



City of New Bedford

Department of Planning, Housing & Community Development

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PATRICK J. SULLIVAN
DIRECTOR

STAFF REPORT

PLANNING BOARD MEETING
May 10, 2017

APPLICATION FOR SIDEWALK CAFÉ LICENSE

Applicants seek approval from the Planning Board under **Article VI.-Planning Board Licenses and Permits §15-100.-Sidewalk Café Permit** for the use of city public rights-of-way for outdoor dining, and regulation of the placement of temporary tables and chairs and appurtenant street furniture for use as outdoor cafes on public ways by licensed restaurants. Conditions and standards are provided at the end of this report for the board's reference.

Moby Dick Brewing Company opened as a pub-style restaurant business in March 2017 and submits a new application for the Planning Board's consideration. Pour Farm Tavern is again submitting their renewal for Sidewalk Café License. Applicants have each been asked to attend the Planning Board meeting and present their proposals to the board.

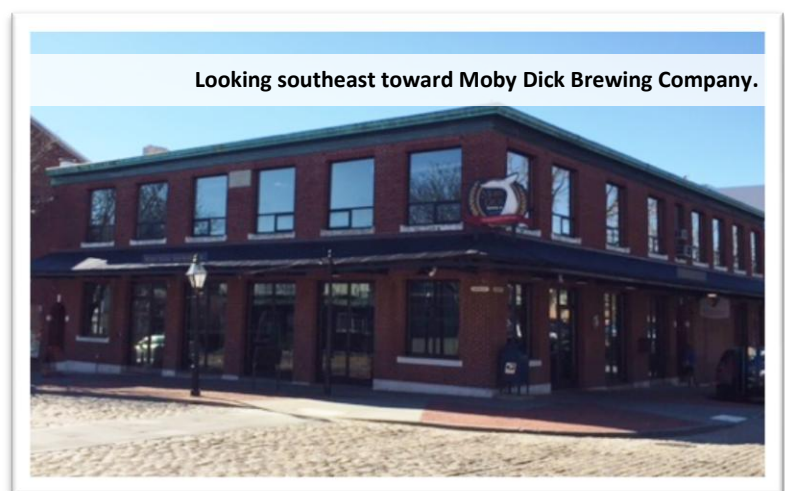
NEW APPLICATION

Case # 14-17: Moby Dick Brewing Company, Inc.
52 Union Street and
4 South Water Street
Map 47, Lot 37

Applicant: David Slutz
4 South Water Street
New Bedford, MA 02740

Existing Conditions:

The restaurant is located on the southeast corner of Union and South Water Street, one block east of the State Pier, in the Industrial A (IA) zoning district, Downtown Business Overlay District, and Bedford Landing Historical District. The 12+/- SF by 40+/- SF outdoor café would encompass approximately 498+/- SF.



The proposed design features five (5) 32" square, wood grain laminate top tables with black powder-coated aluminum bases and twenty (20) black aluminum chairs. A barrier design consisting of 1.5" diameter, natural hemp rope, secured at black station posts, will separate the private dining area from the public walkway along

Union Street. It is the understanding of staff that the way-finding sign presently located at Union Street in front of the restaurant will be relocated by the Department of Public Infrastructure.

The applicant has secured all licensing and insurance requirements by the City of New Bedford to serve alcohol with food in the enclosed outdoor dining area as per stipulations of the ordinance. The New Bedford Historical Commission has issued a Certificate of Appropriateness for the proposed design.

RENEWAL APPLICATION

Case # 15-17: Pour Farm Tavern
780 Purchase Street
Map 53, Lot 131

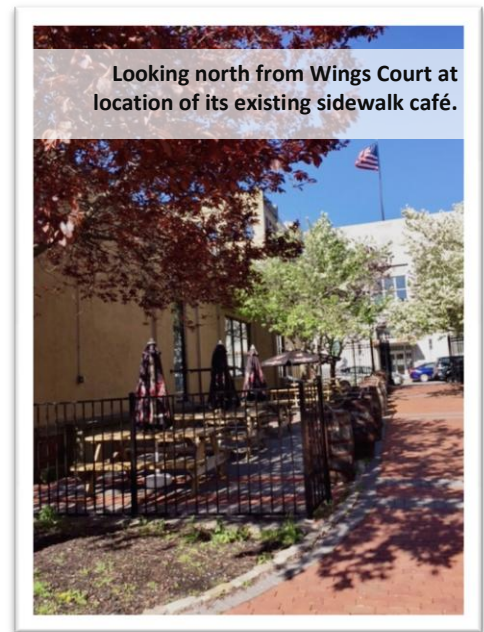
Applicant: Noah Griffith, Manager
Pour Farm Tavern
780 Purchase Street
New Bedford, MA 02740

Existing Conditions:

The parcel is located on the east side of Purchase Street, at the northwestern entry point into Wings Court in the Mixed Use Business (MUB) zoning district and Downtown Business Overlay District (DBOD). The site directly adjoins Wings Court which serves as the area for the outdoor dining patio. The proposed 17+/- FT by 80+/- FT outdoor café would encompass approximately 1,275+/- SF.

The objective of the design plan is to, in the words of the applicant, “create a family-friendly medieval dining experience” making use of six (6) rectangular picnic tables. Wood barrels and rope provide the barrier to separate the private dining area from the public walkway.

The applicant has secured all licensing and insurance requirements by the City of New Bedford to serve alcohol with food in the enclosed outdoor dining area as per stipulations of the ordinance.



Conditions and standards for a license to operate an outdoor café on a city public right-of-way

- ☐ Every outdoor café on a city public right-of-way shall be temporary in nature and designed so that the entire café structure and its appurtenances including, but not limited to, chairs, tables, fencing, bollards and planters can be easily removed during periods of non-use. There will be no permanent fixtures in the public right-of-way. Furthermore, the city reserves the right to require the user to remove the sidewalk café if and when it determines it to be necessary, even during the term of the license. The license is available only to a holder of a common victualler license and the sidewalk café must be in front of the place of business where the common victualler license is used.
- ☐ Public process. Every application for a sidewalk café will be subject to approval by the planning board.
- ☐ Location of sidewalk café. The sidewalk café must be appurtenant to a licensed restaurant facility located on a street level. The sidewalk café area may not extend beyond the frontage and or side faces of the licensed restaurant. There must be at least four (4) feet of free unimpeded pedestrian passageway on the sidewalk. However, the city reserves the right to require that more than four (4) feet of sidewalk be made available during certain hours of the day, or days of the week in order to accommodate pedestrian traffic.

Conditions and standards for a license to operate an outdoor café on a city public right-of-way, cont'd.

- ☐ Service of alcohol. If alcohol is served at a sidewalk café, necessary permits and/or licenses from the licensing board must be obtained. In an area where liquor is served, the seating area must be at least six (6) feet wide and the sidewalk café must be separated from the pedestrian walk space with a system of enclosure, such as decorative fencing, planters or removable bollards.
- ☐ No portion of a sidewalk café may be used for any purpose other than seated dining or circulation. Outdoor cafés must serve dinners. No one shall be seated in an outdoor café for the sole purpose of drinking alcohol, nor can the sidewalk café be used as a place for patrons to drink while standing.
- ☐ The sidewalk café area cannot be used for smoking.
- ☐ All sidewalk café areas shall be maintained in good order and no refuse and no refuse containers are allowed within the area.
- ☐ All outdoor activity must cease at the close of business or midnight; or in the event that the outdoor dining area is within five hundred (500) feet of a residential area immediately adjacent to any residential area, all outdoor activity must cease by 10:00 p.m.
- ☐ Table umbrellas, if used, shall not impede pedestrian flow. The design of and the use of advertising on table umbrellas are subject to the approval of the planning board and, where appropriate, the historic commission.
- ☐ All sidewalk cafés must comply with all applicable federal, state and local laws and regulations, including the Americans with Disabilities Act. A minimum unobstructed passageway from end of use (parallel to street) of not less than four (4) feet in width at all points will be required.
- ☐ The historic commission shall have aesthetic review responsibility for café enclosures, tables, chairs and accessories in areas under their jurisdiction. All proposals shall be subject to City of New Bedford Planning Board Design Review. It shall be the applicant's responsibility to provide to the planning board, written proof that it has obtained all requisite permits, approval from relevant agencies and boards.
- ☐ The applicant who applies for a sidewalk café license shall bear all financial responsibility for any and all improvements necessary to the public space, both within and surrounding the sidewalk café area. At no time and for no reason shall public funds be expended for improvements designed to benefit the licensee. The license shall address liability, liability insurance, maintenance and trash removal concerns, and set forth the rental cost for the licensing of the public space.
- ☐ Commercial general liability insurance must be procured and maintained on an "occurrence basis" in such amounts as the city solicitor's office shall from time to time determine to be required. This coverage shall include an endorsement naming the city, including all elected and appointed officials, all employees, all boards, commissions and/or authorities and board members as an additional insured. This coverage must be primary, and any other insurance maintained by the additional insured shall be considered to be excess and non-contributing with this insurance, and shall include an endorsement providing for a thirty-day advance written notice of cancellation or non-renewal to be sent to the city solicitor and the city planner. The city on a yearly basis shall determine the fee for the license. The certificate of insurance will be provided to the planning board prior to the issuance of license.
- ☐ Vaults. The department of public infrastructure shall determine whether there is a vault under the sidewalk area proposed to be used for the outdoor café. In the event that there is an underground vault, the applicant shall not obtain a license for the sidewalk café until such time as the applicant has obtained a

Conditions and standards for a license to operate an outdoor café on a city public right-of-way, cont'd.

certification from a licensed structural engineer that the sidewalk over the vault is structurally strong enough to support the use as a café.

- ☐ Length of license agreement. The license agreement for the use of the public space shall be seasonal from May 1st through October 30th, of each year.
- ☐ Fee for licensing public space. The planning board is authorized to promulgate rules and regulations governing the operation of sidewalk cafés including the license fee for use of the public space. The fee is subject to change on a yearly basis.
- ☐ Licenses issued for sidewalk cafés by the planning board will require that the user adhere to all applicable rules, regulations and laws governing the use of public space, and the operation of the café. Licenses will be subject to renewal on a yearly basis. The planning board reserves the right to revoke the license for any reason and at any time.
- ☐ By accepting a license issued pursuant to this section, the licensee shall be solely responsible for any and all costs of whatever kind and nature relating to the outdoor café and for maintaining the outdoor café. The city shall not be responsible or liable for any such costs or be requested to reimburse the licensee for such costs in any respect or to any extent.
- ☐ Every table or service area shall be suitably monitored by an employee of the business or organization operating the outdoor café in order to keep the area free from litter or food being left outside for extended periods of time.

Attachments:

1. Moby Dick Brewing Company Plan for Outdoor Dining with Supporting Graphics
2. Pour Farm Tavern Plan for Outdoor Dining with Supporting Graphics



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David N. Slutz
President

As-Is Pictures of Union Street Sidewalk in from of Moby Dick Brewing Company



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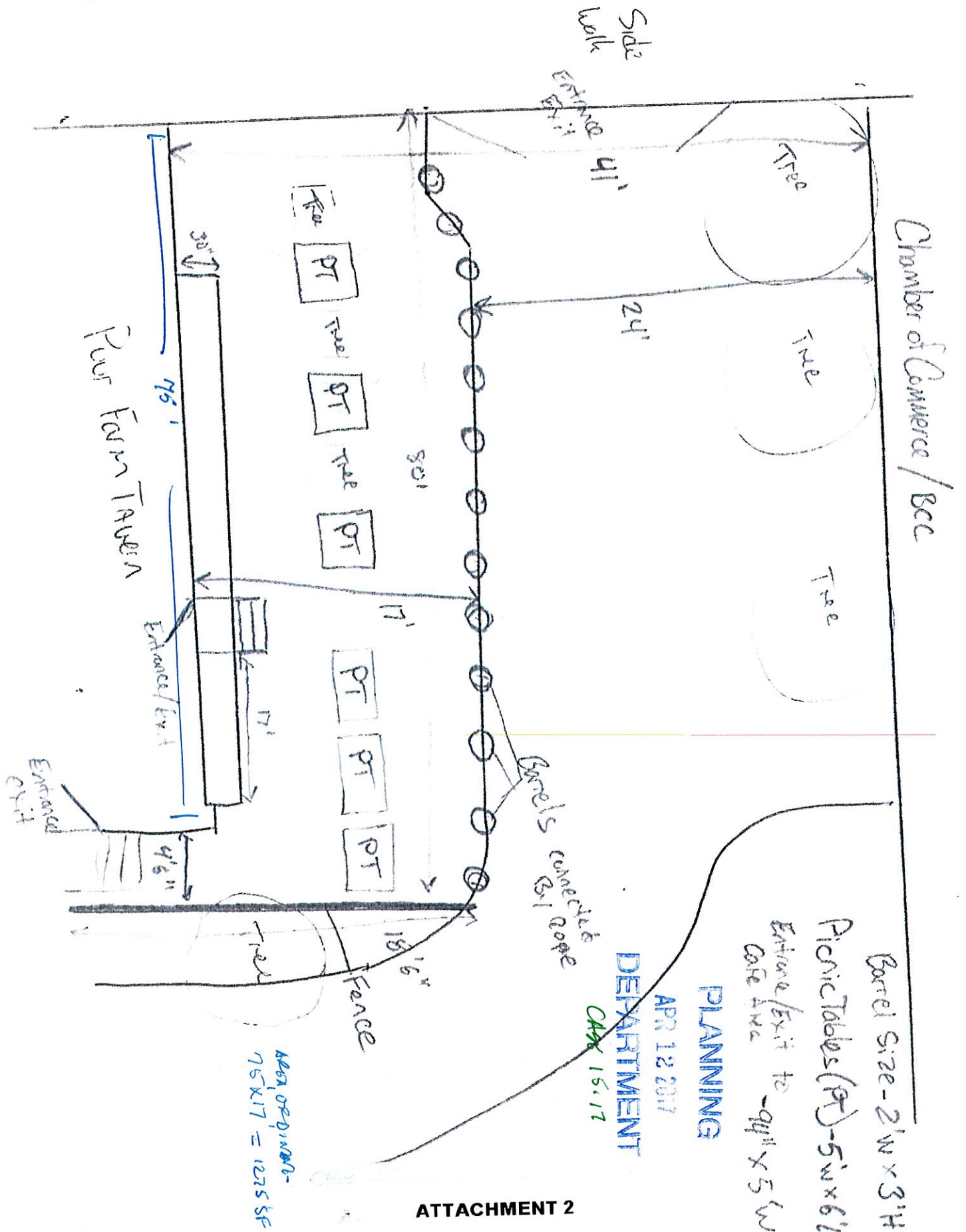


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