

53-B-20

1427

194 Park Ave.

Rezoning (Terrories) HOLD

Greg's Properties

on Spreadsheet



City of Portland, Maine
Department of Planning and Development
Conditional/Contract Rezoning Application

Application ID: 1427 Application Date: 08/26/2008 CBL: 053 B020001 Property Location: 194 Park Ave

Applicant Information:

Alec Altman
Name
Greg's Properties, LLC.
Business Name
26 Village Brook Road
Address
Yarmouth, ME 04096
City, State and Zip
9142614440
Telephone Fax

Property Owner:

Mango Llc
Name
54 Marlborough Rd
Address
Portland, ME 04103
City, State and Zip
Telephone Fax

Applicant's Right, Title or Interest in Subject Property:

Contract for purchase and sale

Amendment A []
Amendment B []
Amendment C [x]

Current Zoning Designation: R6

Section 14:

Existing Use of Property:

Wood framed building operated as a food market.

Requested:

Proposed Use of Property:

Remodel the existing food service to a full service restaurant.

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: APPROVAL DATE: ENACTMENT DATE:

Memorandum
Department of Planning and Urban Development
Planning Division



TO: FILE

FROM: Jean Fraser, Planner

DATE: Sept 11, 2009

RE: **Conditional Rezoning, 194 Park Street
UI # 1427 (zone change)**

This conditional zoning request went through 2 PB workshops in late 2008 and then was put "on hold" (withdrawn from scheduled Hearing date by applicant's attorney) due to a fire at the premises of the applicant's other restaurant.

Since then the Planning division has not received any communication from either the applicant nor his attorney and understand the applicant is pursuing other projects. It has not been formally withdrawn but is in-active.

From: Jean Fraser
To: Gonzalez, Adam; kate@intrikatedesigns.com
Date: 11/21/2008 3:48:34 PM
Subject: 194 Park Avenue

Alec and Adam,

This is still tentatively scheduled for a Planning Board Hearing on the evening of Dec 9th; I would need to complete my report early on Dec 4th.

Because we have to advertize this 2 weeks in advance, please let Barbara Barhydt know on Monday (Nov 24) if you wish to remain on that agenda.

I attach the draft CZA with wording as staff would recommend to address the concerns raised by the Board and members of the public.

In my absence (I return Dec 3) you are welcome to liaise with Danielle West-Chuhta, Associate Corporation Counsel (874 8429) re the CZA; Barbara Barhydt (874 8699) is handling it from the Planning Division side.

Jean (Fraser)
Planner
874 8728

CC: West -Chuhta, Danielle

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

W I T N E S S E T H

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant in the B-1 zone.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking for employees.

5. The hours of operation for the restaurant shall be between 11:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol service and sales in the restaurant shall be limited to beer and wine, and said beer and wine Alcohol shall only not be served except in conjunction with food service, and when the kitchen is open for food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening.

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

From: Danielle West -Chuhta
To: Fraser, Jean
Date: 11/19/2008 4:06:43 PM
Subject: 194 Park Avenue

Jean:

I forgot to tell you that if necessary you can have the applicant contact me with regard to this matter next week (since you will be on vacation). In addition, when would this be on for public hearing — December 9th?

Thanks,

Danielle

Danielle P. West-Chuhta
City of Portland
Associate Corporation Counsel

From: Danielle West -Chuhta
To: Barhydt, Barbara; Fraser, Jean; Jaegerman , Alex
Date: 11/13/2008 9:24:16 AM
Subject: 194 Conditional Rezone

Hello everyone:

Attached is a revised draft of the 194 Conditional Zoning Agreement for your review. I have only made a few changes based on the Board's comments last night. I would note that I am unsure how to address the ventilation issue. Based on the Board's review, it seems as though they are definitely interested in having the applicant place the ventilation on the east side of the building away from the residential units. Jean, do you know if Mr. Altman is willing to at least pipe his ventilation (or something like that) to that side of the building?

Thanks a lot,

Danielle

Danielle P. West-Chuhta
City of Portland
Associate Corporation Counsel

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WITNESSETH

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WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant in the B-1 zone.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 11:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol service and sales in the restaurant shall be limited to beer and wine, and said beer and wine shall only be served ~~except~~ in conjunction with food service, ~~and when the kitchen is open for food service.~~

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening.

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

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14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

From: Jean Fraser
To: Gonzalez, Adam
Date: 10/22/2008 3:23:44 PM
Subject: Re: Alec Altman/194 Park Avenue, Portland

Adam,

Yes, I have a copy of the sidewalk waiver doc already on the file!

Re Alec Altman's request for a conditional rezone, Danielle West-Chuhta has developed a draft (copy attached) as a basis for going forward.

Alec mentioned a couple of concerns to me after Danielle and others had agreed this, so it may or may not address those concerns.

This needs to be finalized as a draft (for consideration by the Board) early in the first week of November so it can be packaged into a PB Memo by Thursday of that week (Nov 6th) (for a PB Workshop on WED Nov 12th).

So if you have any substantive concerns they need to be with me early next week so that we have a few days to discuss and then finalize the wording.

Jean (Fraser)
Planner
874 8728

>>> Adam Gonzalez <AGonzalez@optlaw.net> 10/22/2008 10:29:47 AM >>>
Jean:

Alec Altman asked me to email you so you would forward me the materials that the city has put together for Alec's proposed project at 194 Park Avenue in Portland.

I look forward to working with you again so soon.

Also, just as an FYI, I did get that notice of sidewalk waiver signed on Monday. Thanks again for all of your help on that.

Please feel free to call or email me with any questions.

Regards,

Adam

Adam N. Gonzalez, Esq.
Danielson & Gonzalez
Two Canal Plaza, P.O. Box 545
Portland, ME 04112-0545
Ph. (207) 879-1337
Fax (207) 879-1579
Email: agonzalez@optlaw.net<<mailto:agonzalez@optlaw.net>>
www.danielsongonzalez.com<<http://www.danielsongonzalez.com>>

Any statements in this communication regarding tax matters are not intended or written to be used, and may not be used by any recipient of this communication, for the purpose of avoiding penalties that the Internal Revenue Service may seek to impose. The Internal Revenue Service has issued requirements regarding the formality and level of detail required in written analysis to be relied upon to avoid penalties; this communication does not meet those requirements.

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3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

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BY: Alec Altman, its Manager

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CUMBERLAND, ss.

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Before me,

Notary Public/Attorney at Law

DRAFT

From: Jean Fraser
To: Barhydt, Barbara; West -Chuhta, Danielle
Date: 11/4/2008 9:43:05 AM
Subject: Fwd: RE: Alec Altman/194 Park Avenue, Portland

Barbara and Danielle,

You will note that the main change relates to the parking (requirement for 2 spaces on site) and to the condition that requires the ventilation to be at the east side and attenuated re sound. There is also a change re outdoor seating that looks worrying...

Alec called me to explain that after asking his architect to move the kitchen to the east side so that the ventilation was on that side, he found that it would conflict with code requirements regarding having two public exits (he can't put a door on the side toward the residences) and is impossible because of the existing design of the roof/masonry and the vent design.

He asked me if this was a "deal-breaker" and I responded that this would be for the Board to determine; I confirmed it was an important issue and he should be prepared to show how ventilation fumes will be dealt with and explain how there is no option that will allow the ventilation to be located away from the west side. (In fact, I think he is moving the ventilation 10 feet closer to the west side and the adjacent houses than it is at present)

I am currently drafting the second PB Workshop Memo and will attach this as a redlined draft but in the text will point out which revisions are problematic etc.

Could you let me know your views on the revisions please (right hand icon).

thanks
Jean

>>> Adam Gonzalez <AGonzalez@optlaw.net> 11/3/2008 5:57:41 PM >>>
Jean:

The revised draft agreement is attached. I have also attached a redlined version showing the changes.

Please note that I am sending this to Alec Altman and must reserve the right to make additional changes in accordance with his comments.

Please feel free to call or email me with any questions or concerns.

Regards,

Adam

Adam N. Gonzalez, Esq.
Danielson & Gonzalez
Two Canal Plaza, P.O. Box 545
Portland, ME 04112-0545
Ph. (207) 879-1337
Fax (207) 879-1579
Email: agonzalez@optlaw.net
www.danielsongonzalez.com

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may not be used by any recipient of this communication, for the purpose of avoiding penalties that the Internal Revenue Service may seek to impose. The Internal Revenue Service has issued requirements regarding the formality and level of detail required in written analysis to be relied upon to avoid penalties; this communication does not meet those requirements.

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-----Original Message-----

From: Jean Fraser [mailto:JF@portlandmaine.gov]
Sent: Wednesday, October 22, 2008 3:24 PM
To: Adam Gonzalez
Subject: Re: Alec Altman/194 Park Avenue, Portland

Adam,

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CC: Jaegerman , Alex

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

Deleted: , a copy of which is attached hereto as Attachment 1,

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: not less than 2 spaces of on-site parking

Deleted: 4

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property without applicable permits.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. The air conditioning units shall have sound attenuation screening.

Deleted: All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties.

Deleted: also

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property. The Developer may repair, replace and maintain the improvements all in accordance with the zoning requirements for the B-1 zone.

12. In the event of a material breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), which breach continues for six (6) months after written notice, or if such breach is incapable of being cured within said period, such additional period as may be required to cure the same provided the Developer is prosecuting such cure, the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated rights, restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager
CITY OF PORTLAND

BY: _____
Print name: _____
Title: _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

<O:\LAWOFFICEREALTY\Altman\194 Park Ave\Contract Zone\194 Park Ave 10-22-08assentoappl rev.doc>

Formatted: Font: 8 pt

DRAFT

From: Danielle West -Chuhta
To: Barhydt, Barbara; Fraser, Jean
Date: 11/4/2008 3:40:32 PM
Subject: Fwd: RE: Alec Altman/194 Park Avenue, Portland

Jean:

I have concerns with almost all of the changes made to the agreement.

First, paragraph 1 on page 1 (where the reference to the copy of the agreement has been removed), I would like to see at least a copy of the memorandum of agreement included as an attachment to the conditional zone agreement.

Next, (on page 1) I think that the existing parking on site (which I believe is 4 spaces) needs to be maintained (this, of course, is a decision for the Board, but I wanted to point out my concerns).

Third, (on page 1) I have concerns about the change to the language regarding ventilation. One of the main things that needs to be established (in order for this agreement to be consistent with the comprehensive plan and existing and permitted uses in the area) is that it has minimal impact on the surrounding community.

Fourth, I do not like the inclusion of the language in paragraphs 11 and 12 on page 2. The language in paragraph 11 seems unnecessary, and the language in paragraph 12 must be removed since the City does not want to be hindered in its ability to be able to enforce the agreement.

Finally, the inclusion of a signature line for the City needs to be removed since this is not a contract zone agreement (i.e. a contract with the City), and instead is a conditional zone agreement (wherein conditions are placed on the development by the City).

Thanks a lot,

Danielle

>>> Jean Fraser 11/4/2008 9:43:05 AM >>>
Barbara and Danielle,

You will note that the main change relates to the parking (requirement for 2 spaces on site) and to the condition that requires the ventilation to be at the east side and attenuated re sound. There is also a change re outdoor seating that looks worrying...

Alec called me to explain that after asking his architect to move the kitchen to the east side so that the ventilation was on that side, he found that it would conflict with code requirements regarding having two public exits (he can't put a door on the side toward the residences) and is impossible because of the existing design of the roof/masonry and the vent design.

He asked me if this was a "deal-breaker" and I responded that this would be for the Board to determine; I confirmed it was an important issue and he should be prepared to show how ventilation fumes will be dealt with and explain how there is no option that will allow the ventilation to be located away from the west side. (In fact, I think he is moving the ventilation 10 feet closer to the west side and the adjacent houses than it is at present)

I am currently drafting the second PB Workshop Memo and will attach this as a redlined draft but in the text will point out which revisions are problematic etc.

Could you let me know your views on the revisions please (right hand icon).

thanks
Jean

>>> Adam Gonzalez <AGonzalez@optlaw.net> 11/3/2008 5:57:41 PM >>>
Jean:

The revised draft agreement is attached. I have also attached a redlined version showing the changes.

Please note that I am sending this to Alec Altman and must reserve the right to make additional changes in accordance with his comments.

Please feel free to call or email me with any questions or concerns.

Regards,

Adam

Adam N. Gonzalez, Esq.
Danielson & Gonzalez
Two Canal Plaza, P.O. Box 545
Portland, ME 04112-0545
Ph. (207) 879-1337
Fax (207) 879-1579
Email: agonzalez@optlaw.net
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Any statements in this communication regarding tax matters are not intended or written to be used, and may not be used by any recipient of this communication, for the purpose of avoiding penalties that the Internal Revenue Service may seek to impose. The Internal Revenue Service has issued requirements regarding the formality and level of detail required in written analysis to be relied upon to avoid penalties; this communication does not meet those requirements.

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-----Original Message-----

From: Jean Fraser [<mailto:JF@portlandmaine.gov>]
Sent: Wednesday, October 22, 2008 3:24 PM
To: Adam Gonzalez
Subject: Re: Alec Altman/194 Park Avenue, Portland

Adam,

Yes, I have a copy of the sidewalk waiver doc already on the file!

Re Alec Altman's request for a conditional rezone, Danielle West-Chuhta has developed a draft (copy attached) as a basis for going forward.

Alec mentioned a couple of concerns to me after Danielle and others had agreed this, so it may or may not address those concerns.

This needs to be finalized as a draft (for consideration by the Board) early in the first week of November so it can be packaged into a PB Memo by Thursday of that week (Nov 6th) (for a PB Workshop on WED Nov 12th).

So if you have any substantive concerns they need to be with me early next week so that we have a few days to discuss and then finalize the wording.

Jean (Fraser)
Planner
874 8728

>>> Adam Gonzalez <AGonzalez@optlaw.net> 10/22/2008 10:29:47 AM >>>
Jean:

Alec Altman asked me to email you so you would forward me the materials that the city has put together for Alec's proposed project at 194 Park Avenue in Portland.

I look forward to working with you again so soon.

Also, just as an FYI, I did get that notice of sidewalk waiver signed on Monday. Thanks again for all of your help on that.

Please feel free to call or email me with any questions.

Regards,

Adam

Adam N. Gonzalez, Esq.
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Portland, ME 04112-0545
Ph. (207) 879-1337
Fax (207) 879-1579
Email: agonzalez@optlaw.net<<mailto:agonzalez@optlaw.net>>
www.danielsongonzalez.com<<http://www.danielsongonzalez.com>>

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The information contained in this message is intended only for the personal and confidential use of the designated recipient to which it is addressed and may contain confidential and/or privileged material. If the reader of this message is not the intended recipient or an agent

responsible for delivering it to the intended recipient, you are hereby notified that you have received this document in error, and that any review, dissemination, distribution, or copying of this message is strictly prohibited. If you have received this communication in error, please notify us immediately and delete the material from any computer.

CC: Jaegerman , Alex

residents.

Next Steps:

- Schedule a public hearing

Attachments:

Presented at PB Workshop October 14, 2008

- A. Conditional Rezoning Application (plans in G)
- B. Purchase and Sale Agreement
- C. Memo from applicant with narrative and supporting information dated October 9, 2008
- D. Zoning Administrator comments
- E. Photographs
 - 1. Aerial
 - 2. Assessors
- F. (former Attachment # for “Submitted plans showing existing and proposed” ; now in Attachment L)

New as first presented at PB Workshop November 12, 2008

- G. Copy of “Comparison of Zoning Options” from first Workshop Memo (for reference)
- H. Memo from applicant with further information dated October 30, 2008
- I. Draft Conditional Zoning Agreement as drafted by City (B/W)
- J. Draft Conditional Zoning Agreement as drafted by City and revised by applicant (in color)
- K. Corporation Counsel Comments on the applicants revisions to the draft CZA dated November 6, 2008
- L. Submitted plans showing existing and proposed

From: Danielle West-Chuhta
To: Barhydt, Barbara; Fraser, Jean
Date: 11/4/2008 3:40:32 PM
Subject: Fwd: RE: Alec Altman/194 Park Avenue, Portland

Jean:

I have the following concerns with the edits made to the conditional zone agreement:

First, paragraph 1 on page 1 (where the reference to the copy of the agreement has been removed), I would like to see at least a copy of the memorandum of agreement included as an attachment to the conditional zone agreement and/or the Book and Page reference from the Registry of Deeds.

Next, (also on page 1) with regard to the changes made to the parking requirements, it seems important to me to at least maintain the existing parking on site which (I believe) is 4 spaces (this, of course, is a decision for the Board, but I wanted to point out my concerns).

Third, (also on page 1) I have concerns about the change to the language regarding ventilation. Pursuant to the statute and Ordinance one of the central things which must be established is consistency with the comprehensive plan and existing and permitted uses in the area. As such, it is important to ensure that the development (including its ventilation) does not overly impact the surrounding community.

Fourth, (on page 2) I do not like the inclusion of the language in paragraphs 11 and 12. The language in paragraph 11 seems unnecessary, and the language in paragraph 12 must be removed since the City should not be hindered in its ability to enforce the agreement.

Finally, the inclusion of a signature line for the City needs to be removed from the agreement since this is a conditional zone agreement (wherein conditions are placed on the development by the City) and not a contract with the City.

Thanks a lot,

Danielle

from Adam Gonzalez.

11/3/08

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

Deleted: , a copy of which is attached hereto as Attachment 1,

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: not less than 2 spaces of on-site parking

Deleted: 4

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property without applicable permits.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. The air conditioning units shall have sound attenuation screening.

Deleted: All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties.

Deleted: also

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property. The Developer may repair, replace and maintain the improvements all in accordance with the zoning requirements for the B-1 zone.

12. In the event of a material breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), which breach continues for six (6) months after written notice, or if such breach is incapable of being cured within said period, such additional period as may be required to cure the same provided the Developer is prosecuting such cure, the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated rights, restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager
CITY OF PORTLAND

BY: _____
Print name: _____
Title: _____

STATE OF MAINE
CUMBERLAND, ss. _____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as
Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free
act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

*draft as prepared by
Dw-C and sent to applicant's
attorney
week of Oct 20th '08*

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

W I T N E S S E T H

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

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3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

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16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

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WITNESSETH

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WHEREAS, the use of existing building located on the Property is a food market with commercial kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the existing building and use thereof is considered legally nonconforming; and

WHEREAS, the Developer intends to remodel the existing building located on the Property in order to operate a full-service restaurant, as more particularly described in this Agreement; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the development of the restaurant described in this Agreement; and

WHEREAS, the Portland City Council has determined the rezoning allows for the redevelopment of an existing building while respecting the scale and character of the neighborhood, provides goods and services within walking distance for most residents and patrons of several public facilities, and would not negatively impact the surrounding community; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, and after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to the conditions set forth in this Agreement; and

WHEREAS, the Portland City Council has determined that because of the unusual nature and unique location of the proposed development it is necessary and appropriate to impose by agreement the following conditions and restrictions in order to ensure that the rezoning is consistent with the City of Portland's comprehensive land use plan; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below. If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

[insert copy of map here]

2. The existing building on the Property shall be remodeled and permitted to house a full-service restaurant as described herein. The restaurant shall have no drive-through, no more than thirty-five (35) indoor seats and a maximum public use area of one thousand (1000) square feet, as delineated and depicted on the Site Plan and floor plans, attached hereto as Exhibit B, submitted by _____ dated _____, 2008.

3. The hours of operation for the restaurant shall be between 6:00am and 11:00pm daily. During said hours, food-service and/or consumption shall be the primary function of the restaurant.

4. There shall be no live music permitted in the restaurant or on the Property.

5. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also include sound attenuation screening.

6. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. Any dumpster located on the Property shall be enclosed.

7. The Property will be developed substantially in accordance with the Site Plan, elevations and floor plans, attached hereto as Exhibit B.

8. Notwithstanding paragraph 14 of this Agreement, execution of this Agreement binds the Developer and its respective successors and assigns, jointly and severably, to the terms of this Agreement.

9. The Planning Board shall review and approve the development of the building described herein according to the provisions of the Portland Land Use Code.

10. The underlying dimensional requirements of the _____ [either R-6 or B-1] zone shall apply and are modified as follows:

- | | |
|-----------------------------|-----------------------------|
| a. Minimum lot size: | 3967 square feet |
| b. Minimum street frontage: | 41.2 feet |
| c. Minimum front yard: | 5 feet |
| d. Minimum rear yard: | 35 feet |
| e. Minimum side yard: | 0 feet/11.5 feet |
| f. Minimum lot width: | 41.2 feet |
| g. Maximum lot coverage: | 36% |
| h. Parking requirements: | 4 spaces of on-site parking |

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the _____ [R-6 or B-1] zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. In the event the development described herein is not commenced within two (2) years from the date this conditional rezone becomes effective and materially completed within four (4) years from said date this agreement shall become null and void and the Property shall revert back to the underlying R-6 zone.

14. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

15. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

16. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

17. Except as expressly modified herein, the development, use, and occupancy of the subject premises shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

From: Alex Jaegerman
To: Danielle West -Chuhta; Jean Fraser
Date: 11/4/2008 5:44:52 PM
Subject: Re: 194 Park Ave Rezone

Jean, be sure to put in the report some language we can insert to limit alcoholic beverages, or Danielle, do you want to draft something? It seems simple enough:

Option 1:

No alcoholic beverages shall be served on the premises.

Option 2:

No alcoholic beverages other than beer or wine shall be served on the premises, and such beverages shall only be served when the restaurant kitchen is open and serving a full food service menu.

If Danielle is comfortable with her email going to the Board I am OK with it. I would suggest, however, that we cull the prior email messages (eliminate the string of prior emails) or else paraphrase the points in the memo.

>>> Danielle West -Chuhta 11/4/2008 3:12:36 PM >>>

I think proposing language is a good idea.

>>> Alex Jaegerman 11/4/2008 7:59:29 AM >>>

Sounds OK. Should we propose or identify language for the Board's consideration on alcohol sales, such as a beer and wine license only or a no alcohol restriction? I think a beer and wine only restriction is reasonable. Most burger joints don't need a hard liquor license.

>>> Jean Fraser 11/3/2008 4:08:03 PM >>>

Alex

The concern from the public relates to any kind of alcohol.

The applicant wants to give diners the full choice of alcoholic drinks although liquor is a small percentage-most is beer and wine.

I will check what is currently sold at Terronis.

Based on Danielle's comments I will not seek the police call out information at this time but will raise the issue in the PB Workshop Memo which will be done for Wed.

Jean

>>> Alex Jaegerman 11/3/2008 8:07:54 AM >>>

Jean:

I am not that uncomfortable requesting police records on Alec Altman's other business, especially since we have been asked by a member of the public for this information, assuming it is public information. We had to get police calls for Logan Place when we reviewed Florence House, so there is a precedent.

This is a conditional rezone, so we can impose restrictions on operations. Is the concern more about liquor than beer and wine? It has to be a food service establishment, so alcohol sales have to be accessory. I think we say no alcohol sales when they are not serving full meals. How about restricting them to a beer and wine license only?

Does the current retail establishment sell beer and wine?

Alex.

>>> Jean Fraser 10/31/2008 5:24:15 PM >>>
Alex and Danielle

Over the last couple of days the issue of liquor being served at the proposed restaurant has started to become a potential issue.

A representative of "21 Reasons" (coalition with law enforcement agencies, schools, parents to control exposure of youth to alcohol and advertisements/places that send wrong messages to youth about alcohol) has raised a concerns including that this will become a sportspub and give youth the message that alcohol is part of the enjoyment of sports. She also was concerned about antisocial behavior outside the building and suggested that I obtain police records of call outs to the applicants other operation (bingas wingas on congress st). **SEE MORE BELOW**

Also Ed Suslovic stopped by to speak to me about htis project and he is not sure this use is desireable opposite Kings Middle School - and he has contacted the applicant to suggest the applicant speak to the principal of the school. Ed also thought I should let the principal know what is going on re process etc.

I contacted the school principal to give him the timetable for the Board's consideration and clarify factual info re the project. Clearly he is uneasy about the proposal but we did not get into a discussion.

Re the idea of us asking the police for records of call outs to Bingas wingas....while the Board might well ask what sort of track record the applicant has regarding management (and the draft conditional zone agreement does refer to those kind of management issues), Barbara is uncomfortable about us asking for such information as we have not done this before.

Could you please advise as to whether in this instance it might be appropriate?

Incidentally, I have advised the applicants lawyer Adam Gonzalez (who is responding re the draft CZA) of the concerns expressed by "21 Reasons" and that the proximity of the school may be a potential issue. I confirmed that I did not yet have anything in writing but just wanted to give them a "heads up" that relates to some of the conditions in the draft CZA.

thanks
Jean

CC: Barbara Barhydt; Penny Littell

City of Portland Liquor License Application Process

What is Needed:

- Letter of intent, addressed to the Mayor and Members of the City Council;
- 8 ½" x 11" diagram showing layout of the premises;
- City application for food & alcohol;
- City application for entertainment (if applicable);
- State application for alcohol;
- State Corporate Supplement (if applicable);
- Menu;
- Payment of fees (minimum): application, criminal history check, and legal advertisement deposit.

**The application must be complete in order to be accepted and processed.*

The Process:

- All new Beer, Wine, and/or Liquor licenses **require City Council approval.**
- All entertainment licenses also **require City Council approval.**
- Once we receive a complete application packet we will schedule the license for review/approval by the Portland City Council.
 - The Council meets on the 1st and 3rd Mondays of each month, (except holidays).
- In addition to City Council review, all applications are subject to the following approvals:
 - Zoning, Health, Building Inspection, Fire Prevention, Finance, and Criminal History.
- After the application is approved by the City Council and the aforementioned departments, the City Clerk's Office will issue your City of Portland Business License and will grant their approval on your State Liquor License application.

**Applications must be submitted at least four (4) weeks prior to the Council meeting.*

What the Applicant Should Do:

- Schedule the City Health and Fire inspections:
 - Health Inspections Department 874-8703;
 - Fire Prevention Office 756-8096.

**You should schedule inspections to be done after any renovations to the space.*

- After the City has signed off on the State of Maine Liquor License application, send that application, along with appropriate payment, to the Department of Public Safety in Augusta. **The State Liquor Inspector will not grant a license unless you have a City of Portland license first.**

**If you have questions regarding your State license you should contact that department at 207-624-7220.*

Notes:

- City of Portland Food Service with Alcoholic Beverages Licenses are valid for twelve (12) months.
- You will also need to obtain a State of Maine Food Service License. That license can be obtained by contacting the Department of Health and Human Services (DHHS) at 207-287-5671.
- If you plan to open in the **Downtown Overlay Entertainment Zone**, you will need to meet specific criteria. (If this applies to you, we will go into more detail at time of application.)

Fees:

• Class A Lounge/ Bar:	\$2,440.00	• Class IV/V Non-profit:	\$650.00
• Class I Restaurant/ Catering:	\$1,645.00	• Entertainment with Dance	\$465.00
• Class XI Restaurant/ Lounge:	\$2,050.00	• Entertainment without Dance	\$260.00
• Class IA Inn (less than 15 rooms):	\$1,265.00	• After Hours Entertainment	\$520.00
• Class IA Inn (16-40 Rooms):	\$1,710.00	• Amusement Devices (each)	\$135.00
• Class IA Inn (40 plus rooms):	\$1,970.00	• Non-Mechanical Pool Table (each)	\$25.00
• Class II (Spirits only):	\$540.00	• Legal Advertisement (Deposit)	\$70.00
• Class III (Wine Only):	\$360.00	• Application Processing Fee	\$30.00
• Class IV (Beer only):	\$725.00	• SBI Background Check (For Each Officer)	\$21.00
• Class III & IV (Beer & Wine):	\$800.00		

**State Liquor License fees are not included in the above prices.*

Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

Application for Food Service Establishment With Alcoholic Beverages

Type of Liquor License Applying for: _____

Please check one: (Corporation/ LLC/ Non-profit org.) (Sole Proprietor) (Partnership)

Business Name (d/b/a): _____ **Phone:** _____

Location Address: _____ **ZIP** _____

If new, what was formerly in this location: _____

Mailing Address: _____ **ZIP** _____

Contact Person: _____ **Phone:** _____

Manager of Establishment: _____ **Home Phone #** _____

Owner of Premises (landlord): _____

Address of Premises Owner: _____ **ZIP** _____

Does the Issuance of this license directly or indirectly benefit any City employee(s)? Yes No

If yes, list name(s) of employee(s) and department(s).

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes No . If yes, please list business name(s) and location(s):

Is any principal officer under the age of 18? Yes No

Have applicant, partners, associates, or corporate officers ever been *arrested, indicted, or convicted* for any violation of law? If yes, please explain: _____

SOLE PROPRIETOR / PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____ DOB _____ Residence Address _____

Name of Owner(s): _____ DOB _____ Residence Address _____

Name of Owner(s): _____ DOB _____ Residence Address _____

CORPORATE / LLC / NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: _____

Corporation Mailing Address: _____ **ZIP** _____

Contact Person: _____ Phone Number: _____

PRINCIPAL OFFICERS: (if more space is needed, please attach a separate page)

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

Name _____ Title _____ DOB _____ Residence Address _____

(Please see reverse side)

Type of Food Served: _____

Please check all that will be served: Beer _____ Wine _____ Liquor _____

Percentage of sales – Generated from Food : _____ Generated from Alcohol: _____

Hours and Days of operation: _____

Will full-course meals, only capable of consumption with the use of tableware, be served the entire time the establishment is open? Yes _____ No _____.

If no, please explain _____

Is the establishment less than 300 feet from a school, dormitory, church or parish house, or similar establishment? Yes _____ No _____. If yes, give the distance _____.

Will you have entertainment on the premises? Yes _____ No _____ (If yes, a separate application is required.)

Will you permit dancing on the premises? Yes _____ No _____

Will you permit dancing after 1:00am? Yes _____ No _____

Will you have outside dining? Yes _____ No _____. If yes, please indicate location on diagram. Also, will the outside dining be on PUBLIC _____ or PRIVATE _____ property?

Have you applied for an Outdoor Dining Permit? Yes _____ No _____

Will you have any amusement devices (pinball, video games, juke box)? Yes _____ No _____ .

If yes, please list, # of pinball: _____ # of amusements: _____ # of pool tables: _____.

What is your targeted opening date? : _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

I/We, hereby authorize the release of any criminal history record information to the City Clerk's Office or licensing authority. I/We, hereby waive any rights to privacy with respect thereto.

Signature _____ Title _____ Date _____

LIQUOR LICENSE RENEWAL PROCESS:

CITY OF PORTLAND:

Two months prior to your license expiration, the City Clerk's Office will mail you a pre-printed City Renewal Application. Any changes may be made directly on the Renewal Application. Payment is expected with return of the signed Renewal Application. Checks should be made payable to the City of Portland. We also accept cash, Visa or MasterCard. At the same time the Renewal Application is mailed to you, the Clerk's Office will send inspection sheets to the Health, Zoning and Fire Departments. The Health and Fire Departments will either contact you to make an inspection appointment or they may just stop by for the annual inspection.

Before your City License is re-issued, the Clerk's Office notifies the following departments and requires approvals from them:

Zoning
Health
Fire
Police
Treasury (taxes)

The Business License Administrator is Alexandra J. P. Murphy (Alex) and her phone number is (207) 874-8557. Alex's email address is amurphy@portlandmaine.gov.

STATE OF MAINE:

The State will send you a **POSTCARD** reminding you that your State Liquor License will be expiring soon. It is your responsibility to print a blank State Application from their website:

<http://www.maine.gov/dps/liqr/applications.html>

or you can pick one up in the City Clerk's Office, Room 203, City Hall, 2nd Floor. The phone number for the Department of Public Safety, Liquor Licensing and Compliance and Liquor Catering in Augusta is (207) 624-7220. The State Liquor Inspector is Dan Smaha.

The City Clerk **MUST SIGN OFF** on your completed State Application **BEFORE** you send it to Augusta with payment. The **ONLY** approval needed for the City Clerk to sign off on the State Application for a renewal, is a favorable Liquor License Review from the Portland Police Department. Therefore, it is possible your State Application may be sent to Augusta before you get your City License reissued, as long as the City Clerk has signed off on it.

BUSINESS APPLICANT:

It would be helpful to have the completed State Application (make sure you sign in **BLUE** ink) mailed or delivered to the City Clerk's Office with the City Renewal Application and payment. Then when the favorable Police Liquor Review is received, the State Application can either be picked up or mailed back to you when ready. It is **YOUR** responsibility to forward the State Liquor Application to Augusta with payment. If the Police Liquor Review is unfavorable, you may be required to go back before the City Council for review. Please make sure you keep copies of all of your applications **BEFORE** you send them to the Clerk's Office. If copies are made at the Clerk's Office, the fee is \$1/page.

Request Date/Approval: _____
Fire Dept. _____/
Health/Zoning _____/
Taxes _____/
State App _____/

Office of the City Clerk
389 Congress Street
Portland, ME 04101
(207) 874-8557

App. Fee: New \$30.00 Renewal \$20.00
With Preparation: \$405.00
Without Preparation: \$160.00
Beer & Wine Takeout: \$365.00
Total Due: _____

**Application for Food Service Establishment
(License EXPIRES annually on January 31)**

No alcoholic beverages are allowed to be served for consumption on the premises

Please check one: (Corporation/ LLC/ Non-profit org. _____) (Sole Proprietor _____) (Partnership _____)

For **renewal** applicants: Has there been any change in ownership in the last 12 months? Yes _____ No _____

Business Name (d/b/a): _____ **Phone:** _____

Location Address: _____ **ZIP** _____

(If NEW, what was formerly in this location: _____)

Mailing Address: _____ **ZIP** _____

Contact Person: _____ **Phone:** _____

Manager of Establishment: _____ **Date of Birth** _____

Owner of Premises (landlord): _____

Address of Premises Owner: _____ **ZIP** _____

Does the Issuance of this license benefit any City employee(s)? Yes _____ No _____

If yes, list name(s) of employee(s) and department(s). _____

Have any of the applicants, including the corporation if applicable, ever held a business license with the City of Portland? Yes _____ No _____. If yes, please list business name(s) and location(s) _____

Is any principal officer/owner under the age of 18? Yes _____ No _____

SOLE PROPRIETOR/PARTNERSHIP INFORMATION: (if corporation, leave blank)

Name of Owner(s): _____ Date of Birth _____ Residence Zip Code _____

Name of Owner(s): _____ Date of Birth _____ Residence Zip Code _____

Name of Owner(s): _____ Date of Birth _____ Residence Zip Code _____

CORPORATE/LLC/NON-PROFIT ORGANIZATION APPLICANTS: (if sole proprietor, leave blank)

Corporation Name: _____

Corporation Mailing Address: _____ **ZIP** _____

Contact Person: _____ Phone Number: _____

PRINCIPAL OFFICERS:

Name _____ Title _____ Date of Birth _____ Residence Zip Code _____

Name _____ Title _____ Date of Birth _____ Residence Zip Code _____

Name _____ Title _____ Date of Birth _____ Residence Zip Code _____

Name _____ Title _____ Date of Birth _____ Residence Zip Code _____

Type of Food Served: _____

Hours and Days of operation: _____

Will you have entertainment on the premises? Yes _____ No _____
(If YES, please complete Supplemental Application for Dancing and Entertainment.)

Will you permit dancing on the premises? Yes _____ No _____
(If YES, please complete Supplemental Application for Dancing and Entertainment)

Will you permit dancing and/or entertainment after 1:00am? Yes _____ No _____

Will you have outdoor dining? Yes _____ No _____
(If yes AND on City property, you will need a Outdoor Dining Permit issued from the Inspections Department.)

If yes, is the outdoor dining on PUBLIC or PRIVATE property? _____

Will you have any amusement devices? (pinball machines, video games, juke box) Yes _____ No _____

If yes, please list number of pinball: _____ of amusements: _____ of pool tables: _____

Applicant, by signature below, agrees to abide by all laws, orders, ordinances, rules and regulations governing the above licensee and further agrees that any misstatement of material fact may result in refusal of license or revocation if one has been granted. Applicant agrees that all taxes and accounts pertaining to the premises will be paid prior to issuance of the license.

It is understood that this and any application(s) shall become public record and the applicant(s) hereby waive(s) any rights to privacy with respect thereto.

Signature _____ Title _____ Date _____

Please note:

Maine State Dept of Health and Human Services applications are required in addition to this application;

Please make checks payable to: The City of Portland;

For more information, refer to the City Code of Ordinance: Chapter 11 Food and Food Handlers (found on www.portlandmaine.gov).

Chapter 3 ALCOHOLIC BEVERAGES*

*Cross reference(s)--Alcoholic beverages prohibited in cemeteries, §
7-128.

State law reference(s)--Liquors, M.R.S.A. Title 28.

- Art. I. In General, §§ 3-1--3-15**
Art. II. Bottle Clubs, §§ 3-16--3-30
Div. 1. Generally, §§ 3-16--3-25
Div. 2. License, §§ 3-26--3-30

ARTICLE I. IN GENERAL

- Sec. 3-1. Reserved.
Sec. 3-2. Reserved.
Sec. 3-3. Reserved.
Sec. 3-4. Reserved.
Sec. 3-5. Reserved.
Sec. 3-6. Reserved.
Sec. 3-7. Reserved.
Sec. 3-8. Reserved.
Sec. 3-9. Reserved.
Sec. 3-10. Reserved.
Sec. 3-11. Reserved.
Sec. 3-12. Reserved.
Sec. 3-13. Reserved.
Sec. 3-14. Reserved.
Sec. 3-15. Reserved.

ARTICLE II. BOTTLE CLUBS

DIVISION 1. GENERALLY

Sec. 3-16. Hours.

The licensee, its principal officers and employees shall not permit the consumption of alcoholic beverages on the

premises between the hours of 1:15 a.m. and 6:00 a.m. on any day, except on January first when liquor may be consumed until 2:15 a.m., and during such hours, the premises shall be closed.
(Code 1968, § 906.5A; Ord. No. 231-80, 12-22-80; Ord. No. 335-81, 12-21-81; Ord. No. 170-92, 12-7-92)

Sec. 3-17. Minors not permitted on premises.

No person under the age of twenty (20) years shall be permitted in or to remain within a bottle club.
(Code 1968, § 906.5; Ord. No. 231-80, 12-22-80)

Sec. 3-18. Sale of alcoholic beverages; illegal activities.

The licensee, its principal officers, and employees shall not allow any alcoholic beverages to be sold on the premises of a bottle club, nor shall they knowingly permit any illegal activities to take place therein.
(Code 1968, § 906.6; Ord. No. 231-80, 12-22-80)

Sec. 3-19. Right of entry.

Any law enforcement officer of the city or member of the fire department shall be permitted to enter any licensed premises during business hours or during the hours during which operation of a bottle club is prohibited for the purpose of making inspection or maintaining order. It shall be the duty of every licensee and the principal officer thereof to afford free access to every part of such establishment and to render all aid and assistance necessary to enable the persons to make a full, thorough, and complete examination thereof to determine compliance with this Code and the laws of the state.
(Code 1968, § 906.6A; Ord. No. 231-80, 12-22-80)

Sec. 3-20. Reserved.

Sec. 3-21. Reserved.

Sec. 3-22. Reserved.

Sec. 3-23. Reserved.

Sec. 3-24. Reserved.

Sec. 3-25. Reserved.

DIVISION 2. LICENSE*

*Cross reference(s)--Licenses and permits generally, Ch. 15.

Sec. 3-26. Required.

No person, other than a bona fide nonprofit organization, shall keep, maintain, operate, lease, or otherwise furnish, either to its members and guests or to the general public, any premises for use as a bottle club without a bottle club license from the city as provided in this division.

(Code 1968, § 906.1; Ord. No. 231-80, 12-22-80)

Sec. 3-27. Application.

Application for a bottle club license shall be filed in accordance with chapter 15. In addition to the requirements of that chapter, an applicant for a bottle club shall furnish the clerk with the following:

- (a) An affidavit which identifies all principal officers, their places of residence at the present time, and for the immediately preceding three (3) years;
- (b) A description of the premises for which a license is desired which shall set forth such other material information, description, or plan of that part of the premises where it is proposed to consume or keep liquor as the clerk or the city council may require.

(Code 1968, § 906.2; Ord. No. 231-80, 12-22-80)

Sec. 3-28. Standards for denial, suspension or revocation.

In addition to the standards set forth in chapter 15, a license may be denied, suspended or revoked upon a determination that:

- (a) Any principal officer or employee has not attained the age of eighteen (18) years;

- (b) Any principal officer has been convicted of violating any of the laws of this state or the United States with respect to manufacture, transportation, importation, possession or sale of intoxicating liquor within a period of five (5) years from the date of hearing, or otherwise has a disqualifying criminal conviction;
- (c) Any principal officer is a law enforcement official;
- (d) The premises where applicant or licensee is to operate is situated within three hundred (300) feet of a public or private school, school dormitory, church, chapel or parish house, in existence as such at the time such license is applied for, except such premises as were in use as bottle clubs on January 21, 1981. The three hundred (300) foot distance shall be measured from the principal entrance of the school, dormitory, church, chapel or parish house to the principal entrance of the licensed premises by the ordinary course of travel;
- (e) Failure to possess a food service establishment license; and,
- (f) Any violation of this article.
(Code 1968, § 906.3; Ord. No. 231-80, 12-22-80)

Sec. 3-29. Hearings.

Hearings and notices of hearings for both original applications and renewals under this division shall be conducted by the city council in accordance with the applicable procedures for issuance of licenses by the state to sell intoxicating liquors to be consumed on the premises, and in no case, shall an original license be issued without a notice of public hearing to abutters and notice by publication.

(Code 1968, § 906.4; Ord. No. 231-80, 12-22-80)

City of Portland
Code of Ordinances
Sec. 3-30

Alcoholic Beverages
Chapter 3
Rev. 12-1-00

Sec. 3-30. General provisions to apply.

Except to the extent that this division contains a contrary provision, all provisions of chapter 15 shall be additional to the provisions of this article.

(Code 1968, § 906.7; Ord. No. 231-80, 12-22-80)

departments, as appropriate, for comments as to whether a license may be granted consistently with the provisions of the laws and ordinances enforced by such departments. In all appropriate cases, the building authority shall verify that the premises to be used for the proposed activity comply with the building code, electrical code, plumbing code and zoning ordinance, and if applicable, state junkyard screening law; the health authority shall cause inspections to be made of the proposed location of any premises dispensing food or liquor; the fire chief shall cause inspection to be made for the purpose of determining if city ordinances, a state law, or state regulations concerning fire and safety have been complied with; and if the license is not issuable to any class of persons, the police chief shall cause an investigation to be made of the principal officers or persons to be licensed. All such persons shall report to the clerk in writing, and copies of any such report shall be deemed a public record.

(b) Whenever a criminal background check is done prior to issuance of a license, any cost of such background check which is charged to the City by another agency shall be added to the fees to be paid by the applicant.

(Code 1968, § 901.7; Ord. No. 231-80, 12-22-80; Ord. No. 115-84, § 1, 8-6-84; Ord. No. 247-02/03, 5-19-03)

Sec. 15-8. Standards for denial, suspension or revocation.

(a) *Grounds.* In addition to any other specific provision of this Code authorizing such action, a license or permit may be denied, suspended or revoked upon a determination of the existence of one (1) or more of the following grounds:

- (1) Failure to fully complete the application forms; knowingly making an incorrect statement of a material nature on such form; or failure to supply any additional documentation required or reasonably necessary to determine whether such license is issuable, or failure to pay any fee required hereunder;
- (2) The licensed activity, or persons on the premises for the purpose of participating in the licensed activity, or persons patronizing the licensed device have caused one (1) or more breaches of the peace; or
- (3) There is a clear danger that a breach of the peace will occur if the licensed activity is permitted; or

- (4) The licensed activity or persons patronizing the licensed premises will substantially and adversely affect the peace and quiet of the neighborhood, whether or not residential, or any substantial portion thereof;
- (5) The licensee has violated any provision of this Code in the course of the conduct of the activity or device for which the license or licenses have been applied for, or have been issued; or
- (6) The occurrence of any event subsequent to issuance of the license which event would have been a basis for denial of the license shall be grounds for revocation thereof; or
- (7) The applicant's or licensee's real or personal property taxes, or final judgments due and payable to the city, are determined to be in arrears as of the date of the license or application; or that real or personal property taxes or final judgments due and payable to the city on account of the premises for which application has been made or a license issued have not been paid in full as of the date of the license or application.

(b) *Hearings.*

- (1) Except as expressly provided in this Code, no license to which this chapter applies may be revoked or suspended without prior notice to the licensee, and after a hearing.
- (2) In the case of the suspension or revocation of a license, a hearing shall be given to the licensee and a generalized statement of the nature of the complaint constituting the basis for the proposed action shall be included in the notice of hearing. Unexcused failure of licensee to appear at the hearing shall be deemed a waiver of the rights to said hearing.
- (3) Upon a determination that immediate and irreparable harm will be suffered by the public prior to the time that a hearing on suspension or revocation of a license can be scheduled and a finding of probable cause for such suspension or revocation, the city clerk may suspend a license, pending hearing, effective upon the giving of actual notice to the licensee; provided that the clerk shall give an opportunity to be heard as soon as

practicable thereafter. At any hearing, the licensee shall be given the opportunity to answer the complaint and to present evidence. The complainant shall also be notified of the hearing and given the opportunity to be heard.

- (4) All suspensions or revocations shall be upon substantial evidence and all hearings shall be conducted with substantial fairness and strict adherence to the rules of evidence shall not be required.
- (5) All hearings on suspension or revocation of licenses shall be held within thirty (30) days of delivery to licensee of the generalized statement of complaint.

(c) *Abandoned licenses.* The applicant shall pay the issuance fee and obtain any license from the clerk within thirty (30) days after it has been approved by the city clerk. Upon failure to pay the issuance fee and obtain the license within said thirty-day period, the approval shall be void and the application deemed abandoned. For good cause shown, the clerk may extend the thirty-day period provided such extension does not result in the issuance of the license being delayed more than one hundred eighty (180) days from its approval by the city clerk.
(Code 1968, § 901.8; Ord. No. 231-80, 12-22-80; Ord. No. 291-83, 12-5-83; Ord. No. 562-84, §§ 4, 5, 4-23-84; Ord. No. 196-88, 11-7-88)

Sec. 15-9. Appeals.

(a) *Procedure.* An appeal to the city manager may be taken by any person aggrieved by the denial, suspension or revocation of a license by the clerk by filing a notice of appeal and the prescribed fee with the city manager within thirty (30) days of the decision appealed from, and not thereafter. Every appeal should be in writing and shall state the basis for the appeal. Within two (2) business days of the filing of an appeal, the city manager shall designate himself or any agent or employee to act as hearing designee in the appeal. The hearing designee shall hear the appeal within ten (10) business days after the filing of the appeal and may affirm, reverse or modify the decision appealed from. The taking of an appeal shall not stay a decision appealed from, except that at the request of the licensee, the clerk may stay the effective date of a suspension, revocation or denial of a renewal license upon a finding that the public is not likely to suffer any harm during the pendency of the appeal. In such case, the clerk shall make a written finding of his or her decision in this regard

and shall notify the appellant.

(b) *Scope of review.* On appeal, the hearing officer shall review the decision of the clerk and any disciplinary action taken pursuant thereto to determine whether the decision was based upon substantial evidence and the disciplinary action taken was proportionate to the violation. The hearing officer may take additional evidence with respect to such decision or action and if additional testimony or evidence is taken shall determine the appeal upon all of the evidence, except as provided in this section.

(c) *Appeal to the superior court.* Any person aggrieved by a decision of a hearing officer on appeal may appeal therefrom to the superior court in accordance with the provisions of Maine Rule of Civil Procedure 80B.
(Code 1968, § 901.9; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 6, 4-23-84; Ord. No. 182-84, 9-24-84)

Sec. 15-10. Notices of hearing.

(a) *Content.* Whenever a public hearing is required, the clerk shall give notice of the time and place of the hearing, the type of license involved, and the nature of the hearing, and the address or location of the property involved.

(b) *Service.* Except as expressly provided, whenever notice by mail is required, such notice shall be mailed by regular United States mail at least ten (10) days in advance of the hearing date. When notice by publication is required, such notice shall be published in a newspaper of general circulation in the city at least once, not more than thirty (30), nor less than seven (7) days before the date of the hearing. Where notice to abutters is required, all owners or occupants of property within five hundred (500) feet of such parcel or tract shall be deemed to be abutters, and service shall be made by ordinary mail at least seven (7) days before the date of the hearing. In the case of abutters, the owners and occupants of property listed in the assessor's records on the last tax date prior thereto, shall be deemed to be the persons to whom notice is to be given. The clerk shall take reasonable measures to notify renters in close proximity.

(c) *Notice requirements not mandatory.* Failure of any person other than the applicant or licensee to receive a notice of the public hearing shall not necessitate another hearing and shall not invalidate any action taken as a result thereof, except as

otherwise expressly provided by law.
(Code 1968, § 901.10; Ord. No. 231-80, 12-2-80)

Sec. 15-11. License not to be transferable.

(a) No license shall be transferred to any person, to any location, or to any other vehicle or device, and no license fee shall be refunded if the licensed activity is ceased prior to the expiration of the license. All purported transfers not in accordance with this section are void. A license shall be deemed the subject of an attempted transfer whenever there is a sale of the business, vehicle or device, or where there is a change in actual ownership interest. Upon any such event, the licensee shall immediately surrender the license to the clerk; except that, in the case of death, bankruptcy or receivership of any licensee, the duly appointed executor or administrator of the deceased licensee or the duly appointed trustee or receiver of the bankrupted licensee or licensee receivership may retain the license and operate under the same for the benefit of the estate with the written permission and approval of the clerk until such time as such operation is no longer needed to benefit the estate. Thereafter, such personal representatives, receivers, or trustees shall either return the license to the clerk or transfer same to any other person, under order of the court having jurisdiction and upon written notice to the clerk. In the interim, between the death of the licensee and the appointment of an executor or administrator, or in cases where no administration of the estate of a deceased licensee is contemplated, the widow or widower or person designated by all of the heirs of the deceased licensee may take over the license upon written notice to the clerk. Duly appointed and qualified guardians and conservators of the estate of a licensee may retain the license of their ward during the term of office upon written notice to the clerk.

(b) In all cases arising out of this section in which the clerk is required to determine the identity or composition of or ownership interests in an applicant or licensee, or to determine whether a transfer of an ownership interest in an applicant or licensee has taken place, he shall look to the substance rather than the form of transactions and any person aggrieved may appeal the clerk's determination to the city manager.

(Code 1968, § 901.11; Ord. No. 231-80, 12-22-80; Ord. No. 562-84, § 7, 4-23-84)

Sec. 15-12. Fees and expiration dates.

(a) Unless specified elsewhere in this Code, fees for



Portland Public Schools

To: Members of the Portland Planning Board

From: Jeanne Whynot-Vickers, Interim Superintendent, Portland Public Schools
Michael McCarthy, Principal, King Middle School
Jill Blackwood, Assistant Superintendent
Susan Steele, Director, Safe and Drug Free Schools

Date: November 12, 2008

Re: 194 Park Avenue
Conditional Rezone Application

The Planning Board is considering a request by Greg's Properties LLC for a Conditional Rezone to allow for the change of use and associated remodeling of the existing building at 194 Park Avenue – currently Terroni's Market.

King Middle School, located close to Terroni's, educates approximately 500 students ranging in age from 11 to 14. We ask that the Board consider the following as they deliberate on this request:

- Parking is limited in the area. We are concerned that any additional strain on available parking in the area will make it even more difficult to maintain the King Middle School parking lot for King staff, visitors, parents, etc. What steps can the Planning Board take to minimize parking problems?
- Layout – the layout suggests a sizeable bar with seating and limited table seating. We question if that is the best layout to support a family restaurant – will food be a required order at the bar? At the tables?
- Alcohol service – is it possible to limit alcohol service to beer and wine? Use of beer and wine works well with a family type restaurant and minimizes drunken and disorderly conduct of patrons, while the serving of hard liquor promotes a bar that serves food rather than a family style restaurant. Considering the proximity to the school, and the major roadways that are in the area, excessive alcohol consumption can pose safety risks for middle school students who are walking from school in the early to late afternoon.

Thank you for your consideration.

From: "Marie Gresik" <marie@malonecb.com>
To: <jf@portlandmaine.gov>
Date: 11/12/2008 3:31:09 PM
Subject: FW: Workshop today regarding 194 Park Ave conditional rezoning

Thank you,

Marie

From: Marie Gresik
Sent: Wednesday, November 12, 2008 3:28 PM
To: 'aj@portlandmaine.gov'; 'aj@portlandmaine.gov'
Cc: Joe Malone; Mark Malone
Subject: Workshop today regarding 194 Park Ave conditional rezoning

Alex:

Thank you for sending along any information regarding the out come of the workshop today in reference to the 194 Park Ave conditional rezoning. Mark and Joe Malone are not able to attend, but are very interested in the progress of this workshop as owners of the abutting property.

Best Regards,

Marie Gresik
Malone Commercial Brokers
5 Moulton Street
Portland, ME 04101
207-772-2422 Tel.
207-774-5114 Fax.
marie@malonecb.com

From: Danielle West -Chuhta
To: Barhydt, Barbara; Fraser, Jean; Jaegerman , Alex
Date: 11/13/2008 9:24:16 AM
Subject: 194 Conditional Rezone

Hello everyone:

Attached is a revised draft of the 194 Conditional Zoning Agreement for your review. I have only made a few changes based on the Board's comments last night. I would note that I am unsure how to address the ventilation issue. Based on the Board's review, it seems as though they are definitely interested in having the applicant place the ventilation on the east side of the building away from the residential units. Jean, do you know if Mr. Altman is willing to at least pipe his ventilation (or something like that) to that side of the building?

Thanks a lot,

Danielle

Danielle P. West-Chuhta
City of Portland
Associate Corporation Counsel

From: Danielle West -Chuhta
To: Fraser, Jean
Date: 11/19/2008 4:06:43 PM
Subject: 194 Park Avenue

Jean:

I forgot to tell you that if necessary you can have the applicant contact me with regard to this matter next week (since you will be on vacation). In addition, when would this be on for public hearing — December 9th?

Thanks,

Danielle

Danielle P. West-Chuhta
City of Portland
Associate Corporation Counsel

From: kathryn grochmal <balloonbear2@yahoo.com>
To: <jf@portlandmaine.gov>
Date: 11/12/2008 9:09:44 PM
Subject: 194 park ave

ello, I am out of state and was unable to attend last nights meeting on 194 Park Ave.. I was wondering if any decision was reached. I am very concerned about this property. The more I look at the plans the more it looks like a bar and not a resturant. If their primary intent is to have a bar why are they not saying that. They said they will be doing take out as well but on the plans there is no place to place orders and to wait for them. I feel a bar would greatly hurt my property value at 196 Park Ave. Did they say what their intended hours of operation are? That area is quiet by 9 pm except when events at the Expo get out but even then it is just the people walking past and does not last long. I am also very concerned about the parking issues customers going to the store just stop for a few min. so even when they pull into my yard (which they do) they are gone quickly. If people coming in to drink and have a meal they will be taking up parking that

the residents need. Could we have from the 15 min. zone to Wheymoth st (spelling?) changed to 1 hour or resident only and have it patrolled by parking division, this might be an option to help the residents. Even though we know they close at 5pm and really does not help during ballgames because there is no one to ticket the cars but some people might read the signs and not park there. Can we not allow music either live or jukebox on site due to the closeness to adjoining bedrooms. These are my thoughts at this time. The

From: kathryn grochmal <balloonbear2@yahoo.com>
To: <jf@portlandmaine.gov>
Date: 11/12/2008 9:13:30 PM
Subject: 194 park ave

Sorry I hit the send key by mistake. I am Kathryn Grochmal onwner on 196-198 and 198a Park ave. the city still has not updated the mailing adderss and has buildings listed as belonging to my brother Al Higgins Which is why my name is not appearing on onwers list.

thank you
Kathryn Grochmal
204 Park Ave
Ptld
774-3771

Note for file

194 Park Ave - Regone

10-30-08

1773-7737

MS Jo Morrissey of "21 Reasons" called me. "21 Reasons" is a coalition between law enforcement/parents/neigh assoc's to promote responsibility in handling alcohol esp re impact on youth. Concerned re location of drinking establishments, advertising and exposure of youth to cultural norms/messages re drinking - based on research.

She requested information (I gave her PB memo 10/14/08 and draft CZA on understanding it was interim only & revisions awaited).

Her impression (from?) is that the proposal is for a sports pub. Feels this is a concern as opposite a school and potentially problematic.

It advised her of likely timetable and initial discussion at first PB workshop.



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

10-28-08 11:30 am.

Celt Suslowic,

Re: 194 Park Ave - Terronis - Rezone

1. There seems to be general agreement between PB, staff and applicant that this will be a conditional rezone to B1 with the agreement to include conditions based on those already in the B1 zone ordinance (14-163) plus others to address concerns raised by neighbors.

2. Current status:

- I am awaiting the applicant's attorney's comments on the draft CZA which we drafted (copy attached) - once agreed, this draft will be included in the next PB memo (for workshop);

- The applicant is preparing another note for the PB outlining the hours of opening, intended market etc. - I should receive that soon

- Early next week I will prepare a second PB memo (the first attached for info) for consideration at the PB workshop on Nov 12th.

The applicant has told me he will be seeking a full liquor license but the focus would be on food.

389 Congress Street, 4th floor • Portland, ME • (207) 874-8728 • Fx 756-8258
Email: jf@portlandmaine.gov

Jean

From: Jean Fraser
To: Donoghue, Kevin
Date: 10/16/2008 10:14:16 AM
Subject: 194 Park Avenue- Zoning amendment

Councilor Donoghue,

I am following up on our discussion on Tuesday regarding this application for a contract zone.

The Planning Board generally supported a B1 conditional rezone (contract zone) as the appropriate mechanism for this use as this is needed to allow the parking to remain as existing and to identify controls over ventilation, noise, opening hours etc; a draft conditional zone agreement will be discussed at another Workshop before it goes to a Hearing.

Owners of the adjacent residential buildings were at the meeting and objected on the grounds of smells, noise and loss of parking for occupants.

My impression was that the Board considered the proposal to be consistent with the Comprehensive Plan and that if it genuinely was a local family restaurant (not late night)they would support (assuming adequate controls over impacts on neighbors)- they asked for more information to clarify the intended use.

Jean

**IMPORTANT NOTICE FROM THE CITY OF PORTLAND - PLANNING DIVISION
TO RESIDENTS AND PROPERTY OWNERS IN THE VICINITY OF
194 PARK AVENUE**

WHAT: The Portland Planning Board will hold a public workshop to consider a request by Greg's Properties LLC for a Conditional Rezone to allow for the change of use and associated remodeling of the existing building at 194 Park Avenue.

The existing building is currently a food market within the R-6 residential zone. The proposed use is a full service restaurant within the existing building, along with refurbishment including external changes to the building. The parking is proposed to remain as existing.

Public comments will be taken at this meeting.

WHEN: Tuesday, October 14th, 2008
7:00 p.m.
XXX, 2nd Floor, City Hall

FOR MORE INFORMATION:

If you wish to submit written comments, address them to Jean Fraser, Planner, Planning Division, City Hall, 4th Floor, 389 Congress Street, Portland, Maine 04101, contact by phone at 874-8728 or e-mail at jf@portlandmaine.gov



Memorandum
Department of Planning and Urban Development
Planning Division

To: Chair Tevanian and Members of the Portland Planning Board

From: Jean Fraser, Planner

Date: Prepared November 7, 2008
Prepared for November 12, 2008 Planning Board

Re: **194 Park Avenue**
Conditional Rezone Application

1. Introduction:

This is a second Workshop to consider a request from Greg's Properties LLC for a Conditional Rezone to allow the existing retail building at 194 Park Avenue known as *Terronis* to be converted into a restaurant.

The existing building is currently a convenience market (with some food service) within the R-6 residential zone. The proposal is for a change of use to a full service restaurant (with a liquor license) with internal and external remodeling.

At the first Workshop there was a discussion of the three possible rezone mechanisms that might facilitate this proposal:

1. R6 Conditional Zone
2. B1 (Neighborhood Business) Conditional Zone
3. B1 Map Change

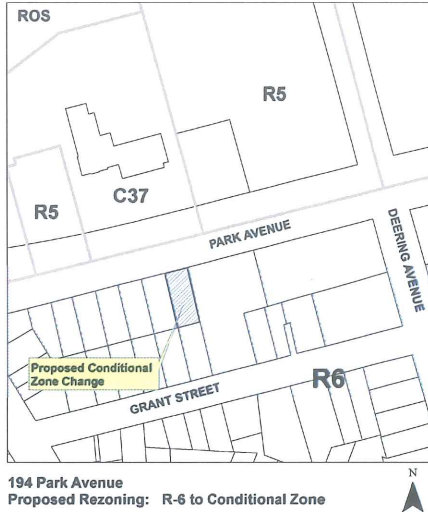
The broad conclusion was that a B1 Conditional Zone best "fit" the proposal since the B1 zone permits restaurants subject to conditions. The Board requested further information regarding the likely clientele for the restaurant and how it would be managed to respect neighbors.

Staff has drafted a Conditional Zone Agreement ([Attachment I](#)) and the applicant has identified some amendments shown in blue on the original version in [Attachment J](#).

2. Project Description

The proposed restaurant would be a conversion of the existing wood framed concrete block building of 1436 sq ft feet, which is located on a small lot measuring approximately 41 feet by 97 feet on the south side of Park Avenue. The site is opposite the Iris Center and King Middle School and near the Expo and the Hadlock Field Stadium.

The existing building is immediately adjacent to the western property boundary with no side setback on that side; a 3 story residential property is about 7 feet away from the building near the front. Another residential building is about 14 feet from the side fence around the parking area and another residential building is about 34 feet from the rear fence of the parking area (see [Attachment F aerial](#)).



To the other side (east) of the building there is a narrow (approximately 11 feet wide) access drive to the rear of the building where there are four “compact” parking spaces and a dumpster (see [Attachment L, last plan](#) for layout). This access is adjacent to the parking associated with the adjacent 2 story medical building at 190 Park Avenue (see photos below).

The submitted plans remain as for the earlier Workshop ([Attachments L](#)), with no proposed alterations to the site layout, surface parking lot, or fencing.



The existing use is a convenience store with hot take-away food and is described in [Attachment A, Exhibit C](#). It is considered a grandfathered non-conforming use in the R6 zone. Staff observation confirms that the store sells snacks and a small range of dry goods, coffee, lottery tickets, beer (only) and hot take-away food although there are two tables. Only the front half of the building is “public” food store/tables; the rear part includes several areas for cooking with the current main external ventilation on the east side (see plans EX2.1 and EX1.1 in [Attachment L](#)). The proposed layout (Plan A1.1 in [Attachment L](#)) moves the hood and ventilation to the west side to allow for public exits and toilets.

The proposed use is described in [Attachment A](#) and described as follows:

“... a remodel of the existing food service use to a full service restaurant in which full course meal food service and consumption shall be the primary function of the restaurant but the restaurant will also include on premises alcohol sales and consumption.”

A fuller description of the existing and proposed uses (types of food to be served; hours of opening) was submitted for the previous Workshop (Memo dated 10.9.08 (Attachment C)) and since then the applicant has confirmed (Memo dated 10.30.2008 (Attachment H)) that the majority of sales (roughly 75%) will be food sales, by take out and quick meals, with hours of operation 11:30am to 11pm. The Memo also describes the anticipated customer base as indicated at the Workshop and that a full liquor license would be sought to provide a full adult beverage selection with meals. (See additional discussion below.)

3. Requested Rezoning

The applicant has requested conditional zoning within the R6 zone. Conditional or Contract Zoning is allowed under Division 1.5 of the City's code where it meets the following:

Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan. (Section 14-60)

The Council is able to impose conditions under Section 14-62:

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) Limitations on the number and types of uses permitted;*
- (b) Restrictions on the scale and density of development;*
- (c) Specifications for the design and layout of buildings and other improvements;*
- (d) Schedules for commencement and completion of construction;*
- (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;*
- (f) Preservation of open space and buffers, and protection of natural areas and historic sites;*
- (g) Contributions toward the provision of municipal services required by the development; and*
- (h) Provisions for enforcement and remedies for breach of any condition or restriction.*

(Ord. No. 31-85, 7-15-85)

The site is zoned R-6 Residential and the building is grandfathered nonconforming in terms of its location and use (see Zoning memo in Attachment D). The property is surrounded by housing to one side and to the rear, and on the other side is adjacent to medical offices that were constructed in 1972. It is opposite the Iris Center, King Middle School, Deering Oaks Park and pockets of residential buildings, with Hadlock Field and the Expo just to the west on Park Avenue.

The applicant requested a conditional rezoning within the R6 but following the first Workshop has agreed to a B1 conditional rezoning. The City Ordinance states that any restaurant in the B1 zone must (normally reviewed by the Zoning Board of Appeals) meet the following conditions:

(14-163(a)):

1. *Maximum total floor area for use of the public shall be one thousand (1,000) square feet;*
2. *The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;*
3. *Food service and consumption are the primary function of the restaurant; and*
4. *There shall be no drive-through service.*

The Table 1 “Comparison of Zoning Options” included in the previous Planning Board Memo is included in Attachment G for reference.

4. Draft conditional Zoning Agreement

The City’s Associate Corporation Counsel, Danielle West-Chuhta, drafted a Conditional Zoning Agreement (CZA) which partly derives from the B1 conditions on restaurants with other conditions added to address concerns raised by the Planning Board, staff and members of the public at the October Planning Board Workshop (Attachment I). The CZA contains conditions (see page 2 of Attachment I) that relate to:

- Primary function food service and consumption, with conversion/refurbishment for the restaurant to be substantially as shown in [plans to be attached to CZA];
- Four parking spaces required on site;
- Hours of operation limited to 9am to 11pm;
- No live music;
- No outside seating;
- Alcohol not to be served except in conjunction with food service and when the kitchen is open for food service;
- Ventilation/air conditioning shall be located on east side of the building; air conditioning to have sound attenuation;
- Enclosure of the dumpster along with ongoing maintenance.

The applicant has revised the conditions that related to parking, outdoor seating, location of ventilation, and some of the other legal language as shown in the blue revisions on the draft CZA (Attachment J).

The City's Associate Corporation Counsel has raised concerns on almost all of the revisions as set out in Attachment K and included in the staff discussion below.

4. Staff comments on outstanding issues

Staff notes that the applicant has confirmed the proposed hours of operation would be 11:30am to 11:00 pm (Attachment H) and this meets the condition as included in the draft CZA.

Staff also notes that the applicant has confirmed that a full liquor license would be requested to provide customers with a full beverage selection. Staff anticipates that the serving of alcohol may be a concern to some in the neighborhood, especially as there is a middle school opposite the site. Staff have not received written comments on this issue, but we have heard preliminary expressions of concern from the Mayor and an organization called *21 Reasons* (a coalition with law enforcement agencies, schools, parents to control exposure of youth to alcohol and advertisements/places that send wrong messages to youth about alcohol), and we have advised the King Middle School Principal of the current review in case he wishes to make any comments.

This issue is further complicated by the current operation of *Terronis* which sells bottled and canned beer and has two large beer advertisements on the front elevation. The restaurant proposal presented in the rezone application indicates that alcohol would be served in connection with the serving of food.

The Board may wish to consider whether the conditions on the serving of alcohol should be more restrictive (i.e. that the use be restricted to the sale of beer and wine only, without allowance for serving of hard liquor, or possibly prohibited altogether).

Parking

The applicant has revised the CZA to require two parking spaces on site instead of four. There are four existing spaces to the rear of the building within the site but they are constrained by the existence of the dumpster and are difficult to access. However, they could provide parking for employees and very limited parking for patrons. The zoning requirement for a restaurant of this size would be 7 spaces.

Outdoor Seating

The applicant has qualified the restriction so that outdoor seating could be provided if applicable permits were obtained. Given the proximity of neighbors, staff suggests that the restriction should be absolute.

Ventilation

The existing main hood ventilation (and an air conditioner) is already on the east side of the building, as shown in plans EX2.1 and EX1.1 (Attachment L). The proposed internal layout (Plan A-1.1 (Attachment L)) moves the main ventilation (hood in kitchen) to the west side of the property which is immediately adjacent the residential neighbors. The

applicant has advised staff that he and his architect have explored the possibility of locating the kitchen and associated ventilation to the east side, but that this is impossible due to code requirements for public exits and to the masonry construction of the existing building. Further explanation will be provided by the applicant at the Workshop, including exploration of the feasibility of keeping the kitchen on the west side, but routing the exhaust vent to the east side of the building.

Other language

The Associate Corporation Counsel's comments in Attachment K argue against several of the applicant's other revisions and staff advise restoration of the original wording in these cases.

5. Comprehensive Plan

Under 14-60 (see above) the proposed conditional zone must be consistent with the Comprehensive Plan. The applicant has submitted their assessment of consistency with the City's Comprehensive Plan (Attachment C). In principle the Comprehensive Plan supports the retention of neighborhood businesses that serve the community, and Planning Staff have identified the following relevant policies:

Transportation Policies

- Vibrant neighborhoods include nearby, small-scale commercial areas that provide both convenient service and natural meeting places. Provide routine, daily services within walking distance of residents of all neighborhoods, as long as the businesses providing the services are small-scale, are designed compatibly with residences, and fit into the fabric of the neighborhood.

Transportation Action

- Review the existing nonconforming neighborhood businesses and "legalize" those that are positive factors in meeting neighborhood needs.
- Allow development along transit corridors and near community commercial centers to evolve at a density sufficient to make public transit, walking, and biking viable options.

Housing

Goal

- Maintain and enhance the livability of Portland's neighborhoods as the City grows and evolves through careful land use regulation, design and public participation that respects neighborhood integrity.

Policies

- While accommodating needed services and facilities, protect the stability of Portland residential neighborhoods from excessive encroachment by inappropriately scaled and obtrusive commercial, institutional, governmental, and other non-residential uses.
- Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents.

Next Steps:

- Finalize Conditional Zoning Agreement
- Schedule a Public Hearing

Attachments:Presented at PB Workshop October 14, 2008

- A. Conditional Rezoning Application (plans in G)
 - B. Purchase and Sale Agreement
 - C. Memo from applicant with narrative and supporting information dated October 9, 2008
 - D. Zoning Administrator comments
 - E. [no attachment]
 - F. Photographs
 - 1. Aerial
 - 2. Assessors
- (“Submitted plans showing existing and proposed” now in Attachment L)

For PB Workshop November 12, 2008

- G. Copy of “Comparison of Zoning Options” from first Workshop Memo (for reference)
- H. Memo from applicant with further information dated October 30, 2008
- I. Draft Conditional Zoning Agreement (CZA) as drafted by City (B/W)
- J. Draft Conditional Zoning Agreement as drafted by City and revised by applicant (in color)
- K. Corporation Counsel Comments on the applicants revisions to the draft CZA dated November 6, 2008
- L. Submitted plans showing existing and proposed (same as for October PB Workshop)



A2

Zoning Amendment Application
Department of Planning and Development
Planning Division and Planning Board

1. Applicant Information

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
914-261-4440
Phone Fax

2. Subject Property

194 Park Avenue
Address
53-B-20
Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant X Other

Mango, L.L.C.
Name
54 Marlborough Road
Address
Portland, ME 04096
233-3562 773-5480
Phone Fax
Attn: Katie Allen

4. Billing Address:

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
Attn: Alec S. Altman

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Contract for Purchase and Sale of Commercial Real Estate dated August 6, 2008 between Mango, L.L.C. (Seller) and Greg's Properties LLC (Purchaser) see Exhibit A
Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)
See Exhibit B

6. Existing Use:

Describe the existing use of the subject property:

See Exhibit C

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7. Current Zoning Designation(s):

R6

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See Exhibit D

9. Sketch Plan: On a separate sheet, please provide a sketch plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 100'.) See Exhibit E

10. Proposed Zoning: Please check all that apply:

A. _____ Zoning Map Amendment, from _____ to _____

B. _____ Zoning Text Amendment to Section 14-_____

For Zoning Text amendment, attached on a separate sheet, the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. Application Fee: An Application Fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below.) The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

Fee for Service Deposit \$200.00

(This fee is required for all applications in addition to the application fee listed below)

_____ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

ALC

**MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

The undersigned, being duly sworn, do hereby depose and say:

1. **GREG'S PROPERTIES LLC**, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with **MANGO, L.L.C.**, a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Less to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this _____ day of August, 2008.

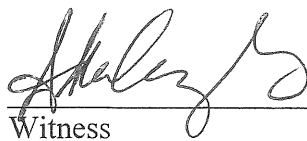
MANGO, L.L.C., Seller

Witness

By: _____
Malling J. Mango, Member

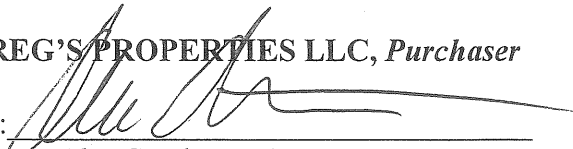
Witness

By: _____
Catherine H. Mango, Member



Witness

GREG'S PROPERTIES LLC, Purchaser

By: 

Alec S. Altman, Manager

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MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE


The undersigned, being duly sworn, do hereby depose and say:

1. GREG'S PROPERTIES LLC, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with MANGO, L.L.C., a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Lee to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this 20 day of August, 2008.


MANGO, L.L.C.
By: _____
Mailing Member


By: Catherine H. Mearns
Catherine H. Mearns, Member

GREG'S PROPERTIES LLC, Purchaser
By: _____
Alec S. Altman, Manager

Witness

As

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Malling J. Mango in his said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 20, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing,

Before me,  _____
Attorney at Law/Notary Public

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STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Malling I. Mango in his said capacity and gave oath to the truth of the foregoing.

Before me, Robert Danielson
Attorney at Law/Notary Public
KATHLEEN S. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing.

Before me, Robert Danielson
Attorney at Law/Notary Public
KATHLEEN S. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August , 2008

Then personally appeared the above named Alec S. Albanan in his said capacity and gave oath to the truth of the foregoing.

Before me, _____
Attorney at Law/Notary Public

EXHIBIT B
TO
ZONING AMENDMENT APPLICATION

APPLICANT: Greg's Properties LLC
PROPERTY: 194 Park Ave. (53-B-20)

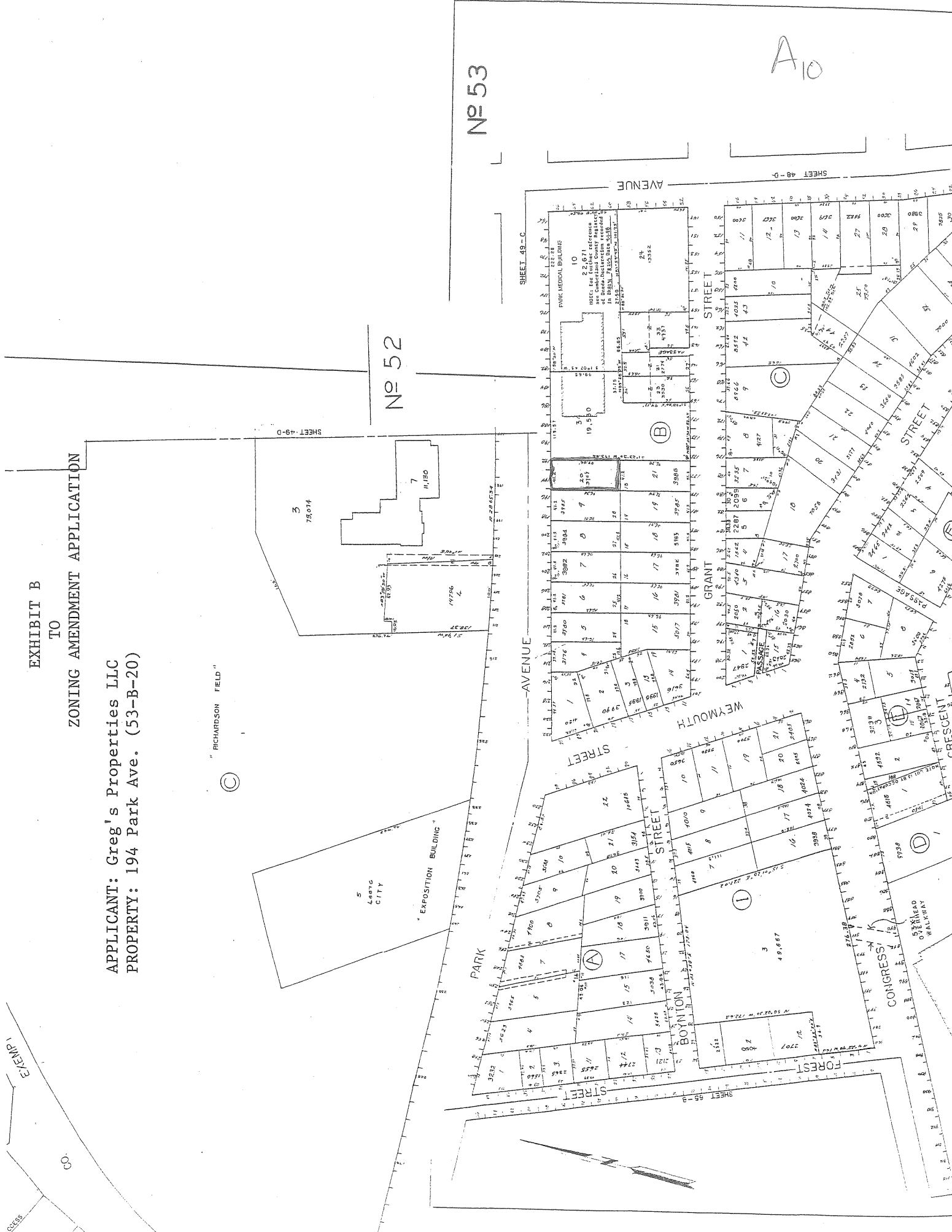


EXHIBIT B - continued
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

5. **Vicinity Map:** Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Map, Block & Lot	Address	Owner(s)	Owner(s) Address	Land Use
53-B-9	198 Park Ave.	Allan S. & Donna M. Higgins	P.O. Box 10957, Portland, ME 04101	Five to Ten Family
53-B-34 & 10	180 Park Ave., #1	Melburn P. & Jean K. Smith	P.O. Box 262, Harpswell, ME 04079	Medical Condominiums
53-B-34 & 10	180 Park Ave., #2	My Darling II LLC	5 Moulton St., Ste. 3, Portland, ME 04101	Medical Condominiums
53-B-21	177 Grant St.	Daniel K. Nere	177 Grant St., Portland, ME 04101	Three Family
53-B-19 & 18	183 Grant St.	Michelle M. Cyr	183 Grant St., Portland, ME 04101	Two Family
52-C-3	189 Park Ave.	The Iris Network	189 Park Ave., Portland, ME 04102	Benevolent & Charitable/office
52-C-7	191 Park Ave.	Iris Park Apartments LP	201 Park Ave., Portland, ME 04101	Twenty-One Plus Family

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Exhibit C
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

6. Existing Use: Describe the existing use of the subject property:

The site consists of 3,967 +/- square feet with an existing 1,436 +/- square foot concrete block and wood framed building operated as a food market with commercial restaurant hood, griddle, fryer, gas fired range and ovens, limited table seating, with sales of pasta, pizza, calzones, hot wings, hamburgers, cheeseburgers, hot dogs, fries, hot and cold sandwiches, salads, breakfast and grocery items and beer.

Exhibit D
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

8. Proposed Use of Property: Please describe the proposed use of the property. If construction or development is proposed, please describe any changes to the physical condition of the property.

The premises are located in close proximity to the Portland Expo, Hadlock Field and Fitzpatrick Stadium. The proposed use is a remodel of the existing food service use to a full service restaurant in which full course meal food service and consumption shall be the primary function of the restaurant but the restaurant will also include on premises alcohol sales and consumption. Full course meal service will be continued up until the hours of closing. The restaurant will have indoor seating capacity for up to thirty-five (35) patrons and will be developed substantially in accordance with the attached sketch plans (see Exhibit E). No live music will be permitted on the premises.

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Exhibit E
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Plans (7 Sheets)

CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE

Contract date: August 5, 2008

Effective Date: 8-6, 2008

THIS CONTRACT is entered into by and between MANGO, L.L.C., a Maine limited liability company whose address is 54 Marlborough Road, Portland, Maine 04103 (the "Seller"), and GREG'S PROPERTIES LLC or its assignee, a Maine limited liability company, whose mailing address is c/o Alec S. Altman, 26 Village Brook Road, Yarmouth, Maine 04096 (the "Purchaser").

1. PROPERTY.

The Seller agrees to sell and the Purchaser agrees to purchase the real estate and all improvements located at 194 Park Avenue, in the City of Portland, County of Cumberland, State of Maine, being the same premises described in a deed dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (collectively, the "Property").

2. PERSONAL PROPERTY AND EQUIPMENT

The Seller agrees to sell and the Purchaser agrees to purchase the personal property and equipment located on the Property which is owned by Seller and more particularly described on Exhibit A attached hereto (the "Equipment"), which Equipment shall be in working condition at closing. All fixtures located upon the Property shall be included in this sale.

3. PURCHASE PRICE: DEPOSITS: ESCROW.

The total Purchase Price for the Property shall be [REDACTED] and shall be payable as follows:

(i) An earnest money deposit in the amount of [REDACTED] shall be deposited with NAI THE DUNHAM GROUP (the "Escrow Agent"), upon execution of this Contract (the "Deposit"). The balance of the Purchase Price shall be paid at closing by wire transfer, bank or certified check.

(ii) The Escrow Agent shall hold the Deposit subject to the terms of this Contract in a non-interest bearing account pending closing. The Deposit shall be credited to Purchaser at closing. In the event of a dispute, Seller and Purchaser shall hold the Escrow Agent harmless from damages, losses or expenses arising out of this Contract except for Escrow Agent's gross negligence or willful misconduct. In the event of an asserted default, the Escrow Agent at its option may either (1) refuse to release the Deposit without a written release signed by both parties consenting to its disposition or (2) after providing thirty (30) days' written notice to both parties, release the Deposit to a court of competent jurisdiction and be relieved of all duties as Escrow Agent.

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(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [REDACTED] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$	[REDACTED]
b. Building	\$	[REDACTED]
c. Land	\$	[REDACTED]
Total:	\$	[REDACTED]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE: DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

The Purchaser shall receive from the Seller a Warranty Bill of Sale for the Equipment, and such other title-clearing documents such as a sales tax clearance letter/certificate and an unemployment tax clearance letter/certificate from the State of Maine and a list of creditors and indemnification against prior debts, and stating that the Equipment is of good and marketable title, free and clear of all encumbrances, liabilities or liens and in good and usable condition.

8. INSPECTION PERIOD. INTENTIONALLY OMITTED.

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9. PERMITS/CONTRACT ZONE.

(a) Purchaser's obligation to close hereunder is contingent upon Purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above; or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

13. RISK OF LOSS.

Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than **Katherine Allen of NAI The Dunham Group**. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than **Michael Pizzo of Commercial Properties, Inc.** (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract

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and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., *Seller*

By: _____

Malling J. Mango
Malling J. Mango, Member

By: _____

Catherine H. Mango
Catherine H. Mango, Member

Witness

Witness

GREG'S PROPERTIES LLC, *Purchaser*

By: _____

Alec S. Altman
Alec S. Altman, Manager

[Signature]

Witness

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EXHIBIT A

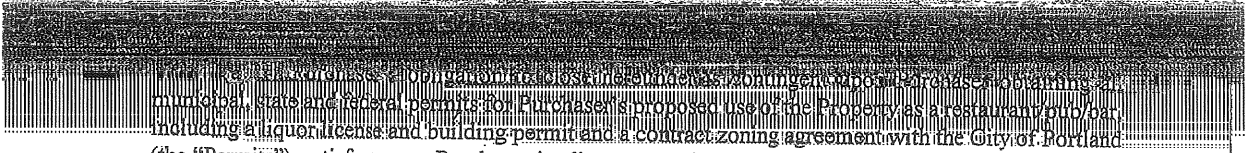
- Hobart # 1712 12" blade slicing machine
- Readco 20 qt. counter model mixing machine
- Hobart Power head mod # 4322 w/ grating attachment
- 2 Single glass door true merchandising cooler
- Bev-air 52" 2 sliding door merchandising cooler
- Pinnacle 126" refrigerated merchandising half doors
- Refrigeration unit for 6' X 15' walk-in cooler
- 8' SS Hood System
- Ansil system for hood.

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002/008

**CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**



... obligation to assist Seller in Seller's contingency to purchase or obtain from municipal, state and local agencies for Purchaser's proposed use of the Property a restaurant and bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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08/07/2008 12:59 FAX

003/008

(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [REDACTED] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$ [REDACTED]
b. Building	\$ [REDACTED]
c. Land	\$ [REDACTED]
Total:	\$ [REDACTED]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE: DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

The Purchaser shall receive from the Seller a Warranty Bill of Sale for the Equipment, and such other title-clearing documents such as a sales tax clearance letter/certificate and an unemployment tax clearance letter/certificate from the State of Maine and a list of creditors and indemnification against prior debts, and stating that the Equipment is of good and marketable title, free and clear of all encumbrances, liabilities or liens and in good and usable condition.

8. INSPECTION PERIOD. INTENTIONALLY OMITTED.

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9. PERMITS/CONTRACT ZONE.

(a) Purchaser's obligation to close hereunder is contingent upon Purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above; or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

13. RISK OF LOSS.

Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than **Katherine Allen of NAI The Dunham Group**. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than **Michael Pizzo of Commercial Properties, Inc.** (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract

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and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

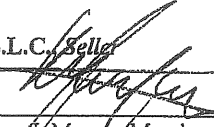
20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

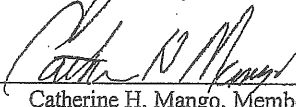
A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., *Seller*


By: 
Mallory J. Mango, Member

Witness

By: 
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, *Purchaser*

By: 
Alec S. Altman, Manager


Witness

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EXHIBIT A

- Hobart # 1712 12" blade slicing machine
- Readco 20 qt. counter model mixing machine
- Hobart Power head mod # 4322 w/ grating attachment
- 2 Single glass door true merchandising cooler
- Bev-air 52" 2 sliding door merchandising cooler
- Pinnacle 126" refrigerated merchandising half doors
- Refrigeration unit for 6' X 15' walk-in cooler
- 8' SS Hood System
- Ansil system for hood.

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Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman
CC: Mango LLC
Date: October 9, 2008
Re: 194 Park Ave

We are asking the city to approve a conditional zone, a contract zone or a zone change for 194 Park Ave. Currently the location is owned by Mango LLC and operated as a sandwich shop with bulk food and carry-out alcohol sales. The property has been listed 'for sale' on the open market for some time with only one current viable suitor, Greg's Properties, LLC (hereafter Greg's). Greg's has the property under contract for purchase from Mango LLC (hereafter Mango), pending the outcome of this request.

Greg's proposes to convert the market into a seated restaurant (with approximately 35 seats, preliminary plans submitted) themed specifically around hamburgers. The restaurant will be named Burger Joint. Binga's will form a subsidiary named Burger Joint, LLC (hereafter Burger Joint). Burger Joint will rent the property from Greg's. The menu is going to be themed around ground meat. This is what Burger Joint is planning on serving. There will be a variety of patty options available; beef, pork, turkey, ostrich, elk, buffalo, duck, chicken, lamb and vegetarian have been looked into, served either on a bun, in a bagel, with a salad or over nachos. Hot dogs and tofu dogs with a variety of toppings, dinner plates and some alcohol options will round out the menu. We feel that there is an economic opportunity in bringing the restaurant model to the neighborhood. Binga's success on Congress St, along with a variety of new neighboring restaurants that have been successful throughout the city, demonstrates the demand. People are looking for accessible median-priced food options within walking distance of their homes and destinations.

The controlling rules are Sec. 14-382 which states that "Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity." Section 14-382 (e) reinforces general compliance with all other code sections, Section 14-333 (i) mandates one (1) parking space for each one hundred fifty (150) square feet of floor area not used for bulk storage or food prep and the R-6 zone expressly prohibits restaurants.

The property at 194 Park Ave. is currently run by Mango (dba Terroni's Market), operating as a food vendor that sells alcohol and is open to the general public seven days a week for roughly twelve (12) hours a day. One third (1/3) of the building is used as a kitchen, with the remainder consisting of a non-ADA bathroom, office, two (2) tables with eight (8)

C2

seats, coolers and display racks. It is non-conforming as to use and parking. Binga's Wingas, LLC proposes a full service restaurant with a kitchen, two ADA bathrooms, an office, service area and support area. Burger Joint proposes to be open seven days a week for approximately twelve (12) hours per day with shorter hours of operation Sundays. The property is currently licensed by the city of Portland for what it does, the state Dept. of Health for food service and by Public Safety for beer sales. Binga's would pursue licenses from those same entities. We consider our non-conformity similar enough in nature that it fits within this section. Section 14-382 (b) expressly prohibits any change in building size and scope, neither of which Binga's plans on doing to the location. Binga's feels that our proposed operation "would not create any new non-conformity, nor increase any existing non-conformity." In addition, Binga's feels that there is a directive within the comprehensive plan encouraging the city to pursue this type of property redevelopment.

FROM THE PLAN

- I. **Build A Vibrant Small City** Build upon the distinctive fabric of Portland's built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns.
- II. **A City That Is A Good Place To Live** Portland retains a small town feel with a built environment that is scaled for people, is pedestrian friendly and is accessible to the community. Residents value and seek to enhance the safety of the community, the proximity of commercial uses near residences and the walkable nature of the city.
- III. **Conditional and Contract Zones** Conditional or contract zoning is authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan.
- IV. **Portland Neighborhood economic development study, 1982 Goals** Carefully weigh the value of on-street parking when making decisions concerning traffic, snowplowing and road maintenance in the commercial centers.
- V. **Portland Neighborhood economic development study, 1982 Policies** Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents. Ensure the integrity and economic value of Portland's neighborhoods.
- VI. **City Issues #1-City land use** Within Portland Itself, land use has been decentralizing for at least the last 30 years, making transportation by foot, bicycle and bus more and more unlikely. ... Where sufficient densities and concentrations of activities already exist to support public transit, or are allowed by zoning, they should be continued and/or obstacles to reaching their potentials (such as unrealistic off-street parking requirements) should be removed.

There is potential for an issue to be raised by the number of parking spaces for the facility. Binga's feels that we should not need to provide more than those already on the premises. During the conversion, Binga's will be upgrading the bathrooms, the two ADA bathrooms require a parking space each and the work space behind the dinner counter requires a space. These are necessary by law and need and should be taken into

consideration. The neighborhood has ample street parking and when events happen, there are a number of additional city and private lots open to the public. On event days, there are numerous parking lots and on non-event days there is more than ample street parking.

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Binga's Wingas runs a community restaurant, preparing team dinners for the Sea Dogs and staff meals for the Portland Pirates. Binga's donates to the Boys and Girls Club, Camp Susan Curtis, Maine Medical Center and the Westbrook chapter of the Animal Refuge League, just to name a few. Binga's has a good working relationship with the community, has created jobs and tax base and offer a comfortable local environment. Binga's hopes to make Burger Joint the same type of place. It will be built to serve the local community, both commercial and residential, enhance property values and be an asset for the city.

Email Responses to the Burger Joint Proposal

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Good morning Binga's Wingas-

Thanks for sending the email update, and I applaud you for your partnership with the Animal Refuge League.

As the marketing coordinator for the Amtrak Downeaster, I think the BURGER JOINT would be highly beneficial and help attract more tourism to the Portland Area. In July of 2008, the Downeaster experienced a 31% growth in ridership on our northbound trains over last year. We see more and more people traveling to the Portland area for day and overnight trips. A lot of our riders go to the Sea Dogs games and are often looking to kill time before or after the game. More attractive destinations on the public transportation route and within walking distance from the Portland Transportation Center would only help with the effort to bring more people to this wonderful city.

I wish you good luck and hope it works out.

Natalie Allen
Northern New England Passenger Rail Authority
Sales & Marketing Coordinator
207-780-1000 x 108
[redacted]

Having a Burger Joint directly across from the Expo, the hockey rink, Hadlock Field and within striking distance of schools and medical office space is an outstanding usage for that property.

GREG BISHOP
Chairman, MDAC
Marketing Director, MetLife of Greater Maine - C92
62 US Route One
Cumberland Foreside, ME 04110
office: (207) 781-0954 x14
[redacted]
[redacted]
Metropolitan Life Insurance Co., New York, NY 10166

I think a burger joint would be great. There really aren't that many around since Ruby's Choice closed up shop. The only local one I can think of is Wild Willy's which is very good, but they don't have any competition.

My two cents,
David Waldecker
South Portland
[redacted]

Email Responses to the Burger Joint Proposal

C5

A reply to the idea of creating a restaurant on park ave:

I think this is a great idea. Currently there are few locally owned and operated restaurants near Hadlock field (not to mention the Portland Expo and the Portland Ice Arena). It would be wonderful to have a local joint to socialize, meet, and enjoy with friends after the game or when you are by the park. This area is within walking distance to many areas (Grant, High, etc.) that have many options on the hill, but so few close to the residential areas. I think that in the spirit of capitalism, and the desires of Portland residents, the owners of Binga's Wingas should have the right to convert the current space into an area that friends and family can congregate for any occasion to enjoy good food closer to their homes.

Jeanna Leclerc
Allen Ave, Portland, ME
jeanna.leclerc@gmail.com

Please forward this email to the City of Portland ---
I support (**with great enthusiasm**) Binga's plan to open a burger restaurant on Park Ave in Portland. It would be a wonderful location for a family style restaurant with affordable and high quality food!

Thank you,

Gayle Duncan
7 Deerfield Rd
Portland, ME
gduncan@gwr.net

Binga's Wingas Proposes Burger Joint

Name: STEVEN

Do you live in the neighborhood?

Yes No

Thoughts: WE ♥ BINGAS!
\$ WANT MORE!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: David Cekotis

Do you live in the neighborhood?

Yes No

Thoughts: I live in SoPo, work
in Portland. I think this
would be a positive development
for the area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: William Garfield

Do you live in the neighborhood?

Yes No

Thoughts: Great idea! Portland needs
more casual dining w/
a great atmosphere such as Bingas.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Tina Shaw

Do you live in the neighborhood?

Yes No

Thoughts: Wonderful proposal!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: DEREK GIERTMAN

Do you live in the neighborhood?
 Yes No

Thoughts:
YES! STAY OPEN UNTIL
2-3am So I CAN GET

GRUB LATE OTHER THAN BILLS pizza.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address: ^{it's horrible}

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matt Thompson

Do you live in the neighborhood?
 Yes No

Thoughts:
Burger joints are always
good.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: JOHN SUZUKAN

Do you live in the neighborhood?
 Yes No

Thoughts:
SUPPORTED PORTLAND S.
LOYALTY UNTIL IT CLOSED (frowny face)
WOULD LOVE ANOTHER CLOSER LOCATION

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dollie Chase

Do you live in the neighborhood?
 Yes No

Thoughts:
But I'd like a new
burger place to go to

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ARIEL SHRINGER

Do you live in the neighborhood?

Thoughts: Yes No

I FEEL THAT THE CITY OF PORTLAND WOULD BENEFIT FROM HAVING A LOCAL BURGER JOINT - ESPECIALLY NEAR ME PORTLAND

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

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Binga's Wingas Proposes Burger Joint

Name: JOSIAH BARCOCK

Do you live in the neighborhood?

Thoughts: Yes No

I WELCOME & FULLY SUPPORT BINGA'S PARK ST. BURGER JOINT DEVELOPMENT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address

~~josiah.barcock@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: EMMA ARMIN

Do you live in the neighborhood?

Thoughts: Yes No

Great you should do it

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~emma.armin@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Peter Rickert

Do you live in the neighborhood?

Thoughts: Yes No

I support the cont zone for the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Raheel Bayko

Do you live in the neighborhood?

Yes No

Thoughts:

hello I thought
that that would
be great!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: James Montgomery

Do you live in the neighborhood?

Yes No

Thoughts:

I believe in the
burger joint for
the future

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Eric Antoy

Do you live in the neighborhood?

Yes No

Thoughts:

The Burger Joint is a
GREAT idea + will add
value, originality + taste to

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address: Portland

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW SAWYER

Do you live in the neighborhood?

Yes No

Thoughts:

I think that would be cool
A good greasy burger joint could really
add appeal to that area of town.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address: Night Pleasant

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Nick

Do you live in the neighborhood?

Thoughts: Yes No ^{Washington Ave}

A Burger joint that is locally owned would be excellent! I will not go to macdonalds. They are a joke!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

I don't like burgers, but I hear other people enjoy them.

Please check the box to add your email to our mailing list.

Local businesses are rad!

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Binga's Wingas Proposes Burger Joint

Name: D. Johannesen

Do you live in the neighborhood?

Thoughts: Yes No

please revitalize this great neighborhood! burger joint would unite more folks!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Rickett

Do you live in the neighborhood?

Thoughts: Yes No

I support Bingas Wingas / ~~Burger~~ Burger Joint at the Teroni's Market.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Wynn Hahl

Do you live in the neighborhood?

Thoughts: Yes No

It would be a boon to this neighborhood to have a ^{more walkable} family-style burger joint - ^{places are} great!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]
 Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW ANDERSON

Do you live in the neighborhood?

Thoughts: Yes No

LIKE THE IDEA

FOOD IS GREAT HERE

SURE IT WOULD BE SAME

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matthew Brown

Do you live in the neighborhood?

Thoughts: Yes No

This is a great

establishment and I would

love to experience the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Miranda Beggin

Do you live in the neighborhood?

Thoughts: Yes No

Great idea. We need

More restaurants like

bingas in town!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Becah Tanner (756-9864)

Do you live in the neighborhood?

Thoughts: Yes No

I think that a

burger joint would be

business and I'd sweet ~~but~~ definitely go!

I'll waitress if you need it for work

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rob

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA! BINGA'S

RULES!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C12

Binga's Wingas Proposes Burger Joint

Name: Elise

Do you live in the neighborhood?

Thoughts: Yes No

BEST WORKING TEAM!

WE WANT BURGER
JOINT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~okmings@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Ryan C.

Do you live in the neighborhood?

Thoughts: Decking Yes No

Prime Real estate. The bottom
of the hill needs a place like this. ->

Sea Dogs in the summer. Make it happen

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Anna Liberatore

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see this

happen. It would be great for the
neighborhood. Nothing but good
things to say about the owners &
staff @ Binga's.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~anna.liberatore@gmail.com~~

Please check the box to add your email to our mailing list.

↳ Already on it!

Binga's Wingas Proposes Burger Joint

Name: Mare Colello

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see
a Bingas Burger Joint
in the Terroni's Location.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C13

Binga's Wingas Proposes Burger Joint

Name: A. Eaton

Do you live in the neighborhood?

Thoughts: Yes No

Burgers rules, wingas Rules
Burgers + wingas = WIN

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kate Ziegelmeier

Do you live in the neighborhood?

Thoughts: Yes No

Yes please! Burgers...
yummy!! I love Bingas
and I'm sure I'll love their
Burgers!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Kierstead

Do you live in the neighborhood?

Thoughts: Yes No

It would be
beneficial to the area
to seriously consider this.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Brian

Do you live in the neighborhood?

Yes No

Thoughts:

This would be
a much better use
of the space

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas ^{C14} Proposes Burger Joint

Name: Bin

Do you live in the neighborhood?

Yes No

Thoughts:

Love to see a
burger joint in
the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Jim Harty

Do you live in the neighborhood?

Yes No

Thoughts:

Townland NEEDS A
GOOD BURGER JOINT...

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Justin Henry

Do you live in the neighborhood?

Yes No

Thoughts:

A quality "Burger" restaurant
would be a welcome addition. Can't
wait to see you set up and running.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Scott Wyman

Do you live in the neighborhood?

Thoughts: Yes No

A very good idea, will
bring community feel to area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~mail@scottwyman.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Riddell

Do you live in the neighborhood?

Thoughts: Yes No

I work in the neighborhood
and would love a burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Martha Lafferty

Do you live in the neighborhood?

Thoughts: Yes No
work in the area

I love Bingas and
would love a Burger place
in this area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

tel2@maine.rr.com

Binga's Wingas Proposes Burger Joint

Name: Suzy Preston

Do you live in the neighborhood?

Thoughts: Yes No

It would be perfectly suited
for the Hadlock, Fitzzy Expo
crowd. And a good neighborhood
space.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~suzy.preston@maine.rr.com~~

Please check the box to add your email to our mailing list.

C116

Binga's Wingas Proposes Burger Joint

Name: Stephanie Cilley

Do you live in the neighborhood?

Yes No

Thoughts:

But I work here. We
need a sit in burger
place

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.
nanner76@yahoo.com

and diverse community to
come together and eat good food
and drink kick ass spirits.
I think it's trendy, ~~is~~ traditional
and well needed. Bring on
the Burger!

Binga's Wingas Proposes Burger Joint

Name: Michael Pelsmith

Do you live in the neighborhood?

Yes No

Thoughts:

GREAT IDEA?

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~Michael.Pelsmith@bingas.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Deanna Bracy

Do you live in the neighborhood?

Yes No

Thoughts:

I live in South Portland and frequent
Bingas Weekly. I think a burger joint
concept for this community will be
beneficial because there's nothing
like it here in Portland. Bingas has
already established a well balanced

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~deanna.bracy@bingas.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Josh Harris

Do you live in the neighborhood?

Thoughts: Yes No

Best of luck
Better than Fast Food
Joints

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~jharris@harris.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Berg

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA, PERFECT
LOCATION, TAKE OUT COULD
GO OVER TO PARK & PICNIC

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~stberg@stberg.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Carly Ladd

Do you live in the neighborhood?

Thoughts: Yes No

yes on burger
joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~carlyladd@carlyladd.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dan Wallach

Do you live in the neighborhood?

Thoughts: Yes No

I am in favor
of rezoning for Burger
Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~danwallach@danwallach.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christine

Do you live in the neighborhood?

Yes No

Thoughts:

It would be great!
Love the idea

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Michelle Lefkri

Do you live in the neighborhood?

Yes No

Thoughts:

We need this!
Great Idea!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C18

Binga's Wingas Proposes Burger Joint

Name: Melissa

Do you live in the neighborhood?

Yes No

Thoughts:

This is brilliant!

Sweet location and the
burgers are bound to be
awesome. ROCK ON!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Monica + Jeff

Do you live in the neighborhood?

Yes No

Thoughts:

We live right down the street
from Terroni's on Park Ave.
I think that would be a great
location for the burger joint.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Natalie Ladd

Do you live in the neighborhood?

Yes No

Thoughts:

I like the idea of
the burger joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

C19

Binga's Wingas Proposes Burger Joint

Name: Harv

Do you live in the neighborhood?

Yes No

Thoughts:

That area needs a good
local restaurant/pub to
help revitalize the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Seth Offer

Do you live in the neighborhood?

Yes No

Thoughts:

This would be great
a good place to go take/pick
Sea legs games

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kimberly Sundik

Do you live in the neighborhood?

Yes No

Thoughts:

Yes, Binga's
Wingas
Burgas !!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: AMBER PHILBRICK

Do you live in the neighborhood?

Yes No

Thoughts:

GREAT WINGS HERE!

DO VEGGIE/CHICKEN

BURGERS TOO!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kelly C.

Do you live in the neighborhood?

Yes No

Thoughts:

I mean... I wouldn't
mind a burger joint ↓

is Bingas staying ??

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christine Salma

Do you live in the neighborhood?

Yes No

Thoughts:

Yahoo! Doct

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Karla Benz

Do you live in the neighborhood?

Yes No

Thoughts:

You should put
more bingas around

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: L. Martel

Do you live in the neighborhood?

Thoughts: Yes No

I live in W. Deering area

I would love another

Binga's establishment in town!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Good quality
handmade burgers
are key... we live
in walking distance and
are grad. students. Will
pay a couple \$\$ more for
good stuff!



MEMO
Planning and Urban Development
Inspection Division

To: Jean Fraser, Planner
From: Marge Schmuckal, Zoning Administrator
Date: October 10, 2008
Re: 194 Park Avenue

This property is located in the R-6 residential zone. According to the assessor's records the building and use (retail sales) were built in 1940, prior to the current land use zoning ordinance which went into effect on June 5, 1957. Apparently, the underlying zone has always been an R-6 residential zone as evidenced by appeals dated in 1963. The building and use were made legally nonconforming when the 1957 land use ordinance went into effect.

Changing the zone to a B-1 zone would not make this property any more nonconforming as to setbacks. The B-1 zone does not have a minimum lot size. Therefore the current R-6 nonconforming lot size would become conforming under the B-1 zone change. The only nonconforming setback under R-6 and B-1 is the right side of the building that is at approximately 0' setback. Both the R-6 and B-1 zones require a 10' setback. The proposed zone change would result in this property being less nonconforming in regard to dimensional requirements.

Marge Schmuckal
Zoning Administrator

Att. F1

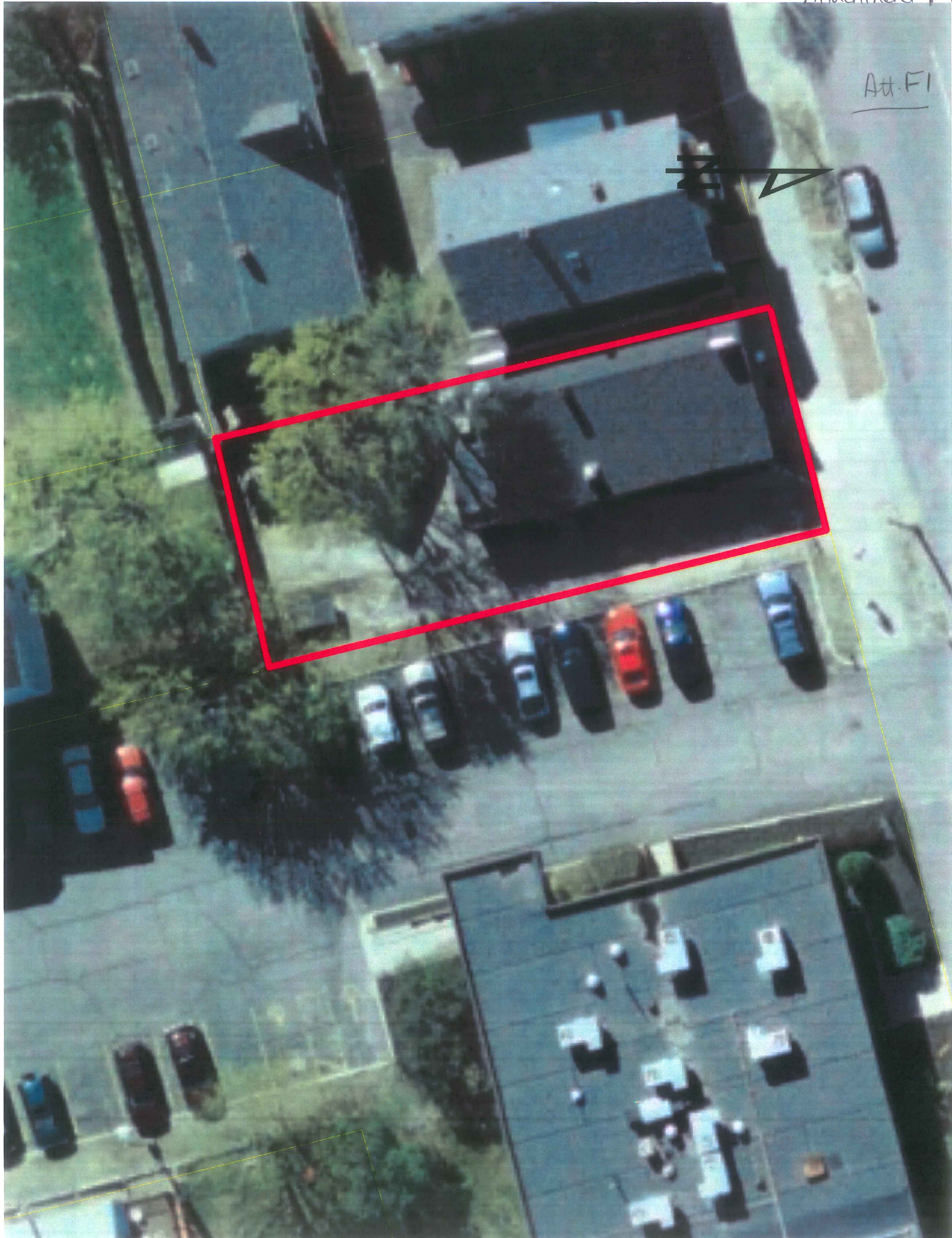




Table 1: 194 Park Avenue: Comparison of Zoning Options [toned items are understood to be grandfathered for this site]

Standard	Proposal based on existing building	R-6 Residential Zone	B1 Neighborhood Business Zone
Uses	<p>Existing Building: 1436 sq ft Proposed use by public: approx 1000 sq ft (looks like could be just under 1000 sq ft)</p> <p>Proposed Use (from submission statement): Full service restaurant seating up to 35 with on premises sale and consumption of alcohol</p> <p>Note: the layout of the restaurant (Plan A1.1) suggests there are going to be 39 seats.</p>	<p><i>Permitted:</i></p> <ul style="list-style-type: none"> - Residential single and two family; m/f unit; handicapped unit; s/f manu etc incl sp needs - Lodging house - Cemeteries - Parks - Accessory uses - Home occupation - Municipal uses <p><i>Conditional uses:</i></p> <ul style="list-style-type: none"> - Sheltered care group homes - Institutional - Utility substations - Prof offices excl personal services, retail services and Vets - Chancellery - Nursery school/kindergarten - Off street parking for permitted R-6 uses - Day care/home babysitting 	<p><i>Permitted:</i></p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p><i>Conditional use:</i> (ZBA determination) Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function (prohibits uses generating in excess of a ration of 100 peak hr vehicle trips per 2000 sq ft of space and generates in excess of 100 peak hr vehicle trips)</p> <p>None</p>
Min. Lot Size	3967 sq ft	Generally 4500 sq ft for permitted/cond. uses	None
Min. Street Frontage	41.2 feet	40 Feet	50 ft or average of all lots w/in 200 ft
Min. Lot Width	41.2 feet	50 Feet	None
Min. Front Setback	5 feet (same as abutting bldg one side)	10 Feet; no maxs	10 feet max.; less if nearest developed lots are closer; can average on other side
Min. Side Setback	0 one side; 11.5 ft other side	10 ft (1-2 stories)	None or 10 feet if adjacent res.
Min. Rear Setback	35 feet not incl parking	20 Feet	None or 20 feet if adjacent res.
Max. Lot Coverage	36%/1436 sq ft bldg	40% (over 20 units)	None- see impervious
Max. Building Height	16 feet	45 Feet	Max allowed in R-6
Open Space/Ratio	N/R	20% (less than 20 res units)	Not mentioned; see impervious
Max. Impervious Surface	95% (JF est.)	Not mentioned	90%
Off-Street Parking	3-4 spaces	Restaurants: 1 parking space for each 150 sq ft floor restaurant area not used for bulk storage or food preparation ie about 7 spaces	Restaurants: 1 parking space for each 150 sq ft floor restaurant area not used for bulk storage or food preparation ie about 7 spaces

Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman, Co-Owner Greg's Properties & Co-Owner Binga's Wingas
CC: Mango LLC
Date: October 30, 2008
Re: 194 Park Ave; Definition of business parameters

Proposed Hours of Operation: 11:30am to 11pm

Type of Service: The majority of the sales are intended to be food sales; take out, and quick meals. We do intend to ask for a full liquor license because we feel that a full adult beverage selection benefits our customers.

We feel that we will draw our customer base from two sources. The first is the neighborhood. This is a section of Portland that is dominated by rentals whose residents need local options for both eat-in and take-out meals. Second, the users of the four event venues situated within walking distance (three of which lack comfortable food options) would likely grab a bite to eat before or after attending an event.

Our expected clientele will probably be drawn from the city's base population and we expect that a large portion of the event attendees will be families.

In summary, we intend to run a food oriented establishment with roughly 75% of total sales coming from food products.

Thank You for Your Time

*Draft as prepared by
Dw-C and sent to applicant's
attorney
week of Oct 20th of
Attachment I,*

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

from Adam Gonzalez.

11/3/08

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

Attachment J

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

Deleted: , a copy of which is attached hereto as Attachment 1,

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

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1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: not less than 2 spaces of on-site parking

Deleted: 4

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property without applicable permits.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. The air conditioning units shall have sound attenuation screening.

Deleted: All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties.

Deleted: also

Att J3

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property. The Developer may repair, replace and maintain the improvements all in accordance with the zoning requirements for the B-1 zone.

12. In the event of a material breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), which breach continues for six (6) months after written notice, or if such breach is incapable of being cured within said period, such additional period as may be required to cure the same provided the Developer is prosecuting such cure, the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated rights, restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

Att J4.

BY: Alec Altman, its Manager
CITY OF PORTLAND

BY: _____
Print name: _____
Title: _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

O:\LAWOFFICE\REALTY\Altman\194 Park Ave\Contract Zone\194 Park Ave 10-22-08assentoappl rev.doc

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DRAFT

Attachment K.

From: Danielle West-Chuhta
To: Barhydt, Barbara; Fraser, Jean
Date: 11/4/2008 3:40:32 PM
Subject: Fwd: RE: Alec Altman/194 Park Avenue, Portland

Jean:

I have the following concerns with the edits made to the conditional zone agreement:

First, paragraph 1 on page 1 (where the reference to the copy of the agreement has been removed), I would like to see at least a copy of the memorandum of agreement included as an attachment to the conditional zone agreement and/or the Book and Page reference from the Registry of Deeds.

Next, (also on page 1) with regard to the changes made to the parking requirements, it seems important to me to at least maintain the existing parking on site which (I believe) is 4 spaces (this, of course, is a decision for the Board, but I wanted to point out my concerns).

Third, (also on page 1) I have concerns about the change to the language regarding ventilation. Pursuant to the statute and Ordinance one of the central things which must be established is consistency with the comprehensive plan and existing and permitted uses in the area. As such, it is important to ensure that the development (including its ventilation) does not overly impact the surrounding community.

Fourth, (on page 2) I do not like the inclusion of the language in paragraphs 11 and 12. The language in paragraph 11 seems unnecessary, and the language in paragraph 12 must be removed since the City should not be hindered in its ability to enforce the agreement.

Finally, the inclusion of a signature line for the City needs to be removed from the agreement since this is a conditional zone agreement (wherein conditions are placed on the development by the City) and not a contract with the City.

Thanks a lot,

Danielle

Memorandum
Department of Planning and Urban Development
Planning Division

To: Chair Tevanian and Members of the Portland Planning Board
From: Jean Fraser, Planner
Date: Prepared October 10, 2008
Prepared for October 14, 2008 Planning Board
Re: 194 Park Avenue
Conditional Rezone Application

1. Introduction:

Greg's Properties LLC has requested a Conditional Rezone to allow for the change of use and associated remodeling of the existing building at 194 Park Avenue.

The existing building is currently a food market (with some food service) within the R-6 residential zone and the proposal is for a change of use to a full service restaurant within the existing building. The proposal also includes internal and external refurbishment. The building footprint and site layout, including parking, are proposed to remain as these currently exist.

2. Current Submission

Attachments A, B and C is the applicant's submission, with the associated plans included at Attachment G. The submittal includes a brief description of the existing and proposed uses, a Purchase and Sale Agreement and a narrative with other information including letters of support.

The applicant has sought a zone change to enable the establishment of a restaurant in this location, which is not a permitted use in the underlying R-6 zone. There have been staff discussions over what rezone mechanism best "fits" the proposal and three options have been outlined in this Memo.

3. Project Description

The site is a small lot measuring approximately 41 feet by 97 feet on the south side of Park Avenue opposite the Iris Center and near the Expo and the Hadlock Field Stadium. The existing convenience store/food market comprises a 1436 sq ft concrete block and wood framed building immediately adjacent to the western property boundary with no

proposed uses (types of food to be served; hours of opening) is included in the Memo dated 10.9.08 (Attachment C) which states that as proposed it would not increase the existing nonconformity.

4. Requested Rezoning

The applicant has requested conditional zoning within the R6 zone. Conditional or Contract Zoning is allowed under Division 1.5 of the City's code where it meets the following:

Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan.

The Council is able to impose conditions under Section 14-62:

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) Limitations on the number and types of uses permitted;*
- (b) Restrictions on the scale and density of development;*
- (c) Specifications for the design and layout of buildings and other improvements;*
- (d) Schedules for commencement and completion of construction;*
- (e) Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;*
- (f) Preservation of open space and buffers, and protection of natural areas and historic sites;*
- (g) Contributions toward the provision of municipal services required by the development; and*
- (h) Provisions for enforcement and remedies for breach of any condition or restriction.*

(Ord. No. 31-85, 7-15-85)

Building additions are encouraged but not required to meet the maximum setbacks of 14-165(c)(3). This zone shall encourage mixed use buildings such as commercial first floor with residential uses above or combined retail/office uses in a multistory structure.

Suitable locations for this zone may include street intersections and arterial streets with existing or proposed traditional neighborhood retail and service uses.

If the site were rezoned to B1, conditions for addressing within the conditional rezone would be required at least in relation to the parking requirement. As a restaurant is a conditional use within the B1 zone, the Conditional Zone Agreement would need to indicate whether the proposal requires Zoning Board of Appeals approval.

B1 Map Change

This option assumes that the building and setbacks are grandfathered and that off site parking in the vicinity of the site could be arranged by the applicant so that it met parking requirements of the code. This would allow a map change to B1. As restaurants are a conditional use within B1, the use would need to go before the Zoning Board of Appeals and show that it meets the conditional Use requirements of B1 – which are as follows (14-163(a)):

1. *Maximum total floor area for use of the public shall be one thousand (1,000) square feet;*
2. *The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;*
3. *Food service and consumption are the primary function of the restaurant; and*
4. *There shall be no drive-through service.*

Table 1 below summarizes the existing characteristics of the site/proposed use as compared with zoning requirements for R-6 and B-1 zones.

One other factor for consideration is that the adjacent medical offices (190 Park Avenue) were constructed in 1972 and prior to the current R-6 zoning text and therefore do not comply with the conditional use requirements of the R-6 zone. This property (total of 17,064 sq ft floorspace in 2 condo units;) is currently on the market and could be included in the rezone area. The Planning Board could advertise a larger area and include this site. Professional offices, excluding veterinarians are permitted in the B-1 zone.

4. Staff comments

Staff has the following comments on the proposed conditional rezone request to allow for the change of use to a restaurant:

- a. In principle the Comprehensive Plan supports the retention of neighborhood businesses that serve the community. The policies are included in section 5 below.
- b. The proposed remodeling concept extends the higher part of the roof to the back building line and therefore increases the extent of its nonconformity with side setback requirements. The roof extension does screen and buffer roof-top mechanicals.
- c. The parking provision is not only less than the zoning requirement for a restaurant use of this size, it is difficult to access with limited turning area and does not meet current parking space standards. There appears to be a need for additional or “dual” use parking) in the vicinity, if this could be negotiated.
- d. If the preferred option requires a conditional zone agreement for this project, regardless of the zone, is recommended to include:
 - i. A maximum floor area of 1000 sq feet for the use by the public to minimize scale of activity;
 - ii. Limit on hours of operation due to the proximity of neighbors (same as for B1 conditional use for restaurant);
 - iii. Requirement that all ventilation, including A/C units, be located on the east side of the building i.e. towards the medical offices to avoid fumes and noise for the neighbors close to the other side and rear boundaries of this site. In addition, A/C units should include sound attenuation screening.;
 - iv. Site improvements (i.e. enclosure of the dumpster);
 - v. Clear requirement that food service should continue to the hour of closing and that food service and consumption remain the primary function of the restaurant
 - vi. No drive thru (as per B1 conditional use)

5. Comprehensive Plan

Under 14-60 (see above) the proposed conditional zone must be consistent with the Comprehensive Plan. The applicant has submitted their assessment of consistency with the City’s Comprehensive Plan (Attachment C). The Planning Staff have identified the following relevant policies:

Attachments:

- A. Conditional Rezoning Application (plans in G)
- B. Purchase and Sale Agreement
- C. Memo from applicant with narrative and supporting information
- D. Zoning Administrator comments
- E. Photographs
 - 1. Aerial
 - 2. Assessors
- F. Submitted plans showing existing and proposed



City of Portland, Maine
Department of Planning and Development
Conditional/Contract Rezoning Application

Application ID: 1427 Application Date: 08/26/2008 CBL: 053 B020001 Property Location: 194 Park Ave

Applicant Information:

Alec Altman

Name

Greg's Properties, LLC.

Business Name

26 Village Brook Road

Address

Yarmouth, ME 04096

City, State and Zip

9142614440

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

Contract for purchase and sale

Current Zoning Designation: R6

Existing Use of Property:

Wood framed building operated as a food market.

Proposed Use of Property:

Remodel the existing food service to a full service restaurant.

Property Owner:

Mango Llc

Name

54 Marlborough Rd

Address

Portland, ME 04103

City, State and Zip

Telephone

Fax

Amendment A []

Amendment B []

Amendment C [x]

Section 14:

Requested:

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: APPROVAL DATE: ENACTMENT DATE:



A2

Zoning Amendment Application
Department of Planning and Development
Planning Division and Planning Board

1. **Applicant Information**

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
914-261-4440
Phone Fax

2. **Subject Property**

194 Park Avenue
Address
53-B-20
Assessor's Reference (Chart-Block-Lot)

3. **Property Owner:** Applicant Other

Mango, L.L.C.
Name
54 Marlborough Road
Address
Portland, ME 04096
233-3562 773-5480
Phone Fax
Attn: Katie Allen

4. **Billing Address:**

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
Attn: Alec S. Altman

4. **Right, Title, or Interest:** Please identify the status of the applicant's right, title, or interest in the subject property:

Contract for Purchase and Sale of Commercial Real Estate dated August 6, 2008 between Mango, L.L.C. (Seller) and Greg's Properties LLC (Purchaser) see Exhibit A
Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. **Vicinity Map:** Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)
See Exhibit B

6. **Existing Use:**

Describe the existing use of the subject property:

See Exhibit C

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7. Current Zoning Designation(s): R6

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See Exhibit D

9. Sketch Plan: On a separate sheet, please provide a sketch plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 100'.) See Exhibit E

10. Proposed Zoning: Please check all that apply:

A. _____ Zoning Map Amendment, from _____ to _____

B. _____ Zoning Text Amendment to Section 14-_____

For Zoning Text amendment, attached on a separate sheet, the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. Application Fee: An Application Fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below.) The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

Fee for Service Deposit \$200.00
(This fee is required for all applications in addition to the application fee listed below)

_____ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

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Exhibit A
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Memorandum of Contract for Purchase and Sale of
Commercial Real Estate

AL

**MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

The undersigned, being duly sworn, do hereby depose and say:

1. **GREG'S PROPERTIES LLC**, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with **MANGO, L.L.C.**, a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Less to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this _____ day of August, 2008.


MANGO, L.L.C., Seller

Witness

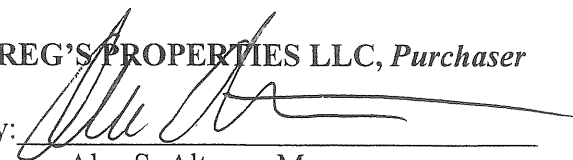
By: _____
Malling J. Mango, Member

Witness

By: _____
Catherine H. Mango, Member



Witness

GREG'S PROPERTIES LLC, Purchaser
By: 
Alec S. Altman, Manager

A7


MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE

The undersigned, being duly sworn, do hereby depose and say:

1. GREG'S PROPERTIES LLC, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with MANGO, L.L.C., a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Lees to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "property").


2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this 20 day of August, 2008.


Witness

MANGO, L.L.C.
By: 
Malhine Mango, Member


Witness

By: 
Catherine H. Mango, Member

GREG'S PROPERTIES LLC, Purchaser

By: _____
Alice S. Altman, Manager

Witness

A8

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Malling J. Mango in his said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 20, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing,

Before me,  _____
Attorney at Law/Notary Public

A9

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Malling, I. Mango in his said capacity and gave oath to the truth of the foregoing.

Before me, [Signature]
Attorney at Law/Notary Public
KATHLEEN G. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing.

Before me, [Signature]
Attorney at Law/Notary Public
KATHLEEN G. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

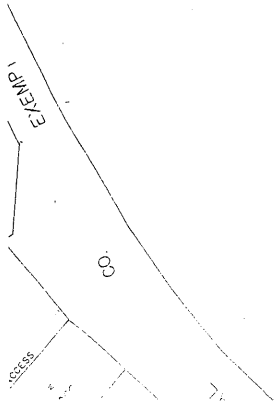
August 21, 2008

Then personally appeared the above named Alec S. Allman in his said capacity and gave oath to the truth of the foregoing.

Before me, _____
Attorney at Law/Notary Public

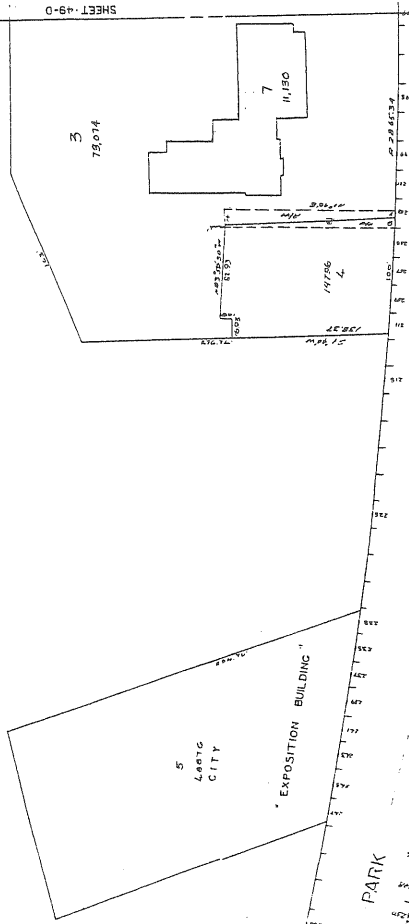
EXHIBIT B
TO
ZONING AMENDMENT APPLICATION

APPLICANT: Greg's Properties LLC
PROPERTY: 194 Park Ave. (53-B-20)



"RICHARDSON FIELD"

(C)



SHEET 49-0

№ 52



№ 53

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SHEET 49-C

SHEET 48-D

SHEET 50-B



PARK AVENUE

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EXHIBIT B - continued
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

5. **Vicinity Map:** Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Map, Block & Lot	Address	Owner(s)	Owner(s) Address	Land Use
53-B-9	198 Park Ave.	Allan S. & Donna M. Higgins	P.O. Box 10957, Portland, ME 04101	Five to Ten Family
53- B-34 &10	180 Park Ave., #1	Melburn P. & Jean K. Smith	P.O. Box 262, Harpswell, ME 04079	Medical Condominiums
53- B-34 & 10	180 Park Ave., #2	My Darling II LLC	5 Moulton St., Ste. 3, Portland, ME 04101	Medical Condominiums
53-B-21	177 Grant St.	Daniel K. Nere	177 Grant St., Portland, ME 04101	Three Family
53-B-19 &18	183 Grant St.	Michelle M. Cyr	183 Grant St., Portland, ME 04101	Two Family
52-C-3	189 Park Ave.	The Iris Network	189 Park Ave., Portland, ME 04102	Benevolent & Charitable/office
52-C-7	191 Park Ave.	Iris Park Apartments LP	201 Park Ave., Portland, ME 04101	Twenty-One Plus Family

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Exhibit C
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

6. Existing Use: Describe the existing use of the subject property:

The site consists of 3,967 +/- square feet with an existing 1,436 +/- square foot concrete block and wood framed building operated as a food market with commercial restaurant hood, griddle, fryer, gas fired range and ovens, limited table seating, with sales of pasta, pizza, calzones, hot wings, hamburgers, cheeseburgers, hot dogs, fries, hot and cold sandwiches, salads, breakfast and grocery items and beer.

A13

Exhibit D
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

8. Proposed Use of Property: Please describe the proposed use of the property. If construction or development is proposed, please describe any changes to the physical condition of the property.

The premises are located in close proximity to the Portland Expo, Hadlock Field and Fitzpatrick Stadium. The proposed use is a remodel of the existing food service use to a full service restaurant in which full course meal food service and consumption shall be the primary function of the restaurant but the restaurant will also include on premises alcohol sales and consumption. Full course meal service will be continued up until the hours of closing. The restaurant will have indoor seating capacity for up to thirty-five (35) patrons and will be developed substantially in accordance with the attached sketch plans (see Exhibit E). No live music will be permitted on the premises.

A14

Exhibit E
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Plans (7 Sheets)

CONTRACT FOR PURCHASE AND SALE OF COMMERCIAL REAL ESTATE

Contract date: August 5, 2008

Effective Date: 8-6, 2008

THIS CONTRACT is entered into by and between MANGO, L.L.C., a Maine limited liability company whose address is 54 Marlborough Road, Portland, Maine 04103 (the "Seller"), and GREG'S PROPERTIES LLC or its assignee, a Maine limited liability company, whose mailing address is c/o Alec S. Altman, 26 Village Brook Road, Yarmouth, Maine 04096 (the "Purchaser").

1. PROPERTY.

The Seller agrees to sell and the Purchaser agrees to purchase the real estate and all improvements located at 194 Park Avenue, in the City of Portland, County of Cumberland, State of Maine, being the same premises described in a deed dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (collectively, the "Property").

2. PERSONAL PROPERTY AND EQUIPMENT

The Seller agrees to sell and the Purchaser agrees to purchase the personal property and equipment located on the Property which is owned by Seller and more particularly described on Exhibit A attached hereto (the "Equipment"), which Equipment shall be in working condition at closing. All fixtures located upon the Property shall be included in this sale.

3. PURCHASE PRICE: DEPOSITS: ESCROW.

The total Purchase Price for the Property shall be [redacted] and shall be payable as follows:

(i) An earnest money deposit in the amount of [redacted] shall be deposited with NAI THE DUNHAM GROUP (the "Escrow Agent"), upon execution of this Contract (the "Deposit"). The balance of the Purchase Price shall be paid at closing by wire transfer, bank or certified check.

(ii) The Escrow Agent shall hold the Deposit subject to the terms of this Contract in a non-interest bearing account pending closing. The Deposit shall be credited to Purchaser at closing. In the event of a dispute, Seller and Purchaser shall hold the Escrow Agent harmless from damages, losses or expenses arising out of this Contract except for Escrow Agent's gross negligence or willful misconduct. In the event of an asserted default, the Escrow Agent at its option may either (1) refuse to release the Deposit without a written release signed by both parties consenting to its disposition or (2) after providing thirty (30) days' written notice to both parties, release the Deposit to a court of competent jurisdiction and be relieved of all duties as Escrow Agent.

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(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [REDACTED] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$ [REDACTED]
b. Building	\$ [REDACTED]
c. Land	\$ [REDACTED]
Total:	\$ [REDACTED]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE: DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

The Purchaser shall receive from the Seller a Warranty Bill of Sale for the Equipment, and such other title-clearing documents such as a sales tax clearance letter/certificate and an unemployment tax clearance letter/certificate from the State of Maine and a list of creditors and indemnification against prior debts, and stating that the Equipment is of good and marketable title, free and clear of all encumbrances, liabilities or liens and in good and usable condition.

8. INSPECTION PERIOD. INTENTIONALLY OMITTED.

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9. PERMITS/CONTRACT ZONE.

(a) Purchaser's obligation to close hereunder is contingent upon Purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

13. RISK OF LOSS.

Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than **Katherine Allen of NAI The Dunham Group**. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than **Michael Pizzo of Commercial Properties, Inc.** (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract

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and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., *Seller*

By: _____

Malling J. Mango, Member

Witness

By: _____

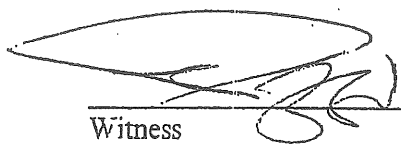
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, *Purchaser*

By: _____

Alec S. Altman, Manager



Witness

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EXHIBIT A

Hobart # 1712 12" blade slicing machine
Readco 20 qt. counter model mixing machine
Hobart Power head mod # 4322 w/ grating attachment
2 Single glass door true merchandising cooler
Bev-air 52" 2 sliding door merchandising cooler
Pinnacle 126" refrigerated merchandising half doors
Refrigeration unit for 6' X 15' walk-in cooler
8' SS Hood System
Ansil system for hood.

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**CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

... Seller agrees to provide a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

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10. PURCHASER'S ACCESS TO THE PROPERTY.

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11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [REDACTED] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$ [REDACTED]
b. Building	\$ [REDACTED]
c. Land	\$ [REDACTED]
Total:	\$ [REDACTED]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE; DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

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8. INSPECTION PERIOD, INTENTIONALLY OMITTED.

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9. PERMITS/CONTRACT ZONE.

(a) Purchaser's obligation to close hereunder is contingent upon Purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

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11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

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Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than **Katherine Allen of NAI The Dunham Group**. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than **Michael Pizzo of Commercial Properties, Inc.** (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract

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and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., Seller

By:

Malling J. Mango, Member

Witness

By:

Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, Purchaser

By:

Alec S. Altman, Manager

Witness

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EXHIBIT A

- Hobart # 1712 12" blade slicing machine
- Readco 20 qt. counter model mixing machine
- Hobart Power head mod # 4322 w/ grating attachment
- 2 Single glass door true merchandising cooler
- Bev-air 52" 2 sliding door merchandising cooler
- Pinnacle 126" refrigerated merchandising half doors
- Refrigeration unit for 6' X 15' walk-in cooler
- 8' SS Hood System
- Ansil system for hood.

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Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman
CC: Mango LLC
Date: October 9, 2008
Re: 194 Park Ave

We are asking the city to approve a conditional zone, a contract zone or a zone change for 194 Park Ave. Currently the location is owned by Mango LLC and operated as a sandwich shop with bulk food and carry-out alcohol sales. The property has been listed 'for sale' on the open market for some time with only one current viable suitor, Greg's Properties, LLC (hereafter Greg's). Greg's has the property under contract for purchase from Mango LLC (hereafter Mango), pending the outcome of this request.

Greg's proposes to convert the market into a seated restaurant (with approximately 35 seats, preliminary plans submitted) themed specifically around hamburgers. The restaurant will be named Burger Joint. Binga's will form a subsidiary named Burger Joint, LLC (hereafter Burger Joint). Burger Joint will rent the property from Greg's. The menu is going to be themed around ground meat. This is what Burger Joint is planning on serving. There will be a variety of patty options available; beef, pork, turkey, ostrich, elk, buffalo, duck, chicken, lamb and vegetarian have been looked into, served either on a bun, in a bagel, with a salad or over nachos. Hot dogs and tofu dogs with a variety of toppings, dinner plates and some alcohol options will round out the menu. We feel that there is an economic opportunity in bringing the restaurant model to the neighborhood. Binga's success on Congress St, along with a variety of new neighboring restaurants that have been successful throughout the city, demonstrates the demand. People are looking for accessible median-priced food options within walking distance of their homes and destinations.

The controlling rules are Sec. 14-382 which states that "Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity." Section 14-382 (e) reinforces general compliance with all other code sections, Section 14-333 (i) mandates one (1) parking space for each one hundred fifty (150) square feet of floor area not used for bulk storage or food prep and the R-6 zone expressly prohibits restaurants.

The property at 194 Park Ave. is currently run by Mango (dba Terroni's Market), operating as a food vendor that sells alcohol and is open to the general public seven days a week for roughly twelve (12) hours a day. One third (1/3) of the building is used as a kitchen, with the remainder consisting of a non-ADA bathroom, office, two (2) tables with eight (8)

seats, coolers and display racks. It is non-conforming as to use and parking. Binga's Wingas, LLC proposes a full service restaurant with a kitchen, two ADA bathrooms, an office, service area and support area. Burger Joint proposes to be open seven days a week for approximately twelve (12) hours per day with shorter hours of operation Sundays. The property is currently licensed by the city of Portland for what it does, the state Dept. of Health for food service and by Public Safety for beer sales. Binga's would pursue licenses from those same entities. We consider our non-conformity similar enough in nature that it fits within this section. Section 14-382 (b) expressly prohibits any change in building size and scope, neither of which Binga's plans on doing to the location. Binga's feels that our proposed operation "would not create any new non-conformity, nor increase any existing non-conformity." In addition, Binga's feels that there is a directive within the comprehensive plan encouraging the city to pursue this type of property redevelopment.

FROM THE PLAN

- I. **Build A Vibrant Small City** Build upon the distinctive fabric of Portland's built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns.
- II. **A City That Is A Good Place To Live** Portland retains a small town feel with a built environment that is scaled for people, is pedestrian friendly and is accessible to the community. Residents value and seek to enhance the safety of the community, the proximity of commercial uses near residences and the walkable nature of the city.
- III. **Conditional and Contract Zones** Conditional or contract zoning is authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan.
- IV. **Portland Neighborhood economic development study, 1982 Goals** Carefully weigh the value of on-street parking when making decisions concerning traffic, snowplowing and road maintenance in the commercial centers.
- V. **Portland Neighborhood economic development study, 1982 Policies** Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents. Ensure the integrity and economic value of Portland's neighborhoods.
- VI. **City Issues #1-City land use** Within Portland Itself, land use has been decentralizing for at least the last 30 years, making transportation by foot, bicycle and bus more and more unlikely. ... Where sufficient densities and concentrations of activities already exist to support public transit, or are allowed by zoning, they should be continued and/or obstacles to reaching their potentials (such as unrealistic off-street parking requirements) should be removed.

There is potential for an issue to be raised by the number of parking spaces for the facility. Binga's feels that we should not need to provide more than those already on the premises. During the conversion, Binga's will be upgrading the bathrooms, the two ADA bathrooms require a parking space each and the work space behind the dinner counter requires a space. These are necessary by law and need and should be taken into

consideration. The neighborhood has ample street parking and when events happen, there are a number of additional city and private lots open to the public. On event days, there are numerous parking lots and on non-event days there is more than ample street parking.

C₃

Binga's Wingas runs a community restaurant, preparing team dinners for the Sea Dogs and staff meals for the Portland Pirates. Binga's donates to the Boys and Girls Club, Camp Susan Curtis, Maine Medical Center and the Westbrook chapter of the Animal Refuge League, just to name a few. Binga's has a good working relationship with the community, has created jobs and tax base and offer a comfortable local environment. Binga's hopes to make Burger Joint the same type of place. It will be built to serve the local community, both commercial and residential, enhance property values and be an asset for the city.

Email Responses to the Burger Joint Proposal

C4

Good morning Binga's Wingas-

Thanks for sending the email update, and I applaud you for your partnership with the Animal Refuge League.

As the marketing coordinator for the Amtrak Downeaster, I think the BURGER JOINT would be highly beneficial and help attract more tourism to the Portland Area. In July of 2008, the Downeaster experienced a 31% growth in ridership on our northbound trains over last year. We see more and more people traveling to the Portland area for day and overnight trips. A lot of our riders go to the Sea Dogs games and are often looking to kill time before or after the game. More attractive destinations on the public transportation route and within walking distance from the Portland Transportation Center would only help with the effort to bring more people to this wonderful city.

I wish you good luck and hope it works out.

Natalie Allen
Northern New England Passenger Rail Authority
Sales & Marketing Coordinator
207-780-1000 x 108
[REDACTED]

Having a Burger Joint directly across from the Expo, the hockey rink, Hadlock Field and within striking distance of schools and medical office space is an outstanding usage for that property.

GREG BISHOP
Chairman, MDAC
Marketing Director, MetLife of Greater Maine - C92
62 US Route One
Cumberland Foreside, ME 04110
office: (207) 781-0954 x14
[REDACTED]
[REDACTED]
Metropolitan Life Insurance Co., New York, NY 10166

I think a burger joint would be great. There really aren't that many around since Ruby's Choice closed up shop. The only local one I can think of is Wild Willy's which is very good, but they don't have any competition.

My two cents,
David Waldecker
South Portland
[REDACTED]

Email Responses to the Burger Joint Proposal

C5

A reply to the idea of creating a restaurant on park ave:

I think this is a great idea. Currently there are few locally owned and operated restaurants near Hadlock field (not to mention the Portland Expo and the Portland Ice Arena). It would be wonderful to have a local joint to socialize, meet, and enjoy with friends after the game or when you are by the park. This area is within walking distance to many areas (Grant, High, etc.) that have many options on the hill, but so few close to the residential areas. I think that in the spirit of capitalism, and the desires of Portland residents, the owners of Binga's Wingas should have the right to convert the current space into an area that friends and family can congregate for any occasion to enjoy good food closer to their homes.

Jeanna Leclerc
Allen Ave, Portland, ME
~~jeanna@jeanna.com~~

Please forward this email to the City of Portland ---

I support **(with great enthusiasm)** Binga's plan to open a burger restaurant on Park Ave in Portland. It would be a wonderful location for a family style restaurant with affordable and high quality food!

Thank you,

Gayle Duncan
7 Deerfield Rd
Portland, ME
~~gduncan@gwinet~~

Binga's Wingas Proposes Burger Joint

Name: Steven

Do you live in the neighborhood?

Thoughts: Yes No

We ♥ Bingas!
\$ want more!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: David Cekotis

Do you live in the neighborhood?

Thoughts: Yes No

I live in Sofo, work
in Portland. I think this
would be a positive development
for the area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: William Gartfield

Do you live in the neighborhood?

Thoughts: Yes No

Great idea! Portland needs
more casual dining w/

a great atmosphere such as Bingas.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Tina Shaw

Do you live in the neighborhood?

Thoughts: Yes No

Wonderful proposal!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Derek Gierhan

Do you live in the neighborhood?

Yes No

Thoughts:

YES! STAY OPEN UNTIL

2-3am So I can get

GRUB LATE OTHER THAN BILLS PIZZA.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

it's horrible ↗

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matt Thompson

Do you live in the neighborhood?

Yes No

Thoughts:

Burger joints are always good.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: John Suardan

Do you live in the neighborhood?

Yes No

Thoughts:

SUPPORTED PORTLAND ST.

LOYALTY UNTIL IT CLOSED (i)

WOULD LOVE ANOTHER CLOSER LOCATION

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dollie Chase

Do you live in the neighborhood?

Yes No

Thoughts:

But I'd like a new burger place to go

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ARIEL SHUNER

Do you live in the neighborhood?

Thoughts: Yes No

I FEEL THAT THE CITY OF PORTLAND WOULD BENEFIT FROM HAVING A LOCAL BURGER JOINT - ESPECIALLY NEAR MC DOWDY

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C8

Binga's Wingas Proposes Burger Joint

Name: JOSIAH BARCOCK

Do you live in the neighborhood?

Thoughts: Yes No

I WELCOME & FULLY SUPPORT BINGA'S PARK ST. BURGER JOINT DEVELOPMENT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~josiah.barcock@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: EMMA ADAM

Do you live in the neighborhood?

Thoughts: Yes No

Great you should do it

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~emma.adam@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Peter Rickert

Do you live in the neighborhood?

Thoughts: Yes No

I support the cont zone for the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rahel Bayko

Do you live in the neighborhood?

Yes No

Thoughts:

Hello, I thought that that would be great!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: James Montgomery

Do you live in the neighborhood?

Yes No

Thoughts:

I believe in the burger joint for our future

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Eric Antoy

Do you live in the neighborhood?

Yes No

Thoughts:

The Burger Joint is a GREAT idea + will add value, originality + taste to

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address: Partly

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW SAWYER

Do you live in the neighborhood?

Yes No

Thoughts:

I think that would be a good greasy burger joint could add appeal to that area of town.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address: Night Plea

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Nick

Do you live in the neighborhood?

Thoughts:

Yes No *Washington Ave*

A Burger joint that is locally owned
would be excellent! I will not go
to macdonalds. They are a joke!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

I don't like burgers, but ~~see~~
I hear other people enjoy them.

Please check the box to add
your email to our mailing list.

Local businesses are rad!

Binga's Wingas Proposes Burger Joint

Name: Liz Rickett

Do you live in the neighborhood?

Thoughts:

Yes No

I support Bingas Wingas /
~~by~~ Burger Joint at
the Teroni's Market.

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

C10

Binga's Wingas Proposes Burger Joint

Name: D. Johannesen

Do you live in the neighborhood?

Thoughts:

Yes No

please revitalize this
great neighborhood / burger
joint would unite more folks!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Wynn Hahl

Do you live in the neighborhood?

Thoughts:

Yes No

It would be a boon to this
neighborhood to have a
family-style burger joint - ^{more walkable} places are
great!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW ANDERSON

Do you live in the neighborhood?

Thoughts: Yes No

LIKE THE IDEA

FOOD IS GREAT HERE

SURE IT WOULD BE SAME

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matthew Brown

Do you live in the neighborhood?

Thoughts: Yes No

This is a great

Establishment and I would

love to experience the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Miranda Beedin

Do you live in the neighborhood?

Thoughts: Yes No

Great idea. We need

More restaurants like

binga's in town!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Becah Tanner (756-9864)

Do you live in the neighborhood?

Thoughts: Yes No

I think that a

burger joint would be

business and I'd sweet ~~but~~ definitely go!

I'll waitress if you need it for work

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rob

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA! BINGA'S

RULES!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C12
Binga's Wingas
Proposes Burger Joint

Name: Elise

Do you live in the neighborhood?

Thoughts: Yes No

BEST WORKING TEAM!

WE WANT BURGER
JOINT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~AKINGJESS@GMAIL~~
 Please check the box to add your email to our mailing list. ~~COLIN~~

Binga's Wingas Proposes Burger Joint

Name: Ryan C.

Do you live in the neighborhood?

Thoughts: Deciding Yes No

Prime Real estate. The bottom
of the hill needs a place like this. ->

Sea Dogs in the summer. Make it happen

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Anna Liberatore

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see this

happen. It would be great for the
neighborhood. Nothing but good
things to say about the owners &
staff @ Binga's.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~anna.liberatore@gmail.com~~

Please check the box to add your email to our mailing list.

↳ Already on it!

Binga's Wingas Proposes Burger Joint

Name: Mare Colello

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see
a Bingas Burger Joint
in the Terroni's Location.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: A. Eaton

Do you live in the neighborhood?

Thoughts: Yes No

Burgers rule, wingas Rules
Burgers + wingas = WIN

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kate Ziegelmeier
South Portland

Do you live in the neighborhood?

Thoughts: Yes No

Yes please! Burgers...
yummy!! I love Bingas
and I'm sure I'll love their
Burgers!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~KZiegelmeier@comcast.net~~
 Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Kierstead

Do you live in the neighborhood?

Thoughts: Yes No

It would be
beneficial to the area
to seriously consider this.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~Steve.Kierstead@comcast.net~~
 Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Brian

Do you live in the neighborhood?

Yes No

Thoughts:

This would be
a much better use
of the space

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas ^{C14} Proposes Burger Joint

Name: Ben

Do you live in the neighborhood?

Yes No

Thoughts:

Love to see a
burger joint in
the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: JIM HARVEY

Do you live in the neighborhood?

Yes No

Thoughts:

TOWN NEEDS A
GOOD BURGER JOINT...

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXX@XXX.COM~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Justin Henry

Do you live in the neighborhood?

Yes No

Thoughts:

A quality "Burgers" restaurant
would be a welcome addition. Can't
wait to see you set up and running.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXX@XXX.COM~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Scott Wyman

Do you live in the neighborhood?

Thoughts: Yes No

A very good idea, will
bring community feel to area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~mail@scottwyman.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Riddell

Do you live in the neighborhood?

Thoughts: Yes No

I work in the neighborhood
and would love a burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Martha Lafferty

Do you live in the neighborhood?

Thoughts: Yes No work in the area

I love Bingas and
would love a Burger place
in this area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

rel2@maine.rr.com

Binga's Wingas Proposes Burger Joint

Name: Suzy Preston

Do you live in the neighborhood?

Thoughts: Yes No

It would be perfectly suited
for the Hadlock, Fitzzy Expo
crowd. And a good neighborhood
space.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~Suzy.preston@maine.rr.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Josh Harris

Do you live in the neighborhood?

Thoughts: Yes No

Best of luck

Better than fast food

Joints

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXX@XXXXXX.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Berg

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA, PERFECT

LOCATION, TAKE OUT COULD

GO OVER TO PARK & PICNIC

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXX@XXXXXX.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Carly Ladd

Do you live in the neighborhood?

Thoughts: Yes No

yes on burger

joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dan Wallach

Do you live in the neighborhood?

Thoughts: Yes No

I am in favor
of rezoning for Burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXX@XXXXXX.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christine

Do you live in the neighborhood?

Thoughts: Yes No

it would be great!

Love the idea

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Melissa

Do you live in the neighborhood?

Thoughts: Yes No

This is brilliant!

Sweet location and the burgers are bound to be awesome. ROCK ON!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:



Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Michelle Lister

Do you live in the neighborhood?

Thoughts: Yes No

We need this!

Great Idea!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Manica + Jeff

Do you live in the neighborhood?

Thoughts: Yes No

We live right down the street from Terroni's on Park Ave. I think that would be a great location for the burger joint.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Natalie Ladd

Do you live in the neighborhood?

Yes No

Thoughts:

I like the idea of
the burger joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~
~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Haer

Do you live in the neighborhood?

Yes No

Thoughts:

That area needs a good
local restaurant/pub to
help revitalize the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Seth Offer

Do you live in the neighborhood?

Yes No

Thoughts:

This would be great
a good place to go to eat
See dogs games

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kimberly Sundik

Do you live in the neighborhood?

Yes No

Thoughts:

Yes, Binga's
Wingas
Burgers !!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: AMBER PHILBRICK

Do you live in the neighborhood?

Yes No

Thoughts:
GREAT WINGS HERE!
DO VEGGIE/CHICKEN
BURGERS TOO!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kelly C.

Do you live in the neighborhood?

Yes No

Thoughts:
I mean... I wouldn't
mind a burger joint ↓
is Bingas staying ??

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christae Salma

Do you live in the neighborhood?

Yes No

Thoughts:
Yahoo! Doct

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kesha Bey

Do you live in the neighborhood?

Yes No

Thoughts:
You should put
more bingas around

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Mertel

Do you live in the neighborhood?

Thoughts: Yes No

I Live in W. Deering area

I would love another

Binga's establishment in Town!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Good quality
handmade burgers
are key... we live
in walking distance and
are grad. students. Will
pay a couple ~~\$\$~~ more for
good stuff!



MEMO
Planning and Urban Development
Inspection Division

To: Jean Fraser, Planner
From: Marge Schmuckal, Zoning Administrator
Date: October 10, 2008
Re: 194 Park Avenue

This property is located in the R-6 residential zone. According to the assessor's records the building and use (retail sales) were built in 1940, prior to the current land use zoning ordinance which went into effect on June 5, 1957. Apparently, the underlying zone has always been an R-6 residential zone as evidenced by appeals dated in 1963. The building and use were made legally nonconforming when the 1957 land use ordinance went into effect.

Changing the zone to a B-1 zone would not make this property any more nonconforming as to setbacks. The B-1 zone does not have a minimum lot size. Therefore the current R-6 nonconforming lot size would become conforming under the B-1 zone change. The only nonconforming setback under R-6 and B-1 is the right side of the building that is at approximately 0' setback. Both the R-6 and B-1 zones require a 10' setback. The proposed zone change would result in this property being less nonconforming in regard to dimensional requirements.

Marge Schmuckal
Zoning Administrator



PLANNING BOARD WORKSHOP 10.14.2008

194 Park Avenue Conditonal Zone

Planners Presentation:

1. Review: Conditional zone application - applicant anticipating R-6 contract zone; staff have suggested some alternatives that include B1 conditional zone and B1 Zone Map Change.
2. Correction: The legal advertisement incorrectly stated Mango LLC as the applicant. For the record, Mango LLC are the owners and Greg's Properties LLC are the applicant.
3. Public Notice; The project has been noticed to 169 parties and no comments have been received by the Planning office
4. Proposal: The applicant seeks to convert the existing retail market, which is legally nonconforming in relation to both the use and the dimensions, to a small restaurant within the same building. The applicant has described the proposal in Attachment C.
5. Zoning: The Zoning Administrator has reviewed the project and confirmed that a rezone to B1 would result in this property becoming less nonconforming. Based on Table 1:
 - If R6 Conditional Use, would require modification re the use and the parking and include conditions re the intensification of the use
 - If B1 Conditional Use, would require modification re the parking and include conditions re the intensification of the use
 - If B1 Map change, applicant would need to meet parking requirements and the use would be reviewed by the Zoning Board of Appeals in the context of the B1 Conditional Use requirements (listed on page 5 of Memo)
6. Adjacent medical offices: it is understood from the Zoning Administrator that these offices received a conditional use permit in 1972 and met the requirements in place at that time; therefore they are legally non-conforming in the context of the current Zoning.
7. Staff comments; Staff comments are summarized on page 7 of the memo. Central to consideration of this proposal is the extent of intensification of the use and the likely impacts on neighbors, and whether the existing parking is adequate. Another possible condition would be to prohibit live music on the premises.

8. Neighborhood meeting ?

technically not required ~~as~~
~~project not a major site plan,~~
~~but staff recommend that~~
~~one be held as these have been~~
~~held on other similar~~
~~zoning requests.~~

*****CORRECTED***LEGAL ADVERTISEMENT
PORTLAND PLANNING BOARD**

The Portland Planning Board will hold a meeting on Tuesday, **OCTOBER 14, 2008** in Room 209, 2nd Floor, City Hall. The agenda includes the following:

WORKSHOP- 3:30 PM

- i. Jetport Site Plan; Vicinity of 1001 Westbrook Street; City of Portland, Applicant.
(3:30- 4:15PM- estimated time, subject to change) A proposal to expand the current airport terminal and adjoining parking.
- ii. Walgreen's Pharmacy Site Plan; Vicinity of 340 Allen Avenue; The Richmond Company, Applicant.
(4:15- 5:00 PM- estimated time, subject to change) A proposal for a 14,122 +/- sq. ft. Walgreens Pharmacy with drive up service.
- iii. Conditional Rezoning; Vicinity of 194 Park Avenue; Mango, LLC, Applicant.
(5:00- 5:30 PM- estimated time, subject to change) A proposal for conditional rezoning to convert Terroni's convenience store to a restaurant.
- iv. Bayside TDM; City of Portland, Applicant.
(5:30- 6:00 PM- estimated time, subject to change) Proposed technical standards for the implementation of the recently adopted Transportation Demand Management (TDM) ordinance for the B-7 zone.

Greg's Properties LLC

PUBLIC HEARING- 7:00 PM

- i. Merrill Public Art Text Amendments; City of Portland, Applicant.
(7:00- 7:30 PM- estimated time, subject to change) A proposal for a text amendment to allow public art to exceed zoning height restrictions except in residential zones.
- ii. Cedars Rehabilitation Center; Vicinity of 630 Ocean Avenue; Cedars Healthcare, Applicant.
(7:30 PM- estimated time, subject to change) A proposal to renovate the existing rehabilitation center and expand the current floor area by approx. 1,500 sq. ft.

**JANICE E. TEVANIEN, CHAIR
PORTLAND PLANNING BOARD**

- a. *To the general public.* In the case of workshops and public hearings, notice as described above shall be given to the general public by publication in a newspaper of general circulation in the City of Portland at least two (2) times, the date of the first publication to be at least seven (7) days prior to the hearing.
- b. *To the applicant, the owners of the subject property, and all property owners within five hundred feet of the subject property.* In the case of workshops and public hearings, notice shall be sent by regular United States mail to the applicant, to the owner(s) of the subject property and to all owners of property located within five hundred (500) feet of the subject property, except that for developments within industrial zones the notice range shall be one thousand (1000) feet.

(2) Zoning Map Amendment:

- (a) *To the general public:* Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), the notice of public hearing for zoning map amendments must be posted in the municipal office at least 13 days before the public hearing on such application.

In addition, notice of said public hearing must be published at least two times in a newspaper of general circulation in the City of Portland. The first publication must be at least seven (7) days prior to any public hearing and the second publication must be at least seven (7) days prior to the public hearing.

Call
Donoghue
let know
Bad outcome

to all property owners within the proposed area for rezoning: Except for notice of public hearings concerning conditional or contract zoning (which notice is governed by section 14-61), in the case of workshops and public hearings on zoning map amendments, notice shall be sent by regular United States mail to all property owners within the area for rezoning and all property owners five hundred (500) feet beyond said area.

(3) Zoning Text Amendment.

(a) *To the general public:* Notice of any zoning text amendment shall be published in a newspaper of general circulation in the City of Portland at least seven days prior to the public hearing on the proposed amendment.

(c) Required Neighborhood Meeting

An applicant for (a) the subdivision of five or more units or lots or (b) for major site plan review or (c) a private applicant for rezoning that would permit major development as defined in Section 14-522, shall conduct a neighborhood meeting on a date following the first public workshop at which the application is considered by the planning board but not less than seven (7) days prior to the final public hearing. All costs associated with the neighborhood meeting shall be borne by the applicant. The following procedure shall be followed in noticing and conducting the neighborhood meeting:

- (1) At least seven (7) days prior to the neighborhood meeting, the applicant shall mail notice of said meeting to all property owners within five hundred (500) feet of the subject property and to all others, including neighborhood organizations, as may be required by the planning authority. Such notice shall contain a brief description of the application and the date, time and place of the neighborhood meeting.
- (2) At the neighborhood meeting the applicant shall circulate a sign-in sheet for those in attendance who choose to sign. Such sheet shall be submitted to the planning authority and shall become part of the planning authority report submitted to the planning board.
- (3) The applicant shall keep minutes of the meeting to be submitted to the planning authority and shall become part of the planning authority report submitted to the planning board. A public hearing shall not be scheduled until after the minutes of the neighborhood meeting are submitted to the planning authority. Any other individual or entity also may submit comments on the neighborhood meeting to the planning authority and said comments shall

Present BH; JL; JT, DS; SO.

194 Park Ave - Rezone Workshop.

(1) JFunto

(2) Alec Altman

Both this + med bldg. for sale
described in center school; gas station,
Stadium

he owns Bmgs Wmigas on Congress St.
incl. 'to go' food.

local enterprise serving local communities.

Ref comments incl in his submission - explained
how these obtained

Contract zones - 8 nearby mmc; group homes

Parking - leasing spaces complicates

- prefers contract zone so existing

bldg + ex. parking can stay

not sure how #s cars/visitors compares

w/ existing

{ lots of street parking when no events

{ when events - have event parking

{ so parking not an issue

Mod of roof - shown to look better but can

be left as existing

Preserve env. - chg interior; add bathrooms;

Qu. from Board members

Comp. Plan refers to serving local neigh
what is proposed local market?

Alec A response to JL -

① renters (incl ^{small} catclens)

owner/occupiers framing up.

price point aimed at these (Grant St
(expand his ^{neighborhood} rest bus) (+ assoc ec benefits)

② Event attendees (Avenues + Deering Plk)
not a "quiet" neighborhood, is active
& alot of new dev. around corners.

To a food spot already - do differently
45 mins in/out + take out.

JL - wd. be interested if Hadlock Field wot there?

AA - don't ans. clearly - probably - are
other venues + Mens Hockey league; do home
meals Seadogs. so do hope to strengthen links.

Bill Hall - not seen as driving destination
disc. re parking - agrees not needed.

Shalom - not worried about pkg. ^{need to be} creative
like to see something like this +
local bus. growing. / supports.

David Silk - what does apphc want
doesn't want to rent parking - sees
this a wasted resource

is appl. ok
w/ potential
conditions.

DS - ventilation?

AA - could flip layout - these plans were initial.

- OK to enclose dumpster.

open to members of the public

- JT owned info

- Mel Mango
54 Marlborough Rd
Portland
owns Terranus

- opened 1949

- now surrounded

- are a dying breed

- liked AA plan the best

- park as many as 8 cars at rear now.

- in evcs. plenty of parking except re 8 dogs demo games

- have alot of street parking

75-85% take out + 2 tables

10/11 pm Parkside goes to sleep.

Ol Higgins
own adj prop
196, 198, 1989
200, 204

family business.

- father purch 1980's ^{renovating} \$100,000 spent

- owner occup / rental

- wked w/ city to subdivide so could sell as owner/occup.

- this change - have real concerns

- 4 bus stops + restrictions on play etc. - so isn't plenty

12 units rental
nearby low/income/problems

Higgins -

Biggest reason for rental turnover is lack of parking.

Existing: 9-9 pm current
6 pm close on Sundays.

Proposed: could be open 1 pm ?

Bedrooms for single fam. next door are adj. to this (5-6 ft.)
Smells/noise would not be good

Parking - rally is 2 spaces as near
People don't walk to take-outs

Restaurant - outside smoking takes place

Catherine .. : does not feel this is right
196-198
(sister) only 14 parking spots that side
main concern - hours of opening
bedrooms 7' away
where will cars go?

Joe Malone : 1/2 for sale
owns 180 Park Ave Assoc. mtg today
(med bldg) MM is major tenant
biggest concern (MMed) is from
manager (MMed) re drinker; will be
aggressively re parking.

Public comment section closed

AT - question re hours of closing

AA - closing 11 pm.

mirrors BI. incidentally
Contract zone could

don't own a gin joint

don't think are a problem.

Keep kitchen open late w/ mktg. intention
(originally not the case)

- parking needs to be addressed

Alex chimed in:

(need another workshop to
look at cond zone
agreement)

he'd suggested BI as allows small rest
several or. small BI zones.

Cond BI zone would allow pkg grandfathered +
any other limitations eg. ventilation.

Can be R6 but looks more BI

Comp Plan supports but ...

No real need to incl. Med Office Bldg.

SL - hear from City Council re issue of Contract Zones

- prefer R6 cond use

- R6 would require Contract zone

Joe Lewis - welcome but concerned
about hours of opening
not convinced is family restaurant
neigh already under pressure ~~with this~~
but don't need a "late night" thing

Paul Hall - seems good idea overall
but R/C Contract zone +

Shalom Odakara - supports B1. Contract.
not a lot of changes
close ~~of~~ to neighbors but this
is urban location
see more re opening/closing
clar. kitchen etc. + reverse
location.
parking - supports grandfathering
the parking

Mike Patterson: wd. like to see life on streets
outside of baseball games.
where are B1s around City - ~~look~~
prefer to Contract.

David Silk: Great to have
Concern at proximity to neighbors
compl./quiet means rest. closing
"early" consistent;

David Silk - notes that another business can
come in once its contract zone

- lots of issues re impacts on neigh
- prefer cond Rezone B1 with many
cond's to respect neighbors
- bus model is partly neighborhood +
partly revenues.
- wd like more info re whats really
going to work.

JT - ? shared parking?
(AA not interested in parking)
asked which underlying zone is most
restrictive (ans R6)

Another workshop w/ Cond.

DS- why R-6 - doesn't make sense
, B1 - can condition uses
(JT moved to B1)



Memorandum
Department of Planning and Urban Development
Planning Division

To: Chair Tevanian and Members of the Portland Planning Board
From: Jean Fraser, Planner
Date: Prepared November 7, 2008
Prepared for November 12, 2008 Planning Board
Re: **194 Park Avenue**
Conditional Rezone Application

1. Introduction:

This is a second Workshop to consider a request from Greg's Properties LLC for a Conditional Rezone to allow the existing retail building at 194 Park Avenue known as *Terronis* to be converted into a restaurant.

The existing building is currently a convenience market (with some food service) within the R-6 residential zone. The proposal is for a change of use to a full service restaurant (with a liquor license) with internal and external remodeling.

At the first Workshop there was a discussion of the three possible rezone mechanisms that might facilitate this proposal:

1. R6 Conditional Zone
2. B1 (Neighborhood Business) Conditional Zone
3. B1 Map Change

The broad conclusion was that a B1 Conditional Zone best "fit" the proposal since the B1 zone permits restaurants subject to conditions. The Board requested further information regarding the likely clientele for the restaurant and how it would be managed to respect neighbors.

Staff has drafted a Conditional Zone Agreement ([Attachment I](#)) and the applicant has identified some amendments shown in blue on the original version in [Attachment J](#).

2. Project Description

The proposed restaurant would be a conversion of the existing wood framed concrete block building of 1436 sq ft feet, which is located on a small lot measuring approximately 41 feet by 97 feet on the south side of Park Avenue. The site is opposite the Iris Center and King Middle School and near the Expo and the Hadlock Field Stadium.

A fuller description of the existing and proposed uses (types of food to be served; hours of opening) was submitted for the previous Workshop (Memo dated 10.9.08 (Attachment C)) and since then the applicant has confirmed (Memo dated 10.30.2008 (Attachment H)) that the majority of sales (roughly 75%) will be food sales, by take out and quick meals, with hours of operation 11:30am to 11pm. The Memo also describes the anticipated customer base as indicated at the Workshop and that a full liquor license would be sought to provide a full adult beverage selection with meals. (See additional discussion below.)

3. Requested Rezoning

The applicant has requested conditional zoning within the R6 zone. Conditional or Contract Zoning is allowed under Division 1.5 of the City's code where it meets the following:

Conditional or contract zoning shall be limited to where a rezoning is requested by the owner of the property to be rezoned. Nothing in this division shall authorize either an agreement to change or retain a zone or a rezoning which is inconsistent with the city's comprehensive plan. (Section 14-60)

The Council is able to impose conditions under Section 14-62:

Sec. 14-62. Conditions and restrictions.

Conditions and restrictions imposed under the authority of this division shall relate only to the physical development and operation of the property and may include, by way of example:

- (a) *Limitations on the number and types of uses permitted;*
- (b) *Restrictions on the scale and density of development;*
- (c) *Specifications for the design and layout of buildings and other improvements;*
- (d) *Schedules for commencement and completion of construction;*
- (e) *Performance guarantees securing completion and maintenance of improvements, and guarantees against defects;*
- (f) *Preservation of open space and buffers, and protection of natural areas and historic sites;*
- (g) *Contributions toward the provision of municipal services required by the development; and*
- (h) *Provisions for enforcement and remedies for breach of any condition or restriction.*

(Ord. No. 31-85, 7-15-85)

The City's Associate Corporation Counsel has raised concerns on almost all of the revisions as set out in Attachment K and included in the staff discussion below.

4. Staff comments on outstanding issues

Staff notes that the applicant has confirmed the proposed hours of operation would be 11:30am to 11:00 pm (Attachment H) and this meets the condition as included in the draft CZA.

Staff also notes that the applicant has confirmed that a full liquor license would be requested to provide customers with a full beverage selection. Staff anticipates that the serving of alcohol may be a concern to some in the neighborhood, especially as there is a middle school opposite the site. Staff have not received written comments on this issue, but we have heard preliminary expressions of concern from the Mayor and an organization called *21 Reasons* (a coalition with law enforcement agencies, schools, parents to control exposure of youth to alcohol and advertisements/places that send wrong messages to youth about alcohol), and we have advised the King Middle School Principal of the current review in case he wishes to make any comments.

This issue is further complicated by the current operation of *Terronis* which sells bottled and canned beer and has two large beer advertisements on the front elevation. The restaurant proposal presented in the rezone application indicates that alcohol would be served in connection with the serving of food.

The Board may wish to consider whether the conditions on the serving of alcohol should be more restrictive (i.e. that the use be restricted to the sale of beer and wine only, without allowance for serving of hard liquor, or possibly prohibited altogether).

Parking

The applicant has revised the CZA to require two parking spaces on site instead of four. There are four existing spaces to the rear of the building within the site but they are constrained by the existence of the dumpster and are difficult to access. However, they could provide parking for employees and very limited parking for patrons. The zoning requirement for a restaurant of this size would be 7 spaces.

Outdoor Seating

The applicant has qualified the restriction so that outdoor seating could be provided if applicable permits were obtained. Given the proximity of neighbors, staff suggests that the restriction should be absolute.

Ventilation

The existing main hood ventilation (and an air conditioner) is already on the east side of the building, as shown in plans EX2.1 and EX1.1 (Attachment L). The proposed internal layout (Plan A-1.1 (Attachment L)) moves the main ventilation (hood in kitchen) to the west side of the property which is immediately adjacent the residential neighbors. The

Next Steps:

- Finalize Conditional Zoning Agreement
- Schedule a Public Hearing

Attachments:

Presented at PB Workshop October 14, 2008

- A. Conditional Rezoning Application (plans in G)
 - B. Purchase and Sale Agreement
 - C. Memo from applicant with narrative and supporting information dated October 9, 2008
 - D. Zoning Administrator comments
 - E. [no attachment]
 - F. Photographs
 - 1. Aerial
 - 2. Assessors
- (“Submitted plans showing existing and proposed” now in Attachment L)

For PB Workshop November 12, 2008

- G. Copy of “Comparison of Zoning Options” from first Workshop Memo (for reference)
- H. Memo from applicant with further information dated October 30, 2008
- I. Draft Conditional Zoning Agreement (CZA) as drafted by City (B/W)
- J. Draft Conditional Zoning Agreement as drafted by City and revised by applicant (in color)
- K. Corporation Counsel Comments on the applicants revisions to the draft CZA dated November 6, 2008
- L. Submitted plans showing existing and proposed (same as for October PB Workshop)



City of Portland, Maine
Department of Planning and Development
Conditional/Contract Rezoning Application

Application ID: 1427 Application Date: 08/26/2008 CBL: 053 B020001 Property Location: 194 Park Ave

Applicant Information:

Alec Altman

Name

Greg's Properties, LLC.

Business Name

26 Village Brook Road

Address

Yarmouth, ME 04096

City, State and Zip

9142614440

Telephone

Fax

Applicant's Right, Title or Interest in Subject Property:

Contract for purchase and sale

Current Zoning Designation: R6

Existing Use of Property:

Wood framed building operated as a food market.

Proposed Use of Property:

Remodel the existing food service to a full service restaurant.

Property Owner:

Mango Llc

Name

54 Marlborough Rd

Address

Portland, ME 04103

City, State and Zip

Telephone

Fax

Amendment A []

Amendment B []

Amendment C [x]

Section 14:

Requested:

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: APPROVAL DATE: ENACTMENT DATE:



Az

Zoning Amendment Application
Department of Planning and Development
Planning Division and Planning Board

1. Applicant Information

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
914-261-4440
Phone Fax

2. Subject Property

194 Park Avenue
Address
53-B-20
Assessor's Reference (Chart-Block-Lot)

3. Property Owner: _____ Applicant Other

Mango, L.L.C.
Name
54 Marlborough Road
Address
Portland, ME 04096
233-3562 773-5480
Phone Fax

4. Billing Address:

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
Attn: Alec S. Altman

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Contract for Purchase and Sale of Commercial Real Estate dated August 6, 2008 between Mango, L.L.C. (Seller) and Greg's Properties LLC (Purchaser) see Exhibit A
Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)
See Exhibit B

6. Existing Use:

Describe the existing use of the subject property:

See Exhibit C

A3

7. Current Zoning Designation(s):

R6

8. Proposed Use of Property: Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See Exhibit D

9. Sketch Plan: On a separate sheet, please provide a sketch plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1" = 100'.) See Exhibit E

10. Proposed Zoning: Please check all that apply:

A. _____ Zoning Map Amendment, from _____ to _____

B. _____ Zoning Text Amendment to Section 14-_____

For Zoning Text amendment, attached on a separate sheet, the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. Application Fee: An Application Fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below.) The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

Fee for Service Deposit \$200.00
(This fee is required for all applications in addition to the application fee listed below)

_____ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

A₅

Exhibit A
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Memorandum of Contract for Purchase and Sale of
Commercial Real Estate

AL

**MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

The undersigned, being duly sworn, do hereby depose and say:

1. **GREG'S PROPERTIES LLC**, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with **MANGO, L.L.C.**, a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Less to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this _____ day of August, 2008.

MANGO, L.L.C., Seller

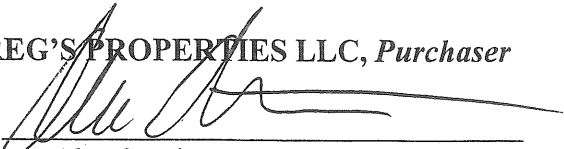
By: _____
Malling J. Mango, Member

Witness

By: _____
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, Purchaser

By: 
Alec S. Altman, Manager



Witness

A7



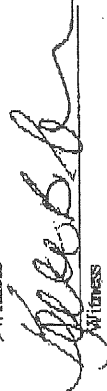
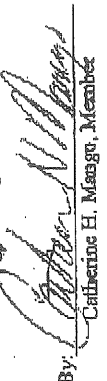
**MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

The undersigned, being duly sworn, do hereby depose and say:

1. GREG'S PROPERTIES LLC, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with MANGO, L.L.C., a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Lee to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 49 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this 20 day of August, 2008.

 Witness	 By: _____ MANGO, L.L.C.
 Witness	 By: _____ Catherine H. Mango, Member

GREG'S PROPERTIES LLC, Purchaser
By: _____
Alice S. Ahman, Manager

Witness

As

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Malling J. Mango in his said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 20, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing,

Before me,  _____
Attorney at Law/Notary Public

A9

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Matting I. Mango in his said capacity and gave oath to the truth of the foregoing.

Before me, Robert Danielson
Attorney at Law/Notary Public
Rothschild St. #1001

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing.

Before me, Robert Danielson
Attorney at Law/Notary Public
Rothschild St. #1001

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 21, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing.

Before me, _____
Attorney at Law/Notary Public

EXHIBIT B
TO
ZONING AMENDMENT APPLICATION

APPLICANT: Greg's Properties LLC
PROPERTY: 194 Park Ave. (53-B-20)

"RICHARDSON FIELD"

№ 52

№ 53

A10

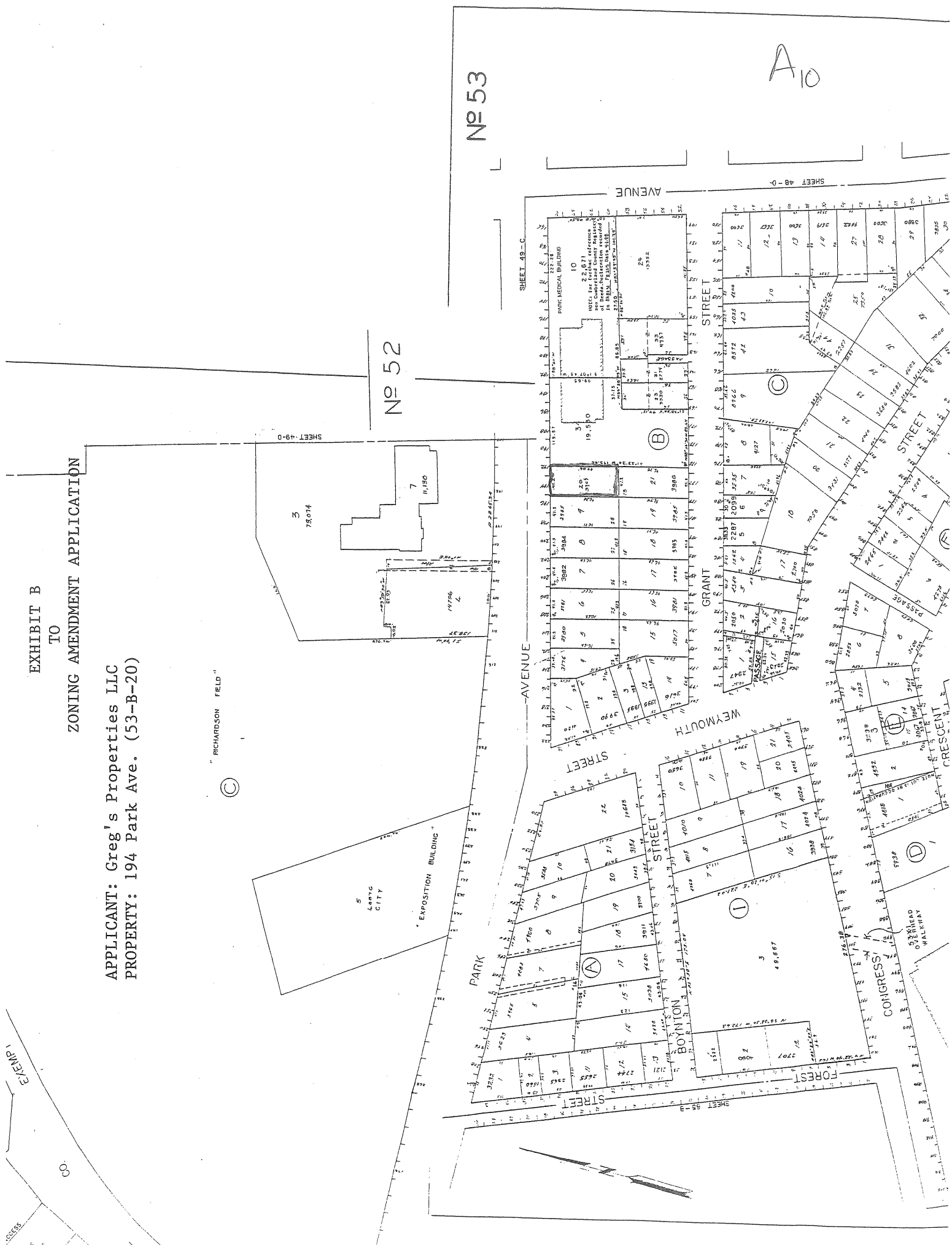


EXHIBIT B - continued
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

5. **Vicinity Map:** Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)

Map, Block & Lot	Address	Owner(s)	Owner(s) Address	Land Use
53-B-9	198 Park Ave.	Allan S. & Donna M. Higgins	P.O. Box 10957, Portland, ME 04101	Five to Ten Family
53-B-34 & 10	180 Park Ave., #1	Melburn P. & Jean K. Smith	P.O. Box 262, Harpswell, ME 04079	Medical Condominiums
53-B-34 & 10	180 Park Ave., #2	My Darling II LLC	5 Moulton St., Ste. 3, Portland, ME 04101	Medical Condominiums
53-B-21	177 Grant St.	Daniel K. Nere	177 Grant St., Portland, ME 04101	Three Family
53-B-19 & 18	183 Grant St.	Michelle M. Cyr	183 Grant St., Portland, ME 04101	Two Family
52-C-3	189 Park Ave.	The Iris Network	189 Park Ave., Portland, ME 04102	Benevolent & Charitable/office
52-C-7	191 Park Ave.	Iris Park Apartments LP	201 Park Ave., Portland, ME 04101	Twenty-One Plus Family

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Exhibit C
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

6. **Existing Use:** Describe the existing use of the subject property:

The site consists of 3,967 +/- square feet with an existing 1,436 +/- square foot concrete block and wood framed building operated as a food market with commercial restaurant hood, griddle, fryer, gas fired range and ovens, limited table seating, with sales of pasta, pizza, calzones, hot wings, hamburgers, cheeseburgers, hot dogs, fries, hot and cold sandwiches, salads, breakfast and grocery items and beer.

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Exhibit D
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

8. Proposed Use of Property: Please describe the proposed use of the property. If construction or development is proposed, please describe any changes to the physical condition of the property.

The premises are located in close proximity to the Portland Expo, Hadlock Field and Fitzpatrick Stadium. The proposed use is a remodel of the existing food service use to a full service restaurant in which full course meal food service and consumption shall be the primary function of the restaurant but the restaurant will also include on premises alcohol sales and consumption. Full course meal service will be continued up until the hours of closing. The restaurant will have indoor seating capacity for up to thirty-five (35) patrons and will be developed substantially in accordance with the attached sketch plans (see Exhibit E). No live music will be permitted on the premises.

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Exhibit E
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Plans (7 Sheets)

CONTRACT FOR PURCHASE AND SALE OF COMMERCIAL REAL ESTATE

Contract date: August 5, 2008

Effective Date: 8-6, 2008

THIS CONTRACT is entered into by and between MANGO, L.L.C., a Maine limited liability company whose address is 54 Marlborough Road, Portland, Maine 04103 (the "Seller"), and GREG'S PROPERTIES LLC or its assignee, a Maine limited liability company, whose mailing address is c/o Alec S. Altman, 26 Village Brook Road, Yarmouth, Maine 04096 (the "Purchaser").

1. PROPERTY.

The Seller agrees to sell and the Purchaser agrees to purchase the real estate and all improvements located at 194 Park Avenue, in the City of Portland, County of Cumberland, State of Maine, being the same premises described in a deed dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (collectively, the "Property").

2. PERSONAL PROPERTY AND EQUIPMENT

The Seller agrees to sell and the Purchaser agrees to purchase the personal property and equipment located on the Property which is owned by Seller and more particularly described on Exhibit A attached hereto (the "Equipment"), which Equipment shall be in working condition at closing. All fixtures located upon the Property shall be included in this sale.

3. PURCHASE PRICE: DEPOSITS: ESCROW.

The total Purchase Price for the Property shall be [redacted] and shall be payable as follows:

(i) An earnest money deposit in the amount of [redacted] shall be deposited with NAI THE DUNHAM GROUP (the "Escrow Agent"), upon execution of this Contract (the "Deposit"). The balance of the Purchase Price shall be paid at closing by wire transfer, bank or certified check.

(ii) The Escrow Agent shall hold the Deposit subject to the terms of this Contract in a non-interest bearing account pending closing. The Deposit shall be credited to Purchaser at closing. In the event of a dispute, Seller and Purchaser shall hold the Escrow Agent harmless from damages, losses or expenses arising out of this Contract except for Escrow Agent's gross negligence or willful misconduct. In the event of an asserted default, the Escrow Agent at its option may either (1) refuse to release the Deposit without a written release signed by both parties consenting to its disposition or (2) after providing thirty (30) days' written notice to both parties, release the Deposit to a court of competent jurisdiction and be relieved of all duties as Escrow Agent.

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(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [REDACTED] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$ [REDACTED]
b. Building	\$ [REDACTED]
c. Land	\$ [REDACTED]
Total:	\$ [REDACTED]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE: DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

The Purchaser shall receive from the Seller a Warranty Bill of Sale for the Equipment, and such other title-clearing documents such as a sales tax clearance letter/certificate and an unemployment tax clearance letter/certificate from the State of Maine and a list of creditors and indemnification against prior debts, and stating that the Equipment is of good and marketable title, free and clear of all encumbrances, liabilities or liens and in good and usable condition.

8. INSPECTION PERIOD. INTENTIONALLY OMITTED.

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

13. RISK OF LOSS.

Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than **Katherine Allen of NAI The Dunham Group**. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than **Michael Pizzo of Commercial Properties, Inc.** (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract.

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and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., *Seller*

By: _____

Malling J. Mango, Member

Witness

By: _____

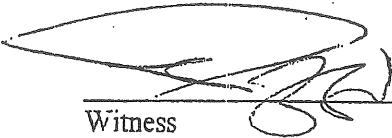
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, *Purchaser*

By: _____

Alec S. Altman, Manager



Witness

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EXHIBIT A

Hobart # 1712 12" blade slicing machine
Readco 20 qt. counter model mixing machine
Hobart Power head mod # 4322 w/ grating attachment
2 Single glass door true merchandising cooler
Bev-air 52" 2 sliding door merchandising cooler
Pinnacle 126" refrigerated merchandising half doors
Refrigeration unit for 6' X 15' walk-in cooler
8' SS Hood System
Ansil system for hood.

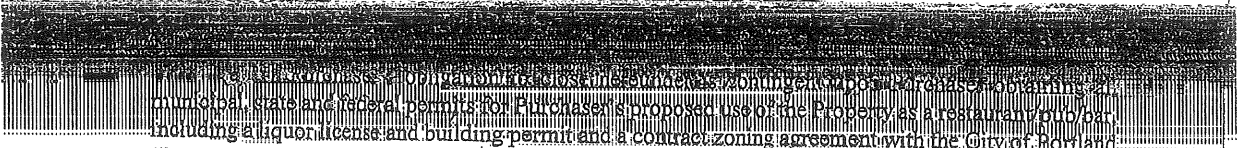
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**CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**



... obligation in all respects under the contingency to both purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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(iii) PURCHASE PRICE ALLOCATION. The total purchase price of [redacted] shall be allocated to the various assets of the Seller as follows:

a. Equipment (see Exhibit A)	\$ [redacted]
b. Building	\$ [redacted]
c. Land	\$ [redacted]
Total:	\$ [redacted]

4. SELLER'S ACCEPTANCE.

Seller's acceptance shall be given on or before August 5, 2008 at 5:00 p.m.

5. PRORATIONS, ADJUSTMENTS, AND COSTS.

The following items shall be pro-rated as of transfer of title: fuel oil and real estate taxes for the fiscal year. (Seller is responsible for any unpaid taxes for prior years.) Metered utilities such as electricity, water and sewer will be paid through date of closing by Seller. Purchaser and Seller will each pay their transfer tax as required by the State of Maine. Purchaser shall pay the cost of recording the instruments conveying title and other closing charges incurred by Purchaser. Seller shall pay for the preparation of the deed and transfer tax form and any other instruments of conveyance and any title clearing matters pursuant to Sections 6 and 7 below.

6. CONVEYANCE: TITLE: DEED.

Seller shall convey the Property to the Purchaser in fee simple by good and sufficient WARRANTY DEED. The Deed shall convey good and marketable title to the Property, in accordance with the Standards of Title adopted by the Maine Bar Association, free and clear of all encumbrances, mortgages and liens except standard utility easements of record which do not adversely affect or prevent the use of the Property as a restaurant/pub/bar and uses accessory thereto. In addition, Seller shall deliver to Purchaser the title to the Property which is good and marketable and insurable by a national title insurance company at normal premium rates on the ALTA form currently in use, subject only to the exclusions set forth in the policy jacket. Should the title prove defective, then Seller shall have a reasonable time, not to exceed 30 days after receiving written notice of the defect(s) to remedy the title and hereby agrees to use diligent efforts to cure any such defects. If, within such 30 days, the defect(s) are not corrected so that there is a marketable title, the Purchaser may, within 10 business days thereafter, at Purchaser's option, declare this Contract null and void and be entitled to a return of the Deposit and be relieved from all obligation hereunder.

7. BILL OF SALE.

The Purchaser shall receive from the Seller a Warranty Bill of Sale for the Equipment, and such other title-clearing documents such as a sales tax clearance letter/certificate and an unemployment tax clearance letter/certificate from the State of Maine and a list of creditors and indemnification against prior debts, and stating that the Equipment is of good and marketable title, free and clear of all encumbrances, liabilities or liens and in good and usable condition.

8. INSPECTION PERIOD. INTENTIONALLY OMITTED.

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9. PERMITS/CONTRACT ZONE.

(a) Purchaser's obligation to close hereunder is contingent upon Purchaser obtaining all municipal, state and federal permits for Purchaser's proposed use of the Property as a restaurant/pub/bar, including a liquor license and building permit and a contract zoning agreement with the City of Portland (the "Permits"), satisfactory to Purchaser in all respects prior to closing. Seller agrees to cooperate with Purchaser in obtaining said permits, including joining in any applications for said permits.

(b) In the event that Purchaser determines, in the Purchaser's sole discretion, that the Purchaser is unable to obtain said Permits and notifies Seller within said time period, Purchaser may terminate this Contract by written notice to Seller and the Deposit shall be promptly returned to the Purchaser, the Purchaser shall be solely responsible for the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

(c) In the event that the Seller receives a bona fide written offer to purchase the Property from another potential third party buyer which the Seller desires to accept, the Seller shall provide the Purchaser with a copy of such offer. Upon receipt of such written notice, Purchaser shall have fifteen (15) days to remove the above referenced Permits contingency as a condition to this Contract. If Purchaser agrees to remove the contingency, the Contract shall otherwise remain in full force and effect except for the Closing Date, which shall occur no later than thirty (30) days from the expiration of said fifteen (15) day period. If Purchaser refuses to remove the contingency, Seller may declare the Contract null and void and the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

10. PURCHASER'S ACCESS TO THE PROPERTY.

The Seller hereby grants to the Purchaser the right, at the Purchaser's sole cost, risk and expense, to enter upon the Property, with such advisors, inspectors or other agents as Purchaser deems appropriate, to permit the inspections contemplated by this Contract. Purchaser shall indemnify and hold harmless Seller for any loss or damage caused by such inspections. Purchaser shall give Seller notice prior to each instance Purchaser desires to enter upon the property.

11. FINANCING CONTINGENCY. INTENTIONALLY OMITTED.

12. CLOSING.

The transaction shall be closed with the delivery of the deed and the execution of all necessary documents to effectuate the terms of this Contract within five (5) business days of obtaining the Permits as set forth in Section 9 above, or before if agreed in writing by both parties, but in no event shall the closing occur any later than February 27, 2009 (the "Closing Date"). Purchaser shall have the right to extend the Closing Date for up to three (3) periods of thirty (30) days each, provided that Purchaser sends written

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notice to Seller of its exercise of such right to extend on or before the Closing Date, as the same may have been extended. Full possession of the Property will be given over to Purchaser immediately upon transfer of title, unless otherwise agreed to in writing by both Purchaser and Seller. Seller to deliver Property broom clean, free of tenants, personal property, and debris at closing. Purchaser may do a walk through inspection of the Property within 24 hours prior to closing to ascertain that the Property is in substantially the same condition as of the date of this Contract, reasonable wear and tear excepted. In addition to delivery of the deed Seller shall deliver to Purchaser evidence of its authority to convey the Property to Purchaser in accordance with this Contract and each party shall deliver to the other such documents, certificates and the like as may be required herein, by Purchaser's title company, or as may be required by law. The parties shall execute a closing statement setting forth the amounts due to Seller and from Purchaser based on the prorations and adjustments to the Purchase Price described herein.

13. RISK OF LOSS.

Risk of loss or damage to the Property by fire or otherwise until delivery of the deed is assumed by the Seller. Seller shall keep the Property insured against fire and other extended coverage risks until the closing. In the event that, prior to the closing, the improvements which are part of the Property are destroyed or substantially damaged, Purchaser may either, (i) terminate this Contract and receive back the Deposit, or (ii) accept the insurance proceeds payable by reason of such damage or destruction and close this transaction notwithstanding the same and without reduction in the purchase price.

14. BROKERS.

The Seller warrants and represents to Purchaser that it has not dealt with any broker, finder or similar person concerning the sale of the Property other than Katherine Allen of NAI The Dunham Group. In the event of any brokerage claims against Purchaser by anyone claiming to be Seller's Broker, Seller agrees to defend the same and indemnify Purchaser against such claim. The Purchaser warrants and represents to Seller that it has not dealt with any broker, finder or similar person concerning the purchase of the Property other than Michael Pizzo of Commercial Properties, Inc. (the "Purchaser's Broker"). In the event of any brokerage claims against Seller by anyone claiming to be Purchaser's broker other than the Purchaser's Broker, Purchaser agrees to defend the same and indemnify Seller against such claim.

15. DEFAULT.

Except as otherwise specifically set forth in Section 9 above:

(a) In the event of a default by the Purchaser, Seller shall be entitled to the Deposit as full and complete liquidated damages as a result of such failure, whereupon this Contract shall be deemed terminated and neither party shall have any claim against the other by reason of this Contract. Purchaser acknowledges that Seller's damages due to Purchaser's failure to perform are difficult to ascertain and agrees that the amount of the Deposit represents a reasonable estimate of the Seller's damage as a result thereof.

(b) In the event of a default by Seller, the Deposit shall be promptly returned to Purchaser and the Seller shall pay to the Purchaser the Purchaser's actual out-of-pocket costs and expenses, including but not limited to attorneys', engineers', architects' and any and all other fees, costs and expenses, not to exceed [REDACTED] which Purchaser has incurred in connection with this Contract

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008/008

and the Permits, and this Contract shall terminate and neither party shall be under any further obligation hereunder.

16. SELLER'S REPRESENTATIONS AND WARRANTIES.

(a) Seller represents and warrants to Purchaser that the following statements are true on the Effective Date and shall be true on and as of the Closing Date:

(i) Seller is a limited liability company, duly created and validly existing under the laws of the State of Maine and has all requisite power and authority to own, operate and sell its properties and to carry on its business as presently conducted. Seller has all requisite power and authority to execute and deliver, and perform its obligations under this Contract.

(ii) The execution and delivery of this Contract and performance by Seller of its obligations hereunder, and all transactions contemplated hereby, have been duly and validly authorized by a duly authorized officer of Seller. This Contract has been duly executed and delivered on behalf of Seller, by a duly authorized officer of Seller, and this Contract constitutes the valid and binding obligations of Seller, enforceable in accordance with their respective terms.

(iii) There is no action, suit or proceeding pending, or to the knowledge of Seller, threatened against or relating to the Property or against Seller which might interfere with its ability to consummate the transactions contemplated hereunder.

(iv) There are and have been no disputes concerning the boundaries of the Property and there are no encroachments from adjoining property on to the Property or from the Property on to adjoining property.

Seller's representations and warranties made in this Contract shall survive the closing of this transaction. Seller further shall notify Purchaser of any facts that would cause any of its representations contained in this Contract to be untrue on the Closing Date.

17. COUNTERPARTS.

This Contract may be signed on any number of identical counterparts, such as a faxed copy, with the same binding effect as if the signatures were on one instrument. Original or faxed signatures are binding.

18. SUCCESSORS AND ASSIGNS.

This Contract shall inure to the benefit of and be binding upon the parties hereto and their respective successors and assigns. The Purchaser shall have the right to assign this Contract without the consent of the Seller.

19. ENTIRE CONTRACT.

This Contract completely expresses the obligation of the parties and is entered into by each party after opportunity for reasonable investigation. Neither party is relying on any statement or representations

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not contained in this Contract made by the other or on their behalf. This Contract will be construed according to the laws of the State of Maine.

20. EFFECTIVE DATE.

This Contract is a binding contract when signed by both Seller and Purchaser and when that fact has been communicated to all parties or their agents.

A copy of this Contract is to be received by all parties and, by signature, receipt of a copy is hereby acknowledged. If not fully understood, consult an attorney. Throughout this Contract, the term "days" means calendar days.

IN WITNESS WHEREOF, the parties have executed this Contract as a sealed instrument as of the date first above written.

MANGO, L.L.C., Seller

By: [Signature]
Malling J. Mango, Member

Witness

By: [Signature]
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, Purchaser

By: [Signature]
Alec S. Altman, Manager

Witness

B 14

06/07/2006 10:04 PAA

0006/006

EXHIBIT A

- Hobart # 1712 12" blade slicing machine
- Readco 20 qt. counter model mixing machine
- Hobart Power head mod # 4322 w/ grating attachment
- 2 Single glass door true merchandising cooler
- Bev-air 52" 2 sliding door merchandising cooler
- Pinnacle 126" refrigerated merchandising half doors
- Refrigeration unit for 6' X 15' walk-in cooler
- 8' SS Hood System
- Ansil system for hood.

Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman
CC: Mango LLC
Date: October 9, 2008
Re: 194 Park Ave

We are asking the city to approve a conditional zone, a contract zone or a zone change for 194 Park Ave. Currently the location is owned by Mango LLC and operated as a sandwich shop with bulk food and carry-out alcohol sales. The property has been listed 'for sale' on the open market for some time with only one current viable suitor, Greg's Properties, LLC (hereafter Greg's). Greg's has the property under contract for purchase from Mango LLC (hereafter Mango), pending the outcome of this request.

Greg's proposes to convert the market into a seated restaurant (with approximately 35 seats, preliminary plans submitted) themed specifically around hamburgers. The restaurant will be named Burger Joint. Binga's will form a subsidiary named Burger Joint, LLC (hereafter Burger Joint). Burger Joint will rent the property from Greg's. The menu is going to be themed around ground meat. This is what Burger Joint is planning on serving. There will be a variety of patty options available; beef, pork, turkey, ostrich, elk, buffalo, duck, chicken, lamb and vegetarian have been looked into, served either on a bun, in a bagel, with a salad or over nachos. Hot dogs and tofu dogs with a variety of toppings, dinner plates and some alcohol options will round out the menu. We feel that there is an economic opportunity in bringing the restaurant model to the neighborhood. Binga's success on Congress St, along with a variety of new neighboring restaurants that have been successful throughout the city, demonstrates the demand. People are looking for accessible median-priced food options within walking distance of their homes and destinations.

The controlling rules are Sec. 14-382 which states that "Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity." Section 14-382 (e) reinforces general compliance with all other code sections, Section 14-333 (i) mandates one (1) parking space for each one hundred fifty (150) square feet of floor area not used for bulk storage or food prep and the R-6 zone expressly prohibits restaurants.

The property at 194 Park Ave. is currently run by Mango (dba Terroni's Market), operating as a food vendor that sells alcohol and is open to the general public seven days a week for roughly twelve (12) hours a day. One third (1/3) of the building is used as a kitchen, with the remainder consisting of a non-ADA bathroom, office, two (2) tables with eight (8)

seats, coolers and display racks. It is non-conforming as to use and parking. Binga's Wingas, LLC proposes a full service restaurant with a kitchen, two ADA bathrooms, an office, service area and support area. Burger Joint proposes to be open seven days a week for approximately twelve (12) hours per day with shorter hours of operation Sundays. The property is currently licensed by the city of Portland for what it does, the state Dept. of Health for food service and by Public Safety for beer sales. Binga's would pursue licenses from those same entities. We consider our non-conformity similar enough in nature that it fits within this section. Section 14-382 (b) expressly prohibits any change in building size and scope, neither of which Binga's plans on doing to the location. Binga's feels that our proposed operation "would not create any new non-conformity, nor increase any existing non-conformity." In addition, Binga's feels that there is a directive within the comprehensive plan encouraging the city to pursue this type of property redevelopment.

FROM THE PLAN

- I. **Build A Vibrant Small City** Build upon the distinctive fabric of Portland's built environment by rehabilitating historic resources and by developing new buildings that respect the scale and character of traditional development patterns.
- II. **A City That Is A Good Place To Live** Portland retains a small town feel with a built environment that is scaled for people, is pedestrian friendly and is accessible to the community. Residents value and seek to enhance the safety of the community, the proximity of commercial uses near residences and the walkable nature of the city.
- III. **Conditional and Contract Zones** Conditional or contract zoning is authorized for rezoning of property where, for reasons such as the unusual nature or unique location of the development proposed, the City Council finds it necessary or appropriate to impose, by agreement with the property owner or otherwise, certain conditions or restrictions in order to ensure that the rezoning is consistent with the city's comprehensive plan.
- IV. **Portland Neighborhood economic development study, 1982 Goals** Carefully weigh the value of on-street parking when making decisions concerning traffic, snowplowing and road maintenance in the commercial centers.
- V. **Portland Neighborhood economic development study, 1982 Policies** Support Portland's livable neighborhoods by encouraging a mix of uses that provide goods and services needed and are within walking distance of most residents. Ensure the integrity and economic value of Portland's neighborhoods.
- VI. **City Issues #1-City land use** Within Portland Itself, land use has been decentralizing for at least the last 30 years, making transportation by foot, bicycle and bus more and more unlikely. .. Where sufficient densities and concentrations of activities already exist to support public transit, or are allowed by zoning, they should be continued and/or obstacles to reaching their potentials (such as unrealistic off-street parking requirements) should be removed.

There is potential for an issue to be raised by the number of parking spaces for the facility. Binga's feels that we should not need to provide more than those already on the premises. During the conversion, Binga's will be upgrading the bathrooms, the two ADA bathrooms require a parking space each and the work space behind the dinner counter requires a space. These are necessary by law and need and should be taken into

consideration. The neighborhood has ample street parking and when events happen, there are a number of additional city and private lots open to the public. On event days, there are numerous parking lots and on non-event days there is more than ample street parking.

C₃

Binga's Wingas runs a community restaurant, preparing team dinners for the Sea Dogs and staff meals for the Portland Pirates. Binga's donates to the Boys and Girls Club, Camp Susan Curtis, Maine Medical Center and the Westbrook chapter of the Animal Refuge League, just to name a few. Binga's has a good working relationship with the community, has created jobs and tax base and offer a comfortable local environment. Binga's hopes to make Burger Joint the same type of place. It will be built to serve the local community, both commercial and residential, enhance property values and be an asset for the city.

Email Responses to the Burger Joint Proposal

C4

Good morning Binga's Wingas-

Thanks for sending the email update, and I applaud you for your partnership with the Animal Refuge League.

As the marketing coordinator for the Amtrak Downeaster, I think the BURGER JOINT would be highly beneficial and help attract more tourism to the Portland Area. In July of 2008, the Downeaster experienced a 31% growth in ridership on our northbound trains over last year. We see more and more people traveling to the Portland area for day and overnight trips. A lot of our riders go to the Sea Dogs games and are often looking to kill time before or after the game. More attractive destinations on the public transportation route and within walking distance from the Portland Transportation Center would only help with the effort to bring more people to this wonderful city.

I wish you good luck and hope it works out.

Natalie Allen
Northern New England Passenger Rail Authority
Sales & Marketing Coordinator
207-780-1000 x 108
[redacted]

Having a Burger Joint directly across from the Expo, the hockey rink, Hadlock Field and within striking distance of schools and medical office space is an outstanding usage for that property.

GREG BISHOP
Chairman, MDAC
Marketing Director, MetLife of Greater Maine - C92
62 US Route One
Cumberland Foreside, ME 04110
office: (207) 781-0954 x14
[redacted]
[redacted]
Metropolitan Life Insurance Co., New York, NY 10166

I think a burger joint would be great. There really aren't that many around since Ruby's Choice closed up shop. The only local one I can think of is Wild Willy's which is very good, but they don't have any competition.

My two cents,
David Waldecker
South Portland
[redacted]

Email Responses to the Burger Joint Proposal

C5

A reply to the idea of creating a restaurant on park ave:

I think this is a great idea. Currently there are few locally owned and operated restaurants near Hadlock field (not to mention the Portland Expo and the Portland Ice Arena). It would be wonderful to have a local joint to socialize, meet, and enjoy with friends after the game or when you are by the park. This area is within walking distance to many areas (Grant, High, etc.) that have many options on the hill, but so few close to the residential areas. I think that in the spirit of capitalism, and the desires of Portland residents, the owners of Binga's Wingas should have the right to convert the current space into an area that friends and family can congregate for any occasion to enjoy good food closer to their homes.

Jeanna Leclerc
Allen Ave, Portland, ME
jeanna@jeanna.com

Please forward this email to the City of Portland ---
I support (**with great enthusiasm**) Binga's plan to open a burger restaurant on Park Ave in Portland. It would be a wonderful location for a family style restaurant with affordable and high quality food!

Thank you,

Gayle Duncan
7 Deerfield Rd
Portland, ME
gduncan@gwr.net

Binga's Wingas Proposes Burger Joint

Name: STEVEN

Do you live in the neighborhood?

Thoughts: Yes No
WE ♥ Bingas!

I want more!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: David Cekutis

Do you live in the neighborhood?

Thoughts: Yes No
I live in Sofo, work

in Portland. I think this
would be a positive development
for the area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: William Garfield

Do you live in the neighborhood?

Thoughts: Yes No
Great idea! Portland needs

more casual dining w/

a great atmosphere such as Bingas.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Tina Shaw

Do you live in the neighborhood?

Thoughts: Yes No
Wonderful proposal!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: DEREK GIERTAN

Do you live in the neighborhood?
 Yes No

Thoughts:
YES! STAY OPEN UNTIL

2-3am So I CAN GET

GRUB LATE OTHER THAN BILLS PIZZA.

If you would like to be contacted about ^{it's} any public meetings regarding the Burger Joint, please leave us your email address: ^{horrible}

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matt Thompson

Do you live in the neighborhood?
 Yes No

Thoughts:
Burger joints are always

good.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: JOHN SUCCIAN

Do you live in the neighborhood?
 Yes No

Thoughts:
SUPPORTED PORTLAND ST.

LOYALLY UNTIL IT CLOSED

WOULD LOVE ANOTHER CLOSER LOCATION

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: DOLLIE CHASE

Do you live in the neighborhood?
 Yes No

Thoughts:
But I'd like a new

burger place to go

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ARIEL SHRINER

Do you live in the neighborhood?

Thoughts: Yes No

I FEEL THAT THE CITY OF PORTLAND WOULD BENEFIT FROM HAVING A LOCAL BURGER JOINT - ESPECIALLY NEAR ME

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C8

Binga's Wingas Proposes Burger Joint

Name: JOSIAH BARCOCK

Do you live in the neighborhood?

Thoughts: Yes No

I WELCOME & FULLY SUPPORT BINGA'S PARK ST. BURGER JOINT DEVELOPMENT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~josiah.barcock@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: EMMA PARIN

Do you live in the neighborhood?

Thoughts: Yes No

Great you should do it

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~emma.parin@gmail.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Peter Rickard

Do you live in the neighborhood?

Thoughts: Yes No

I support the cont zone for the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rachel Boyko

Do you live in the neighborhood?

Yes No

Thoughts:

hello I thought that that would be great!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: James Montgomery

Do you live in the neighborhood?

Yes No

Thoughts:

I believe in the burger joint for our future

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Eric Antos

Do you live in the neighborhood?

Yes No

Thoughts:

The Burger Joint is a GREAT idea + will add value, originality + taste to

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Portland

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW SAWYER

Do you live in the neighborhood?

Yes No

Thoughts:

I think that would be nice. A good greasy burger joint could add appeal to that area of town.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Wash
High
plea

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Nick

Do you live in the neighborhood?

Thoughts: Yes No *Washington Ave*

A Burger joint that is locally owned would be excellent! I will not go to macdonalds. They are a joke!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

I don't like burgers, but ~~see~~ I hear other people enjoy them.

Please check the box to add your email to our mailing list.

Local businesses are rad!

C10

Binga's Wingas Proposes Burger Joint

Name: D. Johannesen

Do you live in the neighborhood?

Thoughts: Yes No

please revitalize this great neighborhood! burger joint would unite more folks!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Rickett

Do you live in the neighborhood?

Thoughts: Yes No

I support Bingas Wingas / ~~Burger~~ Burger Joint at the Teroni's Market.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Wynn Hahl

Do you live in the neighborhood?

Thoughts: Yes No

It would be a boon to this neighborhood to have a ^{more walkable} family-style burger joint - ^{pluses are} great!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW ANDERSON

Do you live in the neighborhood?

Thoughts: Yes No

LIKE THE IDEA

FOOD IS GREAT HERE

SOVE IT WOULD BE SAME

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matthew Brown

Do you live in the neighborhood?

Thoughts: Yes No

This is a great

Establishment and I would

love to experience the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Miranda Bejin

Do you live in the neighborhood?

Thoughts: Yes No

Great idea. We need

More restaurants like

Bingas in town!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Becah Tanner (756-9864)

Do you live in the neighborhood?

Thoughts: Yes No

I think that a

burger joint would be

business and I'd sweet ~~but~~ definitely go!

I'll waitress if you need it for work

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rob

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA! BINGA'S

RULES!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

C12

Binga's Wingas Proposes Burger Joint

Name: Elise

Do you live in the neighborhood?

Thoughts: Yes No

BEST WORKING TEAM!

WE WANT BURGER
JOINT!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~AKING@BINGA.COM~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Byron C.

Do you live in the neighborhood?

Thoughts: Decking Yes No

PRIME REAL ESTATE. THE BOTTOM
OF THE HILL NEEDS A PLACE LIKE THIS ->

SEA DOGS IN THE SUMMER. MAKE IT HAPPEN

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Anna Liberatore

Do you live in the neighborhood?

Thoughts: Yes No

I WOULD LOVE TO SEE THIS

HAPPEN. IT WOULD BE GREAT FOR THE
NEIGHBORHOOD. NOTHING BUT GOOD
THINGS TO SAY ABOUT THE OWNER &
STAFF @ BINGA'S.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~anna.liberatore@binga.com~~

Please check the box to add your email to our mailing list.

↳ ALREADY ON IT!

Binga's Wingas Proposes Burger Joint

Name: Mare Colello

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see
a Bingas Burger Joint
in the Terroni's Location.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: A. Eaton

Do you live in the neighborhood?

Thoughts: Yes No

Burgers rule, wingas Rules
Burgers + wingas = WIN

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kate Ziegelmeier
South Portland

Do you live in the neighborhood?

Thoughts: Yes No

Yes please! Burgers...
yummy!! I love Bingas
and I'm sure I'll love their
Burgers!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Kierstead

Do you live in the neighborhood?

Thoughts: Yes No

It would be
beneficial to the area
to seriously consider this.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Scott Wyma

Do you live in the neighborhood?

Thoughts: Yes No

A very good idea, will
bring community feel to area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~mail@scottwyma.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Riddell

Do you live in the neighborhood?

Thoughts: Yes No

I work in the neighborhood
and would love a burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Martha Lafferty

Do you live in the neighborhood?

Thoughts: Yes No work in the area

I love Bingas and
would love a Burger place
in this area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.
relata@maine.rr.com

Binga's Wingas Proposes Burger Joint

Name: Suzy Preston

Do you live in the neighborhood?

Thoughts: Yes No

It would be perfectly suited
for the Hadlock, Fitzzy Expo
crowd. And a good neighborhood
space.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~suzy.preston@maine.rr.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Stephanie Cilley

Do you live in the neighborhood?

Yes No

Thoughts:

But I work here. We
need a sit in burger
place

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.
namner76@yahoo.com

and diverse community to
come together and eat good food
and drink kick ass spirits.
I think it's trendy, ~~is~~ traditional
and well needed. Bring on
the Burger!

Binga's Wingas Proposes Burger Joint

Name: Michael DelSmith

Do you live in the neighborhood?

Yes No

Thoughts:

Great IDEA?

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Deanna Bracy

Do you live in the neighborhood?

Yes No

Thoughts:

I live in South Portland and frequent
Bingas Weekly. I think a burger joint
concept for this community will be
beneficial because there's nothing
like it here in Portland. Bingas has
already established a well balanced

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Josh Harris

Do you live in the neighborhood?

Thoughts: Yes No

Best of luck
Better than Fast Food
Joints

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Berg

Do you live in the neighborhood?

Thoughts: Yes No

GREAT IDEA, PERFECT
LOCATION, TAKE OUT COULD
GO OVER TO PARK & PICNIC

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Carly Ladd

Do you live in the neighborhood?

Thoughts: Yes No

yes on burger
joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dan Wallach

Do you live in the neighborhood?

Thoughts: Yes No

I am in favor
of rezoning for Burger
Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christine

Do you live in the neighborhood?

Thoughts: Yes No

It would be great!
Love the idea

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Melissa

Do you live in the neighborhood?

Thoughts: Yes No

This is brilliant!
Sweet location and the burgers are bound to be awesome. ROCK ON!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:



Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Michelle Listeri

Do you live in the neighborhood?

Thoughts: Yes No

We need this!
Great Idea!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Manica + Jeff

Do you live in the neighborhood?

Thoughts: Yes No

We live right down the street from Terroni's on Park Ave. I think that would be a great location for the burger joint.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Natalie Ladd

Do you live in the neighborhood?

Yes No

Thoughts:

I like the idea of
the burger joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

C19

Binga's Wingas Proposes Burger Joint

Name: Harv

Do you live in the neighborhood?

Yes No

Thoughts:

That area needs a good
local restaurant/pub to
help revitalize the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Seth Affe

Do you live in the neighborhood?

Yes No

Thoughts:

This would be great
a good place to go to eat
See dogs games

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kimberly Sundik

Do you live in the neighborhood?

Yes No

Thoughts:

Yes, Binga's
Wingas
Burgers !!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: AMBER PHILBRICK

Do you live in the neighborhood?

Yes No

Thoughts:

GREAT WINGS HERE!
DO VEGGIE/CHICKEN
BURGERS TOO!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kelly C.

Do you live in the neighborhood?

Yes No

Thoughts:

I mean... I wouldn't
mind a burger joint ↓
is Bingas staying ??

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Christae Salma

Do you live in the neighborhood?

Yes No

Thoughts:

Yahoo! Do it!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Karla Benz

Do you live in the neighborhood?

Yes No

Thoughts:

You should put
more bingas around

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.



MEMO
Planning and Urban Development
Inspection Division

To: Jean Fraser, Planner
From: Marge Schmuckal, Zoning Administrator
Date: October 10, 2008
Re: 194 Park Avenue

This property is located in the R-6 residential zone. According to the assessor's records the building and use (retail sales) were built in 1940, prior to the current land use zoning ordinance which went into effect on June 5, 1957. Apparently, the underlying zone has always been an R-6 residential zone as evidenced by appeals dated in 1963. The building and use were made legally nonconforming when the 1957 land use ordinance went into effect.

Changing the zone to a B-1 zone would not make this property any more nonconforming as to setbacks. The B-1 zone does not have a minimum lot size. Therefore the current R-6 nonconforming lot size would become conforming under the B-1 zone change. The only nonconforming setback under R-6 and B-1 is the right side of the building that is at approximately 0' setback. Both the R-6 and B-1 zones require a 10' setback. The proposed zone change would result in this property being less nonconforming in regard to dimensional requirements.

Marge Schmuckal
Zoning Administrator

Att. F1

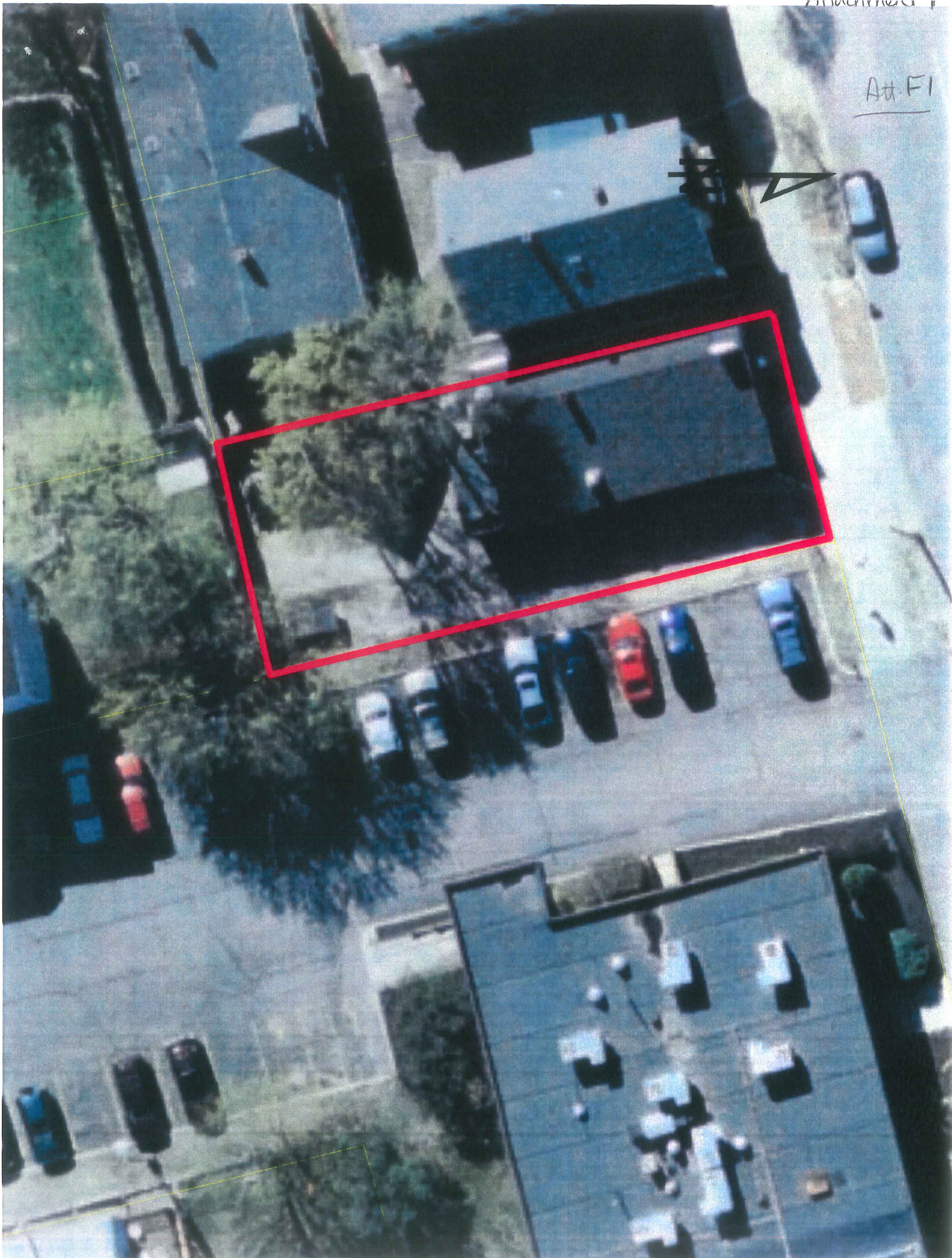




Table 1: 194 Park Avenue: Comparison of Zoning Options [toned items are understood to be grandfathered for this site]

Standard	Proposal based on existing building	R-6 Residential Zone	B1 Neighborhood Business Zone
Uses	<p>Existing Building: 1436 sq ft Proposed use by public: approx 1000 sq ft (looks like could be just under 1000 sq ft)</p> <p>Proposed Use (from submission statement): Full service restaurant seating up to 35 with on premises sale and consumption of alcohol</p> <p>Note: the layout of the restaurant (Plan A1.1) suggests there are going to be 39 seats.</p>	<p>Permitted:</p> <ul style="list-style-type: none"> - Residential single and two family; m/f unit; handicapped unit; s/f manu etc incl sp needs - Lodging house - Cemeteries - Parks - Accessory uses - Home occupation - Municipal uses <p>Conditional uses:</p> <ul style="list-style-type: none"> - Sheltered care group homes - Institutional - Utility substations - Prof offices excl personal services, retail services and Vets - Chancellery - Nursery school/kindergarten - Off street parking for permitted R-6 uses - Day care/home babysitting 	<p>Permitted:</p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p>Conditional use: (ZBA determination) Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function (prohibits uses generating in excess of a ration of 100 peak hr vehicle trips per 2000 sq ft of space and generates in excess of 100 peak hr vehicle trips)</p> <p style="text-align: center;">None</p>
Min. Lot Size	3967 sq ft	Generally 4500 sq ft for permitted/cond. uses	None
Min. Street Frontage	41.2 feet	40 Feet	50 ft or average of all lots w/in 200 ft
Min. Lot Width	41.2 feet	50 Feet	None
Min. Front Setback	5 feet (same as abutting bldg one side)	10 Feet; no maxs	10 feet max.; less if nearest developed lots are closer; can average on other side
Min. Side Setback	0 one side; 11.5 ft other side	10 ft (1-2 stories)	None or 10 feet if adjacent res.
Min. Rear Setback	35 feet not incl parking	20 Feet	None or 20 feet if adjacent res.
Max. Lot Coverage	36%/1436 sq ft bldg	40% (over 20 units)	None- see impervious
Max. Building Height	16 feet	45 Feet	Max allowed in R-6
Open Space/Ratio	N/R	20% (less than 20 res units)	Not mentioned; see impervious
Max. Impervious Surface	95% (JF est.)	Not mentioned	90%
Off-Street Parking	3-4 spaces	Restaurants: 1 parking space for each 150 sq ft floor restaurant area not used for bulk storage or food preparation ie about 7 spaces	Restaurants: 1 parking space for each 150 sq ft floor restaurant area not used for bulk storage or food preparation ie about 7 spaces

Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman, Co-Owner Greg's Properties & Co-Owner Binga's Wingas
CC: Mango LLC
Date: October 30, 2008
Re: 194 Park Ave; Definition of business parameters

Proposed Hours of Operation: 11:30am to 11pm

Type of Service: The majority of the sales are intended to be food sales; take out, and quick meals. We do intend to ask for a full liquor license because we feel that a full adult beverage selection benefits our customers.

We feel that we will draw our customer base from two sources. The first is the neighborhood. This is a section of Portland that is dominated by rentals whose residents need local options for both eat-in and take-out meals. Second, the users of the four event venues situated within walking distance (three of which lack comfortable food options) would likely grab a bite to eat before or after attending an event.

Our expected clientele will probably be drawn from the city's base population and we expect that a large portion of the event attendees will be families.

In summary, we intend to run a food oriented establishment with roughly 75% of total sales coming from food products.

Thank You for Your Time

*Draft as prepared by
Ow-C and sent to applicant's
attorney
week of Oct 20th 08*

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

Attachment I,

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. ~~Parking requirements:~~ 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT

from Adam Gonzalez.

11/3/08

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

Attachment J

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

Deleted: a copy of which is attached hereto as Attachment 1,

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. ~~Parking requirements:~~ parking not less than 2 spaces of on-site

Deleted: 4

5. The hours of operation for the restaurant shall be between 9:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property without applicable permits.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol shall not be served except in conjunction with food service and when the kitchen is open for food service.

9. The air conditioning units shall have sound attenuation screening.

Deleted: All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties.

Deleted: also

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property. The Developer may repair, replace and maintain the improvements all in accordance with the zoning requirements for the B-1 zone.

12. In the event of a material breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), which breach continues for six (6) months after written notice, or if such breach is incapable of being cured within said period, such additional period as may be required to cure the same provided the Developer is prosecuting such cure, the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated rights, restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

Att J4.

BY: Alec Altman, its Manager
CITY OF PORTLAND

BY: _____
Print name: _____
Title: _____

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

O:\LAWOFFICEREALTY\Altman\194 Park Ave Contract Zone\194 Park Ave 10-22-08assentoappl rev.doc

Formatted: Font: 8 pt

DRAFT

Attachment K.

From: Danielle West-Chuhta
To: Barhydt, Barbara; Fraser, Jean
Date: 11/4/2008 3:40:32 PM
Subject: Fwd: RE: Alec Altman/194 Park Avenue, Portland

Jean:

I have the following concerns with the edits made to the conditional zone agreement:

First, paragraph 1 on page 1 (where the reference to the copy of the agreement has been removed), I would like to see at least a copy of the memorandum of agreement included as an attachment to the conditional zone agreement and/or the Book and Page reference from the Registry of Deeds.

Next, (also on page 1) with regard to the changes made to the parking requirements, it seems important to me to at least maintain the existing parking on site which (I believe) is 4 spaces (this, of course, is a decision for the Board, but I wanted to point out my concerns).

Third, (also on page 1) I have concerns about the change to the language regarding ventilation. Pursuant to the statute and Ordinance one of the central things which must be established is consistency with the comprehensive plan and existing and permitted uses in the area. As such, it is important to ensure that the development (including its ventilation) does not overly impact the surrounding community.

Fourth, (on page 2) I do not like the inclusion of the language in paragraphs 11 and 12. The language in paragraph 11 seems unnecessary, and the language in paragraph 12 must be removed since the City should not be hindered in its ability to enforce the agreement.

Finally, the inclusion of a signature line for the City needs to be removed from the agreement since this is a conditional zone agreement (wherein conditions are placed on the development by the City) and not a contract with the City.

Thanks a lot,

Danielle

Context: 194 Park Ave.

140 Feet
0 70 140





Portland Public Schools

To: Members of the Portland Planning Board

From: Jeanne Whynot-Vickers, Interim Superintendent, Portland Public Schools
Michael McCarthy, Principal, King Middle School
Jill Blackwood, Assistant Superintendent
Susan Steele, Director, Safe and Drug Free Schools

Date: November 12, 2008

Re: 194 Park Avenue
Conditional Rezone Application

The Planning Board is considering a request by Greg's Properties LLC for a Conditional Rezone to allow for the change of use and associated remodeling of the existing building at 194 Park Avenue – currently Terroni's Market.

King Middle School, located close to Terroni's, educates approximately 500 students ranging in age from 11 to 14. We ask that the Board consider the following as they deliberate on this request:

- Parking is limited in the area. We are concerned that any additional strain on available parking in the area will make it even more difficult to maintain the King Middle School parking lot for King staff, visitors, parents, etc. What steps can the Planning Board take to minimize parking problems?
- Layout – the layout suggests a sizeable bar with seating and limited table seating. We question if that is the best layout to support a family restaurant – will food be a required order at the bar? At the tables?
- Alcohol service – is it possible to limit alcohol service to beer and wine? Use of beer and wine works well with a family type restaurant and minimizes drunken and disorderly conduct of patrons, while the serving of hard liquor promotes a bar that serves food rather than a family style restaurant. Considering the proximity to the school, and the major roadways that are in the area, excessive alcohol consumption can pose safety risks for middle school students who are walking from school in the early to late afternoon.

Thank you for your consideration.

PLANNING BOARD WORKSHOP 11.12.2008
194 Park Avenue Conditonal Zone

Planners Presentation:

1. Review: Conditional zone application for a change of use from convenience store to a restaurant within an existing building, which is proposed to be remodeled. The existing use and building are grandfathered although nonconforming within the R6 zone.
2. Progress since last Workshop: A conditional rezone to B1 appears to make the most sense in relation to the site and the proposals.
 - The applicant has submitted further information regarding the restaurant use and anticipated clientele (Att H).
 - A draft Conditional Zone Agreement was drafted by the City's Associate Corporation counsel (Att I) and the applicant has requested revisions as shown in Att. J. Staff have concerns regarding these revisions.
3. Public Comment: A statement from Portland Public Schools has been received and has been circulated. *At the October workshop comments were made from the owner of adjacent residential units, from the owner of Terronis on behalf of the medical building next door*
4. Proposal: The applicant has not revised the proposed layout of the restaurant; at present it shows a total of 39 seats: a bar with 13 seats and 4 tables with 26 seats.
5. Staff comments; Page 5 of the Memo outlines the main concerns of staff:
 - Full Liquor license; the city and the state control the licensing of alcohol and different licenses are available for beer only; wine only; beer and wine only and spirits only. It is understood that proximity to a school could be a factor in licensing but may not necessarily prevent the granting of a license. [see aerial] Signage and hours of sale are also controlled but on weekdays and Saturday these are 6am to 1am the next day. The Board may also introduce controls in the Conditional Zone Agreement; at present the main control is that alcohol must be served only in conjunction with food service.
 - Parking: What amount of parking should be provided on site; the applicant has indicated 2 while the site technically has 4
 - Outdoor Seating: The applicant has introduced the potential for outdoor seating;
 - Ventilation: The applicant has removed any requirement regarding the location of ventilation. The current layout shows the ventilation to be on the side of the building nearest to residential neighbors.
 - Legal language: Att K includes comments from the Associate Corporation Counsel and she is here to answer questions on those issues.

PB workshop

11/12/08

194 Park Ave

Board Members present:

Janice Tevanian

David Silk

Bill Hall.

JF presentation

JF raised as
impact on
neighbors

AA - licensing + seating outside this

- Kitchen vent - caught between planning/code

- Pkg. - boxing in

DS - ? re letter + vent

AA conf. ↗

Keeping one on back right

JF thinks
it would be
bigger.

Public Comment

Al Higgins - adj. prop. owner - 4 bldgs.

- shd have concerns

- 4 feet between bldg. + res. bldg. ^{s/f gd} _{3' fan / 3' sh.}

- looks like sports bar

- ^{not} adequate pkg for employees

- noise / odors / pkg - why allow

[mentioned
1000' safety zone]

- alcohol consumption - why allow.

- petition printed on election day
took to Expo (voting place)

200 signatures to City Council
_{at that time}

"ask public zone chg. ... allow alcohol w/in 1000 ft of school.
want ordinance re 'safe zone'

Susan Steele - read her statement
17 Coloma Rd
Portland Public Zone

Mel Mango - ft 6 cars at present
owner of mkt - neighbors? his customers, ^{who live next door} are in favor + will speak at future mtgs
don't see some of these issues

need to
ck if rent
greater +
longer hours.

- 2nd floor don't experience smells.

Public Comment

JT - asked AJ to speak about parking

JT - asked AA to clarify if food would be served with alcohol; ^{alcohol} convenience for diners; invites look at track record; 30 seat cap OK.

Bill Hall - favors limitation to beer + wine

? how many employees - AA 4 at anyone time
- rent. needs to be away from abutter

Dan Silk - expansion of non-conforming use so Pl. Bd should look at impacts.
- no liquor sales; ^{read BI ord re impact on res. neigh.} rent. needs to meet this

If goes here, has to be benign, vent. a concern.

OZA not personal

TO CC - no liquor; ? pkg; vent. sorted

JT - nice pm-oriented bus OK
ventilation has to be mitigated
envision limitations on alcohol - respectful
of prov. of school eg hours - not
serve alcohol when school is in session.

Next steps: AA to talk to me.

B1

- (f) The outer perimeter of playfields, playlots, and other active recreational areas shall be screened, or shall be located a reasonable distance from any residential use.
- (g) Off-street parking shall conform to the requirements of division 20 of this article, where applicable. Otherwise, off-street parking adequate to serve projected employee and visitor needs shall be provided. Parking needs projections provided by the applicant or the planning department should be considered in the review.

(Ord. No. 232-81, § 602.7B.6, 11-16-81)

Sec. 14-159. Shoreland and flood plain management regulations.

Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

(Ord. No. 232-81, § 602.7B.7, 11-16-81; Ord. No. 15-92, § 15, 6-15-92)

Sec. 14-160. Reserved.

DIVISION 9. B-1 AND B-1b NEIGHBORHOOD BUSINESS ZONES*

*Editor's note--Ord. No. 292-88, adopted Apr. 4, 1988, with an effective date of July 1, 1988, repealed §§ 14-161--14-167 of Div. 9, B-1 Business Zone, of this article and enacted in lieu thereof similar new provisions as set out in §§ 14-161--14-167. Formerly, such sections derived from §§ 602.8.A--602.8.G of the city's 1968 Code and from Ord. No. 74-72, adopted Mar. 6, 1972, and Ord. No. 499-74, § 4, adopted Aug. 19, 1974.

Sec. 14-161. Purpose.

(a) *B-1 Neighborhood Business Zone*

The purpose of the B-1 neighborhood business zone is to provide limited areas for the location of smallscale commercial establishments intended to serve a local market. As a result, uses shall be complimentary, quiet and generally do not disturb the comfort and enjoyment of the adjoining neighborhood environment. Uses shall be designed for the pedestrian scale and will provide

permitted.

- b. In any structure with commercial use on the first floor, multifamily dwellings are permitted above the first floor.

(2) *Business:* Business uses listed below are permitted, provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq.ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the Technical and Design Standards and Guidelines, section III, 6, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips.

- a. Professional offices, as defined in section 14-47, but excluding veterinarians.
- b. Business services, as defined in section 14-47, but excluding beverage container redemption centers.
- c. Personal services, as defined in section 14-47.
- d. Offices of building tradesmen, provided there is no exterior storage of building materials.
- e. Retail establishments, provided such do not include drive-through sales or services and do not operate between the hours of eleven (11) p.m. and six (6) a.m. and do not accept deliveries or services between the hours of ten (10) p.m. to seven (7) a.m.
- f. Beverage dealers (as defined in 32 M.R.S.A. 1862) provided they meet the following requirements:
 - 1. Maximum total floor area for beverage container redemptions, including the storage of spent beverage containers, shall be no greater than five hundred (500) sq. ft. or ten (10) percent of the total floor area of the facility, whichever is less;
 - 2. Beverage container redemption is an accessory

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-163. Conditional uses.

The following uses are permitted in the B-1 zone and on the ground floor level of buildings in the B-1b zone, as provided in section 14-474 (conditional uses), if they meet the following requirements provided that such use which generates in excess of a ratio of 100 peak hour vehicle trips per 2000 sq. ft. of space, and generates in excess of 100 peak hour vehicle trips is prohibited. As set forth in the Technical and Design Standards and Guidelines, section III, 6, the city traffic engineer shall require a traffic study when it calculates the proposed use will generate in excess of a total of 50 peak hour vehicle trips:

(a) Restaurants, provided they meet the following requirements:

1. Maximum total floor area for use of the public shall be one thousand (1,000) square feet;
2. The hours of operation shall be limited to between 6:00 a.m. and 11:00 p.m. each day;
3. Food service and consumption are the primary function of the restaurant; and
4. There shall be no drive-through service.

(Ord. No. 292-88, 4-4-88; Ord. No. 133-93, § 3, 11-15-93; Ord. No. 94-99, 11-15-99; Ord. No. 74-06/07, 12-4-06)

***Editor's Note-** Pursuant to Ord. No. 74-06/07, enacted on 12-4-06 changes made in (2) *Business* are effective October 16, 2006.

Sec. 14-164. Prohibited uses.

Uses not enumerated in sections 14-162 and 14-163 as either permitted or conditional uses are prohibited.

(Ord. No. 292-88, 4-4-88)

Sec. 14-165. Dimensional requirements.

maximum setback.

2. *Rear yard:*

- a. Principal structures: None, except where a rear yard abuts a residential zone or first floor residential use, a minimum of twenty (20) feet is required.
- b. Accessory structures (detached): None, except where the rear yard abuts a residential zone or first floor residential use, a minimum of five (5) feet is required.

3. *Side yard:*

- a. Principal and accessory structures: None, except that where a side yard abuts a residential zone or a first floor residential use, a minimum of ten (10) feet is required.
 - b. Accessory structures (detached): None, except that where the side yard abuts a residential zone or a first floor residential use, a minimum of five (5) feet is required.
 - c. Side yards on side streets (corner lot): Principal or accessory structures: Ten (10) feet maximum setback, except that for any new construction on a lot abutting more than two streets, the maximum setback shall not apply beyond the two most major streets. (For purposes of this section, "major street" shall mean that street with the highest traffic volume and the greatest street width in comparison with the remaining streets). This maximum setback shall not apply to building additions.
- (d) *Minimum lot width:* None.
- (e) *Maximum structure height:* Thirty-five (35) feet. Where the lot abuts an R-6 residential zone, the maximum height shall be the maximum permitted height in the R-6 residential zone.

- (f) *Exterior storage:* There shall be no exterior storage with the exception of fully enclosed containers or receptacles for solid waste disposal. Such containers or receptacles shall be shown on the approved site plan. In no event shall vehicles, or truck trailers with or without wheels, be used for on-site storage. Truck load sales shall not be considered outside storage provided that such activity does not extend beyond three (3) consecutive days nor occur more frequently than three (3) times a calendar year.
- (g) *Storage of vehicles:* Storage of vehicles is subject to the provisions of section 14-335.
- (h) *Shoreland and flood plain management regulations:* If the lot is located in a shoreland zone or in a flood hazard zone, then the requirements of division 26 and/or division 26.5 apply.

(Ord. No. 292.88, 4-4-88; Ord. No. 94-99, 11-15-99)

Sec. 14-167. External effects.

Every use in a B-1 or B-1b zone shall be subject to the following requirements:

- (a) *Enclosed structure:* The use shall be operated within a completely enclosed structure, except for those specific open air activities licensed by the City, including but not limited to outdoor seating, sidewalk sales, etc.
- (b) *Noise:* The volume of sound, measured by a sound level meter with frequency weighting network (manufactured according to standards prescribed by the American Standards Association), generated shall not exceed fifty-five (55) decibels on the A scale, on impulse (less than one (1) second), at lot boundaries, excepting air raid sirens and similar warning devices.
- (c) *Vibration and heat:* Vibration inherently and recurrently generated and heat shall be imperceptible without instruments at lot boundaries.
- (d) *Glare, radiation or fumes:* Glare, radiation or fumes shall not be emitted to an obnoxious or dangerous degree beyond lot boundaries.

R6

City of Portland
Code of Ordinances
Sec. 14-132

Land Use
Chapter 14
Rev.6-19-08

Sec. 14-132. Reserved.
Sec. 14-133. Reserved.
Sec. 14-134. Reserved.

DIVISION 7. R-6 RESIDENTIAL ZONE*

*Editor's note--Ord. No. 538-84, adopted May 7, 1984, repealed Div. 7, §§ 14-131--14-134, and enacted a new Div. 9, §§ 14-135--14-139, 14-145. However, in order to avoid duplication of division numbers and in consultation with the city, the provision has been included as Div. 7.

Sec. 14-135. Purpose.

The purpose of the R-6 residential zone is:

(a) To set aside areas on the peninsula for housing characterized primarily by multifamily dwellings at a high density providing a wide range of housing for differing types of households; and to conserve the existing housing stock and residential character of neighborhoods by controlling the scale and external impacts of professional offices and other nonresidential uses.

(b) In cases of qualifying small, vacant, underutilized lots located in the urban residential and business zone, to encourage new housing development consistent with the compact lot development pattern typically found on the peninsula.

(Ord. No. 538-84, 5-7-84; Ord. No. 78-03/04, 10-20-03)

Sec. 14-136. Permitted uses.

The following uses are permitted in the R-6 residential zone:

(a) *Residential:*

1. Single- and two-family dwellings. No building reviewed as a two-family dwelling in accordance with section 14-524 shall be altered to include any additional dwelling unit within five (5) years from the date of issuance of the building permit. Any building reviewed as a two-family dwelling in accordance with section 14-524 or not reviewed under article V, which is altered or enlarged to include any additional dwelling unit after this

and distinct ownership, except in a National Register Historic District, provided that each unit meets the performance standards listed below:

- a. More than half of the roof area of each unit shall be a double pitched Class C rated shingled roof with a minimum pitch of 3/12.
- b. Each unit shall be installed on a full foundation or a concrete frost wall in accordance with all applicable codes and regulations. Any hitch or tow bar shall be removed from the unit after it is placed on its foundation or frost wall. In the case of a frost wall, vermin proof skirting shall be installed on all sides of the unit. The skirting may consist of either (a) concrete or masonry block or (b) manufactured skirting. If concrete or masonry block skirting is installed, either the exterior siding of the unit shall extend within one (1) foot of grade or decorative masonry siding shall be applied. If manufactured skirting material is installed, the color shall be identical to or compatible with the exterior siding of the unit.
- c. Each unit shall have exterior siding that is residential in appearance, including but not limited to natural materials such as wood clapboards or shakes, or exterior materials which simulate wood. Clapboards or simulated clapboards shall have less than eight (8) inches of exposure and sheet metal type siding shall not be permitted.
- d. Each unit shall have the long side of the unit parallel to the street line where the required street frontage is met.
- e. Each unit shall be provided with at least two (2) trees meeting the city's arboricultural specifications and which are clearly visible from the street line and are located so as to visually widen the narrow dimension or

review by the City of Portland and a decrease in the number of units in the building in accordance with the Portland City Code, chapter 14. The owner shall file proof of such recording with the building inspections division prior to the issuance of any certificates of occupancy for the new uses.

8. Conversion of a structure existing on March 3, 1997, into a bed and breakfast with up to four (4) guest rooms, subject to the standards of article V (site plan).

(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 1, 12-17-84; Ord. No. 67-87, § 4, 11-2-87; Ord. No. 85-88, §§ 1, 2, 7-19-88; Ord. No. 86A-89, § 7, 8-21-89; Ord. No. 95-89, § 2, 9-6-89; Ord. No. 279-90, § 2, 3-19-90; Ord. No. 33-91, § 8, 1-23-91; Ord. No. 33A-91, § 6, 4-17-91; Ord. No. 125-97, § 2, 3-3-97)

***Editor's note**--Ord. No. 85-88, §§ 1, 2, adopted July 19, 1988, amended § 14-136 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88. Ord. No. 95-89, § 2, adopted Sept. 6, 1989, amended subsection (1)a of § 14-136 to read as set out and, as amended, further ordained "that the prohibition upon unit additions contained in this ordinance shall not apply where a building permit has been issued. Additions proposed to such buildings shall require major site plan review and all other reviews required by this chapter."

Sec. 14-137. Conditional uses.

The following uses shall be permitted only upon the issuance of a conditional use permit, subject to the provisions of section 14-474 (conditional uses) of this article and any special provisions, standards or requirements specified below:

(a) *Residential:*

1. Reserved.
2. Sheltered care group homes, as defined in section 14-47 of this article, for up to twelve (12) individuals, plus staff, and serving a primary population which is not handicapped persons, parolees, persons involved in correctional prerelease programs, or current illegal drug users, provided that:

a. A sheltered care group home shall not be

3. Intermediate care facility;
4. Church or other place of worship;
5. Private club or fraternal organization;
6. Community Hall provided that:
 - a. The structure was in existence as of date of enactment, March 15, 1999;
 - b. The structure was built for institutional or other non-residential uses;
 - c. The structure is operated by, or operated subject to the control of, a not-for-profit entity in accordance with its not for profit purposes; and
 - d. A parking management plan is submitted for review and approval by the Planning Board.
7. Hospital;
8. College, university, trade school.

Such uses shall be subject to the following conditions and standards in addition to the provisions of section 14-474:

- a. In the case of expansion onto land of existing such uses other than the lot on which the principal use is located, it shall be demonstrated that the proposed use cannot reasonably be accommodated on the existing site through more efficient utilization of land or buildings, and will not cause significant physical encroachment into established residential areas; and
- b. The proposed use will not cause significant displacement or conversion of residential uses existing as of June 1, 1983, or thereafter; and

- c. The total number of individuals working in a building of professional offices shall not exceed the equivalent of four (4) full-time employees.
 - d. Any additions or exterior alterations shall be compatible with the architecture of the building and maintain the residential appearance of the building. Construction of a new building shall be compatible with the architectural character of the surrounding area.
 - e. The scale and surface area of parking, driveways, and paved areas shall be arranged and landscaped to be compatible in size and scale with neighboring properties in the area and to properly screen vehicles from adjacent properties and streets.
 - f. On-site parking shall be required as specified in division 20 (off-street parking) of this article for the combined uses of the site.
- 3. Chancellery.
 - 4. Nursery school and kindergarten.
 - 5. Off-street parking for passenger cars for uses permitted in the R-6 zone.
 - 6. Day care facilities or home babysitting services not permitted as a home occupation under section 14-410, subject to the following conditions:
 - a. The facility shall be located in a structure in which there is one (1) or more occupied residential units or in an existing accessory structure, unless the facility is located in a principal structure that has not been used as a residence in whole or in part within the five (5) years immediately preceding the application for a day care or home babysitting use or in a nonresidential structure accessory

- iv. A ten-foot wide landscaped buffer shall be required outside of the fenced play area, and shall be established in accordance with the landscaping standards of the City's Technical Standards and Guidelines;
- v. The minimum lot size for a day care facility located in a residential or existing accessory structure and serving more than twelve (12) children shall be twenty thousand (20,000) square feet;
- vi. Off-street parking shall be provided on the site for all staff of the facility. Parking for the facility shall not interfere with access to or use of play areas. Parking spaces may be stacked or placed side by side in order to lessen their impact on the residential character of the lot and the neighborhood, and shall not be located closer than five (5) feet from the property line of any abutting residential use or residentially zoned site;
- vii. The maximum number of children in a day care facility located in a residential or existing accessory structure shall be twenty-four (24); and
- viii. Any additions or exterior alterations such as facade materials, building form, roof pitch, and exterior doors shall be designed to be compatible with the architectural style of the building and preserve the residential appearance of the building.

7. Community Center, as defined in Section 14-17.
(Ord. No. 538-84, 5-7-84; Ord. No. 267-84, § 2, 12-17-84; Ord. No. 76-85, § 8, 7-1-85; Ord. No. 85-88, § 3, 7-19-88; Ord. No. 235-91, § 13, 2-4-91; Ord. No. 118-93, § 11, 10-18-93; Ord. No. 133-96, § 7, 11-18-96; ; Ord. No. 154-96, § 11, 12-16-96; Ord. No. 125-97, § 3, 3-3-97; Ord. No. 232-99, §2, 3-15-99; Ord. No. 77-02/03, § 2, 10-21-02)

9. Hospital: Two (2) acres.
10. All other uses: Forty-five hundred (4,500) square feet.
11. Lodging house: Four thousand five hundred (4,500) square feet.
12. Community Hall: None, provided that no existing lot housing a community hall may be reduced to less than four thousand five hundred (4,500) square feet.

Provided that for uses specified in section 14-139(a)3 through 9 above, no minimum lot area shall be required in the following cases:

- a. Uses existing on June 1, 1983;
 - b. Expansion onto land abutting the lot on which the principal use is located;
 - c. Expansion onto land other than the lot on which the principal use is located to the extent that such expansion consists of the reuse of surface parking area or nonresidential structures existing and in nonresidential use as of June 1, 1983, provided that such reuse is contained within the lot of record of such structure or parking area as of June 1, 1983;
 - d. Expansion onto land other than the lot on which the principal use is located of not more than fifteen (15) percent of the total contiguous land area of the existing use, or one (1) acre, whichever is less, within any five-year period.
- (b) 1. *Minimum area per dwelling unit:* One thousand (1,000) square feet per dwelling unit; and in the case of building additions and new construction, one thousand two hundred (1,200) square feet for each dwelling unit after the first three (3) units.

- c. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

3. *Side yard:*

- a. Principal and attached accessory structures with ground coverage greater than one hundred (100) square feet:

<i>Height of Structure</i>	<i>Required Side Yard</i>
1 story	10 feet
2 stories	10 feet
3 stories	10 feet
4 stories	12 feet
5 stories	15 feet

The width of one (1) side yard may be reduced one (1) foot for every foot that the other side yard is correspondingly increased, but no side yard shall be less than ten (10) feet. In the case of a lot of record existing as of June 5, 1957, and held under separate and distinct ownership from adjacent lots, the required side yard may be reduced in order to provide a buildable width of up to twenty-four (24) feet, but in no case shall the resulting side yards be less than ten (10) feet.

- b. Detached accessory structures with ground coverage of one hundred (100) square feet or less: Five (5) feet.
- c. Setbacks for swimming pools shall be as provided for in section 14-432 (swimming pools) of this article.

4. *Side yard on side streets:*

- a. Principal or accessory structures: Ten (10)

- (j) *Minimum gross floor area for bed and breakfasts:* Two thousand (2,000) square feet of gross floor area for the first three (3) guest rooms and five hundred (500) square feet of floor area for each additional guest room.

(2) *Small residential lot development:* Residential uses on small, vacant lots located in the R-6 are subject to site plan review and may use the dimensional requirements below if all of the following conditions are met:

The lot is:

Vacant or is used exclusively for parking or contains structure not used for residential purposes as of January 1, 2005; and the lot existed as of January 1, 2005.

- (a) *Minimum lot size:* None
- (b) *Maximum lot size:* Ten thousand (10,000) square feet.
- (c) *Yard dimensions:*

1. *Front yard:*

No more than ten (10) feet.

2. *Rear yard:*

None, except that rear yards between two (2) buildings on the same or different lots shall maintain a minimum ten (10) foot setback between buildings or the sum of the heights of the abutting buildings and proposed buildings divided by five (5), whichever is greater; and that either the rear yard or one of the side yards shall be at least fifteen (15) feet; provided, however, detached accessory structures with a ground floor area of one hundred (100) square feet or less need not have a setback more than five (5) feet from the property line. Notwithstanding the foregoing, no structure shall be closer than four (4) feet to side property line.

- (h) *Minimum land area per dwelling:* Seven hundred and twenty-five (725) square feet.

(Ord. No. 538-84, 5-7-84; Ord. No. 634-86, § 1, 7-7-86; Ord. No. 264-87, § 1, 3-16-87; Ord. No. 85-88, § 4, 7-19-88; Ord. No. 230-90, § 1, 3-5-90; Ord. No. 33-91, § 9, 1-23-91; Ord. No. 235-91, § 14, 2-4-91; Ord. No. 33A-91, 4-17-91; Ord. No. 118-93, § 12, 10-18-93; Ord. No. 154-96, § 12, 12-16-96; Ord. No. 125-97, § 4, 3-3-97; Ord. No. 245-97, §§ 1, 2, 4-9-97; Ord. No. 232-99; §3, 3-15-99; Ord. No. 78-03/04, 10-20-03; Ord. No. 21-04/05, 8-2-04, Ord. No. 145-04/05, 2-23-05; Ord. No. 254-05/06, 6-5-06)

*Editor's note--Ord. No. 85-88, § 4, adopted July 19, 1988, amended § 14-139 to read as herein set out. See also the editor's note to Art. III of this chapter for additional provisions relative to Ord. No. 85-88.

Sec. 14-140. Other requirements.

(a) *Offstreet parking:* Off-street parking is required as provided in division 20 (off-street parking) of this article, except that required parking for residential building additions shall be located on the same lot.

For small, vacant lots which meet, and are developed under, the dimensional standards of 14-139(2) above, the following off-street parking requirements shall apply:

1. One (1) parking space per dwelling unit is required and shall be located on the same lot; and
2. The technical and design standards for driveway design for one and two-family buildings (Section II, Traffic Design Standards and Guidelines) shall apply to projects with up to four units and with no more than four parking spaces;

(b) *Storage of vehicles:* Only one (1) unregistered motor vehicle may be stored outside on the premises for a period not exceeding thirty (30) days.

(c) *Shoreland and flood plain management regulations:* Any lot or portion of a lot located in a shoreland zone as identified on the city shoreland zoning map or in a flood hazard zone shall be subject to the requirements of division 26 and/or division 26.5.

not parking
not street frontage

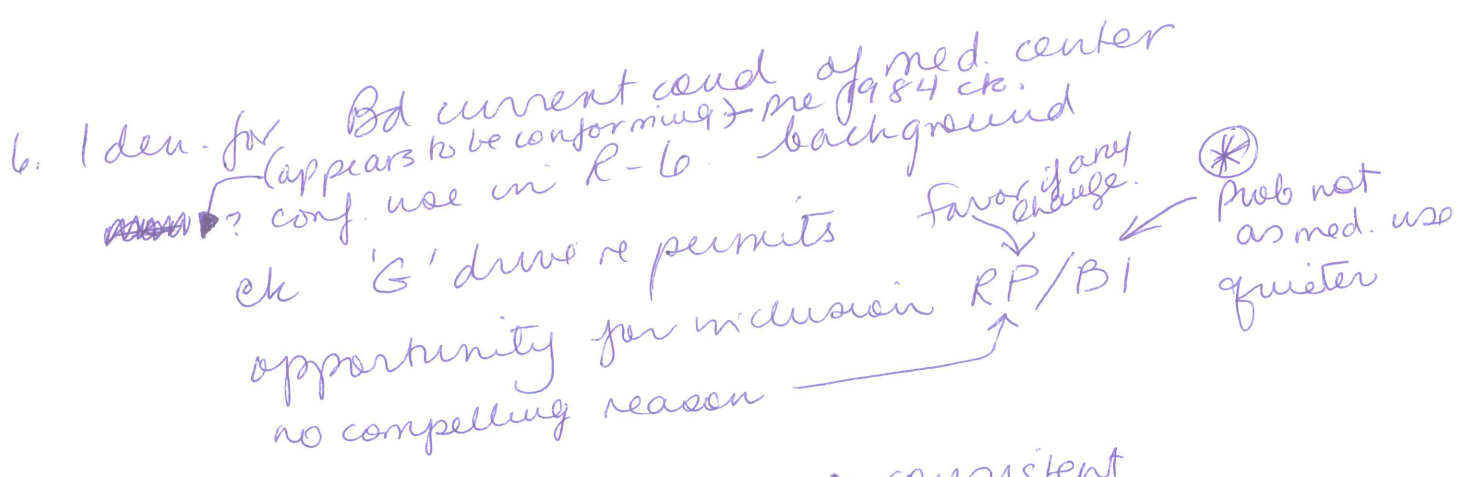
re R6

- 1. what grandfathered / re existing bldg.
- 2. Map Change to B1 could use (contract zone)
cat. dev's from B1

3. Both options to Board - R6 could. shd use
B1 could's 14-163. - another next step as wd need to ZBA.

4. Ventilation - could. to east - towards Med Center.

5. other cond. - A/C's noise attenuation screened



7. Spot zoning not happening if consistent w/ Comp Plan but Comp plan spec. supports retention neigh bus. ? burger joint meet this?



MEMO
Planning and Urban Development
Inspection Division

To: Jean Fraser, Planner
From: Marge Schmuckal, Zoning Administrator
Date: October 10, 2008
Re: 194 Park Avenue

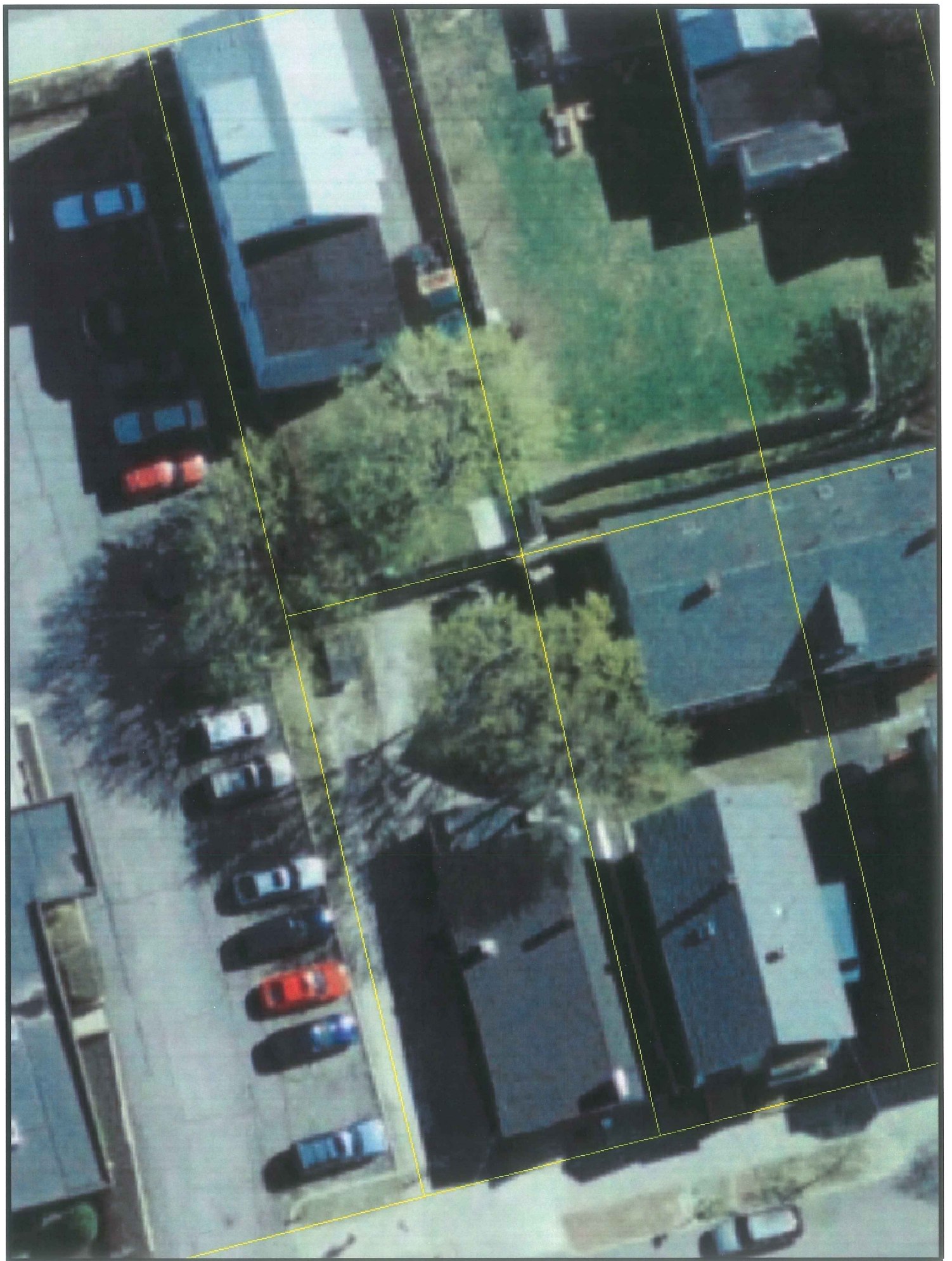
This property is located in the R-6 residential zone. According to the assessor's records the building and use (retail sales) were built in 1940, prior to the current land use zoning ordinance which went into effect on June 5, 1957. Apparently, the underlying zone has always been an R-6 residential zone as evidenced by appeals dated in 1963. The building and use were made legally nonconforming when the 1957 land use ordinance went into effect.

Changing the zone to a B-1 zone would not make this property any more nonconforming as to setbacks. The B-1 zone does not have a minimum lot size. Therefore the current R-6 nonconforming lot size would become conforming under the B-1 zone change. The only nonconforming setback under R-6 and B-1 is the right side of the building that is at approximately 0' setback. Both the R-6 and B-1 zones require a 10' setback. The proposed zone change would result in this property being less nonconforming in regard to dimensional requirements.

Marge Schmuckal
Zoning Administrator

Table 1: 194 Park Avenue: Comparison of Zoning Options [toned items are understood to be grandfathered for this site]

Standard	Proposal based on existing building	R-6 Residential Zone	B1 Neighborhood Business Zone
Uses	<p>Existing Building: 1436 sq ft Proposed use by public: approx 1000 sq ft (looks like could be just under 1000 sq ft)</p> <p>Proposed Use (from submission statement): Full service restaurant seating up to 35 with on premises sale and consumption of alcohol</p> <p>Note: the layout of the restaurant (Plan A1.1) suggests there are going to be 39 seats.</p>	<p><i>Permitted:</i></p> <ul style="list-style-type: none"> - Residential single and two family; m/f unit; handicapped unit; s/f manu etc incl sp needs - Lodging house - Cemeteries - Parks - Accessory uses - Home occupation - Municipal uses <p><i>Conditional uses:</i></p> <ul style="list-style-type: none"> - Sheltered care group homes - Institutional - Utility substations - Prof offices excl personal services, retail services and Vets - Chancellery - Nursery school/kindergarten - Off street parking for permitted R-6 uses - Day care/home babysitting 	<p><i>Permitted:</i></p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p><i>Conditional use:</i> (ZBA determination) Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function (prohibits uses generating in excess of a ration of 100 peak hr vehicle trips per 2000 sq ft of space and generates in excess of 100 peak hr vehicle trips)</p> <p>None</p>
Min. Lot Size	3967 sq ft	Generally 4500 sq ft for permitted/cond. uses	None
Min. Street Frontage	41.2 feet	40 Feet	50 ft or average of all lots w/in 200 ft
Min. Lot Width	41.2 feet	50 Feet	None
Min. Front Setback	5 feet (same as abutting bldg one side)	10 Feet; no maxs	10 feet max.; less if nearest developed lots are closer; can average on other side
Min. Side Setback	0 one side; 11.5 ft other side	10 ft (1-2 stories)	None or 10 feet if adjacent res.
Min. Rear Setback	35 feet not incl parking	20 Feet	None or 20 feet if adjacent res.
Max. Lot Coverage	36%/1436 sq ft bldg	40% (over 20 units)	None- see impervious
Max. Building Height	16 feet	45 Feet	Max allowed in R-6
Open Space/Ratio	N/R	20% (less than 20 res units)	Not mentioned; see impervious
Max. Impervious Surface	95% (JF est.)	Not mentioned	90%
Off-Street Parking	3-4 spaces	Restaurants: 1 parking space for each 150 sq ft floor restaurant area not used for bulk storage or food preparation ie about 7 spaces	



This page contains a detailed description of the Parcel ID you selected. Press the **New Search** button at the bottom of the screen to submit a new query.

Current Owner Information

Card Number	1 of 1
Parcel ID	048 A001001
Location	180 PARK AVE
Land Use	COMMERCIAL CONDOS
Owner Address	SMITH MELBURN P & JEAN K SMITH PO BOX 262 HARPSWELL ME 04079
Book/Page	13380/208
Legal	48-A-1-2 53-B-10-34 PARK AVE 152-158 & 166 -190 DEERING AVE ETC PARK MEDICAL CONDO #1

Current Assessed Valuation

Land	Building	Total
\$144,400	\$1,024,300	\$1,168,700

Building Information

Bldg #	Year Built	# Units	Bldg Sq. Ft.	Identical Units
1	1972	1	8532	1
Total Acres	Total Buildings	Sq. Ft.	Structure Type	Building Name
0	8532		OFFICE BUILDING - LOW-RISE	PARK MED CONDO #2

Exterior/Interior Information

Section	Levels	Size	Use
1	01/01	8532	MEDICAL CENTER

Height	Walls	Heating	A/C
9	BRICK/STONE	HOT AIR	CENTRAL
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE
		NONE	NONE

Building Other Features

Line	Structure Type	Identical Units
------	----------------	-----------------

Yard Improvements

Year Built	Structure Type	Length or Sq. Ft.	# Units
1972	ASPHALT PARKING	4500	1
1972	FENCE CHAIN	140	1

Sales Information

Date	Type	Price	Book/Page
10/01/1997	LAND + BLDING		13380-208
06/01/1997	LAND + BLDING	\$1,000,000	13116-124

Picture and Sketch

[Picture](#)[Sketch](#)[Tax Map](#)

[Click here](#) to view Tax Roll Information.

Any information concerning tax payments should be directed to the Treasury office at 874-8490 or [e-mailed](#).

[New Search!](#)

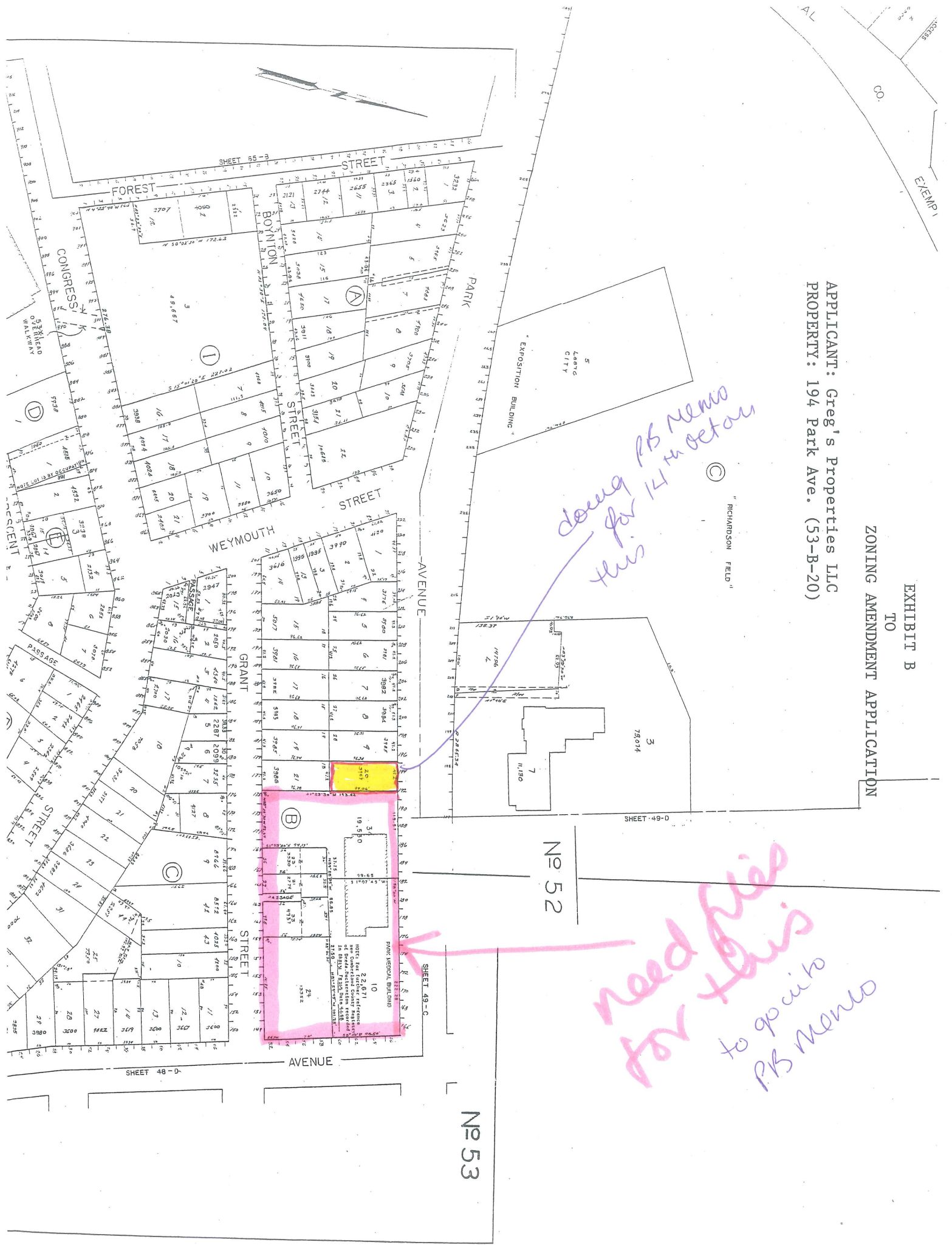


194 Park Street: Comparison of Zoning Options

Standard	Proposal based on existing building	R-6 Residential Zone	B1 (not B1/b which relates to ground floor w/ res. uses above)
<p>Uses</p> <p>Existing Building: 1436 sq ft Proposed use by public: approx 1000 sq ft (looks like could be just under 1000 sq ft)</p> <p>Proposed Use (from submission statement): Full service restaurant seating up to 35 with on premises sale and consumption of alcohol</p> <p>Note: the layout of the restaurant (Plan A1.1) suggests there are going to be 39 seats.</p>	<p>Permitted:</p> <ul style="list-style-type: none"> - Residential single and two family; m/f unit; handicapped unit; s/f manu etc incl sp needs - Lodging house - Cemeteries - Parks - Accessory uses - Home occupation - Municipal uses <p>Conditional uses:</p> <ul style="list-style-type: none"> - Sheltered care group homes - Institutional - Utility substations - Prof offices excl personal services, retail services and Vets - Chancellery - Nursery school/kindergarten - Off street parking for permitted R-6 uses - Day care/home babysitting - Community Center 	<p>Permitted:</p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p>Conditional use: Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function</p>	<p>None</p> <p>50 ft or average of all lots w/in 200 ft</p> <p>None</p> <p>10 feet; less if nearest developed lots are nearer</p> <p>10 feet if adjacent res.</p> <p>20 feet if adjacent res.</p> <p>Max first floor 5000 sq ft</p> <p>Max allowed in R-6</p> <p>Not mentioned</p> <p>90%</p>
Min. Lot Size	3967 sq ft	Generally 4500 sq ft for permitted/cond. uses	None
Min. Street Frontage	41 feet	40 Feet	50 ft or average of all lots w/in 200 ft
Min. Lot Width	41 feet	50 Feet	None
Min. Front Setback	5 feet (same as abutting bldg one side)	10 Feet; no maxs	10 feet; less if nearest developed lots are nearer
Min. Side Setback	0 one side; 11.5 ft other side	10 ft (1-2 stories)	10 feet if adjacent res.
Min. Rear Setback	35 feet not incl parking	20 Feet	20 feet if adjacent res.
Max. Lot Coverage	36%/1436 sq ft bldg	40% (over 20 units)	Max first floor 5000 sq ft
Max. Building Height	16 feet	45 Feet	Max allowed in R-6
Open Space/Ratio	N/R	20% (less than 20 res units)	Not mentioned
Max. Impervious Surface	95% (JF est.)	Not mentioned	90%
Off-Street Parking	3-4 spaces <i>2x15 tway</i> <i>Oregid for ex use.</i> <i>as retail.</i>	Restaurants: 1 parking space for each 150 sq ft floor area not used for bulk storage or food preparation ie about 7 spaces (JF estimate - tbc)	Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function

APPLICANT: Greg's Properties LLC
PROPERTY: 194 Park Ave. (53-B-20)

EXHIBIT B
TO
ZONING AMENDMENT APPLICATION



*doing PB Memo
for H
this*

*need this
for this
to go into
PB Memo*

№ 53

№ 52



PORTLAND MAINE

Planning Division
Jean Fraser, Planner

10.2.08

Danielle -

Re: 194 Park Ave
Rezone / Cond Rezone

Please find attached:

- 1) Application as submitted
- 2) Copy of Purchase + Sale Agreement as submitted
- 3) Summary of proposed R6/B1 dimensions etc. (re existing, some are grandfathered + Marge Schmuckel, Zoning Administrator, will be confirming which. I'm not sure if they are grandfathered only if remains R-6 or even if B1...) (annotations are by Marge)
- 4) Photos (small one is from our computer system)

For discussion - I will get a draft Planning Board memo to you tomorrow.

389 Congress Street, 4th floor • Portland, ME • (207) 874-8728 • Fx 756-8258

Email: jf@portlandmaine.gov

Jean

AVENUE

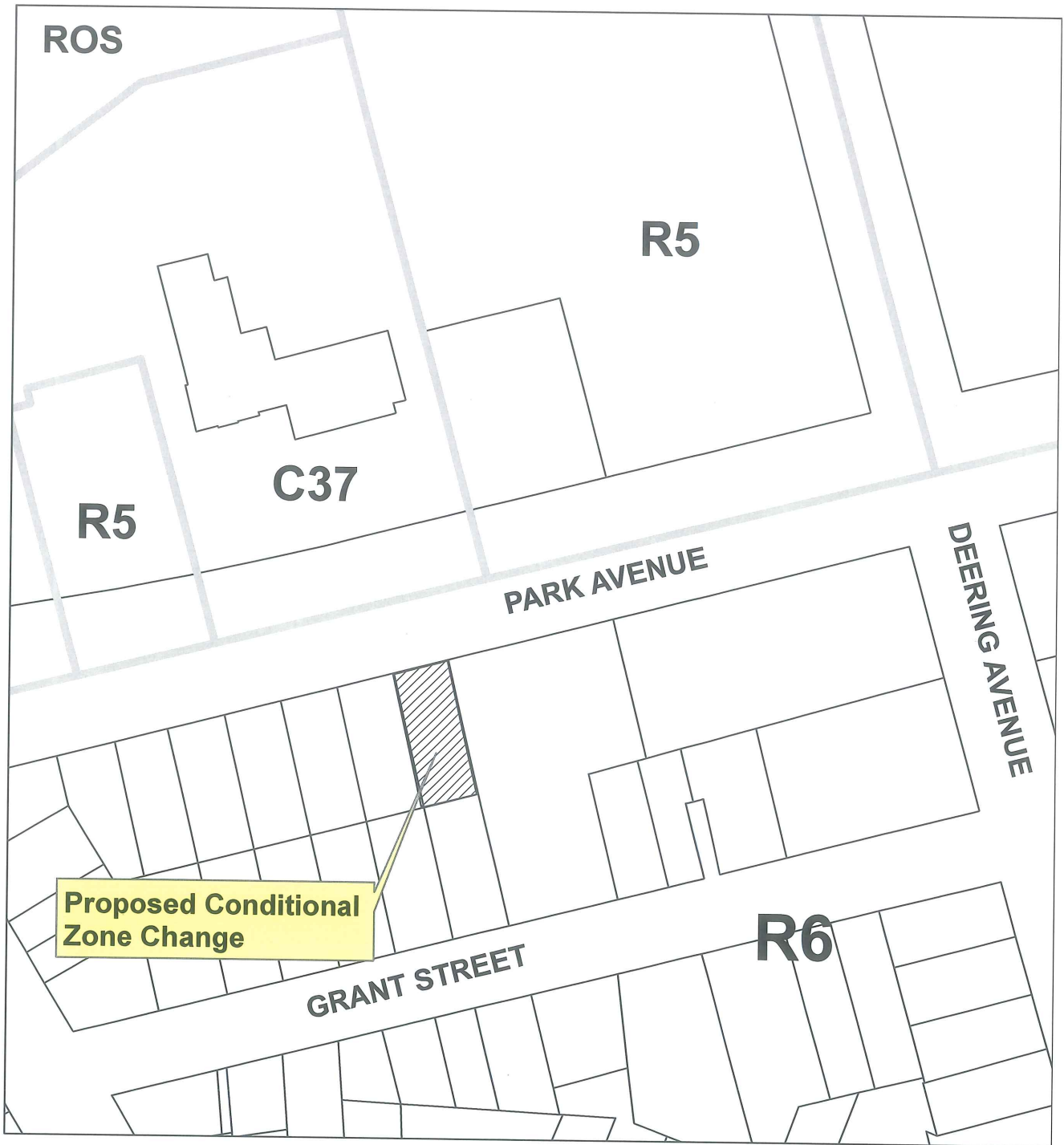
194 Park Street: Comparison of Zoning Options

Prohibits uses generating in excess of a ratio of 100 peak hour vehicle trips per 3000 sq space, generates in excess of 100 peak hour vehicle trips

Standard	S3-B-20 Proposal based on existing building	R-6 Residential Zone	B1 (not B1/b which relates to ground floor w/ res. uses above)
<p>Uses</p> <p>Existing Building: 1436 sq ft Proposed use by public: approx 1000 sq ft (looks like could be just under 1000 sq ft) <i>anyone scaled</i></p> <p>Proposed Use (from submission statement): Full service restaurant seating up to 35 with on premises sale and consumption of alcohol</p> <p>Note: the layout of the restaurant (Plan A1.1) suggests there are going to be 39 seats.</p> <p><i>MORGAN HAS NO PLANS</i></p>	<p>Permitted:</p> <ul style="list-style-type: none"> - Residential single and two family; m/f unit; handicapped unit; s/f manu etc incl sp needs - Lodging house - Cemeteries - Parks - Accessory uses - Home occupation - Municipal uses <p>Conditional uses:</p> <ul style="list-style-type: none"> - Sheltered care group homes - Institutional - Utility substations - Prof offices excl personal services, retail services and Vets - Chancellery - Nursery school/kindergarten - Off street parking for permitted R-6 uses - Day care/home babysitting - Community Center 	<p>Permitted:</p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p>Conditional use: Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function</p>	<p>Permitted:</p> <ul style="list-style-type: none"> - Any res. use in abutting (if none, nearest) zone - Prof offices excl Vets - Bus Services excl beverage container redemption - Personal services - Tradesmen Offices if no ext. storage - Retail (excl drive-thru; open after 11pm/before 6am/deliveries after 10pm/before 7am) - Institutions (Church or other place of worship; Municipal offices; Elementary, middle and secondary schools; Nursery schools and kindergarten; Clinics of less than three thousand (3,000) square ft of total floor space. - Lodging houses; Utility substations; Day care facilities or babysitting services; Accessory uses as provided in section 14-404; Bed and breakfast. <p>Conditional use: Restaurants with public use area under 1000 sq ft; hrs of operation between 6am and 11pm; no drive through; restaurant primary function</p>
Min. Lot Size	3967 sq ft <i>Per Assessors</i>	Generally 4500 sq ft for permitted/cond. uses	None
Min. Street Frontage	41 feet <i>41.2 per Assessors</i>	40 Feet	50 ft or average of all lots w/in 200 ft
Min. Lot Width	41 feet <i>41.2</i>	50 Feet	None
Min. Front Setback	5 feet (same as abutting bldg one side)	10 Feet; no maxs <i>or average</i>	10 feet less if nearest developed lots are nearer <i>can average on close side</i>
Min. Side Setback	0 one side; 11.5 ft other side	10 ft (1-2 stories)	None or 10 feet if adjacent res.
Min. Rear Setback	35 feet not incl parking	20 Feet	None or 20 feet if adjacent res.
Max. Lot Coverage	36%/1436 sq ft bldg	50 %0% (over 20 units)	None or 20 feet if adjacent res.
Max. Building Height	16 feet	45 Feet	None or 20 feet if adjacent res.
Open Space/Ratio	N/R	20% (less than 20 res units)	None or 20 feet if adjacent res.
Max. Impervious Surface	95% (JF est.)	Not mentioned	None or 20 feet if adjacent res.
Off-Street Parking	3-4 spaces	Restaurants: 1 parking space for each 150 sq ft floor area not used for bulk storage or food preparation ie about 7 spaces (JF estimate - tbc)	None or 20 feet if adjacent res.

1000 ÷ 150 = 6.66 or 7 spaces

Max 50 ft



194 Park Avenue
Proposed Rezoning: R-6 to Conditional Zone



Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman
CC: Mango LLC
Date: October 9, 2008
Re: 194 Park Ave

We are asking the city to approve a conditional zone, a contract zone or a zone change for 194 Park Ave. Currently the location is owned by Mango LLC and operated as a sandwich shop with bulk food and carry-out alcohol sales. The property has been listed 'for sale' on the open market for some time with only one current viable suitor, Greg's Properties, LLC (hereafter Greg's). Greg's has the property under contract for purchase from Mango LLC (hereafter Mango), pending the outcome of this request.

Greg's proposes to convert the market into a seated restaurant (with approximately 35 seats, preliminary plans submitted) themed specifically around hamburgers. The restaurant will be named Burger Joint. Binga's will form a subsidiary named Burger Joint, LLC (hereafter Burger Joint). Burger Joint will rent the property from Greg's. The menu is going to be themed around ground meat. This is what Burger Joint is planning on serving. There will be a variety of patty options available; beef, pork, turkey, ostrich, elk, buffalo, duck, chicken, lamb and vegetarian have been looked into, served either on a bun, in a bagel, with a salad or over nachos. Hot dogs and tofu dogs with a variety of toppings, dinner plates and some alcohol options will round out the menu. We feel that there is an economic opportunity in bringing the restaurant model to the neighborhood. Binga's success on Congress St, along with a variety of new neighboring restaurants that have been successful throughout the city, demonstrates the demand. People are looking for accessible median-priced food options within walking distance of their homes and destinations.

The controlling rules are Sec. 14-382 which states that "Alteration, modification or addition may be made to a building which is lawfully nonconforming as to space and bulk or any dimensional requirement where the proposed changes in existing exterior walls and/or roofs would be within the space occupied by the existing shell of the building, and would not create any new nonconformity nor increase any existing nonconformity." Section 14-382 (e) reinforces general compliance with all other code sections, Section 14-333 (i) mandates one (1) parking space for each one hundred fifty (150) square feet of floor area not used for bulk storage or food prep and the R-6 zone expressly prohibits restaurants.

The property at 194 Park Ave. is currently run by Mango (dba Terroni's Market), operating as a food vendor that sells alcohol and is open to the general public seven days a week for roughly twelve (12) hours a day. One third (1/3) of the building is used as a kitchen, with the remainder consisting of a non-ADA bathroom, office, two (2) tables with eight (8)

consideration. The neighborhood has ample street parking and when events happen, there are a number of additional city and private lots open to the public. On event days, there are numerous parking lots and on non-event days there is more than ample street parking.

Binga's Wingas runs a community restaurant, preparing team dinners for the Sea Dogs and staff meals for the Portland Pirates. Binga's donates to the Boys and Girls Club, Camp Susan Curtis, Maine Medical Center and the Westbrook chapter of the Animal Refuge League, just to name a few. Binga's has a good working relationship with the community, has created jobs and tax base and offer a comfortable local environment. Binga's hopes to make Burger Joint the same type of place. It will be built to serve the local community, both commercial and residential, enhance property values and be an asset for the city.

Email Responses to the Burger Joint Proposal

A reply to the idea of creating a restaurant on park ave:

I think this is a great idea. Currently there are few locally owned and operated restaurants near Hadlock field (not to mention the Portland Expo and the Portland Ice Arena). It would be wonderful to have a local joint to socialize, meet, and enjoy with friends after the game or when you are by the park. This area is within walking distance to many areas (Grant, High, etc.) that have many options on the hill, but so few close to the residential areas. I think that in the spirit of capitalism, and the desires of Portland residents, the owners of Binga's Wingas should have the right to convert the current space into an area that friends and family can congregate for any occasion to enjoy good food closer to their homes.

Jeanna Leclerc
Allen Ave, Portland, ME
[redacted]@gmail.com

Please forward this email to the City of Portland ---
I support **(with great enthusiasm)** Binga's plan to open a burger restaurant on Park Ave in Portland. It would be a wonderful location for a family style restaurant with affordable and high quality food!

Thank you,

Gayle Duncan
7 Deerfield Rd
Portland, ME
[redacted]@gwr.net

Binga's Wingas Proposes Burger Joint

Name: DEREK GIERTMAN

Do you live in the neighborhood?
 Yes No

Thoughts:
YES! STAY OPEN UNTIL
2-3am SO I CAN GET

GRUB LATE OTHER THAN BILLS PIZZA.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matt Thompson

Do you live in the neighborhood?
 Yes No

Thoughts:
Burger joints are always
good.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: John Surdjan

Do you live in the neighborhood?
 Yes No

Thoughts:
SUPPORTED PORTLAND ST.
LOYALLY UNTIL IT CLOSED

WOULD LOVE ANOTHER CLOSER LOCATION

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Dollie Chase

Do you live in the neighborhood?
 Yes No

Thoughts:
But I'd like a new
burger place to go.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Rachel Boyko

Do you live in the neighborhood?

Thoughts:

Yes No

Hello, I thought
that that would
be great!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: James Montgomerie

Do you live in the neighborhood?

Thoughts:

Yes No

I believe in the
burger joint for
our future

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

~~_____~~
 Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Eric Antos

Do you live in the neighborhood?

Thoughts:

Yes No

The Burger Joint is a
GREAT idea + will add
value, originality + taste to

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW SAWYER

Do you live in the neighborhood?

Thoughts:

Yes No

I think that would be like
a good greasy burger joint could
add appeal to that area of town.

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: ANDREW ANDERSON

Do you live in the neighborhood?

Thoughts:

Yes No

LIKE THE IDEA

FOOD IS GREAT HERE

SURE IT WOULD BE SAME

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Matthew Brown

Do you live in the neighborhood?

Thoughts:

Yes No

This is a great

Establishment and I would

love to experience the Burger Joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Miranda Begin

Do you live in the neighborhood?

Thoughts:

Yes No

Great idea. We need

More restaurants like

Binga's in town!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Becah Tanner ⁽⁷⁵⁶⁻⁹⁸⁶⁴⁾

Do you live in the neighborhood?

Thoughts:

Yes No

I think that a

burger joint would be

sweet ~~the~~ business and id

definitely go!

I'll waitress if you need it for work

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Mare Colello

Do you live in the neighborhood?

Thoughts: Yes No

I would love to see
a Bingas Burger Joint
in the Teroni's Location.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: A. Eaton

Do you live in the neighborhood?

Thoughts: Yes No

Burgers rules, wingas Rules
Burgers + wingas = WIN

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kate Ziegelmeier
South Portland

Do you live in the neighborhood?

Thoughts: Yes No

Yes please! Burgers...
yummy!! I love Bingas
and I'm sure I'll love their
Burgas!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~KZiegelmeier@comcast.net~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Steve Kierstead

Do you live in the neighborhood?

Thoughts: Yes No

It would be
beneficial to the area
to seriously consider this.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~SKierstead@lognet.com~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Scott Wyman

Do you live in the neighborhood?

Thoughts: Yes No

A very good idea, will
bring community feel to area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Liz Riddell

Do you live in the neighborhood?

Thoughts: Yes No

I work in the neighborhood
and would love a burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Martha Lafferty

Do you live in the neighborhood?

Thoughts: Yes No
work in the area

I love Bingas and
would love a Burger place
in this area

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

relax@maine,rr.com

Binga's Wingas Proposes Burger Joint

Name: Suzy Preston

Do you live in the neighborhood?

Thoughts: Yes No

It would be perfectly suited
for the Hadlock, Fitzzy Expo
crowd. And a good neighborhood
space.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~_____~~

Please check the box to add your email to our mailing list.

Binga's Wingas
Proposes Burger Joint

Name: Josh Harris

Do you live in the neighborhood?

Yes No

Thoughts:

Best of luck
Better than Fast Food
Joints

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas
Proposes Burger Joint

Name: Steve Berg

Do you live in the neighborhood?

Yes No

Thoughts:

GREAT IDEA, PERFECT
LOCATION, TAKE OUT COULD
GO OVER TO PARK & PICNIC

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas
Proposes Burger Joint

Name: Carly Ladd

Do you live in the neighborhood?

Thoughts: Yes No

yes on burger
joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas
Proposes Burger Joint

Name: Dan Wallach

Do you live in the neighborhood?

Thoughts: Yes No

I am in favor
of rezoning for Burger
joint

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

~~XXXXXXXXXXXXXXXXXXXX~~

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Natalie Ladd

Do you live in the neighborhood?

Yes No

Thoughts:

I like the idea of
the burger joint!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Harv

Do you live in the neighborhood?

Yes No

Thoughts:

That area needs a good
local restaurant/pub to
help revitalize the neighborhood.

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Seth Offer

Do you live in the neighborhood?

Yes No

Thoughts:

This would be great
a good place to go to eat
See dogs games

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

[Redacted]

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Kimberly Sundik

Do you live in the neighborhood?

Yes No

Thoughts:

Yes, Binga's
Wingas
Burgers !!

If you would like to be contacted about any public meetings regarding the Burger Joint, please leave us your email address:

Please check the box to add your email to our mailing list.

Binga's Wingas Proposes Burger Joint

Name: Mertel

Do you live in the neighborhood?

Thoughts: Yes No

I Live in N. Deering and

I would love another

Binga's establishment in Town!

If you would like to be contacted about
any public meetings regarding the Burger
Joint, please leave us your email address:

Please check the box to add
your email to our mailing list.

Good quality
handmade burgers
are key... we live
in walking distance and
are grad. students. will
pay a couple \$\$ more for
good stuff!

Memo

To: All administrative and elected officials in the Portland planning process
From: Alec Altman, Co-Owner Greg's Properties & Co-Owner Binga's Wingas
CC: Mango LLC
Date: October 30, 2008
Re: 194 Park Ave; Definition of business parameters

Proposed Hours of Operation: 11:30am to 11pm

Type of Service: The majority of the sales are intended to be food sales; take out, and quick meals. We do intend to ask for a full liquor license because we feel that a full adult beverage selection benefits our customers.

We feel that we will draw our customer base from two sources. The first is the neighborhood. This is a section of Portland that is dominated by rentals whose residents need local options for both eat-in and take-out meals. Second, the users of the four event venues situated within walking distance (three of which lack comfortable food options) would likely grab a bite to eat before or after attending an event.

Our expected clientele will probably be drawn from the city's base population and we expect that a large portion of the event attendees will be families.

In summary, we intend to run a food oriented establishment with roughly 75% of total sales coming from food products.

Thank You for Your Time

Notes for file 194 Park Ave

See Altman Called me 10-29, 08

- ① He & his architect reviewing scope to swap kitchen so that ventilation on other side - running into problems;
 - code req. for 2 exits (public)
 - roof design + masonry.

- ② wondering if ventilation location a "deal breaker". I responded it would be for the Board to determine but would be important and he + his arch. should look into every possible way to avoid moving it closer + pref. move it away.

- ③ Agreed:
 - a) will move f/w with workshop 11-12-08
 - b) He will get memo to me re his of opening etc re operation
 - c) He will get his attorney to respond this week re the draft CZA we sent.
 - d) I confirmed I need to tie up the PB memo early next week.

10/17/08

Spoke to Alec Altman

- ① Considerable cost to revise layout - can this be avoided by specifying areas/ location of kitchen/vents etc
- ② Needs to consult partner re opening hrs - 9pm is problem -
- ③ He will send memo w/ hrs/floorspace etc. info next week (wed).
- ④ We then send him draft CZA for his review - with PBV 12th NDO.

Action

- ① Can CZA not have plans?
- ② When would this get to Council assuming PBW 11/12 and PBH 12/9?

Discussion Alec Altman 10/8/08

- asked to draft send rezoning agreement
- hours of opening
 - expo
 - hadlock field
 - use arena
- map amend B1 lease pkg }
or cond zoning B1.
- give all options.

OK Jenn re med. offices.

agreed: 1) he sending narrative late tomorrow
2) OK w/ use done, draft agreement - hard copy for him to pick up late Fri
3) dwgs are indicative only

need to cond plus + signing?
roof ext makes bldg more uniform

4) Not clear why map change better?
Copy for Spm.

+ 8429

From: Barbara Barhydt
To: Fraser, Jean
Date: 9/17/2008 11:52:31 AM
Subject: Fwd: Greg's Properties LLC/194 Park Ave. (53-B-20), Portland, Maine

This came in while we had our Wed. meeting.

Thanks.

Barbara

>>> Adam Gonzalez <AGonzalez@optlaw.net> Wednesday, September 17, 2008 11:15 AM >>>
Barbara:

At the request of Alec Altman I have attached a scanned copy of the purchase and sale agreement for property located at 194 Park Avenue in Portland also shown as Tax Map 53, Block B, Lot 20. Please note that I have redacted certain financial terms.

Please feel free to call or email me should you require anything further.

Regards,

Adam

Adam N. Gonzalez, Esq.
Danielson & Gonzalez
Two Canal Plaza, P.O. Box 545
Portland, ME 04112-0545
Ph. (207) 879-1337
Fax (207) 879-1579
Email: agonzalez@optlaw.net<<mailto:agonzalez@optlaw.net>>
www.danielsongonzalez.com<<http://www.danielsongonzalez.com>>

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From: Jean Fraser
To: Altman, Alec
Date: 11/14/2008 3:05:51 PM
Subject: 194 Park Avenue - next steps (pl forward to Alec)

Alec

We have tentatively scheduled this for a PB Hearing for the afternoon of Tuesday, December 9th.

We are revising the draft Conditonal Zone Agreement to reflect our undertanding of the Planning Board concerns and I will send that to you on Wednesday Nov 19th.

I would appreciate a telephone conversation with you on Monday or Tuesday (Nov 17/18) to get some idea of your reaction to the Workshop and how you wish to go forward- could you call me at your convenience?

Thankyou
Jean (Fraser)
Planning
874 8728

CC: Gonzalez, Adam

- ① Discuss Alec Altman
- ② Discuss Dev Rev. 11/19
- ③ Prepare Hearing Report 3/4 Dec.

- beer/wine - can argue again w/ Board
- exterior duct possible reventilation
- 4 parking for employees
- contribute to signs re parking

From: Jean Fraser
To: Barhydt, Barbara; Jaegerman , Alex; West -Chuhta, Danielle
Date: 11/13/2008 9:53:47 AM
Subject: Re: 194 Conditional Rezone

I will follow up with a (further) conversaton with Mr Altman re the ventilation- I had discussed this with him earlier but he wanted to hear what the Board had to say on this.
I do not know whether a vent can be "mitigated" as suggested by Janice.

Also FYI- when I visited the building it appeared that the existing (smaller) vent at the back near the neighbors was not being used and the much larger existing one away from the neighbors was being used. I think that he is proposing to put in a larger one near the neighbors although it was not presented that way last night; I will also clarify that when I speak to him.

The redraft CZA does not include Janice's suggestion that the hours for the sale of alcohol be limited to when the school is not in session. Does anyone feel we should pursue this idea in some way?

Also I think we should address the issue of the "bar" which to me seems to dominate- maybe specify the proportion of seats at tables to seats at the bar or something. See the additional comments from the abutter (forwarded separately).

Danielle, please hold on any further revisions until I have spoken to Alec Altman. It might be worth a conversation at Dev Rev. next week, as the parking management is also being raised by neighbors and the school and I need input from Jim Carmody.

>>> Danielle West -Chuhta 11/13/2008 9:24:16 AM >>>
Hello everyone:

Attached is a revised draft of the 194 Conditional Zoning Agreement for your review. I have only made a few changes based on the Board's comments last night. I would note that I am unsure how to address the ventilation issue. Based on the Board's review, it seems as though they are definitely interested in having the applicant place the ventilation on the east side of the building away from the residential units. Jean, do you know if Mr. Altman is willing to at least pipe his ventilation (or something like that) to that side of the building?

Thanks a lot,

Danielle

Danielle P. West-Chuhta
City of Portland
Associate Corporation Counsel

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

W I T N E S S E T H

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached

hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant in the B-1 zone.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 11:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol service and sales in the restaurant shall be limited to beer and wine, and said beer and wine shall only be served in conjunction with food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening.

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

CONDITIONAL ZONE AGREEMENT

GREG'S PROPERTIES, LLC

AGREEMENT made this ____ day of _____, 2008 by Greg's Properties, LLC, a Maine limited liability company with a place of business in Yarmouth, Maine ("Developer"), and its successors and assigns.

WITNESSETH

WHEREAS, the Developer has entered into a purchase and sale agreement with Mango, L.L.C. dated August 5, 2008, a copy of which is attached hereto as Attachment 1, to acquire land and buildings located at 194 Park Avenue in Portland, consisting of parcels shown on City of Portland Tax Map 53, Block B, Lot 20, and more particularly described in a deed to Mango L.L.C. dated _____ and recorded in the Cumberland County Registry of Deeds in Book _____, Page _____ (the "Property"); and

WHEREAS, the use of existing building located on the Property is a retail food market with kitchen facilities and limited table seating engaging primarily in the sale of grocery items and hot and cold prepared food; and

WHEREAS, the Developer intends to remodel the existing building located on the Property and to change its use in order to operate a restaurant, as more particularly described in this Agreement; and

WHEREAS, the existing zoning is R-6 which does not allow restaurants as a permitted or conditional use; and

WHEREAS, the Developer has requested a rezoning of the Property in order to permit the redevelopment and reuse of the building from a retail food market to a restaurant; and

WHEREAS, the Planning Board, after notice and hearing and due deliberation thereon, recommended the rezoning of the Property as aforesaid, subject, however, to certain conditions contained in this Agreement; and

WHEREAS, the Portland City Council, pursuant to 30-A M.R.S.A. § 4352(8) and Portland City Land Use Code (the "Code") §§ 14-60 to 14-62, after notice, hearing and due deliberation thereon, has determined that because of the unusual nature and unique location of the proposed development and its minimal impact on the surrounding community it is necessary and appropriate to recommend the rezoning of the Property as aforesaid, with the following conditions and restrictions set forth in this Agreement; and

WHEREAS, the Portland City Council has on _____, 2008 approved this Agreement in its entirety, by City Council Order No. _____, a true copy of which is attached hereto as Attachment 1 (the "Order");

NOW, THEREFORE, in consideration of the rezoning, the Developer covenants and agrees as follows:

1. Pursuant to the Order, the City shall amend the Zoning Map of the City of Portland, dated September, 2000 (as amended from time to time and on file in the Department of Planning and Urban Development, and incorporated by reference into the Zoning Ordinance by § 14-49 of the Code) by adopting the map change amendment shown below to zone the property from R-6 to B-1 and subject to the conditions contained below.

[insert copy of map here]

If this Agreement is not recorded within sixty (60) days after the date of the approval of the Order, then the conditional rezoning shall become null and void and the zoning of the Property shall revert to the pre-existing R-6 zone.

2. The use of this property shall be a restaurant whose primary function is food-service and consumption. The restaurant shall be developed substantially as delineated and depicted on the Site Plan, elevations and floor plans, attached hereto as Attachment 2, submitted by _____ dated _____, 2008.

3. As a condition of this rezoning, the Planning Board shall be substituted for the Zoning Board of Appeals for purposes of evaluating and approving the conditional use of restaurant in the B-1 zone.

4. The underlying dimensional requirements of the B-1 zone shall apply and are modified as follows:

a. Parking requirements: 4 spaces of on-site parking

5. The hours of operation for the restaurant shall be between 11:00am and 11:00pm daily.

6. There shall be no live music permitted in the restaurant or on the Property.

7. There shall be no outside seating permitted on the Property.

8. The Developer shall obtain any and all required permits/licenses prior to the service of any alcohol in the restaurant described herein. Alcohol service and sales in the restaurant shall be limited to beer and wine, and said beer and wine Alcohol shall only not be served except in conjunction with food service, and when the kitchen is open for food service.

9. All ventilation for the restaurant, including air conditioning units, shall be located on the east side of the building, away from the abutting residential properties. The air conditioning units shall also have sound attenuation screening.

10. The Developer shall be responsible for ongoing maintenance of the Property, including snowplowing, salting, sanding, sweeping, lighting, trash pickup (at least weekly), mowing, etc. The dumpster located on the Property shall be enclosed.

11. The provisions of this Agreement, including the permitted restaurant use identified in paragraph 2, are intended to replace and/or supersede the uses allowed and requirements of the underlying R-6 zone. As stated above, to the extent not otherwise altered herein, the zoning requirements for the B-1 zone shall otherwise apply to the Property.

12. In the event of a breach by the Developer or its successors or assigns of the zoning provisions contained herein (whether the Zoning Administrator, the Zoning Board of Appeals or a court determines such breach), the Planning Board, after notice and hearing, may recommend to the City Council that the conditional zone and this Agreement be amended, or be rescinded, such rescission to result in the termination of this Agreement and a reversion of the Property to the R-6 zone in place before the execution of this Agreement.

13. The above stated restrictions, provisions, and conditions are an essential part of the rezoning, shall run with the Property, shall bind and benefit the Developer, any entity affiliated with the Developer that takes title to the Property, their successors and assigns, and any party in possession or occupancy of said Property or any part thereof, and shall inure to the benefit of and be enforceable by the City of Portland, by and through its duly authorized representatives. The Developer shall file a counterpart original of this Agreement in the Cumberland County Registry of Deeds.

14. This conditional rezoning agreement shall be enforced pursuant to the land use enforcement provisions of state law including, but not limited to, 30-A MRSA § 4452 and the Portland City Code.

15. If any of the restrictions, provisions, conditions, or portions thereof set forth herein is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed as a separate, distinct, and independent provision and such determination shall not affect the validity of the remaining portions hereof.

16. Except as expressly modified herein, the development, use and occupancy of the proposed development shall be governed by and comply with the provisions of the Portland City Code and any applicable amendments thereto or replacement thereof.

WITNESS: _____

GREG'S PROPERTIES, LLC

BY: Alec Altman, its Manager

STATE OF MAINE
CUMBERLAND, ss.

_____, 2008

Personally appeared before me the above-named Alec Altman, in his capacity as Manager of Greg's Properties, LLC, and acknowledged the foregoing instrument to be his free act and deed in his said capacity and the free act and deed of said limited liability company.

Before me,

Notary Public/Attorney at Law

DRAFT



City of Portland, Maine
Department of Planning and Development
Conditional/Contract Rezoning Application

Application ID: 1427 Application Date: 08/26/2008 CBL: 053 B020001 Property Location: 194 Park Ave

Applicant Information:

Alec Altman
Name

Greg's Properties, LLC.
Business Name

26 Village Brook Road
Address

Yarmouth, ME 04096
City, State and Zip

9142614440
Telephone Fax

Applicant's Right, Title or Interest in Subject Property:

Contract for purchase and sale

Current Zoning Designation: R6

Existing Use of Property:

Wood framed building operated as a food market.

Proposed Use of Property:

Remodel the existing food service to a full service restaurant.

Property Owner:

Mango Llc
Name

54 Marlborough Rd
Address

Portland , ME 04103
City, State and Zip

Telephone Fax

Amendment A

Amendment B

Amendment C

Section 14: _____

Requested:

Planning Approval

REVIEW TYPE: Committee Review

RECOMMENDATION DATE: _____ APPROVAL DATE: _____ ENACTMENT DATE: _____



Zoning Amendment Application
Department of Planning and Development
Planning Division and Planning Board

1. Applicant Information

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
914-261-4440
Phone Fax

2. Subject Property

194 Park Avenue
Address
53-B-20
Assessor's Reference (Chart-Block-Lot)

3. Property Owner: Applicant Other

Mango, L.L.C.
Name
54 Marlborough Road
Address
Portland, ME 04096
233-3562 773-5480
Phone Fax Attn: Katie Allen

4. Billing Address:

Greg's Properties LLC
Name
26 Village Brook Road
Address
Yarmouth, ME 04096
Attn: Alec S. Altman

4. Right, Title, or Interest: Please identify the status of the applicant's right, title, or interest in the subject property:

Contract for Purchase and Sale of Commercial Real Estate dated August 6, 2008 between Mango, L.L.C. (Seller) and Greg's Properties LLC (Purchaser) see Exhibit A
Provide documentary evidence, attached to this application, of applicant's right, title, or interest in the subject property. (For example, a deed, option or contract to purchase or lease the subject property.)

5. Vicinity Map: Attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use. (Applicant may utilize the City Zoning Map or Parcel Map as a source.)
See Exhibit B

6. Existing Use:

Describe the existing use of the subject property:

See Exhibit C

7. **Current Zoning Designation(s):** R6

8. **Proposed Use of Property:** Please describe the proposed use of the subject property. If construction or development is proposed, please describe any changes to the physical condition of the property.

See Exhibit D

9. **Sketch Plan:** On a separate sheet, please provide a sketch plan of the property showing existing and proposed improvements, including such features as buildings, parking, driveways, walkways, landscape and property boundaries. This may be a professionally drawn plan, or a carefully drawn plan, to scale, by the applicant. (Scale to suit, range from 1" = 10' to 1' = 100'.) See Exhibit E

10. **Proposed Zoning:** Please check all that apply:

A. _____ Zoning Map Amendment, from _____ to _____

B. _____ Zoning Text Amendment to Section 14-_____

For Zoning Text amendment, attached on a separate sheet, the exact language being proposed, including existing relevant text, in which language to be deleted is depicted as crossed out (example), and language to be added is depicted with underline (example).

C. Conditional or Contract Zone

A conditional or contract rezoning map be requested by an applicant in cases where limitations, conditions, or special assurances related to the physical development and operation of the property are needed to ensure that the rezoning and subsequent development are consistent with the comprehensive plan and compatible with surrounding neighborhood. (Please refer to Division 1.5, Sections 14-60 to 62)

11. **Application Fee:** An Application Fee must be submitted by check payable to the City of Portland in accordance with Section 14-54 of the Municipal Code (see below.) The applicant also agrees to pay all costs of publication (or advertising) of the Workshop and Public Hearing notices as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

Fee for Service Deposit \$200.00
(This fee is required for all applications in addition to the application fee listed below)

_____ Zoning Map Amendment \$2,000.00

_____ Zoning Text Amendment \$2,000.00

Exhibit A
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Memorandum of Contract for Purchase and Sale of
Commercial Real Estate

**MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE**

The undersigned, being duly sworn, do hereby depose and say:

1. **GREG'S PROPERTIES LLC**, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with **MANGO, L.L.C.**, a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Less to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this _____ day of August, 2008.

MANGO, L.L.C., Seller

Witness

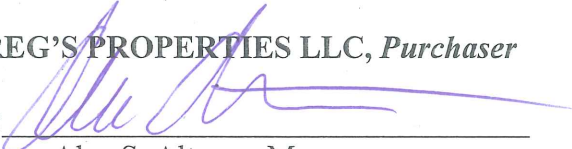
By: _____
Malling J. Mango, Member

Witness

By: _____
Catherine H. Mango, Member

Witness

GREG'S PROPERTIES LLC, Purchaser

By: 
Alec S. Altman, Manager


MEMORANDUM OF CONTRACT FOR PURCHASE AND SALE OF
COMMERCIAL REAL ESTATE

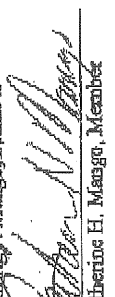
The undersigned, being duly sworn, do hereby depose and say:

1. GREG'S PROPERTIES LLC, a Maine limited liability company, entered into a Contract for Purchase and Sale of Commercial Real Estate with MANGO, L.L.C., a Maine limited liability company, dated August 6, 2008 (the "Contract"), covering real property located at 194 Park Avenue in Portland, Cumberland County, Maine, and more particularly described in a deed from Robert D. Lee and Margaret M. Less to Mango, L.L.C. dated June 10, 2004 and recorded in the Cumberland County Registry of Deeds in Book 21395, Page 43 (the "Property").

2. The parties hereto further expressly acknowledged that this Memorandum of Contract is being executed pursuant to the provisions of the Contract and is not intended to vary the term or conditions of the Contract.

Executed as a sealed instrument as of this 20 day of August, 2008.


MANGO, L.L.C.
By: _____
Malinda Mango, Member


By: Catherine H. Mango
Catherine H. Mango, Member

GREG'S PROPERTIES LLC, Purchaser
By: _____
Alex S. Altman, Manager

Witness

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

Then personally appeared the above named Malling J. Mango in his said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August ____, 2008

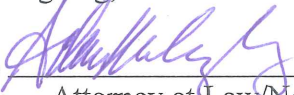
Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing,

Before me, _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS:

August 20, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing,

Before me,  _____
Attorney at Law/Notary Public

STATE OF MAINE
COUNTY OF CUMBERLAND, SS: August 21, 2008

Then personally appeared the above named Melling, I. Mango in his said capacity and gave oath to the truth of the foregoing.

Before me, [Signature]
Attorney at Law/Notary Public
PATRICIA S. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS: August 21, 2008

Then personally appeared the above named Catherine H. Mango in her said capacity and gave oath to the truth of the foregoing.

Before me, [Signature]
Attorney at Law/Notary Public
PATRICIA S. ALLEN

STATE OF MAINE
COUNTY OF CUMBERLAND, SS: August 21, 2008

Then personally appeared the above named Alec S. Altman in his said capacity and gave oath to the truth of the foregoing.

Before me, _____
Attorney at Law/Notary Public

Exhibit C
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

6. Existing Use: Describe the existing use of the subject property:

The site consists of 3,967 +/- square feet with an existing 1,436 +/- square foot concrete block and wood framed building operated as a food market with commercial restaurant hood, griddle, fryer, gas fired range and ovens, limited table seating, with sales of pasta, pizza, calzones, hot wings, hamburgers, cheeseburgers, hot dogs, fries, hot and cold sandwiches, salads, breakfast and grocery items and beer.

Exhibit D
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

8. Proposed Use of Property: Please describe the proposed use of the property. If construction or development is proposed, please describe any changes to the physical condition of the property.

The premises are located in close proximity to the Portland Expo, Hadlock Field and Fitzpatrick Stadium. The proposed use is a remodel of the existing food service use to a full service restaurant in which full course meal food service and consumption shall be the primary function of the restaurant but the restaurant will also include on premises alcohol sales and consumption. Full course meal service will be continued up until the hours of closing. The restaurant will have indoor seating capacity for up to thirty-five (35) patrons and will be developed substantially in accordance with the attached sketch plans (see Exhibit E). No live music will be permitted on the premises.

Exhibit E
to
Zoning Amendment Application

Applicant: Greg's Properties LLC
Property: 194 Park Avenue (53-B-20)

Plans (7 Sheets)