



City of New Bedford

Department of Planning, Housing & Community Development

608 Pleasant St, New Bedford, Massachusetts 02740

Telephone: (508) 979.1500 Facsimile: (508) 979.1575

PATRICK J. SULLIVAN

DIRECTOR

STAFF REPORT-Amended

PLANNING BOARD MEETING

April 12, 2017

APPLICATION FOR SIDEWALK CAFÉ LICENSE

The cases presented within this report are seeking approval from the Planning Board for sidewalk café pursuant to the City of New Bedford's Code of Ordinances §20-3 granting licenses for the use of city public rights-of-way for outdoor dining, as well as the regulation of the placement of temporary tables, chairs and appurtenant street furniture on public ways by licensed restaurants. Conditions and standards are provided at the end of this report for the board's reference.

Cultivator Shoals application is a new restaurant business. Cork Wine & Tapas application is an annual renewal. Applicants have each been asked to attend the Planning Board meeting and present their proposals to the board.

NEW APPLICATION

Case # 11-17: Cultivator Shoals

35 Union Street

Map: Map 53, Lot 198A

Applicant:

Jason Lanagan

35 Union Street

New Bedford, MA 02740

Existing Conditions:

The site is located on the north side of Union Street, between Front Street and South Sixth Street. The 26+/- SF by 13+/- SF outdoor café encompasses approximately 338+/- SF.

The proposed design features four (4) hand-crafted picnic style tables having attached seating designed to accommodate the slope of the site. A fifth circular table will encircle the tree to accommodate those who prefer to stand while dining. The applicant has proposed three barrier designs for the Planning Boards consideration to separate the private dining area from the public walkway (Attachment 2).

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.

Looking north from Union Street toward Cultivator Shoals and proposed location of its sidewalk café.



RENEWAL APPLICATION

Case # 13-17: Sidewalk Café Permit Renewal Cork Wine & Tapas Bar

90 Front Street
Map: Map 53, Lot 231

Applicant: Jason Lanagan
Matterhorn RE, LLC
90 Front Street
New Bedford, MA 02740

Existing Conditions:

The subject parcel is located on the west side of Front Street, south of Rose Alley, across from Port of New Bedford. The outdoor café measures 1,027+/- SF. The design plan features ten (10) round table tops which each seat four (4) guests of the restaurant. Planters and ship rope will 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.
- ✓ 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.

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

- ✓ 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 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.

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

- ✓ 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.
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Attachments:

1. Letter of Support from City Councilor Joseph P. Lopes for Cultivator Shoals
2. Cultivator Shoals Layout Plan for Outdoor Dining with Supporting Graphics
3. Cork Wine & Tapas Bar Layout Plan for Outdoor Dining with Supporting Graphics



City of New Bedford

Office of City Council

133 William Street • New Bedford, Massachusetts 02740
508 979-1455 • Fax 508 979-1451

Joseph P. Lopes, MBA
Councillor Ward Six
City Council President 2014

March 30, 2017

PLANNING
MAR 30 2017
DEPARTMENT

Planning Board
New Bedford (Main) Library
Public Meeting Room 3rd Floor
613 Pleasant Street
New Bedford, MA 02740

Dear Members:

I am writing to inform you that I will be unable to attend the meeting of the Planning Board on Wednesday, April 12, 2017, due to a prior commitment.

I would however, like to offer my support for **Item #5 - Case 11-17: Sidewalk Café Permit**, for use by Cultivator Shoals, Inc., at the property known as 31 Union Street (Map 53, Lot 198A) located in the Industrial A (IA) Zoning district, Downtown Business Overlay District (DBOD), and Bedford Landing Historical District.

Applicant: Cultivator Shoals, Inc., Jason P. Lanagan, 31 Union Street, New Bedford, MA 02740.

Please read this letter into the record to make my colleagues, those in attendance and the public aware my support of the aforementioned Item and of the reason for my absence.

Thank you.

Very truly yours,


Joseph P. Lopes, City Council President/2017
Councillor Ward Six

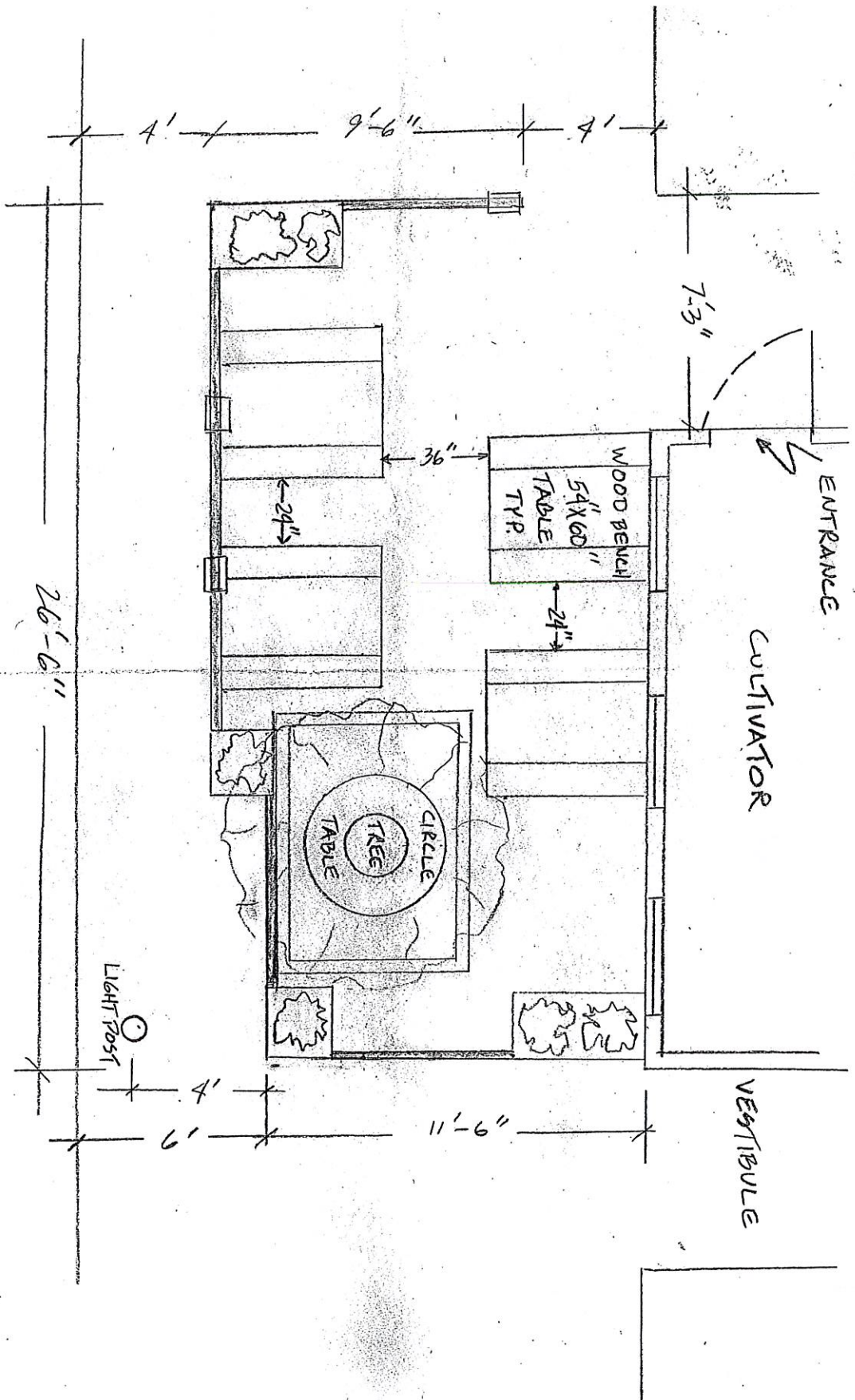
JPL: rrr

cc: File

Case 11-17

ATTACHMENT 1

Residence: 75 Dudley Street • New Bedford, Massachusetts 02744 • Tel. (508) 990-7136
E-mail: Joseph.Lopes@newbedford-ma.gov



ATTACHMENT 2

Cultivator Shoals

Café Seating Plan

PLANNING

May 2017

APR 11 2017

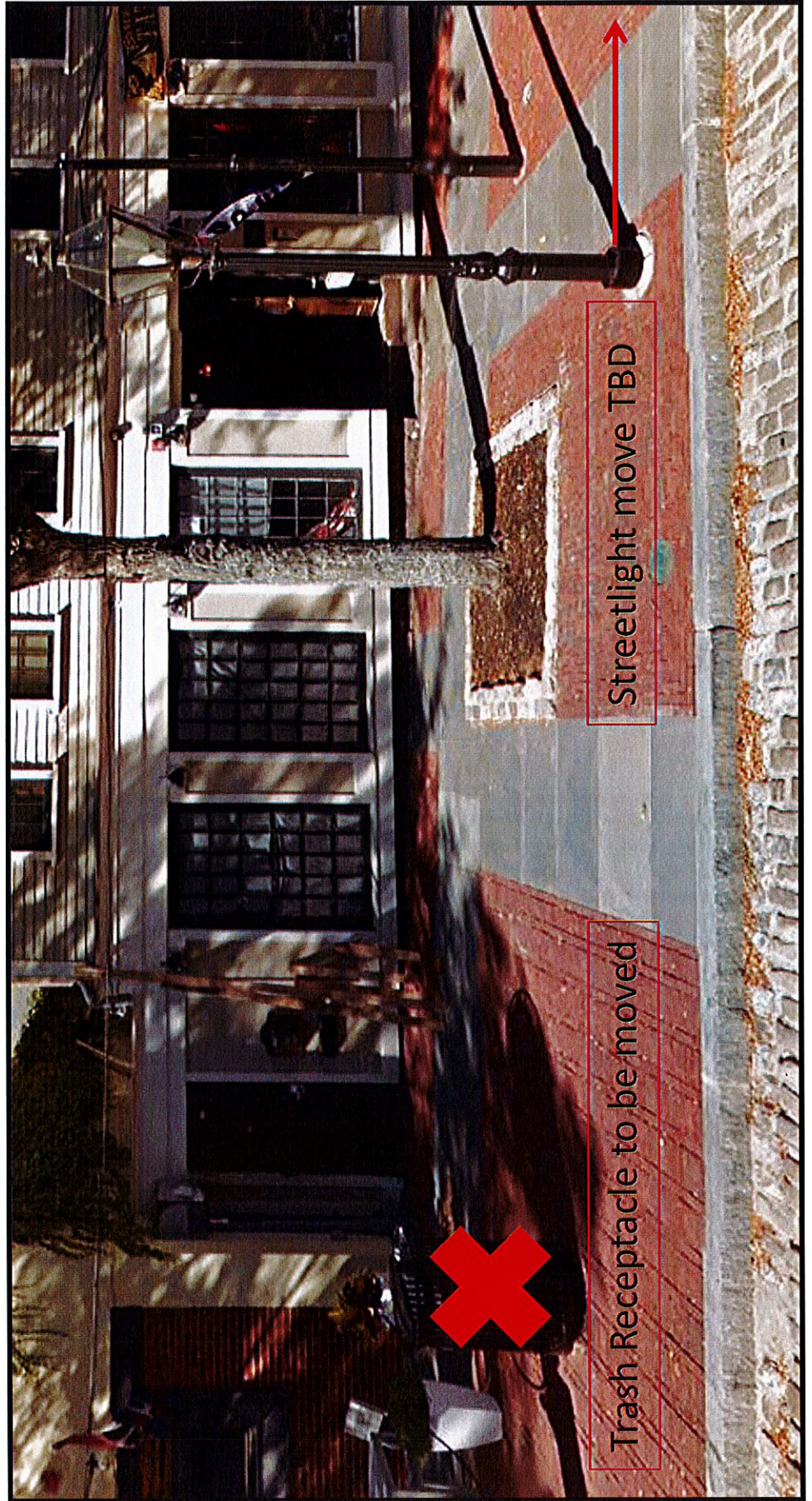
Case 11-17

DEPARTMENT

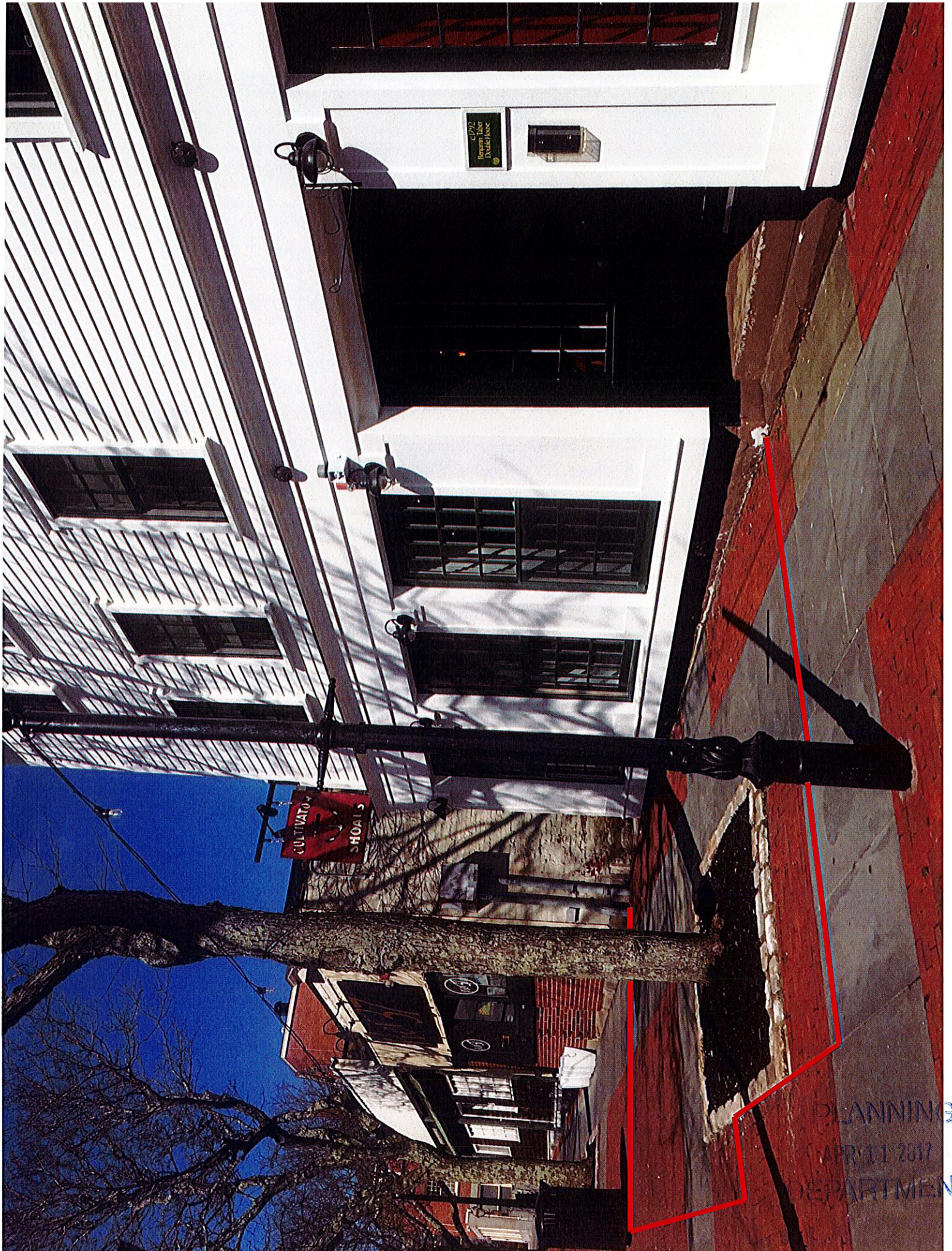
DPI-Scaled North Side Union Street Layout



PLANNING
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CASE 11-17

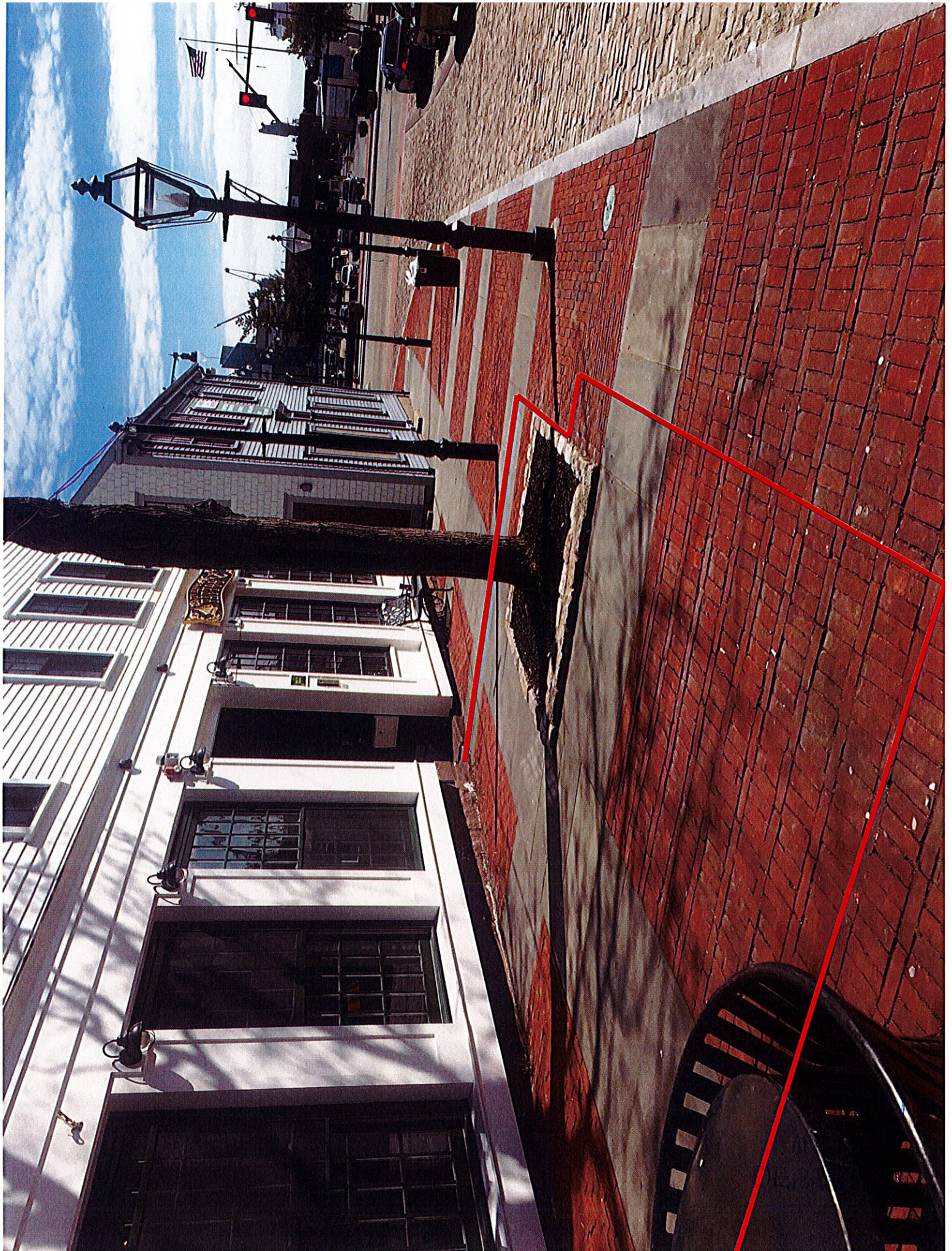


CD992
Bryan, Tabor
Dorset House

CULTIVATION

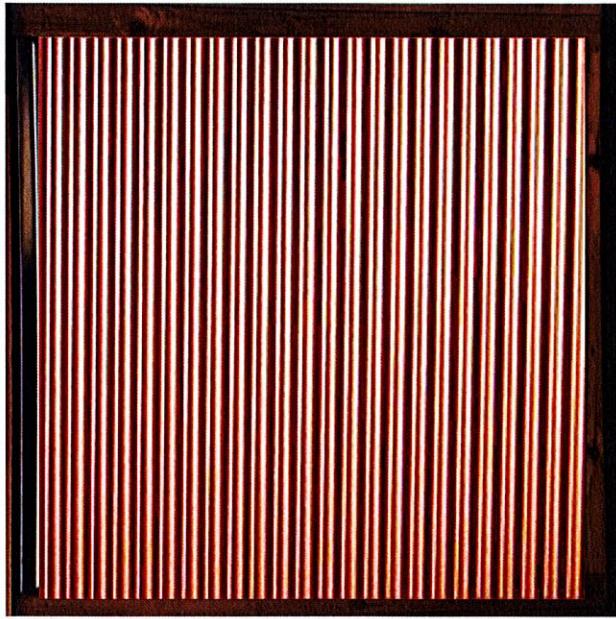
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CASE 11-17



CK98 11-17

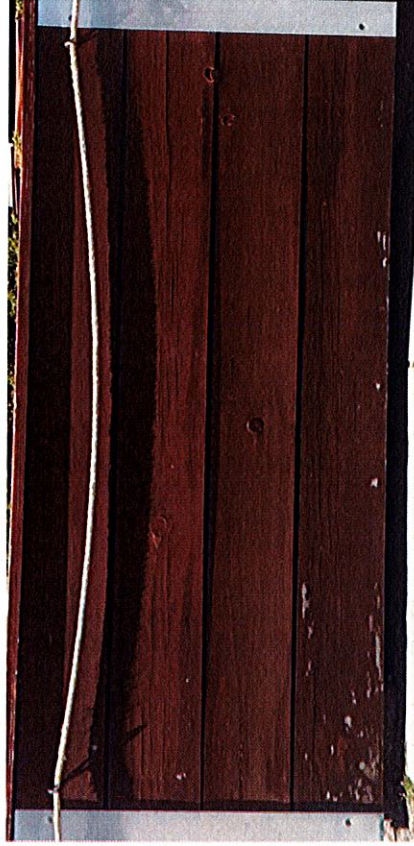
Cultivator Shoals Sidewalk Seating Materials & Finishes



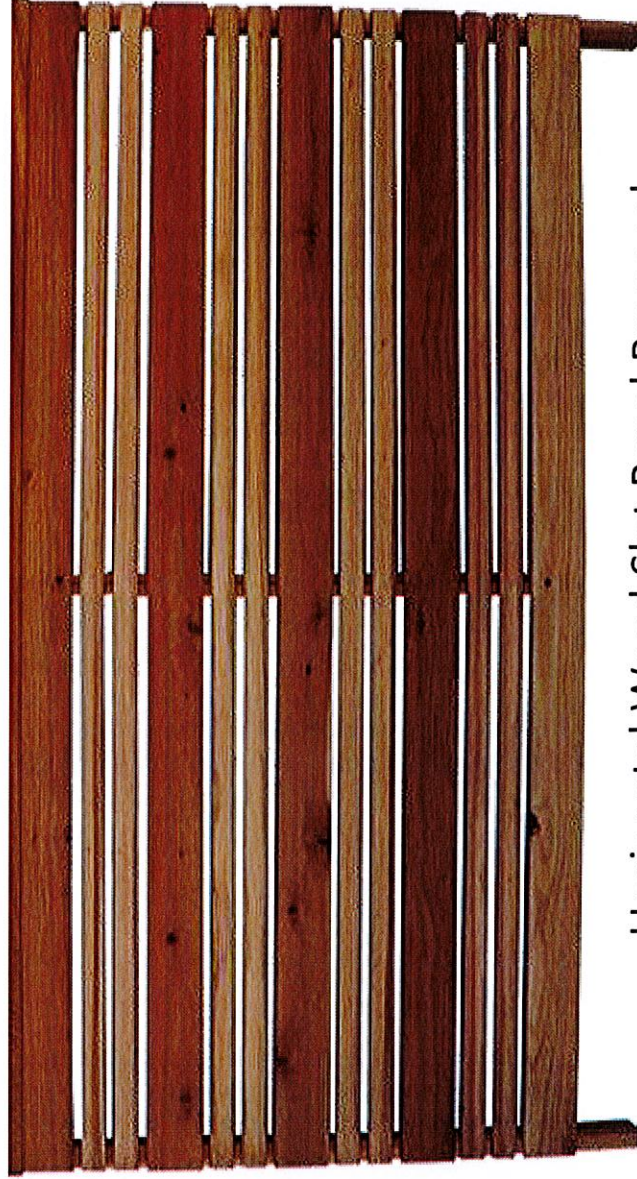
Corrugated Panel
Proposal



Freestanding
Fence Blocks



Wood & Metal Planters (from Cork)

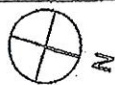


Horizontal Wood Slat Panel Proposal

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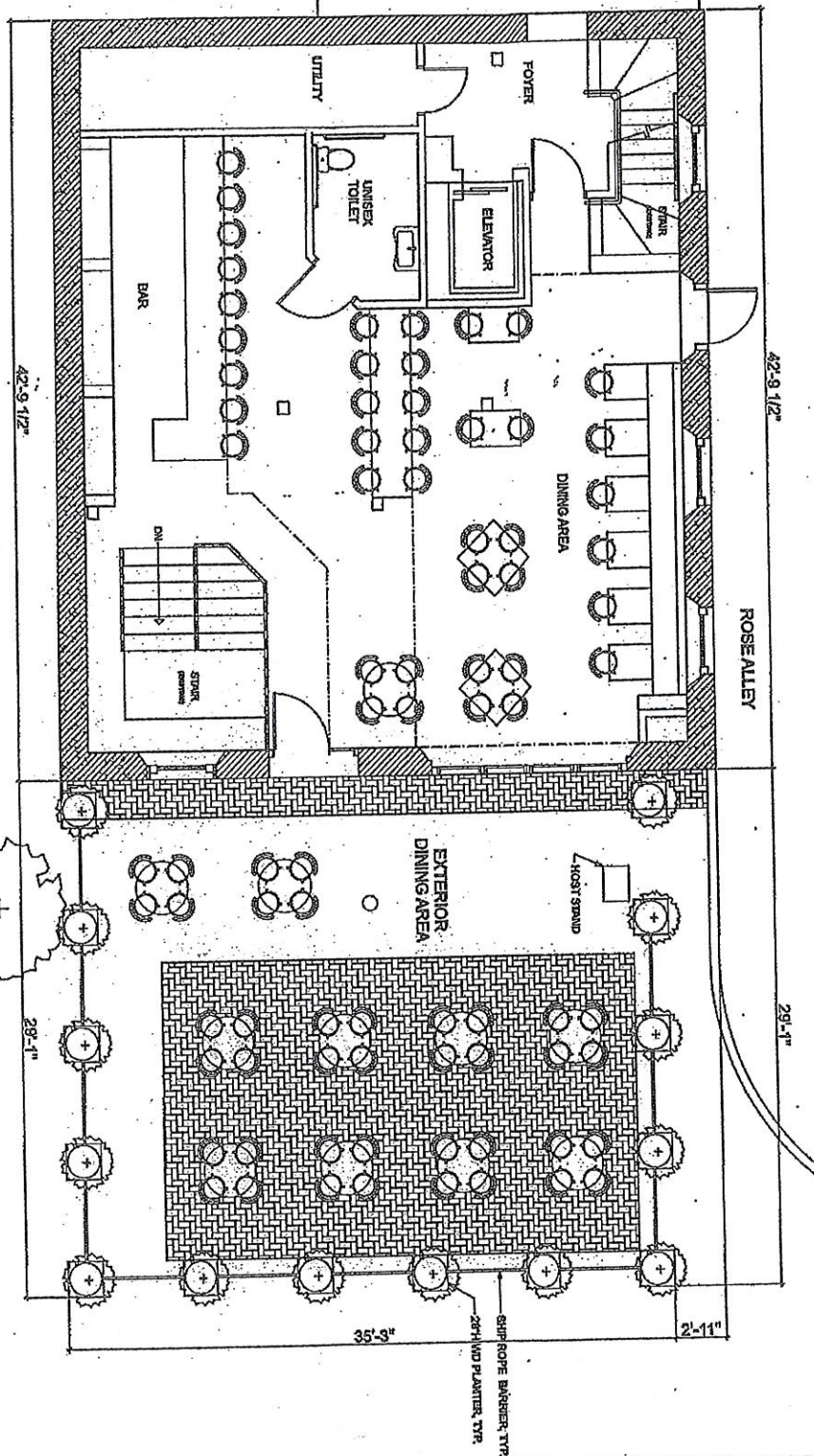


CASE 11-17



90 FRONT STREET
GROUND FLOOR PLAN

0 2' 4' 8'



C01

04/04/13

CORK RESTAURANT
90 FRONT STREET
NEW BEDFORD, MA

TIM JOHNSON ARCHITECT, LLC
343 W. BROADWAY, STE. 102
BOSTON, MA 02127

PLANNING
MAR 10 2017
DEPARTMENT

CASE 13-17



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CAB 13-17



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