



City of Sebastopol Planning Commission Staff Report Addendum

Meeting Date: October 24, 2023
Agenda Item: 5A
To: Planning Commission
From: Kari Svanstrom, Planning Director
Subject: Amendment to a Conditional Use Permit
Recommendation: No Recommendation

Applicant/Owner: Lowell Sheldon/Jeff Berlin
File Number: 2024-054
Address: 7233 Healdsburg Avenue
CEQA Status: Exempt
General Plan: Commercial Office
Zoning: Office Commercial (CO)

Background:

The restaurant Piala, at 7233 Healdsburg Avenue, applied for an alcohol use permit in 2022, which was reviewed first by staff, which denied the permit due to: 1) the structure as a bar and 2) public complaints/concerns. This denial was appealed by Mr. Sheldon along with a revised application to remove the concerns that it was a bar instead of a bone fide restaurant. The use permit was heard by the Planning Commission in July; approved by the Planning Commission with a number of operating conditions and limitations on Mr. Sheldon's activities and presence on-site and activities in the business. The approval was appealed by a member of the public, and the City Council heard the appeal.

The City Council upheld the Planning Commission's approval, along with the conditions of approval, and denied an appeal on August 31, 2022, which was the final decision. This approval included conditions that were to be in place for a minimum of one year and, after that time, allowed the applicant apply for an Amendment to modify those conditions. The applicant submitted an application on September 7, 2023 to request the Planning Commission to consider removing / modifying some of the conditions of approval.

A staff report (included after this Addendum) was provided to the Commission for its October 10, 2023 meeting. However, this item was continued (without being heard) from the October 10, 2023 meeting due to unforeseen circumstances, and will be heard on October 24, 2023.

In the interim, staff has received questions from some commissioners regarding the adjustment of Conditions of Approval, and is including some additional options for the Commission's review should it wish to adjust the Use Permit Conditions. Additional public comments received since the original staff report are also included in this addendum.

Staff Analysis:

Staff has received questions regarding a couple of topics:

- 1) Clarification of language for the COA related to Lowell Sheldon being able to drink as a member of the public only; and,
- 2) Potential adjustments to the proposed Condition of Approval #2 changes to allow Mr. Sheldon to cover shifts for the owner, while still maintaining other components of the condition of approval.

Regarding Item 1: The original City Council approval language (Conditions number 5) allowed the applicant and Mr Sheldon to request that *“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.”*

Staff had originally crafted language of proposed changes to clarify that Mr Sheldon could not drink while working (by restricting all personnel from drinking on duty, not just staff). However, a concern was raised that the language also should include instances ‘after work’ when a shift has been completed, or other times when the lines between work and off-duty were blurred. Since the original language states the intent is that Mr Sheldon could request to be able to drink as a member of the dining public, staff is recommending the Commission consider the revised condition language as follows:

- 3) Lowell Sheldon shall be allowed to consume alcohol only on the premises as a member of the dining public and only when another owner is present. This shall only be allowed during hours the restaurant is open to the public and while not on duty in any way. Responsible Beverage service standards shall apply.

This would replace the current restriction of:

- 4) ~~Lowell Sheldon shall not serve or consume alcohol in any capacity while on the premises.~~

This would allow Mr Sheldon to sample wines and food from the kitchen together, as requested in the application. Of note, there is nothing restricting sampling of wines in a private residence or other private location.

Regarding item 2:

The request from the applicant is to be able to cover shifts for Jeff Berlin, the operations manager and day-to-day supervisor. The applicant requested the entirety of condition number 2 be removed. However, the Commission could modify the language to allow for this coverage of shifts but not for the additional personnel-related responsibilities from Jeff Berlin.

1. Applicant shall continue to be the owner responsible for personnel-related responsibilities as listed in 3a and 3b below, and shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities related to in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, formal discipline, or termination of any employee; or

- b. the fielding, review, investigation of, or response to any employee complaints or concerns.
- c. Notwithstanding the provisions of Conditions 1a and 1b, above, Lowell Sheldon shall be permitted to work shifts to provide coverage for Jeff Berlin. This shall be limited to working shifts as an on-site manager when Jeff Berlin is on a scheduled vacation or unavailable due to illness.

Staff has included these potential modifications in the revised draft Exhibit B Specific Conditions of Approval (see": for original draft modified conditions from the October 17 staff report). Staff recommends the Commission consider the above language and conditions in its deliberations. The modified language is included in the new draft of Exhibit B – Draft Conditions of Approval attached.

Public Comment:

As noted, additional public comments received are included as attachments.

Recommendation:

Staff recommends the Commission consider the request and potential modifications to the conditions of approval, including the above language and conditions in its deliberations to determine if it is more consistent with the original approval and the applicant's request.

Staff recommends the above revised language, as well as the prior staff recommendations regarding the requirement to continue to retain the outside human resources firm (the applicant has not proposed removing this) and modifying Condition of Approval number 17 to cover all personnel on duty at the restaurant.

All other existing conditions of approval would remain in full effect.



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The City Council upheld the Planning Commission’s approval, along with the conditions of approval, and denied an appeal on August 31, 2022, which was the final decision. This approval included conditions that were to be in place for a minimum of one year and, after that time, allowed the applicant apply for an Amendment to modify those conditions. The applicant submitted an application on September 7, 2023 to request the Planning Commission to consider removing / modifying some of the conditions of approval.

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.

Actions in Support of Goal CHW 6

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

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 regarding this amendment. No comments were received.

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 Analysis:

Staff has been monitoring the Use permit over the past year, with a formal report to the Planning Commission at its January 24, 2023 meeting, and informal monitoring since then per the Commissions direction. Staff contacted the Human Resources firm during that time, as well as after receiving this recent Amendment request. The firm has confirmed that they have not received any complaints. The initial report included minor use permit compliance concerns (mainly posting use permit conditions, which were addressed by the applicant), with no complaints since that time.

Given this, and the cooperation of Pila business owners in responding to some initial complaints, staff feels these conditions could be released if the Planning Commission concurs. However, staff recommends the outside human resources firm be retained and remain a condition of approval, and also that the Condition of Approval #17, which prohibits drug and alcohol use while on duty, be extended to include business owners (all personnel when working). This would allow the owners, including Mr Sheldon, to be at the restaurant and consume alcohol while not working. It will also treat all personnel equally in prohibiting consuming drugs/alcohol while on duty, when interactions between personnel working are more frequent.

Staff has included a revised Exhibit B Specific Conditions of approval showing the recommended deletions and modifications with 'strike-out' for deletions and 'underline' for additions. Staff has also included the removal of condition #4 as the one year period from the projects first approval has passed and the applicant is now requesting modifications to their use permit. However, staff still feels that a six month and yearly check in with the Planning Department should be included in the conditions of approval to ensure that there are no new

complaints as result of removing conditions from the original approval. The proposed conditioned has been added as the new Condition of Approval #1.b. (replacing 1.c), in Exhibit B, the proposed Amended Conditions of Approval.

Public Comment:

Public comments received as of the publication of this staff report are included as attachments.

Recommendation:

Staff recommends removal of the requested conditions of approval, and with the requirement to continue to retain the outside human resources firm (the applicant has not proposed removing this) and modifying Condition of Approval number 17 to cover all personnel on duty at the restaurant.

All other existing conditions of approval would remain in full effect.

Attachments:

Application documents

City Council Resolution (original approval)

EXHIBIT A – DRAFT AMENDED FINDINGS FOR APPROVAL

EXHIBIT B – DRAFT AMENDED CONDITIONS OF APPROVAL (including language in staff report Addendum)

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>

https://ci.sebastopol.ca.us/your-government/city-meeting-calendar/?search_month=&search_year=2022&dpt=planning-commission

https://ci.sebastopol.ca.us/your-government/city-meeting-calendar/page/2/?dpt=city-council&search_month=8&search_year=2022

<https://ci.sebastopol.ca.us/events/planning-commission-meeting-3/>

<https://ci.sebastopol.ca.us/wp-content/uploads/2023/04/5B-Piala-First-Quarter-report.pdf>



City of Sebastopol

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

MASTER PLANNING APPLICATION FORM

APPLICATION TYPE

- Administrative Permit Review
Alcohol Use Permit/ABC Transfer
Conditional Use Permit
Design Review
Lot Line Adjustment/Merger
Preapplication Conference
Preliminary Review
Sign Permit
Temporary Use Permit
Tree Removal Permit
Variance
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 Zoning/General Plan Designation:

APPLICANT INFORMATION

Property Owner Name: Peret & Squires

Mailing Address: 2342 Lombard St Phone: 415-250-3018

City/State/ZIP: SF CA 94123 Email: peter@realtysquires.com

Signature: Date:

Authorized Agent/Applicant Name:

Mailing Address: 306 BOHEMIAN HWY Phone: 925.360.9131

City/State/ZIP: SEBASTOPOL, CA 95472 Email: BERLINVINE@GMAIL.COM

Signature: Date: 9/15/2022

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

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

Current REST name Surotha
new REST name Pitala

CITY USE ONLY

Fill out upon receipt:

Application Date:

Planning File #:

Received By:

Fee(s): \$

Completeness Date:

Action:

Staff/Admin:

Planning Director:

Design Review/Tree Board:

Planning Commission:

City Council:

Action Date:

Date:

Date:

Date:

Date:

Date:

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.

Additional Signature
[Signature] Jeff Bodin 10/05/22

City of Sebastopol,

Jeff Berlin is writing to request two conditions be removed from the our user permit;

- 1) The first request is to remove the restriction that prevents Lowell from working at Piala. Lowell is not, nor has he ever been, a danger to anyone that works at Piala. He has always treated all his employees with respect, in all his businesses. The restaurant cannot continue, successfully, with this condition. He is needed to help cover for shifts for business partner Jeff Berlin, when he needs a vacation. Piala has gained diehard local support for its authenticity and friendly environment, yet it is too small to hire up sufficiently to have coverage when Jeff needs many days off in a row. Due to this condition, Jeff has not had a vacation since Christmas of last year - he needs and deserves one. We ask that you remove all conditions that restrict Lowell's movement in and out of our business and any condition that restricts his ability to work at our business.
- 2) The second request is to remove the restriction that prevents Lowell from drinking alcohol at Piala. Lowell needs to understand the offerings of the restaurant, in order to work there. Piala is a wine-centric restaurant, and as any wine shop owner can tell you, you have to understand the product to be able to sell it - that's just common sense. Lowell has abided by this restriction for one year as the terms originally dictated, and now we formally request this restriction be removed.

Sincerely,
Jeff Berlin/Lowell Sheldon



Concerns about your workplace?

Keep your workplace safe and positive by reporting any potential issues.

Contact the Employee Action Hotline

Share your concerns from anywhere at anytime and speak to an experienced, impartial interviewer. You can also use your smartphone and scan the QR code to access the online incident reporting form.

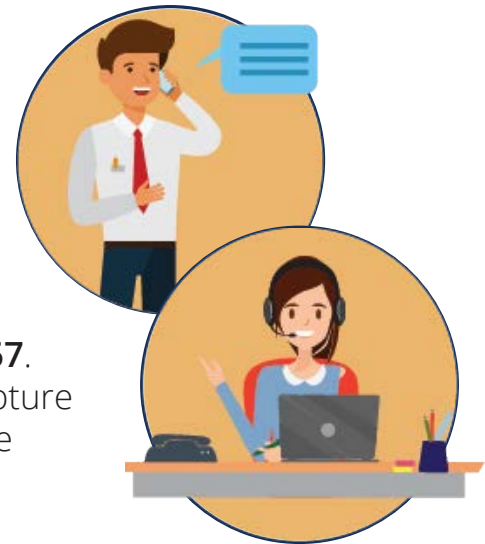
Report workplace matters and concerns including but not limited to:

- Harassment
- Discrimination
- Misconduct
- Safety issues
- Workplace violence
- Retaliation

Filing a report is simple:

Choose how to contact the Employee Action Hotline.

1. Scan the **QR code** below to access an online form and complete the interview questions independently. Completed forms are reviewed by an interview specialist.
2. Or, report a concern by calling the hotline at **1-800-225-7757**. Calls will be answered by an interview specialist who will capture your interview responses. Spanish speaking interviewers are available by request.



A report will be sent to your employer.

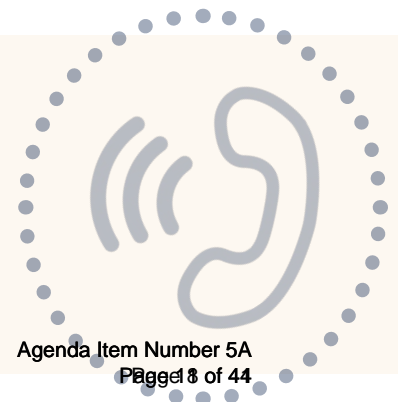
Reports are sent on the next business day.

That's it! Your employer has your detailed report and will follow up according to its policies.



CALL 1-800-225-7757

Or scan the QR code with your smartphone to access the online reporting form.



Kari Svanstrom

From: Lowell Sheldon <[REDACTED]>
Sent: Monday, October 09, 2023 11:00 PM
To: Kari Svanstrom
Subject: Training complete
Attachments: Sexual Harassment Prevention Training for California Managers (English) - Certificate.pdf

Hey Kari,

Besides the two trainings I did in 2021, I just brushed up and did a new training tonight.

Hasta manana,
Lowell



has completed the following course:

STAFF COMMUNICATION WITH HUMAN RESOURCES FIRM

From: Jennifer Guerrero <jguerrero@employers.org>
Sent: Monday, September 25, 2023 1:50 PM
To: Kari Svanstrom
Subject: RE: [EXTERNAL] report request for Piala restaurant Sebastopol, CA

Hello again,

We have received no complaints from your **Employee Hotline**

Thank you

Jennifer Guerrero

Operations | jguerrero@employers.org
California Employers Association
800.399.5331 | www.employers.org



CEA is not a law firm and does not dispense legal advice. Therefore, conversations with CEA are not attorney-client privileged. The information CEA provides via forms, telephone calls, written messages (such as email and letter) is informational and educational in nature, and not specifically tailored to an employer's needs. CEA is not an insurer and is not responsible for any claims or actions arising out of an employer's human resources matters. Employers use our information at their own risk, and in conjunction with their own legal and human resource advisors.

From: Kari Svanstrom <kvanstrom@cityofsebastopol.org>
Sent: Monday, September 25, 2023 1:47 PM
To: jguerrero@employers.org California
Subject: [EXTERNAL] report request for Piala restaurant Sebastopol, CA

Hi Jennifer,

Thanks for the discussion today regarding Piala restaurant's employee hotline.

For my records, can you confirm as you did via phone that you have not received any complaints/calls to the hotline regarding this establishment. Also can you confirm how long Piala has contracted with you for the employee hotline?

Thanks,
KAri

Kari Svanstrom, AICP, Architect
Planning Director
City of Sebastopol | Planning Department

**ORIGINAL USE PERMIT APPROVAL
INCLUDING FINDINGS AND CONDITIONS OF APPROVAL**

RESOLUTION NUMBER: 6472-2022

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, as modified, 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.

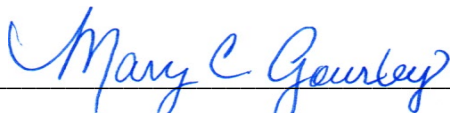
The above and foregoing Resolution was duly passed, approved and adopted at a meeting by the City Council on the 31st day of August, 2022.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

VOTE:

Ayes: Councilmembers Glass, Gurney, Rich, Vice Mayor Hinton and Mayor Slayter
Noes: None
Absent: None
Abstain: None

APPROVED: 
Mayor Patrick Slayter

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

APPROVED AS TO FORM: 
Larry McLaughlin, City Attorney

EXHIBIT A
FINAL 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
FINAL 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.
 - b) Lowell Sheldon's right to enter the premises shall be no greater than any other member of the public (during business hours, as a customer with access to only public areas). Lowell Sheldon may be on premises when the restaurant is closed and no employees are present (Jeffrey Berlin shall also be present).
 - c) Staff shall review the CUP after the restaurant commences operations to ensure conditions of approval are being adhered to as follows:
 - a. Every quarter for the first two quarters then every 6 months thereafter.
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. Lowell Sheldon shall not serve or consume 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

RECOMMENDED AMENDED FINDINGS AND CONDITIONS

EXHIBIT A
DRAFT FINDINGS OF APPROVAL
Piala Restaurant
Alcohol Use Permit Amendment
7233 Healdsburg Ave
APN 004-251-023 (File 2023-054)

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.
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, personnel are not allowed to consume drugs or alcohol while on duty. This would apply to all employees as well as owners while on duty at the site.

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.

This criterion is 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, this criteria is 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 continuing to retain an outside Human Resources firm; continuing a responsible beverage service training program; by prohibiting alcohol and drug use by restaurant personnel while on duty; and, by 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.

As conditioned, this criteria is met.

EXHIBIT B
DRAFT AMENDED CONDITIONS OF APPROVAL (including Addendum Language)

Alcohol Use Permit Amendment
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, and the Amendment request received from Piala on September 7, 2023, 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.
 - b) ~~Lowell Sheldon's right to enter the premises shall be no greater than any other member of the public (during business hours, as a customer with access to only public areas). Lowell Sheldon may be on premises when the restaurant is closed and no employees are present (Jeffrey Berlin shall also be present).~~
 - c) ~~Staff shall review the CUP after the restaurant commences operations to ensure conditions of approval are being adhered to as follows:~~
 - a) ~~Every quarter for the first two quarters then every 6 months thereafter.~~
 - b) The applicant shall provide the Planning Department with a progress report on any new complaints filed for the restaurant at the six month and year period from the approval date of this use permit amendment. The Planning Department shall review the CUP six months and one year after these amended conditions of approval take effect. The review shall be a staff level review, however the Planning Director shall have the discretion to elevate to a Planning Commission review.
2. Applicant, Jeff Berlin, shall continue to be the owner responsible for personnel-related responsibilities as listed in 3a and 3b below, and shall not permit Lowell Sheldon to exercise, directly or indirectly, any personnel-related responsibilities related to in connection with the ownership, management, or operation of the subject business, including without limitation:
 - a. the hiring, training, management, supervision, review, formal discipline, or termination of any employee; or
 - b. the fielding, review, investigation of, or response to any employee complaints or concerns.
 - c. Notwithstanding the provisions of Conditions 1a and 1b, above, Lowell Sheldon shall be permitted to work shifts to provide coverage for Jeff Berlin. This shall be limited to working shifts as an on-site manager when Jeff Berlin is on a scheduled vacation or unavailable due to illness.
3. ~~Lowell Sheldon shall not serve or consume alcohol in any capacity while on the premises.~~ Lowell Sheldon shall be allowed to consume alcohol only on the premises as a member of the dining public and only when another owner is present. This shall only be allowed during

hours the restaurant is open to the public and while not on duty in any way. Responsible Beverage service standards shall apply.

- ~~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 or 3 and/or 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~~ all personnel, including owners, 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.

PUBLIC COMMENTS RECEIVED AS OF STAFF REPORT

From: Leah Engel <[REDACTED]>
Sent: Wednesday, October 04, 2023 6:28 PM
To: Kari Svanstrom
Subject: Re: Lowell Sheldon Piala Use Permit Amendment Request

To the Planning Commission and whom else it concerns,

I am writing in opposition to Lowell Sheldon's Piala use permit amendment request. I am one of the original women who spoke out against Sheldon in 2021 and I strongly believe that allowing Sheldon access to alcohol and greater power within this restaurant will result in the continued abuse and mistreatment of our Sebastopol and greater Sonoma County community members.

Something has been weighing on me for many months since one of our previous public hearings with the Planning Commission (apologies for not remembering the exact date). At this meeting Sheldon made the bold statement that he "has never and will never" sexually harass or abuse anyone. This is a disgusting and bold face lie and I hope you see it for what it is. As reported in the Bohemian and San Francisco Chronicle, numerous employees and community members experienced varying levels of harassment and abuse over many, many years. The fact that many of them were not reported to the police, **does not mean it wasn't abuse**. The fact that Sheldon believes he did nothing wrong and crossed no lines, **does not mean it wasn't harassment**. There are a myriad of reasons why it takes people years to speak up, why people never make official reports or take someone to court, and in this day and age I hope you can all understand that.

While I was not personally harassed by Sheldon, I know multiple people who were — people who were inappropriately touched while they were just trying to do their job, who were cat called at bars, who were not believed and kept safe against other employees while under his direct supervision, and who, heartbreakingly and in the worst of cases, were raped while on a date with him. I also know that for the dozens of stories I have heard there are dozens more out there.

This is not a changed man, it is merely a man who has waited, biding his time in the hopes that our community and the planning commission will believe that he has taken enough time to "do the work" or, at the very least, that we will have moved on and forgotten about the mountains of pain he has caused. I know and believe that he has not done the work, that he is not a restored man. I strongly urge the commission to ask for clear and specific steps he has taken towards accountability and restoration for the harm he has caused. Ask the hard questions! I ask you to believe the victims of your community and to take a stand to stop this happening to more people.

Thank you for your time,
Leah Engel
Sebastopol, CA

From: Barbara <[REDACTED]>
[REDACTED] 05 PM
To: Kari Svanstrom
Subject: Pilala/Sheldon Permit Amendment Request

Re:
Project ID: 2023-054
APN: 004-251-023

Please accept my communication in **denying the request** from Jeff Berlin' Lowell Sheldon re application from Lowell sheldon to Amend the use permit for Pilala, a restaurant serving alcohol located at 7233 Healdsburg Avenue, Sebastopol, CA.

I do not support the request that Mr. Sheldon be allowed to work as an employee at the restaurant, nor to be allowed to consume alcohol onsite.

Thank you for this opportunity to be heard.

Barbara Harris, Sebastopol, CA
[REDACTED]

Kari Svanstrom

Subject: FW: New submission from Send Us A Message

From: City of Sebastopol <noreply@cityofsebastopol.org>

Sent: Monday, October 09, 2023 8:30 AM

To: info <info@cityofsebastopol.org>

Subject: New submission from Send Us A Message

Name

Danielle Cazares

Email

Phone

Message

I just read the Press Democrat article about Lowell Sheldon looking to appeal the Council's decision to have him restricted from working or drinking at Piala. I'm writing to ask that you please hold fast to your earlier decision and continue to protect the community from predators like him. He has a history of weaponizing recovery language in order to get closer to potential victims and to give him the benefit of the doubt that he has put in personal work would be to place more of our community members at risk of being violated. As a woman and community member, please don't allow Lowell Sheldon to return to business as usual. Thank you!

Kari Svanstrom

From: BOB ENGEL <[REDACTED]>
Sent: Monday, October 09, 2023 8:42 PM
To: Kari Svanstrom
Subject: Piala Use Permit

The city committee has wisely listened to the many former employees of Lowell Sheldon's prior restaurants and weighed their experiences against his denials of wrong-doing.

Sheldon has yet to admit to any specific acts of abuse of power, in fact says he has never been guilty of any mis-step, while also saying he has "learned from his mistakes." Does not sound to us like a man who has learned much. His defensiveness does not include any note of contrition, but rather falls back on portraying himself as a victim. Lowell does not present as a man who can be trusted as a managing employer exactly because he insists on the privileges of his gender and commercial position.

We urge the Use and Permit restrictions to remain in place.

Thank you for your attention.

Bob and Pat Engel

"The mind that is not baffled is not employed." -- Wendell Berry

Kari Svanstrom

Subject: FW: New submission from Send Us A Message

From: City of Sebastopol <noreply@cityofsebastopol.org>

Sent: Monday, October 09, 2023 1:27 PM

To: info <info@cityofsebastopol.org>

Subject: New submission from Send Us A Message

| |
|---|
| Name |
| Joseph H |
| Email |
| Phone |
| Message |
| Lowell Sheldon has been drinking openly at Piala for months. In fact, my neighbor took video of him doing it. |

Kari Svanstrom

Subject: FW: New submission from Send Us A Message

From: City of Sebastopol <noreply@cityofsebastopol.org>

Sent: Monday, October 09, 2023 3:56 PM

To: info <info@cityofsebastopol.org>

Subject: New submission from Send Us A Message

Name

Sonya

Email

Phone

Message

Giving Lowell Sheldon a chance after the accusations was a bad look to begin with. The fact that the Sebastopol commission is being manipulated into allowing him access again? Shameful. If Piala had a decent manager, there would be zero need for Sheldon to be present so Berlin can take a vacation. Starting to be ashamed to call Sebastopol home.

Kari Svanstrom

From: Danielle Connor <d[REDACTED]>
Sent: Tuesday, October 10, 2023 8:21 AM
To: Kari Svanstrom
Subject: L Sheldon Piala Use Permit Amendment Request

To whom it concerns,

I'm writing in opposition to Lowell Sheldon's Piala use permit amendment request to work on site and consume alcohol at Piala. As you may already know, I own Retrograde Coffee Roasters on S Main Street for nearly 7 years. I've employed (and currently employ) several former employees of Sheldon and have had to permanently 86 him (eject) from my own business for his poor behavior at my establishment. I am not the only local small business who will not allow him in their establishment for the same reason but one of the only ones who is willing to speak publicly due to fear of retaliation.

Lowell has time and time again proved, at numerous local businesses including some now closed, that he does not possess the level of professionalism and maturity that is required to operate a business and keep employees safe from harassment of his own doing. The trauma that Lowell has caused people in our community has been [well documented](#) by numerous reputable news groups, including Jane Doe, who filed a police report that she was raped by Lowell. Not to mention, he has also been accused of giving alcohol to minors on the job as their employer. More than a dozen former employees have come forward with their experiences, publicly stating they have been harassed by him. There are many who are still too afraid to come forward. [Lowell has also publicly admitted to creating toxic work environments](#) and will continue to do so if given the power.

Before any articles or accusations came to light regarding Lowell's sexual harassment of his employees, our cafe manager had warned Lowell that he would be asked not to come back if he kept acting inappropriately towards our team members. He would pressure them at the point of sale to comp his orders, giving him free food and beverages that he would never come back to pay for. Despite the fact that we have a strict policy against this and require payment at the time of purchase, Lowell would persuade them by lying about our personal relations. Our cafe manager had to ultimately 86 him for this reason and he did harm to my own employee's that I personally had to do the work to repair.

When the articles about Lowell were initially published, I publicly came forward in support of the victims, as someone who has also been sexually harassed in my lifetime. In doing so, I was harassed by Lowell's family members and friends, as well as by Lowell himself, who chose to call my personal cell phone late at night, without me having ever given him my phone number. Furthermore, he agreed to a type of mediation with the victims he harassed after the articles came out, and failed to comply with what was being asked of him to the point where the organization had to stop working with him for the numerous contract violations.

As an employer, you have a legal duty to protect your employees from harassment and sexual harassment. The CA Fair Employment and Housing Act prohibits discrimination, harassment and retaliation in the workplace and requires employers to take reasonable steps to prevent this type of behavior in the workplace. It also requires "employers with 5 or more employees and public employers must train their employees regarding the prevention of sexual harassment, including harassment based on gender identity, gender expression, and sexual orientation."

I would question whether or not Piala can prove they are complying with this simple law with proof of certificates of course completion. Furthermore, I would question how an employer who has sexually harassed his own employees for years at 4 different business locations can take reasonable steps to prevent it from happening? Only if he doesn't work there when employees are present and certainly given his poor track record, alcohol consumption should not be allowed either.

Lastly, I would like to share that yesterday on Monday, [the Press Democrat published an article with quotes from Lowell Sheldon](#) that Jeff Berlin "needs a vacation" and this is "the only way" for it to happen, which is not true. It is also not true that he needs to be on site drinking wine to "understand the business". Personally, I have closed my business and altered my hours to take time off. I have also hired competent people to take time off, both options Berlin can easily do. Lowell's quotes in this article referring to Leah Engel, a woman who worked directly with him for 6 years at multiple of his businesses, as a "random person" shows that he has done zero work or taken any steps towards bettering himself as a person. Lowell needs to understand that for everyone who has been traumatized by his actions, including our greater community, there is no "moving on" without actual accountability.

Best,
Danielle Connor & Casey Lanski

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