



# City of New Bedford

## Department of Planning, Housing & Community Development

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

**PATRICK J. SULLIVAN**  
DIRECTOR

## STAFF REPORT

### PLANNING BOARD MEETING

June 8, 2016

### SIDEWALK CAFÉ RENEWALS

The two cases presented within this report are seeking approval from the Planning Board for a renewal of their respective sidewalk cafés 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 the use of outdoor dining as well as the regulation of the placement of temporary tables, chairs and appurtenant street furniture for use as outdoor cafes on public ways by licensed restaurants. Conditions and standards for a license to operate an outdoor café on a city public right-of-way are provided at the end of this report for the board's reference.

**Case # 17-16: Sidewalk Café Permit Renewal**  
**Trio Café & Lounge**

418 Rivet Street  
Map 23, Lot 9

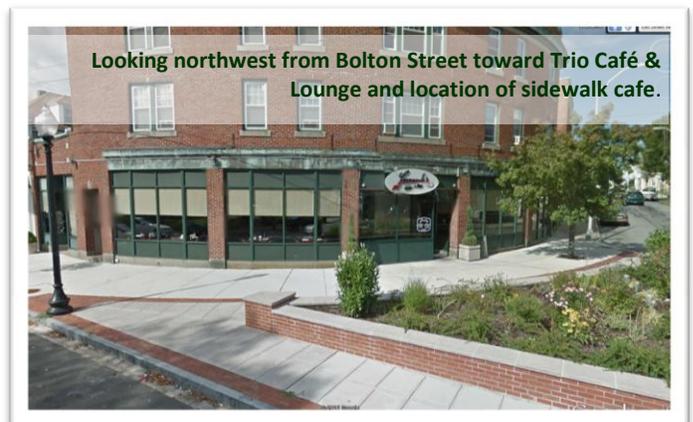
**Applicant:** Sandra Rodrigues  
418 Rivet Street  
New Bedford, MA 02740

**Existing Conditions:**

The subject parcel is located in Goulart Square at the intersection of Bolton and Rivet Streets across from Ashley Park. The outdoor café measures 520+/- SF. 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.

**Proposed Conditions:**

Trio Café and Lounge has shifted the designated dining space northwest along the building frontage. Materials selected to provide the barrier separating the private dining area from the public square have been changed from lattice fence to picket style fence, painted green. Site plan changes show a reduction in number of table tops from ten (10) to eight (8), to better space the twenty-six (26) seats for dining patrons and feature five (5) square table tops which seat four (4) and three (3) square table tops that seat two (2) guests of the café.



**Case # 12-16: Sidewalk Café Permit Renewal**

**Café Europa**

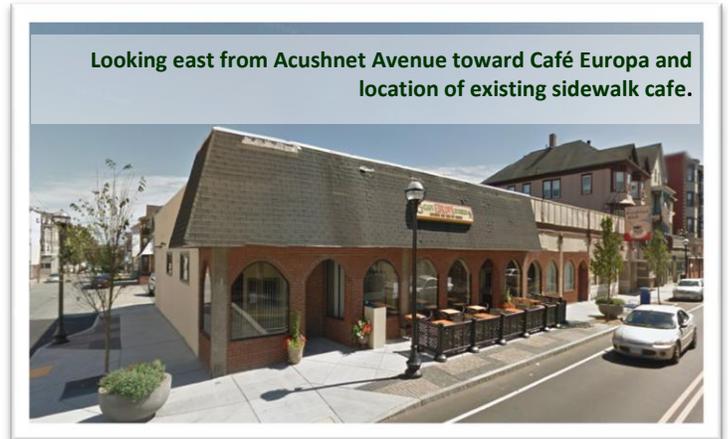
1256 Acushnet Avenue  
Map 93, Lot 11

**Applicant:**

Peter Ferreira  
Café Europa  
90 Front Street  
New Bedford, MA 02746

**Existing Conditions:**

The subject parcel is located in the Acushnet Avenue International Marketplace District on the east side of Acushnet Avenue, between Holly and Sawyer Streets. The outdoor café measures 432+/- SF. Lattice fence 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.



**Proposed Conditions:**

After road and sidewalk reconstruction was completed last season, it was discovered that the city infrastructure and outdoor café were competing for sidewalk space. Café Europa appears to now provide adequate sidewalk aisle width for pedestrian and handicap use by shifting the seating area south along the building frontage. The design layout features eight (8) square table tops which seat four (4) guests of the restaurant anchored in linear plan.

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**Conditions/Standards for Outdoor Café on a public right-of-way**

**From Article VI Sec. 15-100 of the City's Code of Ordinances:**

- §(b)(1) 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.
- §(b)(2) Public process. Every application for a sidewalk café will be subject to approval by the planning board.
- §(b)(3) 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.
- §(b)(4) 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.

- §(b)(5) 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.
- §(b)(6) The sidewalk café area cannot be used for smoking.
- §(b)(7) All sidewalk café areas shall be maintained in good order and no refuse and no refuse containers are allowed within the area.
- §(b)(8) 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.
- §(b)(9) 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.
- §(b)(10) 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.
- §(b)(11) 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.
- §(b)(12) 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.
- §(b)(13) 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.
- §(b)(14) 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.
- §(b)(15) Length of license agreement. The license agreement for the use of the public space shall be seasonal from May 1<sup>st</sup> through October 30<sup>th</sup>, of each year.

§(b)(16) 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.

§(b)(17) 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.

§(b)(18) 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.

§(b)(19) 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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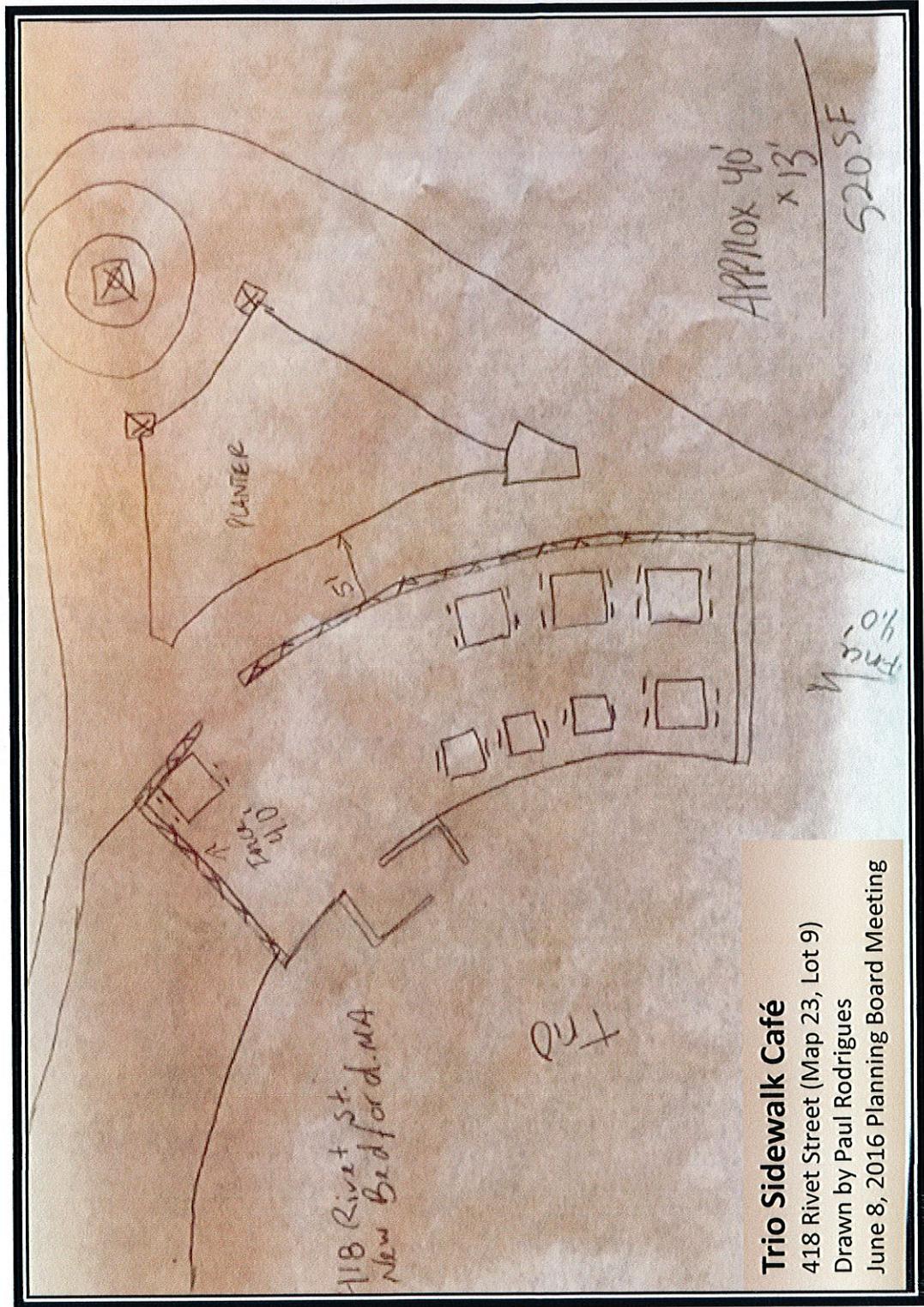
Attachments:

1. Trio Café & Lounge Layout Plan for Outdoor Dining with Supporting Graphics
2. Café Europa Layout Plan for Outdoor Dining with Supporting Graphics

# Case #17-16-Trio Café & Lounge

418 Rivet Street

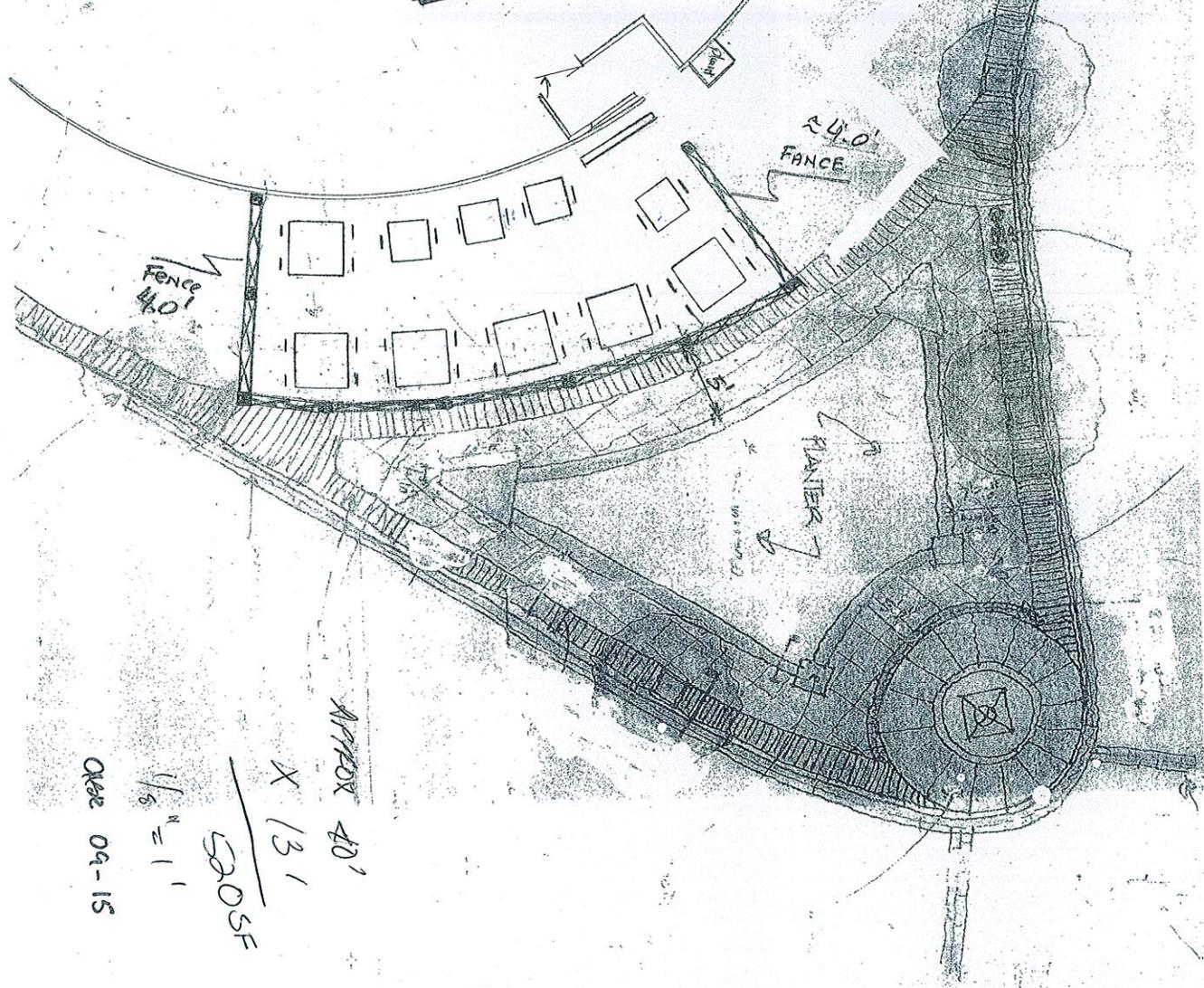
## Sidewalk Café Site Plan



418 River St.  
New Bedford, MA

TRIO

TRIO



Area 09-15

$\frac{1}{8}'' = 1'$

5305F

X 131

APPROX 40'

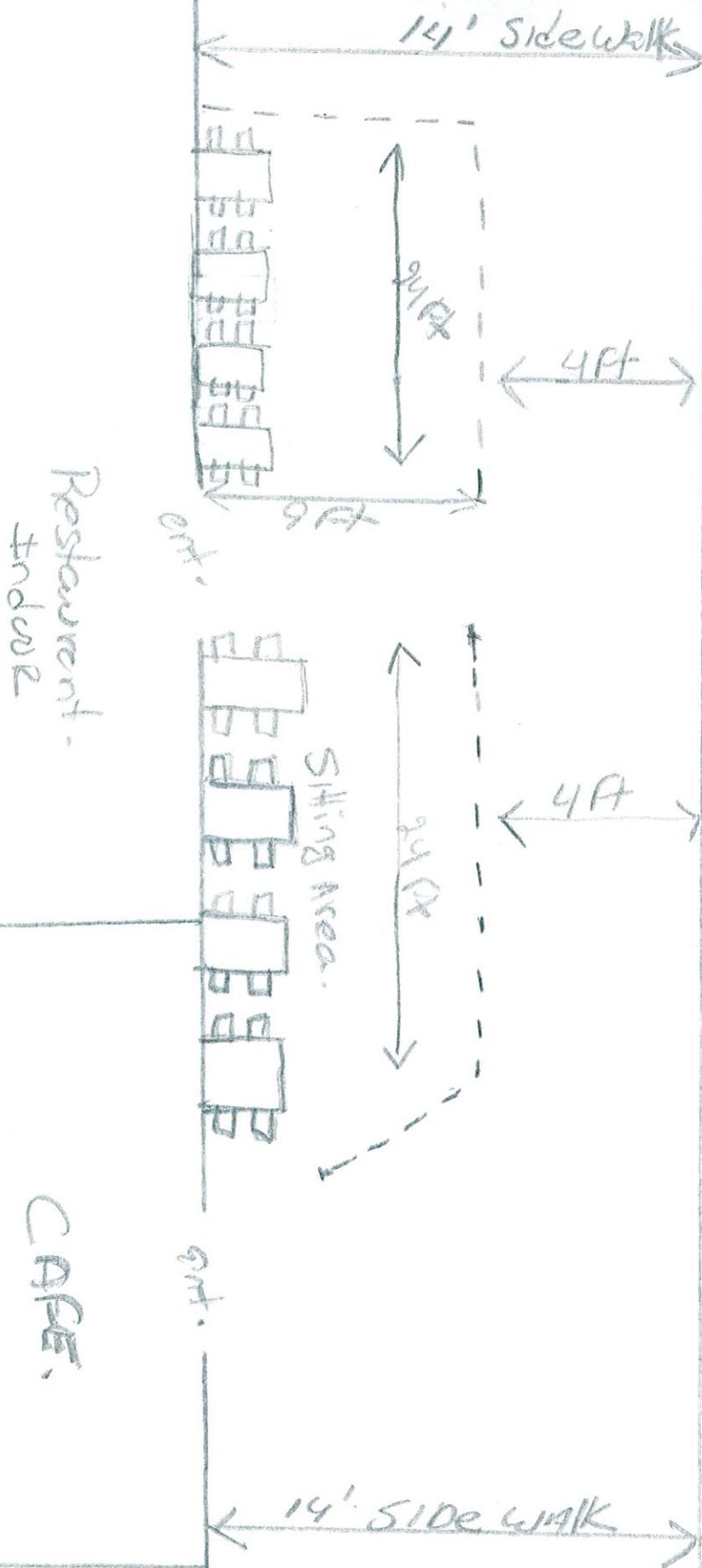


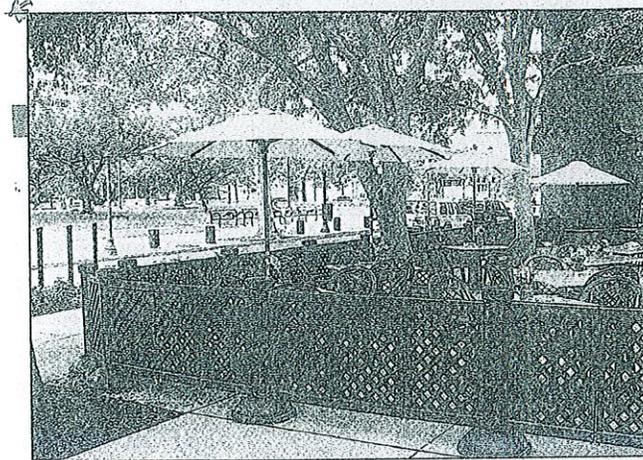
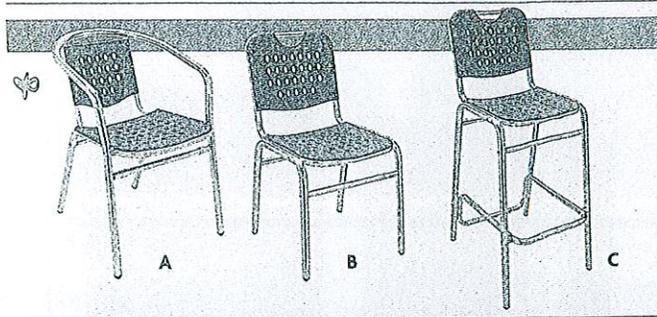
CA 17-16



CASE 17-16

Deushnet Ave





CAFE EUROPA

PLANNING  
 MAY 12 2013  
 DEPARTMENT  
 CASE 16-16

- Planters
- new side walk
- Removable/Portable fence patio
- Garbage cover Bin
- Set & clean station
- 390' SF occupied space

Acushnet AVENUE



Indoor Dining Room.

Cafe / Bar

CAFE EUROPA.  
1254 Acushnet Ave.  
New Bedford MA 01946

CAFE EUROPA  
CASE 14-15

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