



City of Sebastopol Planning Commission Staff Report

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

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

Background:

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

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

Discussion:

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

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

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

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

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

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

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

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

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

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

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

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

General Plan Consistency:

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

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

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

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

Actions in Support of Goal CHW 6

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

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

Environmental Review:

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

City Departmental Comments:

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

Required Findings:

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

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

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

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

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

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

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

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

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

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

Public Comment:

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

Recommendation and Commission's Options:

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

Regarding the restaurant as a bone fide restaurant:

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

Regarding the Alcohol Use Permit use permit criteria:

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

Attachments:

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

Public Comments

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

EXHIBIT A
DRAFT 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
DRAFT CONDITIONS OF APPROVAL

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

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

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

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

EXHIBIT C
STANDARD CONDITIONS OF APPROVAL

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

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

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

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

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

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

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

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

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

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

Planning Department Standard Conditions of Approval:

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

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

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

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

Engineering and Public Works Department Standard Conditions of Approval:

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

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

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

Roadway Improvements:

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

constructed to minimize damage to trees.

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

Drainage Improvements:

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

Stormwater Quality:

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

Grading:

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

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

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

Fire Department. Standard Conditions of Approval:

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

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

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

Building Department Standard Conditions of Approval:

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

END OF STANDARD CONDITIONS OF APPROVAL

Application: Alcohol Use Permit/ABC Transfer (2020-22)

Applicant: Piala, LLC

Date: July 6, 2022

Applicant's Proposed Conditions of Approval v. 3

1. The application shall be modified to reference "Jeffrey Berlin" as the Piala LLC representative on all City applications, and as referred to in these Conditions of Approval.
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:
 - (i) the hiring, training, management, supervision, review, discipline, or termination of any employee; or
 - (ii) the fielding, review, investigation of, or response to any employee complaints or concerns.
3. Applicant shall prohibit Lowell Sheldon from serving or consuming alcohol in any capacity while on the premises.
4. This Use permit shall be reviewed after a period of one year after the restaurant opens 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.
5. Violation of any of Conditions 2 and/or 3 may, by itself, constitute a ground for revocation of the subject use permit.

June 30, 2022

Dear Sebastopol Planning Commissioners,

Thank you so much for your due diligence and humanity at the 6/28 meeting in acknowledging the experiences of the women and workers in our community who were repeatedly harmed by Lowell Sheldon over a period of many years. Since these women bravely spoke out to share their stories that were initially published in the SF Chronicle, North Bay Bohemian, and Press Democrat in September 2021, it's been infuriating and heartbreaking to personally witness Sheldon and his supporters repeatedly deny, undermine, and gaslight these women, as well as enacting attempts to harass and intimate them and their allies in person and online. I'm grateful to several of the Commissioners for acknowledging that:

- Criminal charges are not a reflection of the validity of sexual violence allegations.
- Sheldon's supporters denying and/or minimizing survivors' experiences and writing off Sheldon's behavior as "weird" demonstrates a lack of adequate understanding about the need for meaningful acknowledgement and accountability on Sheldon's part. I would like to hear Piala's co-owner and manager Jeff Berlin explain his rationale for working with Sheldon and adequately explain his belief as to why Sheldon's involvement in Piala is necessary and promotes safety in the community.
- Sheldon & his supporters' claims that Sheldon has "suffered enough" and done adequate work to address and reform his behavior are unsubstantiated, and in fact Sheldon's very recent and repeated non-consensual communications with survivors and supporters demonstrate that the opposite may be true.
- Jeff Berlin's proficiency as a restaurant owner as well as Sheldon's experience as a restaurateur are irrelevant to concerns of community safety.
- Lowell Sheldon will hold power in Piala by virtue of being an owner, regardless of not holding an operating role, and thus even his presence as a patron could be a risk to community safety.
- There may be no way for the City of Sebastopol to regulate or enforce stipulations that will adequately safeguard community members, especially given that Sheldon offered immediately clarity that he was unwilling to consider stipulations that would bar him from entering Piala's premises as a patron.

I'd like to offer some clarity and evidence of some of the claims made, specifically around Sheldon's engagement with and abandonment of a transformative justice process facilitated by [REDACTED]. Sheldon worked with [REDACTED] facilitators [REDACTED] and [REDACTED] were also in conversation with us as a coalition of survivors and allies, but we never entered a formal process or signed any kind of agreement with [REDACTED]. I often served as a liaison between the survivors and [REDACTED] and had at least three 20-60 minute phone calls with [REDACTED] between September 2021-May 2022. We also had a 90-minute long Zoom meeting with René on December 16, 2021 and met in person with [REDACTED] and [REDACTED] for about four hours on March 26, 2022.

Since Sheldon violated his written agreement with [REDACTED] which promised he not invoke their work together as leverage to bolster his image [REDACTED] ended communication with him and also been minimally responsive in their communications with us, expressing concern that to publicly address this in any way would jeopardize their work with others who may be concerned that their confidentiality would not be respected. [REDACTED] clearly stated their unwillingness to offer a public comment that confirmed their experience with Sheldon. While my most in-depth conversations with [REDACTED] happened over the phone, I'm attaching a screenshot of an email [REDACTED] sent me after

Lowell disengaged from the process and violated their confidentiality agreement by touting his work with [REDACTED] as evidence for his reformed behavior:

[REDACTED]

May 27, 2022, 10:30 AM ☆ ↩ ⋮

Hello Freddie,
It is infuriating to see Lowell use the RJ process in this way. I appreciate your request and it makes total sense. At the same time we are held to the same confidentiality agreement we have with Lowell. As I understand it, we are not able to make any statements, public or otherwise, because of the confidentiality agreement. This agreement protects us and without it we cant do the work we do. Let me know if it would be helpful to talk more about this.

I am also passing your message along to [REDACTED] and [REDACTED] who are the key folks on staff for our RJ in the Community work. We will discuss all this more fully and I will share back anything that feels like it could be helpful to share with you all. At the same time there is a lot happening in our Ahimsa world so it may be a week or two before we get a chance to have an organizational level discussion around this.

I am feeling your frustration with this process, perhaps with us. That also makes sense and I appreciate any and all feedback you have for us. We are in our own learning process around how we show up. Anything you share with us about how you have experienced our involvement is appreciated.

If there is anything else that comes out of conversations between me and [REDACTED] (we will be talking on Monday), or with [REDACTED] and [REDACTED] will reach back out with that.

My answer here just comes out of my own understanding of the agreements we have made. I am passing your message along and perhaps others may see things differently. In the case [REDACTED] making a statement I dont think it is likely that there would be a different answer, but I will ask.

I appreciate all you are doing to support your friends and community,
[REDACTED]

note: RJ = restorative justice

I also want to briefly reiterate several lesser-discussed points made in public comments that may have gotten overlooked:

- Public comments from owners and staff of at least two local businesses (Retrograde Cafe and the Underwood) who let Sheldon know he is not welcome as a patron at their establishments.
- Public comment from Zoë Lynne Kessler who describes her experience with persisted unwanted physical contact from an intoxicated Sheldon while dining at his establishments. I point this out to demonstrate the safety of patrons as well as workers is at risk.
- Two public comments from Cari Wynkoop and Stephen Zollman, who are immediate neighbors of Piala and expressed concern about the safety of their children as well as local high schoolers who regularly walk by and near the proposed site.
- Public comment from Lisa Kurtz detailing Sheldon's manipulation of her elderly mother through the use of alcohol and to the end of taking \$100,000 from her without a written agreement, which severely threatened her health and which was only stopped by threat of legal action and relocation of Lisa's mother.

I appreciate Commissioner Burnes' proposal that Sheldon focus on truly reforming himself and return in a year if he still wishes to own an alcohol-centric business in Sebastopol.

Thank you for taking the experiences of survivors in our community seriously. It gives me hope that Sebastopol can be a leader in ending the acceptance of sexual violence and the long-time status quo of rape culture in the restaurant industry and beyond.

Most sincerely,

Freddie Francis
Sebastopol

July 1, 2022

Sebastopol Planning Commission

Re: Piala Use Permit: Response to Public Comment

Dear Commissioners:

I am writing to respond to three items of public comment offered in opposition to Piala's use permit.

Alleged Harassment of Detractors

As several women have accused me in public comment of having recently harassed or attempting to intimidate them, I would like to share with you my June 9, 2022 email to which they refer (Attachment A). In that email, I wrote:

- "I know I made some huge mistakes at Lowell's. I caused so much pain..."
- "I know you are a good and caring person. I am sorry I caused so much pain and trauma in your world."
- "I continue to be deeply ashamed of the comment I made to you."
- "If you have any specific thoughts or ideas on this subject of appropriate workplace standards, it would be meaningful to learn more from you."

In response, one woman wrote to call me a "a cowardly sack of shit" and ended by saying, "You better have your camera on during the hearing because I want to see your shitty face when we rip you to shreds during public comment." (Attachment B) I was surprised that my *apology* would solicit such hostility. I replied, "I only want to communicate that I have no hard feelings. I wish you all the best in your life" and left the matter at that. (Attachment B). I have had no subsequent communication with any of them.

Texting with Timothy Ryan

After the July 28 hearing, a former employee of mine, Timothy Ryan ("Timo"), submitted a screenshot of a texting thread he and I had a few weeks ago as evidence of an unsolicited communication from me. That is true: after he asked me to stop texting, I texted him one last time...sending him a photo of the two of us in happier times. My intention was to remind him that notwithstanding his current opposition to Piala's license, years ago we had what I felt was a genuine comraderie working together. It was a feeling he apparently shared

given that he wrote in public comment, "I liked him. We got along in many ways." (Ryan comment, 6/23/22) I have not communicated with him since then and do not intend to.

Alleged Elder Abuse


I regret that I was not clearer in addressing Lisa Kurtz's concerns regarding her mother's mental health during the time that she was a daily patron (and neighbor) of Peter Lowell's restaurant, but that lack of clarity is frankly no basis for Ms. Kurtz to defame me with accusations of elder abuse. The fact of the matter is that no staff ever served Lorna Kurtz alcohol when she was observed to be excessively inebriated. Furthermore, while she did run high tabs at the restaurant (she ate nearly every meal there), contrary to Ms. Kurtz' accusation, we maintained a detailed account of her purchases and credits against her account. An example of my communication with the Kurtz family providing such accounting is attached as Attachment C.

Thank you for your continuing consideration of this matter.

Sincerely,

Lowell Sheldon

ATTACHMENT A

From: Lowell Sheldon [REDACTED] 
Subject: Lowell Sheldon Apology
Date: June 9, 2022 at 11:17 AM
To: [REDACTED], [REDACTED], [REDACTED]

SL

Alexandra, Jesse and Leah,

I am sorry for the pain I have caused. Not only to you three, but to everyone.

Leah - We worked together for so long. Many good years. I know I made some huge mistakes at Lowell's. I caused so much pain, particularly for [REDACTED] and [REDACTED], but the pain did not end there. I know that. I will always know what a truly genuine and caring person you are. And I will always care about you.

Alexandra - We share a community in our town in Mendocino. I want you to know that when I pass your house I always wish you and your family all the best. I know you are a good and caring person. I am sorry I caused so much pain and trauma in your world.

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

We need not agree on each event of the past to agree on what is appropriate in the workplace moving forward. I have clarity on how to avoid creating a toxic work environment. I know that I was wrong, and I have changed my approach. I want you to know that Piala, The Freestone Hotel, and a new bakery project I have in the works will all be run with clear policies in place to create safeguards for all employees, management and owners. As a leader, the standards I hold myself to must be above and beyond those around me.

If you have any specific thoughts or ideas on this subject of appropriate workplace standards, it would be meaningful to learn more from you. I only ask that you share in a respectful way.

Lastly, I want you to know that your work to keep me from moving forward with my professional life is counterproductive. It turns many people in this community against your cause. Most importantly, it does damage to our ability to learn from your perspective and grow in ways we all surely could.

I have received nearly 100 letters of support - each one written by someone that took time out of their day to consider who I am and share the conclusion that I deserve to be in business and earn a livelihood. I know there are dozens more letters that were sent anonymously for fear of online retaliation. I am confident the Planning Commission, City of Sebastopol and Sonoma County will do the right thing and grant us our use permits.

It is time for us to move forward with our separate lives, knowing full well that future businesses I run must be different from the past. My entire life and livelihood and future is on the line.

Regards,
Lowell



ATTACHMENT B

From: Lowell Sheldon [REDACTED]
Subject: Re: Lowell Sheldon Apology
Date: June 14, 2022 at 9:57 AM
To: Jesse Hom-Dawson [REDACTED]
Cc: [REDACTED]



Thank you for your response.

I only want to communicate that I have no hard feelings. I wish you all the best in your life, as I move forward with mine.

Sincerely,
Lowell

On Mon, Jun 13, 2022 at 2:29 PM Jesse Hom-Dawson [REDACTED] wrote:

Hey Lowell-

Thanks for sending over a letter trying to intimidate the victims of your abhorrent behavior from continuing their important activism. Now hundreds of our supporters know what a cowardly sack of shit you are and its lit a fire under them to write even more letters to the planning commission.

See you at the hearing.

Best, Jesse

P.S. You better have your camera on during the hearing because I want to see your shitty face when we rip you to shreds during public comment.

On Thu, Jun 9, 2022 at 11:18 AM Lowell Sheldon [REDACTED] wrote:

Alexandra, Jesse and Leah,

I am sorry for the pain I have caused. Not only to you three, but to everyone.

Leah - We worked together for so long. Many good years. I know I made some huge mistakes at Lowell's. I caused so much pain, particularly for [REDACTED] and [REDACTED], but the pain did not end there. I know that. I will always know what a truly genuine and caring person you are. And I will always care about you.

Alexandra - We share a community in our town in Mendocino. I want you to know that when I pass your house I always wish you and your family all the best. I know you are a good and caring person. I am sorry I caused so much pain and trauma in your world.

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

We need not agree on each event of the past to agree on what is appropriate in the workplace moving forward. I have clarity on how to avoid creating a toxic work environment. I know that I was wrong, and I have changed my approach. I want you to know that Piala, The Freestone Hotel, and a new bakery project I have in the works will all be run with clear policies in place to create safeguards for all employees, management and owners. As a leader, the standards I hold myself to must be above and beyond those around me.

ATTACHMENT C

From: LOWELL SHELDON [REDACTED]
Subject: Re: Loan/Line of credit
Date: March 1, 2016 at 8:03 PM
To: lisa kurtz [REDACTED], lorna kurtz [REDACTED]



sorry for the delay. All the relevant paperwork is under the register with Lorna's name on it.

Regards,
Lowell

On Mar 1, 2016, at 6:45 AM, lisa kurtz <[REDACTED]> wrote:

Lowell,

I am spending the day with my mom and it is the 1st of the month. Please send balance and leave signed paperwork at restaurant for Lorna.

Lisa

Sent from my iPhone

On Feb 26, 2016, at 8:58 AM, LOWELL SHELDON [REDACTED] wrote:

Thanks Lorna!

I will send over your current balance!

I also can definitely guarantee that any remaining credit balance will be repaid to the Kurtz Family Trust. For clarification, would that be a cash payment or a continued credit for those in the trust? Just let me know your wishes. I would print something up and sign it as well if you like but my understanding is that an email is as good as a piece of paper these days. Just let me know what you need.

Sincerely,
Lowell

On Feb 25, 2016, at 10:32 AM, lorna kurtz [REDACTED] :

Hi Lowell,

My daughter Lisa is helping with my finances and I need to have documentation for my line of credit at your restaurant. I would like any correspondence to go to myself and Lisa. What we need is something that says, in the event that I am no longer eating meals at your restaurant, the credit balance be repaid to the Kurtz Family Trust. I would also like you to keep Lisa up to date with the current balance monthly, starting as soon as possible.

Your help in this matter is much appreciated.

Lorna Kurtz

From: Marylee Guinon [REDACTED]
Sent: Friday, July 01, 2022 2:26 AM
To: Kari Svanstrom; John Jay
Cc: [REDACTED]
Subject: Piala alcohol license City of Sebastopol public comments

Dear Planning Commissioners and City Staff

Regarding the City's authority and constraints of denying an alcohol license to Piala, I believe the City has created an Administrative Record to establish its legal authority and responsibility to protect public safety as well as the limitations of permit conditions of approval that intend to address recognized threats to community public safety.

Alcohol Use Permit: <https://sebastopol.municipal.codes/SMC/17.350>

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 commission has the authority to consider the health, safety, and welfare of the residents in its decision. It is in fact the commission's responsibility according to city code.

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.**

The applicants have not provided clear and convincing evidence to meet this requirement. Lowell Sheldon, on public record, refused to agree to the condition that he not be a patron or be on the premises. Further, this threat to public safety cannot be mitigated with conditions of approval

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.**

A condition is not sufficient if it can't be enforced. Sheldon has shown through his actions at Khom Loi that he has violated such conditions before. With no enforcement mechanism, approval of

an alcohol use permit on the condition that he remain off premises will not provide the safeguard that community members are requesting.

In its role of issuing 404 permits under the Clean Water Act to protect wetlands and waters of the US, the US Army Corp of Engineers SF District will not consider conditions that its agency cannot enforce. This rigorous criteria resulted from violations of unenforceable permit conditions. The agency recognized the critical importance of enforcement capacity by agency personnel in determining if proposed unenforceable conditions are allowed. If conditions are not considered enforceable, and therefore not feasible, then the project is evaluated for unmitigated impacts and could lead to permit denial.

In consideration of conditions of approval to mitigate potential impacts to public safety, the City of Sebastopol should evaluate the enforceability and therefore feasibility of such conditions. The City recognizes that any failure of a permit condition could result in a violation to individuals in the community. Further, because the City cannot police or enforce conditions, we are relying upon future victims to be responsible for enforcement conditions. Our recent experience demonstrates the failures with that approach. The community urges the City to deny an alcohol license to Piala.

Marylee Guinon
Freestone

From: Leah Engel [REDACTED]
Sent: Wednesday, July 06, 2022 9:32 AM
To: Kari Svanstrom; John Jay
Subject: Public Comment for 7/12 Planning Commission Meeting (re: Piala)

Dear Planning Director Svanstrom and Sebastopol Planning Commissioners,

As a woman and worker who has been personally affected by Lowell Sheldon's toxic and inappropriate behavior over many years, I want to thank you for your time and public acknowledgement of our experiences at the hearing on 6/28. Since going public with our story in September 2021, we have been subjected to harassment and intimidation by Mr. Sheldon and his family members, as well as disturbing victim blaming from our community, which you saw first hand and heard about in the recent hearing. It has been an incredibly difficult, emotional, and tireless fight, but we continue on in the hopes that we can educate our community and keep future women and workers safe from Mr. Sheldon. I commend the commissioners for seeing the threat that Mr. Sheldon poses to the health and safety of our community and I thank you for your public validation.

Leading up to the next hearing on 7/12, as provisions and conditions are being discussed, I would like to bring your attention to a recent article and quote from Mr. Sheldon that solidifies my belief and fear that he still does not accept or understand the pain he has caused our community.

In a Press Democrat article published on 7/2 ([Tensions over power, harassment and accountability boil over in a Sebastopol city planning meeting](#)), Mr. Sheldon was quoted as saying, "... [the] framework of the Me Too movement isn't about healing but punishment." This comment was made after the hearing on 6/28, after Mr. Sheldon heard direct comments from the women he has harmed, and after you, the planning commissioners, expressed concern for the safety of your community. This is not a man who has taken accountability for his egregious actions against his employees and community members, this is a man who is still spinning a narrative that he is the victim. This is manipulation and it is dangerous.

While I will never feel completely comfortable with Mr. Sheldon being in a position of power, I do believe that there are steps he can take to show us that he understands the gravity of what he's done and that he is continuing to do the hard work needed to reform himself. I agree with the condition proposed at the hearing on 6/28 that he should take a year to continue this necessary work.

I thank you from the bottom of my heart for taking our experiences seriously. I am grateful to live in a community that believes and validates survivors.

Sincerely,
Leah Engel

From: Sandra Lee Sheffield [REDACTED]
Sent: Wednesday, July 06, 2022 7:29 PM
To: Kari Svanstrom; John Jay; City Council; Mary Gourley; Lawrence McLaughlin; Rebecca Mansour
Subject: Sebastopol Planning Commission Meeting June 28, 2022

Sandra Lee Sheffield
[REDACTED]
Sebastopol, CA 95473

July 6, 2022

To Whom It May Concern:

I participated via Zoom in the public comment portion of the Sebastopol Planning Commission (SPC) meeting regarding the appeal of the denial for an alcohol permit for Piala Georgian Cuisine, submitted by owners Jeff Berlin, Irma Hernandez and Lowell Sheldon, June 28, 2022.

The SPC meeting was attended by Planning Director, Kari Svanstrom, Associate Planner, John Jay, Attorney for the City of Sebastopol, Ed Grutzmacher, SPC Chair, Paul Fritz, SPC members, Linda Kelley, Evert Fernandez and Deborah Burnes and others, including two of Piala owners, Jeff Berlin and Lowell Sheldon, attorney for Piala, Bob Haroche, and 100 or more members of the public. The SPC meeting was also uploaded to public and private media sites where exaggerated, false and highly slanderous statements were made against local businessman, Lowell Sheldon by SPC members and members of the public without any rebuke and will now live in perpetual infamy (see: <https://www.youtube.com/watch?v=v7rLiS64hIQ>).

The bias of the SPC against those in favor of Piala receiving an alcohol permit and Mr. Sheldon in particular is undeniable. For example, many of the SPC referred to the those in favor as members of the public, who were providing comments, while those against granting the permit or those who wrote the protest letter will “testify” and share their “personal experience” as if the folks against were providing sworn statements and evidence in a court of law. This distinction made repeatedly by the SPC elevated the status of “the against,” and those “in favor” were put down as family and friends.

As someone who was at the opening and closing of Lowell’s Café and dined there on a regular basis for 12 years—including nearly every day for a year when my home was being remodeled, I found this distinction offensive since I too was providing evidence

based on my experience. And although I have worked on community fundraisers with Mr. Sheldon's mother, hired his father as an architectural consultant, and know Mr. Sheldon from Lowell's Café, Fern Bar and Handline—I have never met any members of the Sheldon family outside of a professional context. I am not a friend or family member; I provided a knowledgeable and valid professional reference.

Plus, other former employees of Lowell's Café also wrote positive letters and spoke at the meeting in favor of Pila receiving an alcohol permit and their firsthand experiences of working with Mr. Sheldon was not elevated to the status of testimony or shared personal experience, and they were not, by the end of the meeting, deemed as believable as those speaking against, who had clearly won the SPC's support.

In addition, before the meeting opened for public comment it was stated that inflammatory language would not be allowed. Nevertheless, three disgruntled former employees of Lowell's Café, which has been closed for several years, and their friends and family—many who have had NO interaction with Mr. Sheldon, stated that he was a predator, who had committed sexual assault and workplace harassment among many other inappropriate, exaggerated and slanderous statements.

Please note, I was rebuked for stating my opinion that the disgruntled former employees, who wrote the protest letter requesting “only one thing” that Mr. Sheldon not be granted an alcohol permit for his new restaurant (in other words, deny him and his partners the ability to make a living) are crazies. Although being crazy is not against the law and far less inflammatory than stating Mr. Sheldon committed sexual assault and forced someone to perform oral copulation (yes, that was actually said at the meeting and is not claimed by anyone). I alone was the only person rebuked as well as the only person who apologized for making an offensive remark.

I think it is important to be clear about the gravity of what was said at the SPC meeting: being a predator, committing sexual assault and workplace harassment are serious offenses; if convicted the average prison sentence is 12-years for rape, and 5-years for felony harassment. In addition, the U.S. Equal Employment Opportunity Commission (EEOC) also has the power to mandate counseling, coursework, levy steep fines and close businesses... And unlike the disgruntled former employees, who have only hearsay to offer, Mr. Sheldon has been investigated by numerous agencies, including law enforcement—and was cleared of criminal activity with no recommended remediations.

Nevertheless, Mr. Sheldon heard the complaints of the disgruntled employees (who did not speak up until after Lowell's Café closed), and took it upon himself to participate in 3 years of personal therapy, 6 months of weekly work with an organization specializing in Restorative Justice, 3 two-hour training sessions on consent and power dynamics, and two other training sessions specifically to better understand and address sexual harassment in the workplace.

At the start of the SPC meeting, Kari Svanstrom explained that being granted an alcohol permit is like getting a driver's license, the applicant must prove they are qualified. So, how does working nearly 20-years in the restaurant industry, in a whole host of different positions, and opening four restaurants—all with alcohol permits that have had no violations what-so-ever, as well as 3-years of recent rigorous personal improvement and work-related continuing education NOT qualify Mr. Sheldon to receive an alcohol permit? How can Mr. Sheldon's absolutely verifiable and documented expertise, experience and continuing education combined with hundreds of professional references from people with verified workplace experience--be ignored?

The EEOC and other employee rights websites list behaviors that are not acceptable by employers and the penalty for each. The workplace behaviors that the disgruntled former employees have accused Mr. Sheldon of are listed on the websites as minor and he would have received a phone call from the EEOC if they had been reported at the time.

And although I find it distasteful to repeat, the statements reported in the media made by a Sebastopol woman, who met Mr. Sheldon on an online dating site, and afterward had regrets about their sexual encounter has stated the encounter was consensual. However, the disgruntled former employees have exaggerated and exploited her statements—elevating them to criminal actions. (For what it is worth, having a criminal record, which Mr. Sheldon does not have, does not prevent someone from obtaining an alcohol permit. Some states require a three-year waiting period after a conviction but not California.)

Worst of all, SPC members called the disgruntled former employees, "victims" and "survivors" and made statements such as, "I don't believe Mr. Sheldon has learned his lesson (because he refused to agree to never to enter his own business)" or "the women's statements are credible" or "I would not feel comfortable having my daughter work at Piala" or "It is my responsibility as a member of the SPC to ensure public safety."

Are the SPC members more qualified than local police to ensure public safety or determine if harassment or sexual assault have taken place? Are the SPC members more qualified than the EEOC to judge the severity and punishment of Mr. Sheldon's workplace actions? Do members of the SPC have evidence of wrong-doing that has not been made available to the police, EEOC, media or public? And what right do SPC members have to hold a hearing in which hearsay from people who have never had a single interaction with Mr. Sheldon is called "testimony" and is more credible than the actual fact-based evidence and workplace references?

I will be very surprised if the SPC's biased and discriminatory actions—the fostering and furthering of slanderous accusations, demanding unprecedented and unwarranted requirements for receiving an alcohol permit, and delaying the opening of Píala and creating financial hardship for the owners—does not lead the City of Sebastopol to be named in a costly libel, slander and/or defamation lawsuit.

Toward the end of SPC meeting, after over an hour of listening to SPC members and opposition participants use highly inflammatory language, I spoke out of turn in an attempt to remind the SPC Chair that what he was stating as fact regarding Mr. Sheldon's character and behavior needed to be correctly stated as "alleged," at which time I was rebuked, disconnected and blocked from re-entering the Zoom SPC meeting.

Unfortunately, all of this could have been avoided if one of the disgruntled former employees had talked to Mr. Sheldon or reported his actions to the EEOC at the time, which would have triggered the EEOC to call Mr. Sheldon and explain what was expected of him. If that had happened, there is no doubt in my mind, Mr. Sheldon would have listened and apologized for any actions that may have resulted in any employee feeling uncomfortable and it would have ended there. Presumably, the disgruntled former employees did not know how to report or take proper actions at the time.

Therefore, I recommend to the SPC that their solution for protecting employees from workplace harassment could be to make sure all Sebastopol businesses provide employees with EEOC information and that those employees truly understand their rights and proper recourse. Also, to reassure members of the public, who may now have concerns about Mr. Sheldon (after hearing the exaggerated, false and highly slanderous statements), the SPC could make a special request to have Píala employees

sign letters that they have received EEOC and other appropriate workplace harassment information and that they clearly understand their rights and recourse.

In addition to ensuring that Píala employees have and understand the necessary EEOC information, the SPC could also make unannounced spot checks to speak directly to employees about their workplace experiences, and if anything is not right, the SPC could take proper recourse and notify the EEOC or law enforcement—not take matters into their own hands. Denying Píala an alcohol permit or barring Mr. Sheldon from working or eating at his own restaurant—based on exaggerations and hearsay is wrong.

Running a restaurant is a difficult business in the best of times, which this is not. In the past few months, Sebastopol has had numerous very popular, successful and long-standing restaurants shutter. Hearing at the SPC meeting the long, desperate and unprecedented list of concessions Píala owners offered to appease the SPC and receive an alcohol permit, as well as owner Jeff Berlin, who is equally as qualified as Mr. Sheldon, stated “to be a profitable and successful fine dining restaurant you have to have alcohol sales,” further underscores that having the SPC deny or further delay the alcohol permit is causing financial losses and may result in the closing of Píala before it opens.

Like everyone else on planet earth, Mr. Sheldon is not perfect. He has admittedly made mistakes, apologized dozens of times and in dozens of places as well as taken unassailable actions to correct his mistakes and the exaggerations, slander and perception of mistakes. Mr. Sheldon is a creative and talented restaurateur, who has the rare ability to listen, make people feel welcomed, good taste, and contributed, perhaps more than any other single person in recent times, to Sebastopol’s growing hospitality and restaurant scene.

For three years, it has been infuriating and heartbreaking to witness several disgruntled former employees harass (under the guise of free speech) and become local celebrities by slandering Mr. Sheldon, a much beloved local business man. Now, rather than check the facts and state Mr. Sheldon has met the burden of proof and is more than qualified to receive another alcohol permit, the SPC chose to act in malice and further spread hearsay and disinformation. Enough is enough, the members of the Sebastopol Planning Commission ought to act responsible, without prejudice or discrimination, and in the best interest of the community, of which Mr. Sheldon is a life long member. In this situation, sad but true, Mr. Sheldon is the victim, the survivor.

Sincerely, Sandra Lee Sheffield

From: Kari Svanstrom
Sent: Thursday, July 07, 2022 2:00 PM
To: John Jay
Subject: FW: 7/12 Piala Decision

From: Naomi Singer [REDACTED]
Sent: Thursday, July 07, 2022 7:31 AM
To: Kari Svanstrom <ksvanstrom@cityofsebastopol.org>
Subject: Fwd: 7/12 Piala Decision

Dear Planning Director Svanstrom and Sebastopol Planning Commissioners,

I am writing to express my gratitude to those of you who were present at the meeting on June 28th. Your response to Lowell Sheldon and his partner's appeal demonstrated that you heard the concerns surrounding his ownership of an establishment where alcohol is served and that the safety of workers and our community at large is a priority. After years of having our concerns invalidated by Lowell and, more recently, by his supporters, your response was a profound relief.

I understand that you will be deliberating on conditions under which he would be allowed to obtain a license to serve alcohol. As you are aware, any conditions must be enforceable, and a provision to bar him from entry to the establishment is inherently unenforceable. Who would monitor any conditions and how would a violation be proven? In both his career and personal life, Lowell has demonstrated that he does not think the rules apply to him. We cannot think that he will adhere to any conditions placed upon him now.

While Lowell continues to say that he has undergone therapy and other personal work, his recent actions against those who have spoken out demonstrates that he continues to lack understanding of the impact of his actions, takes no responsibility for the harm he has caused, and has not sought to make any repairs. Perhaps if he is required to take a full year before reapplying he might have the time and motivation to devote himself towards the necessary growth.

I trust your leadership to keep our community safe.

Gratefully,

Naomi Minturn

From: Kari Svanstrom
Sent: Thursday, July 07, 2022 2:00 PM
To: John Jay
Subject: FW: Letter to Planning Commission re: 7/12 Piala Decision

From: Jesse Hom-Dawson [REDACTED]
Sent: Thursday, July 07, 2022 9:00 AM
To: Kari Svanstrom <ksvanstrom@cityofsebastopol.org>
Subject: Letter to Planning Commission re: 7/12 Piala Decision

To Kari and the Sebastopol Planning Commission-

Firstly, thank you to all the members present at the June 28 meeting. Your acknowledgement of our experiences meant a lot to us, and the fact that you not only listened, but heard us as well, reminded the victims that there are people in the community who understand the harm that Lowell has inflicted upon us and it gives us strength to keep going. You saw firsthand the type of criticism we have had to face after going public with our story, and have heard about the harassment that we've faced at the hands of Lowell and his family and friends. However, we continue to advocate against Lowell obtaining an alcohol permit because based on all we have seen in the past year, we can say without a doubt that Lowell has not fully come to term with his actions and has not taken appropriate action to remedy his issues, and we fear for any future employees of his. As long as he continues to insist he only made some people "uncomfortable" and see himself as a victim, he will never understand the breadth of the trauma he has caused and truly atone for his actions.

As the meeting ended on June 28th with a proposal to come up with a provisional license, I would like to point out that Lowell has never thought the rules applied to him, and has consistently and publicly flaunted any regulations imposed on him. When I was an employee for his restaurants, he and I often got into arguments because he would ignore governmental rules or regulations that I believed the business should follow, including refusing to institute mandated social distancing inside Handline at the beginning of COVID. I have no faith that he will follow any conditions imposed upon him as part of receiving a permit. All conditions would also be unenforceable, and despite Mr. Haroche's comments that there would be "eagle eyes" everywhere waiting to report Lowell, it is not our responsibility to make sure Lowell follows the rules levied upon him.

While as I have commented before that Lowell is far past being given a second chance, I do believe and want to believe that people can change. However, self-reflecting work must be done in order for this to happen. I believe the suggestion of asking him to come back in a year and show the work that he has done to better himself is an excellent one, and I fully support this as final outcome to this hearing and hope you recommend as such.

Thank you again for your interest in keeping this community safe.

Best,
Jesse Hom-Dawson