

Department of Planning & Urban Development

Marge Schmuckal
Zoning Administrator

Jeff Levine
Director Planning & Urban Development



RECEIVED

CITY OF PORTLAND ZONING BOARD OF APPEALS

APR 23 2015

Conditional Use Appeal Application

Dept. of Building Inspections
City of Portland Maine

Applicant Information:

Subject Property Information

Lorna M. Leo
NAME

237 Spring St
PROPERTY ADDRESS

Kiddie Garden, LLC
BUSINESS NAME

56-G-40
CHART/BLOCK/LOT (CBL)

223 Brackett St
ADDRESS

PROPERTY OWNER (if different)
Caesar Papi
NAME

Portland ME 04102

667 Ocean Ave
ADDRESS

207-773-0426
TELEPHONE #

Portland ME 04103

Lessee
APPLICANT'S RIGHT, TITLE OR INTEREST
(eg: owner, purchaser, etc)

CONDITIONAL USE AUTHORIZED BY
SECTION 14 - 137(c)(4)

R6 Multi Use
CURRENT ZONING DESIGNATION

EXISTING USE OF PROPERTY:

TYPE OF CONDITIONAL USE
PROPOSED:

Residential Units
Vacant Store Front

Child Day Care Facility
for up to 12 children

STANDARDS: Upon a showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

1. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
2. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
3. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses of other allowable uses in the zone.

NOTE: If site plan approval is required, attach preliminary or final site plan.

The undersigned hereby makes application for a conditional use permit as described above, and certifies that the information herein is true and correct to the best of his OR her knowledge and belief.

Lorna M. Leo
SIGNATURE OF APPLICANT

4/22/15
DATE



Conditional Use for Planning Board Review Development Review Application Portland, Maine

Planning and Urban Development Department
Planning Division

Portland's Planning and Urban Development Department coordinates the development review process for site plan, subdivision and other applications under the City's Land Use Code. Attached is the application form for a Conditional Use where the Planning Board is listed as the reviewing authority rather than the Zoning Board of Appeals. Please note that Portland has delegated review from the State of Maine for reviews under the Site Location of Development Act, Chapter 500 Stormwater Permits, and Traffic Movement Permits.

A. Conditional Use: Standards and Criteria – Section 14-474 and Zone Related Criteria

Conditional uses are listed in the Zoning Ordinance for each zone and these proposed uses must address the criteria contained in Section 14-474 in the written application. In addition to the criteria in Section 14-474, each application must address any applicable conditional use standards contained in the applicable zone and the proposed specific use. The Zoning Ordinance specifies when the Planning Board is designated as the reviewing authority rather than the Zoning Board of Appeals. This application is for Planning Board reviews only.

Upon showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

B. Site Plan Application: Please submit the Conditional Use Application in addition to the applicable Site Plan Application.

Portland's development review process and requirements are outlined in the Land Use Code (Chapter 14) which is available on our website:

Land Use Code: <http://me-portland.civicplus.com/DocumentCenter/Home/View/1080>

Design Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2355>

Technical Manual: <http://me-portland.civicplus.com/DocumentCenter/View/2356>

Planning Division
Fourth Floor, City Hall
389 Congress Street
(207) 874-8719

Office Hours
Monday thru Friday
8:00 a.m. – 4:30 p.m.

PROJECT NAME: Kiddie Garden, L.L.C.

PROPOSED DEVELOPMENT ADDRESS:

237 Spring St, Portland, ME 04102

ASSESSOR'S CHART/BLOCK/LOT (s): 56-G-40 Applicable Zone: R6

CONTACT INFORMATION:

Applicant – must be owner, Lessee or Buyer Name: <u>Korna M. Leo</u> Business Name, if applicable: <u>Kiddie Garden, LLC</u> Address: <u>223 Brackett St</u> City/State: <u>Portland ME</u> Zip Code: <u>04102</u>	Applicant Contact Information Work # <u>207-773-0426</u> Home# <u>207-773-0426</u> Cell # <u>207-415-0162</u> Fax# e-mail: <u>wbsgram@maine.rr.com</u>
Owner – (if different from Applicant) Name: <u>Caesar Papi</u> Address: <u>667 Ocean Ave</u> City/State: <u>Portland ME</u> Zip Code: <u>04103</u>	Owner Contact Information Work # Home# <u>207-749-0884</u> Cell # Fax# e-mail: <u>ppapi@maine.rr.com</u>
Billing Information Name: <u>Korna M. Leo</u> Address: <u>223 Brackett St</u> City/State: <u>Portland ME</u> Zip Code: <u>04102</u>	Billing Information Work # <u>207-773-0426</u> Cell # <u>207-415-0162</u> Fax# e-mail: <u>wbsgram@maine.rr.com</u>

RIGHT, TITLE OR INTEREST:

Lessee, with option to lease.

(Please identify the status provide documentary evidence, attached to this application, of the applicant's right, title, or interest in the subject property (ex: deed, option or contract to purchase or lease the property.)

VICINITY MAP: (Please attach a map showing the subject parcel and abutting parcels, labeled as to ownership and/or current use.)

EXISTING USE: Describe the existing use of the subject property.

Vacant store front, residential in other units.

PROPOSED USE: Describe the proposed use of the subject property

Small child day care facility for up to 12 children

TYPE OF CONDITIONAL USE PROPOSED (Refer To Specific Provisions Of Land Use Code Authorizing The Proposed Conditional Use).

Day Care Facility

SITE PLAN: Submit a separate site plan application for the proposal that provides a site plan for the property, showing existing and proposed improvements, which meets the submission requirements of the applicable level of site plan review.

CONDITIONAL USE STANDARDS AND CONDITIONS – 14-474

Address the following criteria in your written application and any applicable conditional use standards contained in the zoning code for the specific use. Upon showing that a proposed use is a conditional use under this article, a conditional use permit shall be granted unless the Board determines that:

- a. The volume and type of vehicle traffic to be generated, hours of operation, expanse of pavement, and the number of parking spaces required are not substantially greater than would normally occur at surrounding uses or other allowable uses in the same zone; and
- b. The proposed use will not create unsanitary or harmful conditions by reason of noise, glare, dust, sewage disposal, emissions to the air, odor, lighting, or litter; and
- c. The design and operation of the proposed use, including but not limited to landscaping, screening, signs, loading, deliveries, trash or waste generation, arrangement of structures, and materials storage will not have a substantially greater effect/impact on surrounding properties than those associated with surrounding uses or other allowable uses in the zone.

CONDITIONAL USE AUTHORIZED BY: SECTION 14- 137

Address any specific conditional use standards for the specific use contained in the zoning code in the written submission.

APPLICATION FEES:

(Payment may be made by Credit Card, Cash or Check payable to the City of Portland.)

<p><u> </u> Conditional Use Review (\$100.00)</p> <p>(Please submit a separate application for the applicable site plan review. Fees and charges are listed within the application)</p>	<p>The City invoices separately for the following:</p> <ul style="list-style-type: none">• Notices (\$.75 each)• Legal Ad (% of total Ad)• Planning Review (\$40.00 hour)• Legal Review (\$75.00 hour) <p>Third party review fees are assessed separately. Any outside reviews or analysis requested from the Applicant as part of the development review, are the responsibility of the Applicant and are separate from any application or invoice fees.</p>
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APPLICATION SUBMISSION:

1. All site plans and written application materials must be submitted electronically on a CD or thumb drive with each plan submitted as separate files, with individual file which can be found on the Electronic Plan and Document Submittal page of the City's website at <http://me-portland.civicplus.com/764/Electronic-Plan-and-Document-Submittal>
2. In addition, one (1) paper set of the plans (full size), one (1) paper set of plans (11 x 17), paper copy of written materials, and the application fee must be submitted to the Building Inspections Office to start the review process.
3. The application must be complete, including but not limited to the contact information, project data, application checklists, wastewater capacity, plan for fire department review, and applicant signature. The submissions shall include one (1) paper packet with folded plans containing the following materials:

1. One (1) full size site plans that must be folded.
2. One (1) copy of all written materials or as follows, unless otherwise noted:

Applicant Checklist	Planner Checklist	# of Copies	
✓		1	Application form that is completed and signed.
✓		1	Cover letter stating the nature of the project.
✓		1	Evidence of right, title and interest.
✓		1	Written Submittals that address the conditional use standards of Sec. 14-474.
✓		1	Written submittals that address any applicable standards of review contained in the zoning code for the specific use.
N/A		1	A stamped standard boundary survey prepared by a registered land surveyor at a scale not less than one inch to 50 feet and containing the information required for the applicable level of site plan review.
N/A		1	An accompanying site plan application, as applicable.

APPLICANT SIGNATURE:

I hereby certify that I am the Owner of record of the named property, or that the owner of record authorizes the proposed work and that I have been authorized by the owner to make this application as his/her authorized agent. I agree to conform to all applicable laws of this jurisdiction. In addition, if a permit for work described in this application is issued, I certify that the Planning Authority and Code Enforcement's authorized representative shall have the authority to enter all areas covered by this permit at any reasonable hour to enforce the provisions of the codes applicable to this permit.

This application is for a Conditional Use Review. It is not a permit to begin construction. An approved site plan, a Performance Guarantee, Inspection Fee, Building Permit, and associated fees will be required prior to construction. Other Federal, State or local permits may be required prior to construction, which are the responsibility of the applicant to obtain.

Signature of Applicant: <i>Robert M. Lee, Lessee</i>	Date: <i>4/12/15</i>
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"To plant a garden is to believe in tomorrow."



KIDDIE GARDEN, L.L.C.

Lorna M. Leo
223 Brackett Street
Portland, Maine 04102
207-773-0426
wbsgram@maine.rr.com

Department of Planning and Urban Development
Planning Division
Portland City Hall
389 Congress St
Portland ME 04101

April 12, 2015

To Whom It May Concern:

I am submitting a Conditional Use Application. The property for which I am submitting the application is 237 Spring Street. The actual space is a vacant store front located in a residential building that is zoned for mixed use. The store front has been vacant for some time. It has been used historically as a small variety store and has not been used as residential space for more than the last 5 years. The building is a corner property located at the intersection of Spring and Clark Streets, across from the Reiche Elementary School playground.

I am proposing use of the store front space for a small child day care facility to serve no more than 12 children. The building is located in an R6 zone, which does allow small child day care for up to 12 children as a conditional use.

Attached are the written submittals addressing the conditional use standards, a statement from the property owner, Caesar Papi, as to the intent to lease, a sketch of the floor plan for the space, a city map showing the location of the property, and photographs of the property's exterior and parking.

Every effort will be made to ensure the safety and comfort of the children in care, the other tenants in the building and the surrounding neighbors.

Our proposed hours of operation are 7:00 am – 5:30 pm., Monday – Friday. There should be very little impact on the neighborhood.

There is a very real need for quality, licensed child care in the West End. I thank you for your time and consideration of my application.

Sincerely,

A handwritten signature in black ink that reads "Lorna M. Leo".

Lorna M. Leo

Conditional Use Standards for a Small Child Day Care Facility for Zone R6

City of Portland Land Use
Code of Ordinances Chapter 14
Sec. 14-137 Rev. 1-18-2012

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 to the principal nonresidential use.

The building is mixed use, having residential apartments and the vacant store front.

b. The maximum capacity shall be twelve (12) children for facilities located in residential or existing structures accessory thereto, unless the additional standards in subsection v. are met. There shall be no maximum limit on the number of children in a facility 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 thereto, provided that any such structure that serves more than twelve (12) children shall be subject to review under article V of this chapter.

The maximum capacity State of Maine Child Care License I am applying for is 12 children.

c. Outdoor play areas shall be screened and buffered from surrounding residences with landscaping and/or fencing to minimize visual and noise impacts.

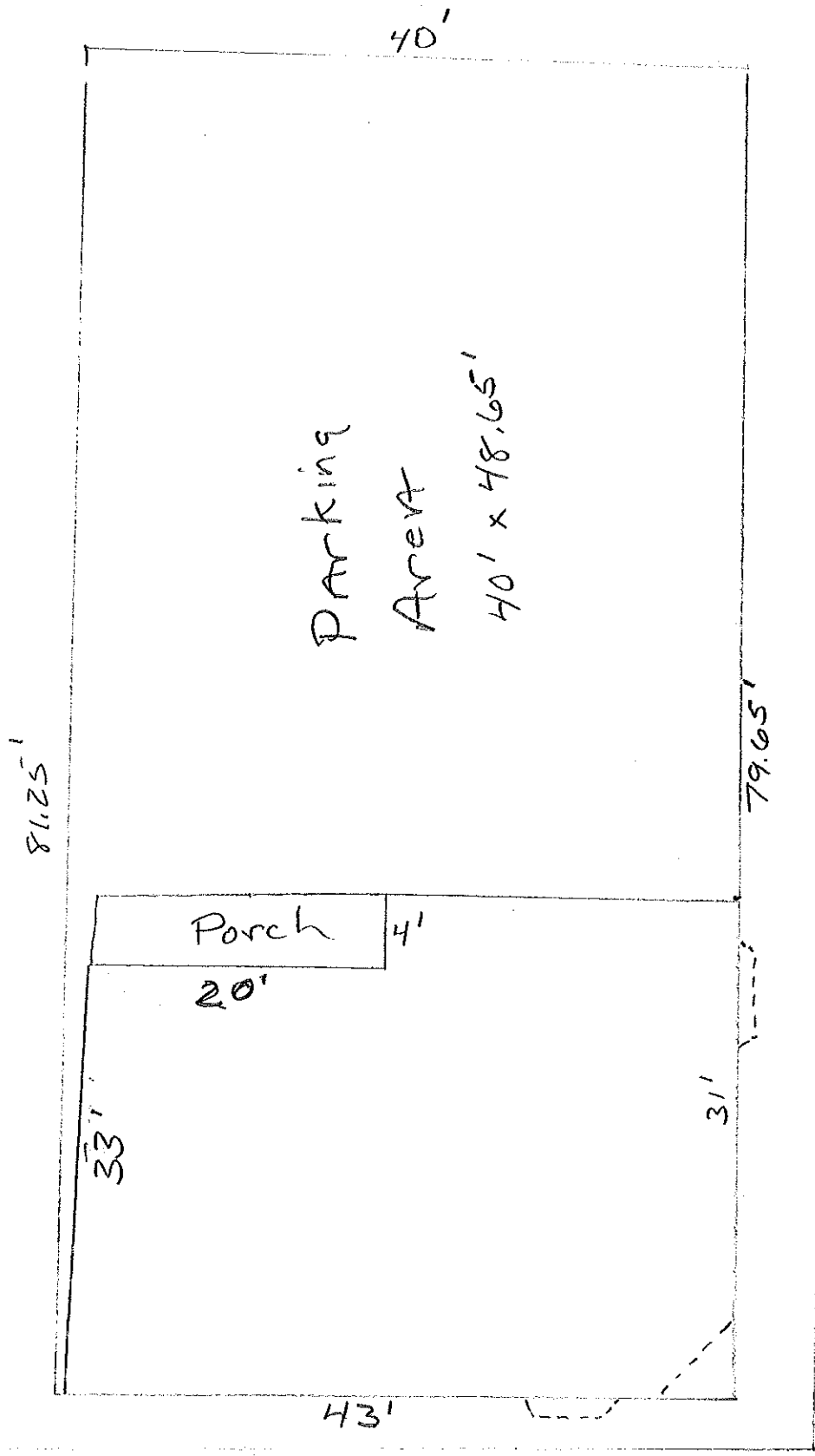
The outdoor play areas we will be using are local playgrounds which are fenced. The property is located right across the street from the Reiche Elementary School playground. That will be our primary outdoor play area. It is fenced.

d. Solid waste shall be stored in covered containers. Such containers shall be screened on all four (4) sides.

Solid waste will be stored in covered trash containers and said containers will be stored at the back of the building, screened by the building and lattice work or stored in a larger storage unit as to not be visible from the street.

These are all of the Conditional Use Standards required in the City Code for Zone R6 for a Small Child Day Care Facility for up to 12 Children.

I would like to add that there is off street parking for up to 8 vehicles for tenants of the building, some of which could be used for parents dropping off and picking up children. Additionally, there are at least 3 on-street parking spaces in the immediate front of the property: 2 on the Spring Street side and 1 on the Clark Street side, without time limits and a 5 minute drop off zone for Reiche School within the same city block. There is additional on-street parking along both Spring and Clark Streets. There is no need for overnight or weekend parking for the business. My residence is 223 Brackett Street, approximately a 5 minute walk, and my staff and I can park in my home driveway and walk to the Spring Street location.



Parking

Area

40' x 48.65'

81.25'

40'

79.65'

Clark St.

Porch

4'

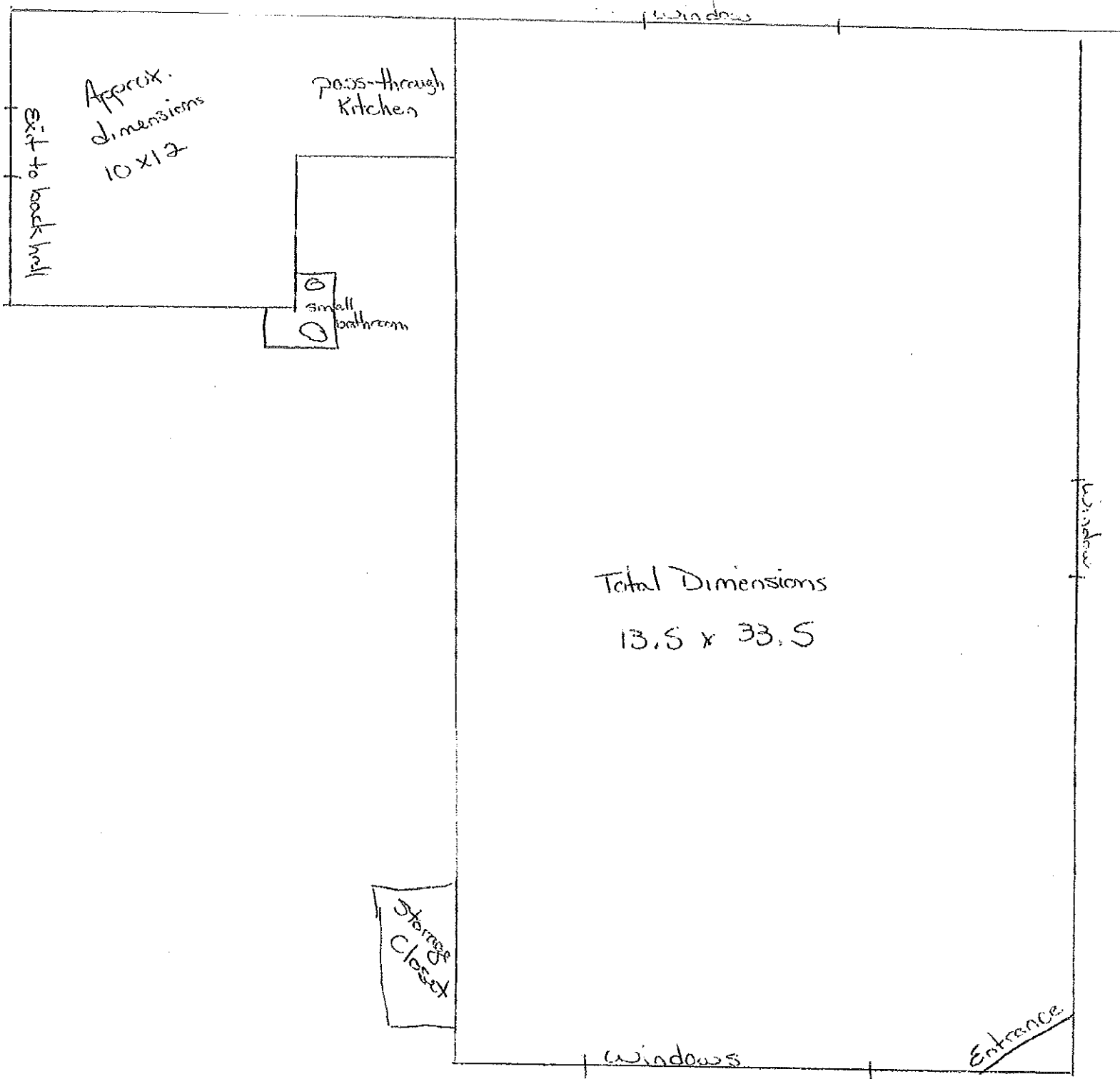
20'

33'

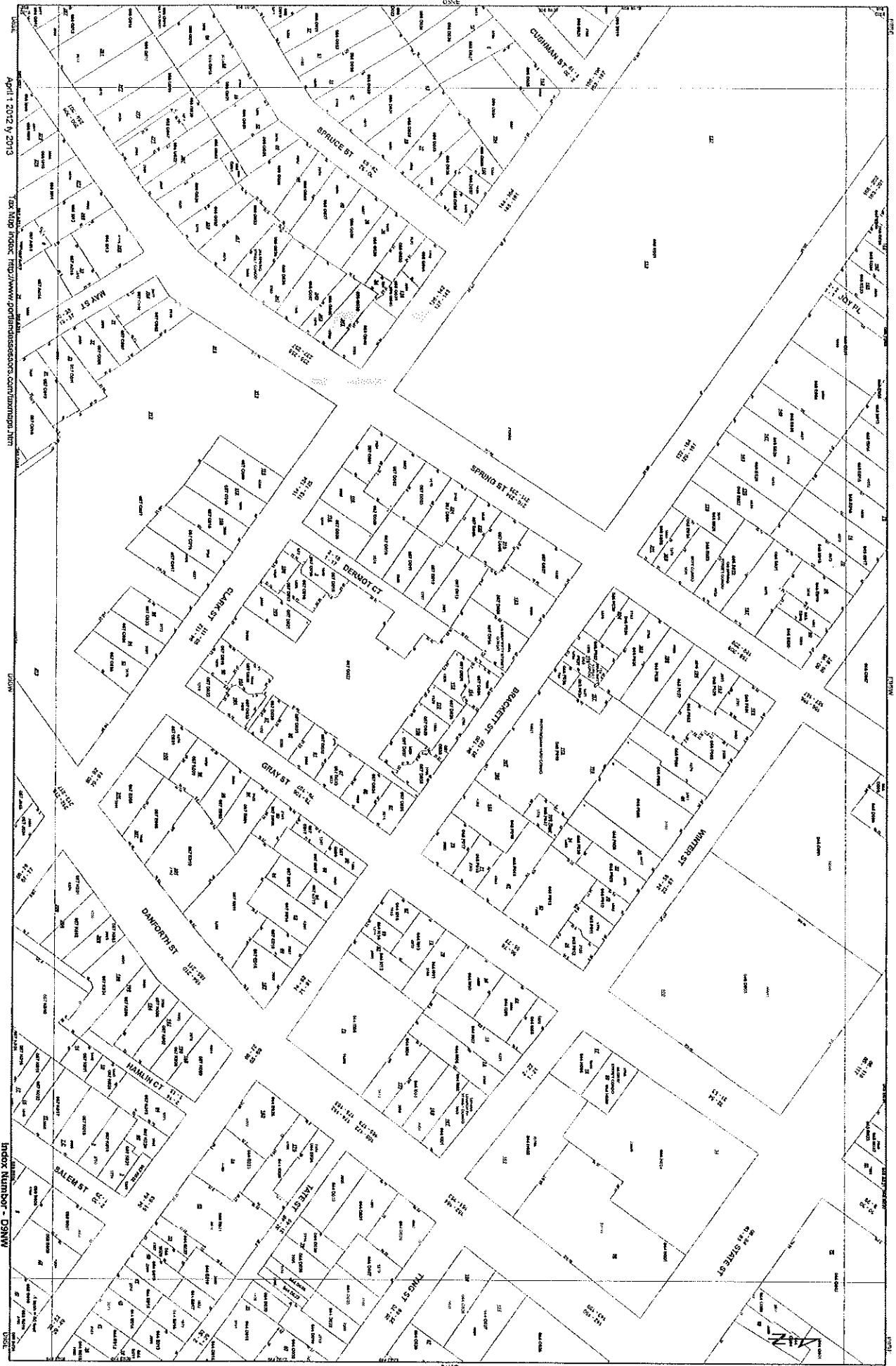
31'

43'

Spring St.



Rough
Sketch of Store Front 237 Spring St.
not to scale

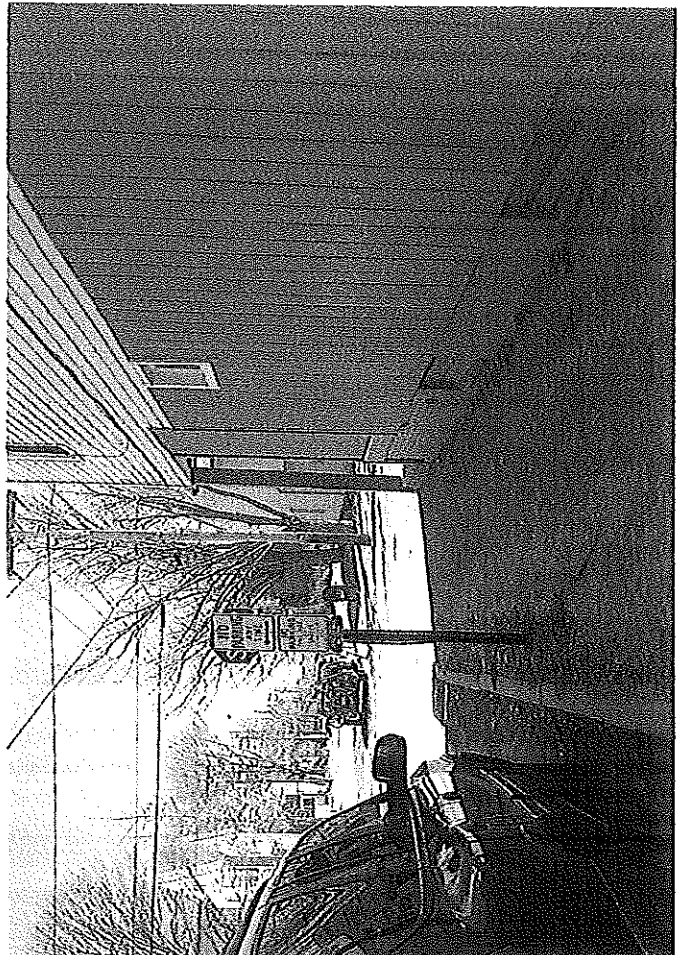
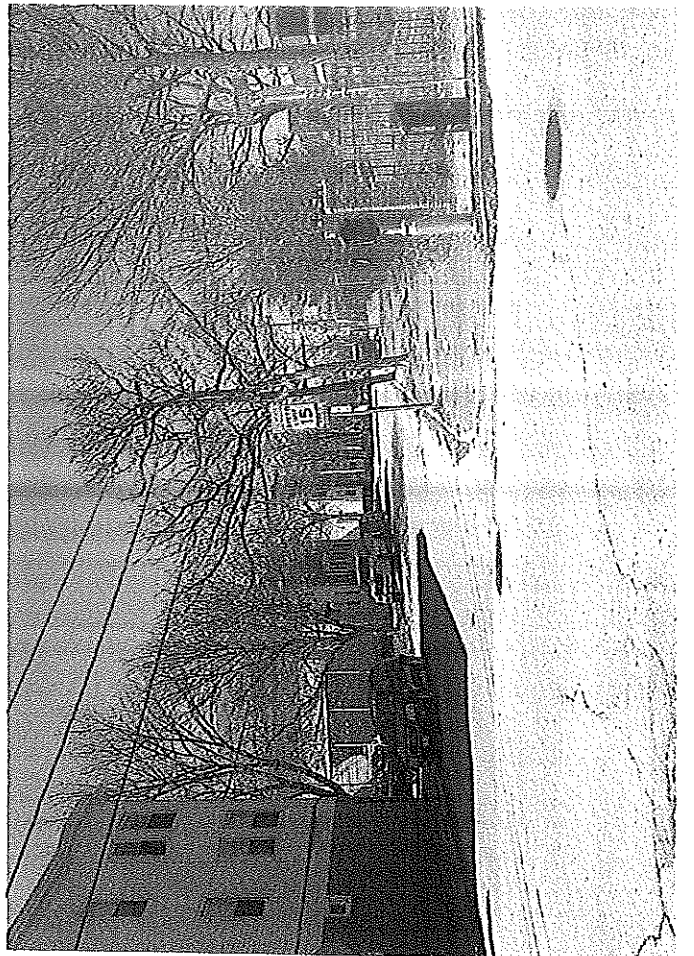


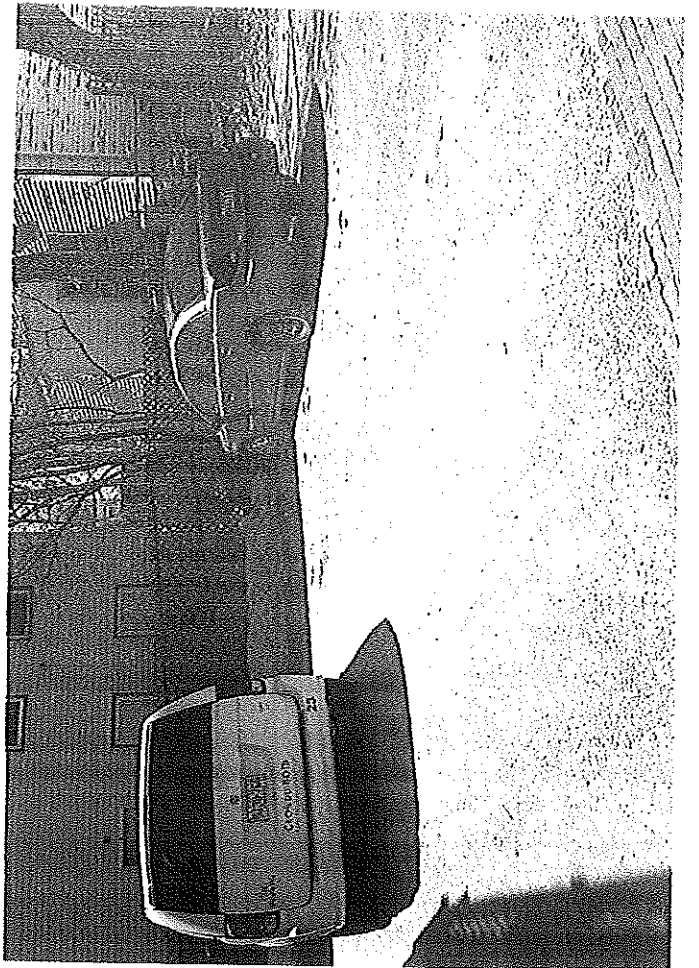
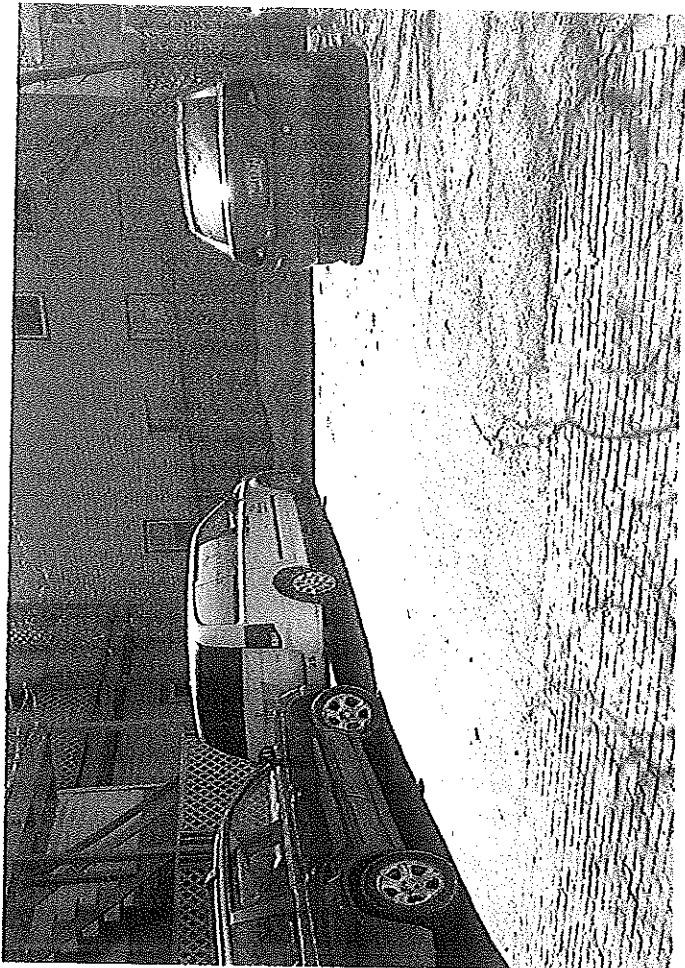
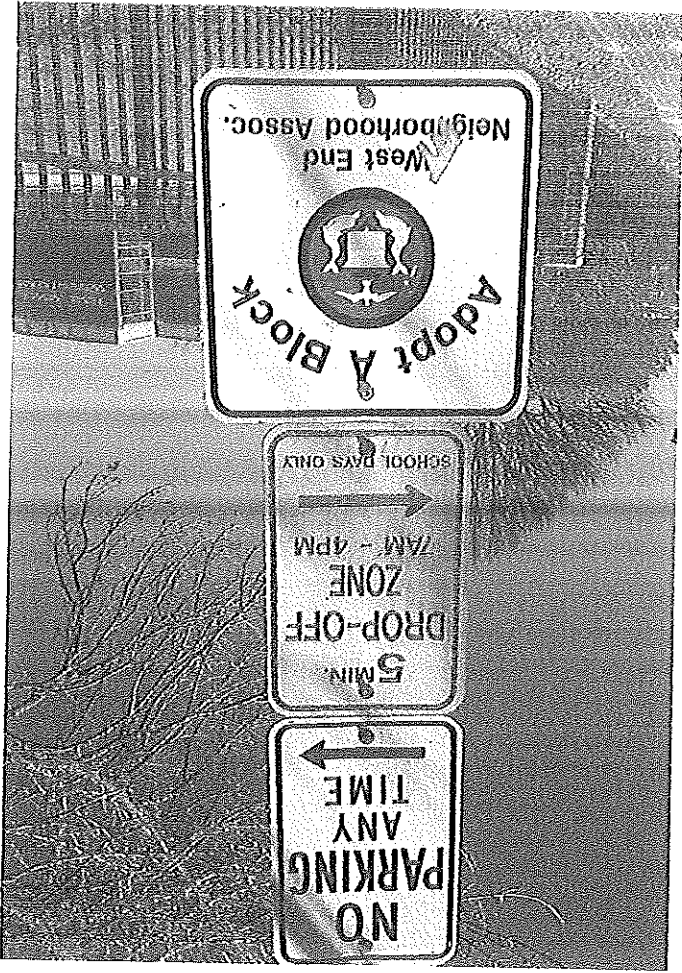
April 1 2012 by 2013

tax Map index <http://www.portlandassessor.com/lanmap.nsf>

Index Number - DANW

026





Notice Exercising Option to Lease

April 22, 2015

To: City of Portland Zoning Board of Appeals

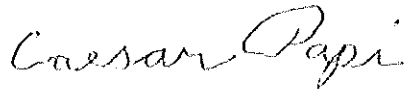
RE: 237 Spring St, Portland, ME 04101

Caesar Papi, Landlord/Owner

Lorna Leo/Kiddie Garden LLC, Lessee

Please be advised that the undersigned, Caesar Papi, as Landlord, and Lorna Leo; dba Kiddie Garden LLC, as Lessee, for premises known as Storefront at 237 Spring St., Portland, ME, do hereby exercise an Option to Lease for a period commencing upon approval by the City and The State of Maine Licensing Division.

Yours very truly,



Landlord/Property Owner



Lessee

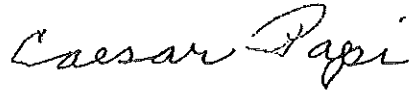
March 16, 2015

RE: Storefront Rental

To whom it may concern:

Please let it be known that Lorna Leo has the intent of renting the storefront at 237 Spring St, Portland, ME to be used as a childcare facility for no more than 12 children at any given time. Ms. Leo is currently awaiting approval for the venture and has my consent.

Caesar Papi
Owner

A handwritten signature in cursive script that reads "Caesar Papi".

237 Spring St

Portland, ME 04102