anticipated road closures, and the reasons for each road closure).
- e) Worker auto parking space locations/construction parking
- f) Phasing (if applicable)
- g) If construction improvements are located in areas of slopes 15% or greater, the Contractor shall provide safe temporary hard surface stair access to the improvements, unless waived by the Building Official. This access shall be shown on the CMP.
- h) Projects that require a grading permit shall comply with the City’s grading ordinance.

The CMP may be more stringent if the project is located close to schools or in impacted neighborhoods. A CMP may be required to be modified if a neighborhood becomes “impacted” during the course of the construction. Impacted neighborhoods are defined as areas in geographic proximity (i.e. using the same streets for access) with a significant number of simultaneous construction projects.

The hours of construction activity shall be limited 7:00 a.m. to 8:00 p.m., Monday through Friday, 8:00 a.m. to 5:00 p.m. on Saturdays with staff approval, depending on scope of work being done, or unless modified by a project’s Specific Conditions of Approval.

A **24-inch by 36-inch** weatherproof copy with items A-F posted on site. The remaining Construction Management Plan shall be made available on site. The Construction Management Plan shall be posted on the site as part of the job site signage and should include:

- a) Address of the project site.
 - b) Permitted hours of construction and of deliveries/off-haul.
 - c) Name, e-mail address and direct phone number of the General Contractor.
 - d) Name, e-mail address and direct phone number of the person responsible for managing the project.
 - e) Name and direct phone number of the party to call in case of an emergency.
 - f) City of Sebastopol Building Department (707-823-8597).
8. All construction materials, debris and equipment shall be stored on site. If that is not physically possible, an encroachment permit shall be obtained from the Public Works Department prior to placing any construction materials, debris, debris boxes or unlicensed equipment in the right-of-way. The fee for using the right-of-way for storage of construction materials or equipment is \$10.00 per day. A minimum of 11’ passable auto traffic clearance (paved travel way) shall be maintained at all times along the roadway. The placing of portable restroom facilities in the City right-of-way will not be permitted.

9. All portions of the job site shall be maintained in an organized and professional condition. All trash, debris, construction scraps and broken/deteriorated machinery shall be removed from the site by the end of each week. If off loaded construction materials are not used within 2 weeks, they shall be screened from public view. All sidewalks, driveways and public/private roadways fronting the subject site shall be broom cleaned at the end of each business day.
10. A pre-construction meeting is required with city staff for projects that:
 - a) Require a City encroachment permit, a Caltrans encroachment permit, or a City grading permit; or
 - b) Have 5 dwelling units or more; or
 - c) Have a total of 5,000 square feet of building or more; or
 - d) Have a creek setback requirement; or
 - e) Are required to have a pre-construction meeting under a specific condition of approval.
11. All permits and/or inspection fees required shall be paid in full prior to final occupancy being granted unless otherwise stipulated by the City.
12. All required construction signage and any required tree-protection shall be posted and available for City inspection at the time of the Pre-construction meeting or, if no pre-construction meeting is required, prior to commencing construction. If these measures are not in place at the time of the pre-construction meeting, a re- inspection fee will be required, and issuance of building permit will be delayed.
13. The Planning Director shall interpret applicable requirements in the event of any redundancy or conflict in conditions of approval.

Planning Department Standard Conditions of Approval:

14. This approval is valid for a period of three (3) years during which time the rights granted must be exercised. However, the applicant may request one (1) one-year extension of this Use Permit from the Planning Director, pursuant to Zoning Ordinance §17.400.100.
15. The light source for all exterior lighting fixtures shall be shielded from adjacent properties. Cut sheets for all exterior lighting shall be submitted as part of the Design Review or other planning application.
16. For projects with new foundations or retaining walls less than 10' away from a required setback property lines shall be physically identified (string line or equal), and the applicant shall submit a letter or certificate from a licensed surveyor that confirms that the structure complies with the approved setbacks prior to placing the foundation. For any project that includes new foundations or retaining walls more than 10' away from a required setback, the applicant may apply for a waiver from this requirement from the City Engineer and Planning Department.
17. For any project that includes new structures within 2 feet of the allowed height limit, a letter or certificate from a surveyor confirming that the height of the roof complies with the approved plans shall be submitted to the Planning Department at the earliest point possible.

18. All landscape and irrigation plans must be designed in accordance with the most current City of Sebastopol landscape requirements. Prior to providing water service for new landscape areas, or improved or modified landscape areas, the Planning Department must review and approve the project's working drawings for planting and irrigation systems. Any question regarding the City of Sebastopol current water conservation and Landscape Ordinance should be directed to the Planning Department.

New construction and rehabilitated (renovations or changes made to sites with an existing irrigation system) landscape projects will be affected by these requirements if the altered landscape area is greater than 500 square feet.

19. For any new housing unit development, the developer/owner shall submit the total amount of fees and exactions associated with the project prior to issuance of certificate of occupancy or final inspection.

Engineering and Public Works Department Standard Conditions of Approval:

20. All projects are subject to Impact Fees as adopted by the City Council, which are due at the time of issuance of the Building Permit unless otherwise stipulated by the City.
21. An Encroachment Permit is required from the Public Works Department for any and all work within the public right-of-way. If the work is within a CalTrans right-of way, an Encroachment Permit from CalTrans shall also be procured by the applicant. Encroachment Permit shall not be issued until the City Engineer approves the applicant's site improvement plans.
22. Construction within the public right-of-way is limited to that necessary to support the lot's use. This may include but is not limited to: driveways, sidewalks and any utility connections. For all improvements within the public right of way, the applicant shall submit plans to adequately describe the work. Plans shall include but not be limited to drainage details, cross-sections, driveway/roadway grades and utility locations as necessary.
23. The applicant shall prepare and submit site improvement plans for the construction of all improvements including water, sanitary sewer, storm drain, water quality facilities, roadway improvements, curbs, gutters, sidewalks, elevated or structural pedestrian walkways, landscaping, landscape irrigation, signing, striping, joint trench and streetlights. All design and construction shall conform to the latest edition of the City of Sebastopol Design and Construction Standards and other applicable codes, standards, guidelines and specifications. Public improvement drawings shall be drafted in the City-approved sheet format.
24. Once approved by the City Engineer, the applicant shall submit PDF files of the signed improvement plans. As-Built record drawings shall also be submitted as PDF files.
25. Deviations from City Standards and applicable Code requirements shall be approved by the City Engineer. The applicant's engineer shall request all design exceptions in writing.
26. Any improvements, public or private, damaged during construction shall be replaced,

by the applicant, in-kind or with new improvements. All cracked, broken, or uplifted sidewalk, driveway and/or curb and gutter fronting the property shall be replaced. Applicant shall coordinate with the Public Works Department prior to the first submittal of project improvement plans to identify the extents and limits of replacement.

27. An erosion and sediment control plan are required as part of the building permit application. The plan shall be prepared by a certified erosion control specialist and in full compliance with CASQA standards, The plan is subject to review and approval by the Engineering Department prior to the issuance of the building or grading permit. No modifications to the approved plans shall be made without approval of the City Engineer.
28. Mailbox plans and locations shall be approved by the Sebastopol Postmaster prior to improvement plan approval. The developer shall provide a letter and exhibit showing mailbox locations from the Sebastopol Postmaster approving mailbox locations.
29. City Public Water and Sewer and Drainage utility easements as required by the City Engineer utility companies shall be provided within the development. Easement locations shall be subject to review and approval by the City Engineer.

Roadway Improvements:

30. The improvement plans for the first phase of development shall include and provide for the construction of all offsite improvements as required to support full project build-out. Each subsequent phase of development shall construct sufficient onsite roadway and utility improvements to support the cumulative development proposed to be constructed as approved by the City Engineer.
31. Road closures, if permitted by the Project Approval, will only be permitted with prior authorization from the Public Works Department consistent with the City's road closure policy. Signs containing details of the proposed closure must be posted 48 hours in advance. Coordinate road closures with the Sebastopol Public Works Department. Contact the Public Works Department at 707-823-5331 to obtain a road closure permit.
32. An emergency vehicle access, meeting the requirements of the Sebastopol Fire Department shall be constructed.
33. All private driveway areas less than 24-foot wide shall require the approval of the Sebastopol Fire Department.
34. Sidewalk warps shall be provided to allow a clear five-foot walkway at all locations, including areas where mailboxes, street furniture, streetlights, street signs and fire hydrants are to be installed, or as otherwise approved by the City Engineer.
35. The structural section of all public road improvements shall be designed using a soil investigation which provides the basement soils R-value and expansion pressure test results. A copy of Geotechnical report and structural section calculations shall be submitted with the first improvement plan check.
36. The structural section of the private on-site drive aisles and parking areas shall meet the requirements and recommendations of the geotechnical report for the project.
37. Retaining walls and retaining curbs may be required to protect damage to trees as determined by a licensed Arborist. All retaining structures shall be designed and

constructed to minimize damage to trees.

38. Pedestrian curb ramps, meeting City standards and current accessibility requirements, shall be provided at all intersections and crosswalks where sidewalks are proposed.

Drainage Improvements:

39. All project related flooding impacts shall be mitigated by the project developer. Drainage improvements shall be designed by a Civil Engineer registered in the State of California in accordance with the Sonoma County Water Agency's Flood Management Design Manual (FMDM). Public and private drainage improvements shall be shown on the improvement plans and the City Engineer may require the applicant to acquire the review and recommendations by the Sonoma County Water Agency (Sonoma Water) prior to approval by the City Engineer. Private storm drain easements will be required for any portions of the private storm drain not entirely located with the lot being served or for any portion of a private utility located on an adjacent parcel.
40. No lot-to-lot drainage will be allowed between the project site and any adjacent parcels. No concentrated drainage may discharge across sidewalks. All site drains must be connected to the public storm drain system or discharged through the face of curb or to an established waterway.
41. Plans and certifications shall demonstrate compliance of all improvements, including building finished floor elevations, with the City's Flood Ordinance, to the satisfaction of the Building Official and City Engineer. Building finished floor elevations shall be constructed at a minimum of 2 foot above the 100-year storm event water surface elevation as determined by the City and certified by the project engineer. The Engineer of Record shall provide a signed and stamped letter indicating the project meets the requirements of the Ordinance before plan approval.

Stormwater Quality:

42. Projects that create or replace 10,000 square feet or more of impervious surface area are subject to design and construction requirements of the most recent edition of City of Sebastopol Low Impact Development (LID) Technical Design Manual. Improvement plans with required LID design features shall be approved by the City Engineer.
43. Projects that will disturb 1.0 acre or more of developed or undeveloped land shall provide evidence that a Notice of Intent (NOI) has been submitted by the applicant and received by the State Water Resources Control Board for a General Construction Activity Storm Water Permit. Two copies of the project Storm Water Pollution Protection Plan (SWPPP) shall be provided to the City prior to issuing a grading permit, encroachment permit, or building permit.
44. For required LID features constructed on private property or on street frontage, the owner shall provide a Declaration Letter to the City Manager regarding the owner's commitment to ongoing maintenance of said LID features (LID Declaration) prior to occupancy.

Grading:

45. The improvement plans shall include a site-grading plan prepared by a Civil Engineer registered in the State of California as part of the required improvement drawings. Lots shall be generally designed to drain to public and private streets or parking areas, unless otherwise approved in the interest of tree preservation or other unusual circumstances.
46. The City of Sebastopol shall require a grading permit for projects that meet these requirements.
 - a) Cut or fill exceeding 50 cubic yards
 - b) Cut or fill greater than 3 feet in depth
 - c) Cut creating a cut slope greater than 5 feet in height and steeper than 2 units horizontal to 1 unit vertical
 - d) Fill intended to support a structure or surcharge greater than 1 foot in depth or placed on terrain with a natural slope steeper than 15 percent
47. When required by the Building Official the applicant shall submit to the City for review and approval, a detailed Geotechnical Report prepared by a Geotechnical Engineer registered in the State of California. The grading plan shall incorporate the recommendations of the approved Geotechnical Report.
48. Where soil or geologic conditions encountered during grading operations are different from those anticipated in the Geotechnical Report, or where such conditions warrant changes to the recommendations contained in the original soil investigation, a revised soil or geologic report shall be submitted for approval by the City Engineer. It shall be accompanied by an engineering and geological opinion as to the safety of the site from hazards of land slippage, erosion, settlement, and seismic activity.
49. Existing wells, septic tanks and/or underground fuel storage tanks that are defective or will no longer be in use shall be permanently destroyed or removed under permit and inspection by the Sonoma County Permit and Resource Management Department, Well and Septic Division and/or Sonoma County Environmental Health or other designated agency. Underground fuel storage tanks are subject to UST regulations of the State Water Resources Control Board.
50. The grading plan shall clearly show all existing survey monuments and property corners and shall state that they shall be protected and preserved. Should monuments be damaged or destroyed during construction, they shall be replaced by the developer.
51. Improvements plans shall include an erosion control (winterization) plan. The plan shall include an order of work and staging/scheduling component indicating when facilities must be installed and when they may be removed.
52. Sewer services and laterals shall be CCTV inspected to determine if the service needs to be removed and replaced. A copy of the CCTV report shall be provided to the City Engineer. A waiver for CCTV inspection may be waived by the City Engineer, if the sewer lateral has been replaced within ten years of the submittal of the improvement plans. A copy of the documentation evidencing such replacement shall be included in the submittal package.
53. If the proposed project is located in or adjacent to a waterway, within an area designated as habitat for threatened or endangered species, or other special status

area, it possibly falls under the jurisdiction of another agency such as the United States Army Corps of Engineers, the California Regional Water Quality Control, or the California Department of Fish & Wildlife, U. S. Fish & Wildlife Service, etc. These agencies shall be contacted to determine if the project lies within their respective jurisdictions. All necessary permits and/or approvals shall be obtained prior to the City issuing any permits. If permits are not required, a letter stating so shall be submitted to the City as part of the record.

54. Trees and vegetation shall be trimmed according to Section 8.12 of the Sebastopol Municipal Code. Trees and shrubs shall be kept trimmed so that the lowest branches projecting over public properties provide a clearance of not less than eight (8) feet over sidewalks and not less than twelve (12) feet over streets.

Fire Department. Standard Conditions of Approval:

55. The address shall be posted in accordance with requirements of the California Building Code and California Fire Code. The Fire Chief shall review and approve all requests for new addresses. Inspection and signoff of address posting shall be coordinated through Building Department.
56. Smoke and CO detectors shall be installed in accordance with the California Building Code. Final inspection and signoff of smoke detectors shall be coordinated through Building Department.
57. Noncombustible roofing shall be provided for:
- a. All new roofs shall be non-combustible.
 - b. Roof Repairs or replacement:
 - i. Less than 25% - no requirement
 - ii. 25% to 50% - Class C minimum
 - iii. 50% or more — Non-Combustible
 - c. In no case shall the roofing material used to be less fire resistive than the existing roof.

NOTE: A "noncombustible" roof is a Class A roof (for other than Group R Occupancies, a Class A or Class A assembly) as defined in the California Building Code and approved by the Building Department.

58. Prior to occupancy, a spark arrester shall be installed on the chimney(s) 3/8" mesh minimum.

Building Department Standard Conditions of Approval:

59. All construction shall comply with all applicable Title 24 Codes in effect at the time of building permit submittal. It is the responsibility of the designer(s) to ensure that all applicable Title 24 codes, as well as any applicable Sebastopol Municipal Codes are incorporated into the design.
60. The project shall comply with the Green Building regulations contained in the Sebastopol Municipal Code that are in effect at the time of building permit submittal.

END OF STANDARD CONDITIONS OF APPROVAL

ATTACHMENT 9
APPEAL FROM JESSE HOM-DAWSON AND
ADDITIONAL COMMUNICATIONS FROM
APPELLANT AND APPLICANT
City of Sebastopol

Agenda Item Number 2



APPEAL FORM

Date: 7/19/22
* Filing Fee Paid: \$1070.00
File #: 2022-60

To: (check one):

- PLANNING COMMISSION (limited to the appeal of staff determination not involving design matters or Planning Director Use Permit decision)
- DESIGN REVIEW BOARD (limited to the appeal of staff determination on design matters)
- TREE BOARD (limited to the appeal of staff determination on tree removals)
- CITY COUNCIL (all other appeals)

FROM:

JESSE HOM-DAWSON
(Please print your name)

SUBJECT:

I wish to appeal the action of: (check one):

- CITY STAFF (please give name or title) _____
- PLANNING DIRECTOR PUBLIC HEARING
- TREE BOARD
- DESIGN REVIEW BOARD
- PLANNING COMMISSION

Taken or made on 7/12/22 with regards to APPROVAL USE OF ALCOHOL PERMIT FOR
(Date of action or decision) (Name of use, applicant, project or other description of item you are appealing)

7233 HEALDSBURG AVE. (PIALA)

I ask that the decision or determination made above be reversed and/or modified, and that the original application be:
(Check one): granted denied modified

The reason(s) that my appeal should be granted by the Board, Commission, or Council named above are set forth below: or, are attached. STATEMENT TO COME BY 7/22

*APPLICANT HAD BURDEN OF PROOF TO SHOW THE USE WOULD NOT ADVERSELY AFFECT THE HEALTH, SAFETY, OR WELFARE OF COMMUNITY AND THIS WAS NOT PROVEN. (SECTION 17.350.020). ADDITIONALLY, THE PROVISIONS OF THE CONDITIONAL USE PERMIT ARE UNENFORCEABLE (17.415.020.A).

I understand that there is a filing fee for appeal, whether the appeal is from a Staff Determination, Design Review Board Decision, or Planning Commission Decision, and that the fee must be paid on the date that the appeal is submitted. Appeals must be submitted within 7 calendar days from the day of the original staff determination, or of the Board/Commission action. (The date of the decision is not included in the calculation of 7 days.)*

You will be notified by mail of the date of the Board, Commission or City Council hearing on review of your appeal. All interested persons will be entitled to attend the meeting and be heard.

Jesse HD
Your Signature

JESSE HOM-DAWSON
Print Name

[Redacted]

Your Mailing Address

[Redacted]

Your Phone Number Your Email Address

* If a staff determination was mailed to you, and a public meeting has not been held, the appeal must be submitted within seven (7) days of the mailing of the letter.

Please accept this appeal to the decision made by the Sebastopol Planning Commission regarding the approval of an alcohol use permit in Lowell Sheldon's name for 7233 Healdsburg Ave, a restaurant named Piala. I believe the Planning Commission's decision to provide him with a conditional license was made in error due to the following reasons.

Background

In Planning Director Kari Svanstrom's initial response to Sheldon's application, she cites Municipal Code 17.415.030 B, which states: "The establishment, maintenance, and operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be "detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area of such use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City." In her opinion, this criterion was not met due to over ten former employees of Lowell Sheldon speaking out publicly of sexual harassment, toxic workplace, as well as illegal practices such as the serving of alcohol to underage workers (City of Sebastopol Planning Commission Staff Report, June 28, 2022).

City staff and Planning Commission agreed that Sheldon poses a risk to the health and safety

The damning allegations against Lowell Sheldon have been printed in multiple news sources (*The Bohemian*, *The San Francisco Chronicle*, and *The Press Democrat* to name a few), and been verified by multiple fact checkers. There is also a police report detailing Sheldon's assault of a woman while he was under the influence. I am not here to convince you that Sheldon is "detrimental to the health, safety, peace, morals, comfort, and general welfare of our community". This determination is clear, and has been voiced by almost all the members of the Planning Commission during their public meeting on June 28th, 2022. Commission Member Paul Fritz said, "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. At this point I don't know if I can say that." Commission Member Evert Fernandez echoed his sentiments, saying, "'Would I feel comfortable to have my daughter work there? The answer is that I couldn't say honestly I would."

The burden of proof was placed on Sheldon

By filing an appeal, the burden of proof was placed on Sheldon to prove that he is NOT detrimental to the health, safety, etc, of employees and customers alike. The members of the Planning Commission agreed that he failed to prove this. The administrative record includes documentation that Sheldon continued to harass and intimidate the former employees who shared their experiences in advance of the June 28th hearing. The commissioners also expressed concern that Sheldon failed to accept responsibility for his actions, without which, it is unreasonable to expect his future behavior will be different. If the Planning Commission believed he was not a danger, they would have completely overturned the initial staff decision. However, they did not. **As such, Sheldon did not meet the criteria for Svanstrom's original decision to be overturned.**

Conditions must adequately address the threat and be enforceable

The Planning Commission reluctantly agreed to attempt to mitigate the possibility of Sheldon causing future harm by placing several provisions on the conditional license they agreed to approve on July 12th. Their original proposal was that Sheldon (City staff in the June 28th hearing) not be allowed to set foot in Piala, which he refused. The final provisions include Sheldon not being allowed to serve or consume alcohol on the property and he may not participate in any direct management of the employees. Comments by Commissioners included, ““There are many eyes on this project,” said Paul Fritz. “I think the community is monitoring this.” Kathy Oetinger stated, “I feel like we would be leaving the enforcement up to Mr. Berlin and Mr. Sheldon.”

Please consider for a moment what this would look like. Anyone who would choose to dine at Sheldon’s establishment would not be the community that would be willing to monitor this condition, and the community members who would be willing will certainly not feel safe as patrons of Sheldon’s restaurant. Secondly, if they leave the enforcement to Berlin and Sheldon themselves, are they really expecting either of them to report themselves if Sheldon breaks the provision? I don’t believe it is likely that Berlin would go to the City to tell them that Sheldon drank on premise and the City should remove his alcohol license. Furthermore, considering Sheldon’s habit of intimidating and harassing employees who choose to speak up, it seems improbable that if Sheldon asked Piala’s employees to serve him alcohol that they would feel comfortable saying no, or even if they witnessed Sheldon himself serving the alcohol they would be reluctant to report.

When the provisions are considered in a realistic manner, it is clear that they place an unfair burden on the community. It is not the responsibility of the community or the offender or offender’s business partner to enforce these provisions, it is the city’s responsibility. And if they cannot enforce those provisions, then the first approval should be overturned.

Recommendations to use discretion and authority

In lieu of a conditional permit, I and the other victims suggest the following alternatives:

- Deny the license for one year. In one year, allow Sheldon to return to the Planning Commission with evidence that he has taken meaningful steps to understand the risks of drug and alcohol use in the workplace and is no longer a threat to community health and safety by holding a license to sell alcohol.
- The second alternative is that Sheldon remove himself from any ownership of Piala. The former businesses he was associated with have all removed him as owner because of past behavior and the risk he posed. Jeff Berlin has stated many times in the June 28th meeting that he plans on doing most of the work alone, and Sheldon would only come in if they were short an employee. As multiple commissioners noted, staffing shortages

are extremely common in our current economy and the likelihood that Sheldon will frequently be needed is high.

- Sheldon could maintain his role as owner but be banned from being on premises based on Planning Director's initial recommendation in the June 28th hearing for a minimum of one year. Berlin stated multiple times in the June 28th hearing that he was fully capable of running the restaurant without Sheldon's help.

All alternatives mitigate the damage that Lowell could cause to the Sebastopol community, which could be the harm of another employee that could be traumatic and cause lasting mental, emotional, or physical damage. Twelve years of this sort of behavior shows a pattern of using his position of owner to manipulate and abuse other employees. The liability not only to Berlin but to the the City of Sebastopol for approving this unenforceable conditional license is too high to risk another person being harmed. Please reconsider the Planning Commission's decision.

We ask that the city be provided with the full administrative record of the previous application, denial and appeal with all supporting documents in advance of reviewing this matter. We only seek to keep our community safe and prevent any future harm.

From: Naomi Minturn [REDACTED]
Sent: Wednesday, August 24, 2022 3:03 PM
To: Kari Svanstrom; John Jay
Cc: Patrick Slayter; Neysa Hinton; Una Glass; Sarah Glade Gurney; Diana Rich
Subject: Appeal Planning Commission Decision to Approve Alcohol Use Permit for Piala LLC
Attachments: [Public comment attachments.pdf](#); [Survivor_Supporter Letter to Sebastopol City Council.pdf](#)

Dear Patrick Slayter, Neysa Hinton, Una Glass, Sarah Glade Gurney and Diana Gardner Rich:

We are writing to you as a group of survivors and supporters to express our concerns regarding the alcohol use permit for Piala LLC. Some of us have personally experienced Lowell Sheldon's abuse as former employees. The administrative record leading up to the Planning Commissioners June 28, 2022 appeal hearing contains a detailed account of our concerns that the proposed use *"will adversely affect the health safety and welfare of area residents"* and we do not believe the applicant met the burden of proof to demonstrate otherwise. In addition, the conditions of approval are unenforceable and do not provide sufficient protection to potential employees or patrons of Piala or to area residents. We are seeking only to prevent another woman in our community from having to experience a life-altering trauma. We ask you to use your authority to:

1. Deny the conditional approval of the proposed Alcohol Use Permit or
2. Prohibit Lowell Sheldon from entering the restaurant premises

With Sheldon as Owner, an Alcohol Use Permit for Piala will Affect the Safety of Residents

Planning Director Kari Svanstrom's initial response to Sheldon's application cites Municipal Code 17.415.030 B, which states: "The establishment, maintenance, and operation of the use applied for will not, under the circumstances of the particular case (location, size, design, and operating characteristics), be "detrimental to the health, safety, peace, morals, comfort, or general welfare of persons residing or working in the area of such use or be detrimental or injurious to property and improvements in the neighborhood or to the general welfare of the City." In Svanstrom's opinion, this criterion was not met due to eleven former employees of Lowell Sheldon speaking out publicly of sexual harassment and a toxic workplace, as well as illegal practices such as the serving of alcohol to underage workers (City of Sebastopol Planning Commission Staff Report, June 28, 2022).

As former employees, we experienced and witnessed these violations first-hand. By filing an appeal to the Planning Commission's initial denial of the application, the burden of proof was placed on Sheldon to prove that he is NOT detrimental to the health, safety, etc, of employees and customers alike. The members of the Planning Commission agreed that he failed to prove this. As Commissioner Fritz stated:

"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 the workers at the restaurant."

Our first-hand experiences with Lowell Sheldon as an Owner at multiple establishments negatively affected our health and well-being and we witnessed co-workers and community members suffer from his actions over the course of years. We have seen no evidence of his purported change or growth as we stated in our statements to the Planning Commission at the June 28th, 2022 hearing (see attachment). Many of the Commissioner's shared our concerns:

Commissioner Fritz stated:

"He has not learned and he is not respecting people's boundaries."

"From what I've seen and heard tonight, I don't know that I believe that Lowell is a changed person."

"I can't say Lowell is a changed man, and that I have no problem or no concern that he will not be a threat in the future. I just don't have that... understanding."

Commissioner Burns expressed similar doubts:

"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, um, his own self, you know, but also that his supporters haven't."

"We heard that, you know, that he has worked very hard to change, but we saw little evidence of that. As I stated, we saw evidence to the opposite."

"We're talking about women who have been violated and someone mis-using their power."

"I wish we were in a situation where, as our lawyer said, where he had proven to us as a Commission that he has changed."

On August 23, 2022, Mr. Sheldon used the email list for one of his former restaurants to share the letter he sent to the Sebastopol City Council. He opens this letter by stating,

"I am innocent of all accusations of sexual harassment and assault."

In fact, an independent investigation was completed by Susan Daniel of Employee Relations Consultants to investigate claims of sexual harassment while Mr. Sheldon was a co-owner at Fern Bar and found that policies had been violated. An email dated November 26, 2019 from co-owner Sam Levy to a victim states:

*"Ms. Daniel interviewed numerous witnesses, and reviewed documents, emails, texts and video footage and **ultimately concluded that Mr. Lowell's [sic] conduct violated Fern Bar policies.** Rest assured, Fern Bar will be taking proportionate, remedial actions to prevent such violations in the future."*

In Mr. Sheldon's letter to the Council he cites that one of his main lessons from "extensive therapy" has been to learn how to make a genuine apology and refuse to apologize for mistakes he has not made. **To date, none of us have received an apology for the tremendous harm he has caused us that was not couched within a threat.** He has yet to take responsibility for anything other than running his business in a "sloppy manner" or having "flaws." Rather than

acknowledge the effects his actions had on his employees and the damage that caused, he constructs a narrative wherein he himself is a victim of the MeToo movement.

We ask that the City of Sebastopol please consider the long-lasting effects that workplace harassment, abuse and sexual assault have on survivors in your review of this matter.

Conditions Must Be Enforceable

The Planning Commission reluctantly agreed to attempt to mitigate the possibility of Sheldon causing future harm by placing several provisions on the conditional license they agreed to approve on July 12th. The Draft Conditions of Approval stated:

- 2. Applicant shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel - related responsibilities in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, discipline, or termination of any employee; or*
 - b. the fielding, review, investigation of, or response to any employee complaints or concerns.**
- 3. Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.*

These conditions fail to mitigate the risk that this project *will adversely affect the health, safety or welfare of area residents* and are unenforceable. Many of the Commissioners noted the limitations of these conditions.

Commissioner Burns stated:

"I haven't seen him demonstrate the ability... If it (conditions) doesn't (work), another woman has been at the end of that, and I am just not willing to be the person to say OK, let's see if this time he can adhere to it."

"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 these, um, rules when they're set in place."

Commissioner Fernandez stated:

"I don't know that any conditions can be placed to ensure that, other than (Sheldon) not being part of it."

"It's not a decision where, OK, if it don't work out, you know, it's unfortunate. It's, we're talking about people's lives."

Enforcement would be left to Co-Owner Jeffrey Berlin who stated to the Planning Commission in the July 28th meeting, "I wouldn't even see it as something that would even need to be enforced."

Mr. Berlin would have a significant conflict of interest in reporting any violation of the condition. Reporting a violation would result in a personal and professional financial loss to Mr. Berlin.

Any employee who witnesses a violation would face significant risk in reporting, even with an outside HR firm in place. As we know from experience, speaking out against Mr. Sheldon carries significant consequences to livelihood, safety, relationships and personal well-being. It is not the responsibility of employees to monitor the adherence to such a condition.

During the June 28, 2022 Planning Commission hearing it was proposed that Lowell Sheldon be prohibited from entering restaurant premises. We believe this condition to be enforceable and that it would mitigate the risk that this project *will adversely affect the health, safety or welfare of area residents*.

We ask you to deny the Permit or place the condition that Mr. Sheldon is prohibited from entering the establishment.

Summary and Personal Statements

We have lived and worked in Sebastopol for years – some of us grew up here, and all of us consider it our community and our home. We have witnessed and experienced harassment and assault by Lowell Sheldon. We are seeking only to prevent another woman in our community from having to experience a life-altering trauma. We believe that his involvement in Piala as an establishment that serves alcohol poses a significant risk to our community and ask you to uphold your responsibility to protect the area residents. We ask that you:

1. Deny the conditional approval of the proposed Alcohol Use Permit OR
2. Prohibit Lowell Sheldon from entering the restaurant premises

Sincerely,

Leah Engel
Freddie Francis
Jacqueline Gleason
Ray Gonzalez
Jesse Hom-Dawson
Alexandra Lopez
Naomi Minturn

Attachment: Selected Public Comments from June 28th, 2022 City of Sebastopol Planning Commission Hearing

Application: Alcohol Use Permit/ABC Transfer (2020-22)
Applicant: Piala, LLC
Date: August 31, 2022

I address this to the Sebastopol City Council, News Media, and to the public at large.

I am innocent of all accusations of sexual harassment and assault.

Since these allegations came out in September 2021, I have remained largely silent, and was ready to move on. I thought, erroneously, remaining quiet and compliant was the right and honorable thing to do, a way for me to keep the peace and preserve whatever semblance of a dignified person I still could.

But, as someone who has spent every day of the past year, introspective, contemplating all sides and nuances of these allegations, I have come to conclude that staying quiet and maintaining a stiff upper lip is not the solution and never will be. The only way for me to move forward with my life with a true sense of dignity and self-respect is to speak the truth and share my side of the story.

Before I begin, I will be the first to admit, I'm no angel. I am complex and flawed. I have a stack of mistakes and miscues along with the lessons learned from them, stored deep in my memory bank. I've always sought to be a man who apologized directly to those I have slighted. My entire life has been one long process of reconciling my present with my past, and growing into the future person I hope to be. With God as my witness.

Though I'm no angel, I'm also not the cartoonish predator I've been made out to be. While I am more than willing to take complete ownership of the mistakes I did make, I resolutely refuse to take ownership of the ones I didn't. One of the most significant lessons I've taken away from my extensive work in therapy is that I now know how to genuinely apologize and atone for the mistakes I have made - as well as know that I cannot apologize for those I haven't. For that lesson alone, there are days when I can truthfully say this experience, as painful and humiliating as it's been, might be one of the best things to ever have happened to me. The strange truth of it is it's made me a better, more authentic person.

Before I got there, though, I was willing, too willing, to throw out an apology whenever one was expected of me. Too willing to unthinkingly accept the blame cast upon me while too unwilling to speak up when the alleged victims and the newspapers that aided and abetted them distorted events and twisted the facts to suit their needs. Looking back, I have to ask myself why I was so ready to self-gaslight and absorb blame for crimes I knew I hadn't committed.

For one thing, I didn't believe I had any other real options. In our current culture, where the court of public opinion is the only one that matters, what kind of person would I be if I didn't "believe women"? If I, or anyone for that matter, were to argue with an alleged "victim", I'd be

doubtlessly seen as an unreasonable monster. It was an additional misstep to add to the list of all the other “sins” I had already been accused of. If I didn’t deny the allegations, I was damned because I would be agreeing I was guilty, and if I did deny them, equally damned, because it would imply I thought that these women were lying - the most unacceptable and morally reprehensible thing to think at the time. It’s a trap. And I was trapped. Finding the language today to speak about this with humility and resolve, has been liberating. Understanding the specifics of how my accusers’ way of thinking is broken and how the point was to keep me (and everyone else) from asking too many questions - or otherwise face the very real consequences of being canceled - makes me want to speak up more. Lifting the veil on this has revealed to me many truths both broad and particular. On a broader level, I hate how this broken thinking has eroded due process and stripped us of one of our foundational truth-seeking tools. I hate how it favors a cruel and sensational mob justice. I hate how it has made us blindly compliant, unthinking and, worst of all, glorify shame and shaming. And I, for one, am done being shamed. Particularly for things I have not done. In no way and in no world am I ready to fall on my sword, have my reputation raked over coals, name smeared beyond recognition, lose my ability to start a business and provide for my family over crimes I didn’t commit or over infractions so minor, no one would ever look at them.

My detractors would have you believe that if I don’t buy into their zealous worldview, I should be forever punished and cast out. They get to play both victim and judge, controlling the cause and effect, handing down judgment that I am guilty, even though I have never been investigated or convicted of anything. That isn’t justice. It’s a personal vendetta masking as justice.

I was targeted and unfairly rammed into this narrative for several reasons. One, I was the boss. And in this cultural paradigm, having “power” alone is as good as an indictment. The justice merchants of today sell the idea that “power” is mysterious, pervasive and drives every angle of our lives. And that it underpins each and every interaction between men and women, boss and employee. They would have us believe it is top down and impenetrable. This incomplete notion of power feeds into a pernicious victimhood mentality. In reality power is fluid, and runs in all directions. In reality, we all have agency. We have the agency to choose what to engage with or disengage from. We can see power as either a tool of oppression or a path to liberation. It can be everything or nothing. It is whatever we project onto it, and in this instance, this particular definition of power was abused by some to portray themselves as helpless victims, when in reality, they had agency. They could have chosen to have straightforward conversations in an effort to pursue genuine understanding. They could have chosen to litigate those accusations in our robust legal system. Instead they chose to wield their power on social media and via journalists, who have significantly more power than I ever had, to tear me down.

Was I always a great boss, each and every day, for twelve years? No. There are many things I wish I could go back and change about how I ran Lowell’s. But my deficiencies as a boss never overlapped with abusing my power. The overtone of this entire ordeal is a presumption that I wielded power in order to coerce people into doing things. It’s a false premise and one that needs to be discarded. Those that stayed into the evening to have a few drinks after work did

so happily. Those that worked at Lowell's did so willingly, and could have left at any time to find another job. Indeed, many did, over the years, for a variety of personal reasons. The only reason people ever stayed working at Lowell's was because they chose to. Because it was a truly decent place to work.

And the other reasons? Here, it gets hazier. To get to the bottom of everything that has happened, I have to recognize that there's another, truer story beneath this one. The understory might be an overshare, but I think it's one that's essential to tell: while I was with my partner, who was my partner both in life and in business, I had an affair. And to make matters worse, this affair was with an employee. We all know the damage that affairs lay to bear and this one was no exception. However, the awfulness of my betrayal must not be confused with sexual harassment or predatory behavior. It was consensual, and because of our callowness, we chose a path of dishonesty.

The affair not only tore apart my family in the most impossibly painful way, but the aftershock of this seismic event also rippled out underground to shake the foundations of our businesses, and the employees felt this. It redefined how employees viewed me.

I bring this painful and intimate part of my past up because I believe these two things - the affair and the sexual harassment allegations - got coiled together and became impossible to decouple. As MeToo grew larger and more diffuse, to encompass everything from rape to a disappointing date, thus equating their seriousness, MeToo became a catchall term for "men doing bad things to women", whether that bad thing is sexual assault or making someone mildly uncomfortable or having an affair. Although my affair was a separate thing entirely, it dumped me squarely in the "men behaving badly towards women" category. The affair shocked many of my employees and tested how they saw me. If I was capable of cheating on my partner, then what other ugly man things was I capable of?

Of course, no one spoke openly of the affair at work; it existed in the basement world of rumors, as these things do, the rumor growing insidiously in chaotic and malignant ways. Rightly so, many of the staff had a strong urge to protect my former partner. I suspect that this protective impulse, coupled with the burgeoning MeToo movement, created the perfect conditions to day-by-day mold me into a sexual predator. It was the perfect set-up for employees, especially those carrying their own pain and trauma, to now view me with new eyes and an out-and-out contempt. Of course, my shortcomings and flaws as a manager early on didn't help. What started out as a very private personal betrayal slowly became a collective one.

The affair had ended one year before I made my now infamous "sit on Daddy's lap" comment. A crude and very regretful comment to be sure, but on the whole, a comment too feeble to hang an entire sexual harassment interrogation on. But it's like that saying about going bankrupt, how it happens gradually and then suddenly. That comment was the suddenly. If employees had been quietly simmering with suspicion and contempt, that comment led to the boil over. Anyone had the greenlight now to openly skewer me. Not only skewer me but revise

history with abandon. Any and all stories welcome, however distorted, untruthful or self-serving. Run-of-the-mill work activities, like bumping up against someone in a tight kitchen space or a friendly hug or a picture taken while picking plums, were now loaded with dark meaning, anything even slightly questionable now reframed as something mimicking sexual harassment. And the rest, as we all know, is history.

I will say this again: I have never sexually harassed or assaulted anyone.

I am aware that my version of events and the conclusions that I've drawn from them might be controversial or seen as denial. A way to absolve myself of the wrongdoing assigned to me. But nothing could be further from the truth. I come to these complicated conclusions from a daily reckoning of the hard truths, a mirror held up firmly to my face, even on days when my heart would rather fail me. In fact, I welcome a good-faith discourse or, better yet, going through a formal process where both sides can ask the hard questions and are accountable to the answers.

I have been made out to be a sexual predator because some of my former employees harbor negative feelings about me. I believe they dislike me not because I harassed them but because I betrayed my partner (and for various other mundane reasons why people dislike each other). There was nowhere to put these bitter feelings, and MeToo gave them the perfect place to express it. And an overzealous media hungry for a piece of the MeToo pie swallowed this story hook, line and sinker.

Ultimately, I write this not to exonerate myself but to give you, members of City Council, a fuller picture, one that now includes my side of the story, in hopes that it will bring us to a fuller and more balanced understanding. I know that a true exoneration is impossible. My name will still be left to rot on the forever internet and the stain of being an alleged "sexual predator" will never really wash clean. Instead, I write this, humbly, to ask you to keep an open mind to the intricate truths that underlie these matters, and to grant some mercy as I attempt to start again.

Throughout this past long, difficult, painful year, I have been girded by these words by Salman Rushdie: "Those who do not have power over the story that dominates their lives, power to retell it, to rethink it, deconstruct it, joke about it, and change it as times change, truly are powerless." I will keep striving for that personal power by telling my story, by integrating my past with the present, all the while seeking truth and staying close to my own fallibility.

Thank you,

Lowell Sheldon

HAROCHE LAW

p: (707) 814-0028 f: (707) 289-7996 bob@haroche.law 121 North Main Street, Ste 210 Sebastopol, CA 95472

August 24, 2022

Sebastopol City Council
7120 Bodega Avenue
Sebastopol, CA 95472

Re: *Piala Use Permit (2022-020): Response to Appeal*
HL no. 213-01

Dear City Council Members:

I am writing on behalf of Piala, LLC and its principals Lowell Sheldon and Jeffrey Berlin in response to the appeal filed by Ms. Jesse Hom-Dawson.¹

Introduction

The appeal, as Appellant states in her letter, is premised on "*allegations* against Lowell Sheldon...printed in multiple news sources" (emphasis added). The operative word here is "*allegations.*" No criminal charges were ever sought nor any sheriff's investigation ever commenced.² No complaint was ever filed with the Department of Fair Employment and Housing and no civil lawsuit was ever brought. The allegations against Lowell, which he has vehemently denied, were never subject to cross-examination, never weighed in any forum against Lowell's testimony, and never adjudicated. These are not facts but unchallenged accusations by individuals seeking

¹ The subject use permit was originally applied for in the name of Lowell Sheldon, acting on behalf of Piala, LLC. In accordance with the Planning Commission's approved condition, the applicant is to be modified to be Jeffrey Berlin.

² Appellant misleadingly refers to a "police report detailing Sheldon's assault of a woman while he was under the influence," but that document, a half page in length and heavily redacted, is no more than a business record of a complaint having been received by the Sheriff's office. The individual made the report *two years* after the alleged incident occurred and timed to the day to coincide with publication of an article about Lowell in *The Bohemian*. The reporting individual never followed up on her complaint.

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to elevate what they perceive as boorish behavior to the level of a criminal threat to Sebastopol residents and visitors.³

We do not intend, however, to litigate these accusations before the Council because the sole issue before you is whether granting Jeffrey Berlin an alcohol permit for Píala restaurant would adversely affect the health, safety, or welfare of the community. The answer is that it would not and the conditions we have proposed, and which staff supported and the Planning Commission approved, will ensure as much.

Any Perceived Risk from Permit Issuance Has Been Eliminated

Appellant misrepresents that the Planning Commission "agreed that Sheldon poses a risk to the health and safety." It certainly did not and its findings nowhere suggest as much. Indeed, the Commission could not have legally approved the permit had it found, as Appellant contends, that the proposed use would pose such a risk.

What the commissioners *did* agree on was that they did not want to adjudicate the veracity of the accusations leveled by Appellant and others, so they instead accepted staff's and Applicant's proposed conditions designed to eliminate any perceived risk posed by Lowell's part-ownership of Píala, LLC.

Specifically, the use permit was approved subject to a number of unusual and stringent conditions including:

³ This is not to say that Lowell has always acted impeccably (he has not) but he *has* acknowledged, examined in therapy and in restorative justice work, and apologized repeatedly for his lack of boundaries with former employees. Earlier this year, for instance, he wrote to Appellant:

I continue to be deeply ashamed of the comment I made to you. It is a north star for me and will always be at my side to remind me never to be inappropriate with employees in the future. I wish you peace as you move forward in your life.

Appellant responded to this apology by taunting Lowell that "[n]ow hundreds of our supporters know what a cowardly sack of shit you are."

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- All personnel matters, including employee complaints, will not be handled by Lowell or his partners but instead by an outside human resources firm.
- Lowell shall not "exercise, directly or indirectly, any personnel related responsibilities in connection with the ownership, management, or operation of the subject business."
- Lowell shall be prohibited from "serving or consuming alcohol in any capacity while on the premises."
- Violation of either of the latter two conditions "may, by itself, constitute a ground for revocation of the subject use permit."

Reasonableness of Proposed Conditions

Permit conditions must bear a sufficient nexus to the projected burden (or risk) of the proposed development (or use).⁴ In this case, it bears noting that Lowell could, *without any use permit*, still work as the on-site manager and staff supervisor of any "dry" food establishment in the City – in which case the City would have *no authority* to consider, much less address, the behavior he is accused of having committed between 3 and 9 years ago.

It is only the pending alcohol use permit application which affords the City this opportunity to review that past (alleged) conduct. Yet even then, it must still make findings that the "proposed use" – *i.e., the sale of alcohol* – would "adversely affect the health, safety or welfare of area residents."^{5 6}

⁴ *Associated Home Builders, Inc. v. City of Walnut Creek*, 4 Cal. 3d 633, 644 (1971); *Ayres v. City Council*, 34 Cal. 2d 31, 42 (1949).

⁵ City Code § 17.350.020.

⁶ The City is legally required to base its decision on findings and those findings in turn must be supported by "substantial evidence." Code of Civil Procedure § 1094.5. Analogizing to the CEQA context, "substantial evidence" means "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." 14 CCR § 15384 (b).

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Given that fact, our approach, which both staff and the Commission found to be reasonable and realistic, is to separate alcohol from Lowell's involvement altogether and thereby provide a complete mitigation of the perceived risk posed by the presence of alcohol.⁷ In other words, once we completely divorce Lowell from any interaction with alcohol, there no longer remains any nexus between the proposed use and the feared harm to be mitigated.

We appreciate that this application has presented a controversy different than what the Council is typically tasked with addressing, but it is critical to both this applicant and the business community at large that the City not embark on using the development process as a means to render social judgment rather than implement rational, and legally defensible, land use planning.

Thank you for your consideration of this matter.

Sincerely,



Bob Haroche

⁷ Appellant argues that the condition prohibiting Lowell from touching alcohol on-site places "an unfair burden on the community" to ensure compliance. But in terms of monitoring, this condition is not unlike any other imposed on a discretionary approval. City staff does not regularly patrol businesses to ensure compliance with permitted uses, hours of operation, noise levels, or any other limiting condition attached to their permit. Staff instead relies on community reporting of problematic behavior.

In this instance, with Lowell's detractors having already undertaken a year-long news and social media campaign against him, one can safely assume that they will be highly attuned to any whiff of impropriety at Piala. As one commissioner commented, "There are many eyes on this project...I think the community is monitoring this."