

Department of Planning & Urban Development

Marge Schmuckal  
Zoning Administrator

Jeff Levine  
Director Planning & Urban Development



RECEIVED

**CITY OF PORTLAND**  
**ZONING BOARD OF APPEALS**

FEB - 3 2014

**Conditional Use Appeal Application** Dept. of Building Inspections  
City of Portland Maine

Applicant Information:

Arlin Smith  
NAME

AMA, LLC  
BUSINESS NAME

88 Middle St.  
ADDRESS

Portland, ME 04101

207-774-8538  
TELEPHONE #

Subject Property Information

34 Vannah Ave., Portland ME  
PROPERTY ADDRESS 04101

CBL: 129 F013001 Book/Page:  
CHART/BLOCK/LOT (CBL) 29836/044

PROPERTY OWNER (if different)

Stephen Mardigan  
NAME

460 Baxter Blv.  
ADDRESS

Portland, ME 04103

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

B-1 Neighborhood Business  
CURRENT ZONING DESIGNATION

CONDITIONAL USE AUTHORIZED BY

SECTION 14 - 163 (1)

EXISTING USE OF PROPERTY:

Ground floor is Vacant  
retail space

Upper Level is Residential

TYPE OF CONDITIONAL USE

PROPOSED: Ground Floor Restaurant  
(Casual - Homestyle Cuisine)

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. There are unique or distinctive characteristics or effects associated with the proposed conditional use;
2. There will be an adverse impact upon the health, safety, or welfare of the public or the surrounding area; and
3. Such impact differs substantially from the impact which would normally occur from such a use in that 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.

[Signature]  
SIGNATURE OF APPLICANT

1/31/14  
DATE

January 31<sup>st</sup>, 2014

Zoning Board of Appeals  
Room 315  
Portland City Hall  
389 Congress St.  
Portland, ME 04101

Dear Zoning Board of Appeals,

AMA LLC. has enclosed a Conditional Use Application for a potential restaurant located at 34 Vannah St, as location currently zoned as B-1 Neighborhood Business. We believe that our plans for this restaurant, tentatively named 'Vannah St. Tavern,' satisfy the criteria for restaurants set forth in Sec. 14-163 Conditional Uses. In the supporting documentation, we will show how this criteria is met.

## **Background**

The small, local restaurant group, AMA LLC, was formed when three employees of the longstanding Hugo's restaurant at 88 Middle St, banded together to purchase the restaurant and open up an oyster bar, Eventide Oyster Co., in the adjacent space. In the winter of 2014, we hope to continue to grow by opening up a small, 28 seat, casual neighborhood restaurant at 34 Vannah St. in Woodford's Corner. The attractive façade, the window frontage, and location on the edge of an established residential neighborhood appealed to us: inviting a warm, cozy welcoming restaurant that will put a premium on hospitality.

While the food at Hugo's and Eventide Oyster Co. has received universal acclaim, 34 Vannah St. will venture in a different direction. The concise menu – scrawled daily on a chalkboard – will be more casual, more visceral, more familiar, and more affordable, taking its cues from restaurants like Joe Beef in Montreal, Le Pigeon in Portland, OR, or Husk in Charleston. While a hearty red wine based beef stew with short rib might feel out of place at Hugo's or Eventide, it would be right at home at 34 Vannah St. - as would a whole roasted monkfish tail, a perfectly grilled porterhouse steak or a plate of fried smelts.

Focused on classic cocktails, a well balanced draft line and a unique list of high-value wines, the beverage program will be ideal for those saddling up to the ten-seat curved bar for a drink and a conversation with the bartender or sharing an intimate table and a bottle of wine with a loved one. With antique furniture, tables of reclaimed wood and walls lined with wainscoting and wallpaper, the space will feel warm and well-worn – like your grandmother's house.

To ensure the success of such a venture we feel it will be critical to develop a warm and longstanding relationship with the Woodford's Corner community. AMA LLC. is fully cognizant of the potential adverse effects that opening a restaurant in a residential area could create – noise, disorderly conduct, traffic, parking issues, to

name a few. AMA LLC will use all of our acumen and resources to ensure that these effects are minimized.

We are fully confident that our plans conform to the standards set forth in the Conditional Use Appeal Application as well as the b-1b Neighborhood Business Sec. 14-163 Conditional Uses criteria for a restaurant. Beyond showing that our plans meet such standards and criteria, we will outline our plans to mitigate any other adverse effects that might arise from our restaurant.

***Sec. 14-163. (a): Peak Hour Vehicle under 100 per 2000 sq. ft. of space.***

Traffic: While it is our hope and expectation that 34 Vannah St. Tavern will attract diners that live outside Woodford's corner, the small size of the restaurant - 28 seats - will be our best tool to limit the amount of additional traffic burden to Vannah St. Using the Industry standard ITE Trip Generation average rate for a category 931 Quality/Sit Down Restaurant of 7.49 trips per 1,000 sq ft gross floor area during peak hours, 34 Vannah St Tavern would generate well less than 25 trips per peak hour. That number is well below the maximum of 100 trips per peak hour to qualify for the zoning change and would put almost no additional pressure on a street that is already a major thoroughfare.

***Sec. 14-163. (a)1a: Maximum total floor area for the use of the public shall be 1,000 sq ft.***

Floor Area: Our floor plan clearly indicates that the floor area for the dining public will not exceed 600 sq ft. This will be a very small family friendly neighborhood restaurant.

***Sec. 14-163. (a) 1b: The hours of operation shall be limited to between 6:00am and 11:00pm each day.***

Operating hours: The restaurant will only be serving dinner 5 nights a week, 4:30pm -11:00pm, Wednesday-Sunday.

***Sec. 14-163. (a)1c: Food service and consumption are the primary function of the restaurant.***

Food Service: The primary purpose of 34 Vannah Tavern shall be a casual dining restaurant serving full meals.

***Sec. 14-163. (a)1d: There shall be no drive-through service.***

Drive Through Service: There will never be any drive-through service.

***Sec. 14-332 Other Requirements: Off Street Parking is required at a rate of 1 parking space per 150 sq. ft. of public use floor space.***

**Parking:** Using the criteria set forth by the city, four spaces will be needed to satisfy the requirement. The plot plan clearly shows five.

To ease additional concerns, we can separate parking for 34 Vannah St Tavern into two categories: before 4:30pm for staff and 4:30pm – 11:00pm for staff and patrons. Before 4:30, the 5 spots in front of the building will be more than sufficient for the number of staff members we will have during prep hours. After 4:30, there will potentially be more cars. We plan on aggressively approaching local businesses such as the VFW, Darling Plumbing and Veranda Market to utilize some of their parking that is vacant after normal business hours. With only 28 seats, there is ample parking for patrons within 200 ft of 34 Vannah St.

**Noise and Disorderly Conduct:** It is our stated goal to make people feel at home. 34 Vannah St. Tavern will be a comfortable and lively place to enjoy a casual meal and/or drink. Very simply, it will not be a bar, loud music will not be welcome and any disorderly conduct will not be tolerated. Any manner of disorderly conduct will be as bad for our business as it is for the surrounding community. 34 Vannah St. Tavern will not be the type of establishment that fosters or encourages excessive intoxication, nefarious behavior and public disturbances. AMA LLC.'s record in our other establishments supports this statement.

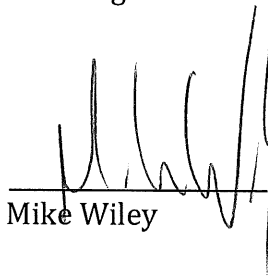
We are extremely excited about this project and very much look forward to becoming an integral part of this wonderful community.

I look forward to hearing any comments or concerns from the community so we can do everything in our power to integrate successfully into the neighborhood.

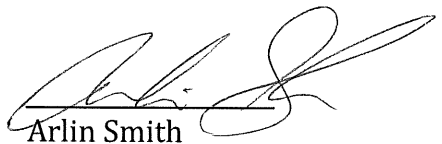
Respectfully,



Andrew Taylor



Mike Wiley



Arlin Smith

Owners, AMA LLC.  
88 Middle St  
Portland ME 04101  
207.774.2700

**Addendum to Cover Letter:**

In reference to the Conditional Use Standards pursuant to Portland City Code 14-474(c) (2), we are confident that our plans do not include:

***1. Unique or distinctive characteristics or effects associated with the proposed conditional use:***

The use as a restaurant will not be dramatically different than historical uses of the space as a retail and food service establishment. The building has already undergone a restoration by the property owner with an attractive façade and we will not add anything that is not in keeping with the surrounding neighborhood. As Vannah St. is already a well-traveled cut-through, traffic associated with our restaurant will be minimal. We have the requisite parking spaces, and plan on arranging additional parking as addressed below.

***2. An Adverse impact upon the health, safety, or welfare of the public or the surrounding area:***

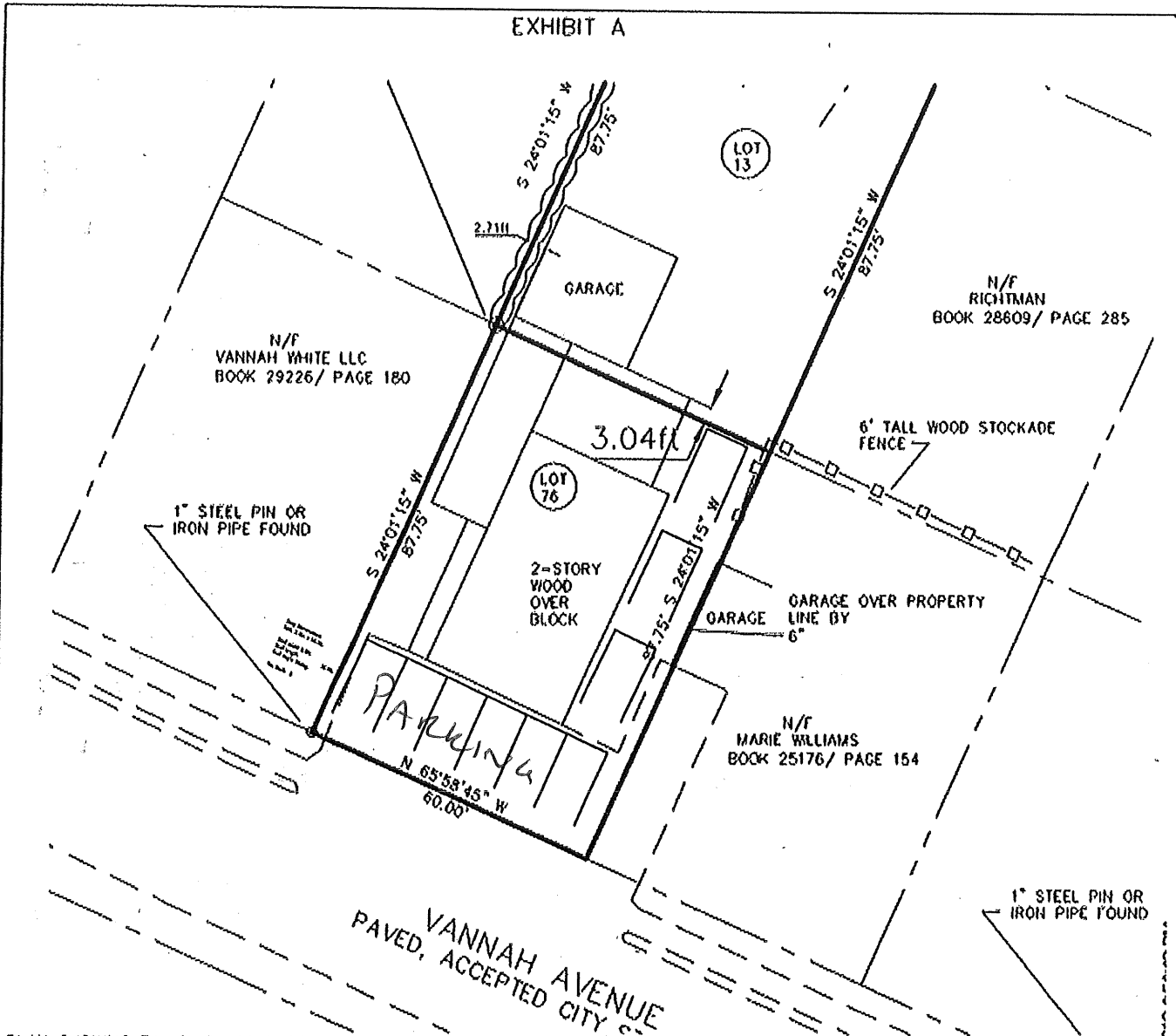
We intend our restaurant to be a vibrant part of the Woodford's Corner neighborhood. Vacant for some time, the property owner and AMA LLC., will create a beautiful and clean beacon for the neighborhood. It is our stated goal to make people feel at home in our restaurant. 34 Vannah St. Tavern will be a comfortable and lively place to enjoy a casual meal and/or drink. Very simply, it will not be a bar, loud music will not be welcome and any disorderly conduct will not be tolerated. Any manner of disorderly conduct will be as bad for our business as it is for the surrounding community. 34 Vannah St. Tavern will not be the type of establishment that fosters or encourages excessive intoxication, nefarious behavior and public disturbances. AMA LLC.'s record in our other establishments supports this statement.

***3. An impact that differs substantially from the impact which would normally occur from such a zone:***

Our restaurant, and the manner in which we run our businesses, will produce minimal impact on this community. Open for only a short period of time, any impact at all will be condensed to a few hours and there will be less impact than a popular daytime retail establishment would produce.

34annah Avenue Plot Plan

EXHIBIT A



PLAN SHOWING TAX MAP 129 BLOCK F LOTS 013 AND 014  
 BEARINGS SHOWN ARE BASED UPON A MAGNETIC OBSERVATION TAKEN IN 2012.  
 THIS PLAN DEPICTS THE RESULTS OF LAND SURVEY TO RECREATE THE LOTS  
 DESCRIBED IN A DEED TO THE HEREIN OWNER STEPHEN E. MARDIGAN AS  
 DESCRIBED IN A DEED RECORDED IN THE CUMBERLAND COUNTY REGISTRY OF  
 DEEDS IN DEED BOOK 29836, PAGE 44.  
 AREA OF EACH LOT: 5265, (3) DENOTES LOT NUMBER AS SHOWN ON THE  
 PLAN OF SAUNDERS FIELD DATED AUGUST 21, 1917 IN PLAN BOOK 13, PAGE  
 93.

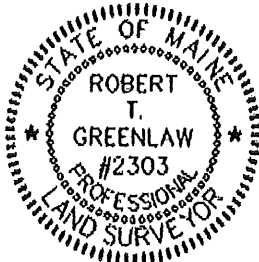


**CERTIFICATE:**

I HEREBY CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF LICENSURE  
 FOR PROFESSIONAL LAND SURVEYORS' STANDARDS OF PRACTICE AS ADOPTED APRIL 01,  
 2001 WITH THE FOLLOWING EXCEPTIONS:

- a) NO WRITTEN REPORT
- b) NO NEW DESCRIPTION

ROBERT T. GREENLAW P.L.S., #2303  
 DATE: OCTOBER 15, 2012



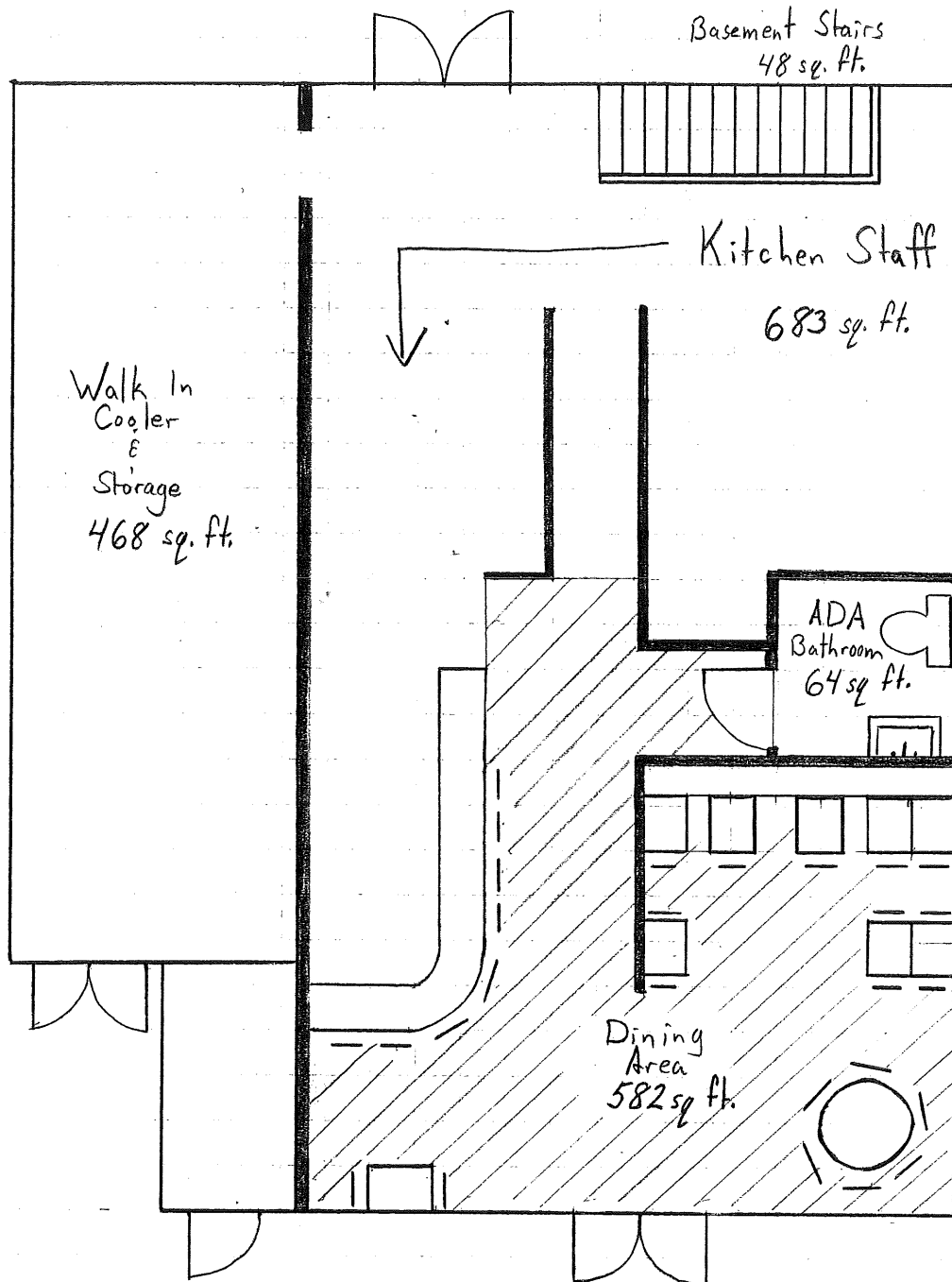
**PLAN SHOWING BOUNDARY LINES**

AT 34 VANNAH AVENUE  
 PORTLAND, MAINE  
 FOR: STEPHEN E. MARDIGAN

Prepared by  
 Robert T. Greenlaw  
 Professional Land Surveyor  
 PLS #2303  
 134 Portland Ave  
 Old Orchard Beach, ME 04064

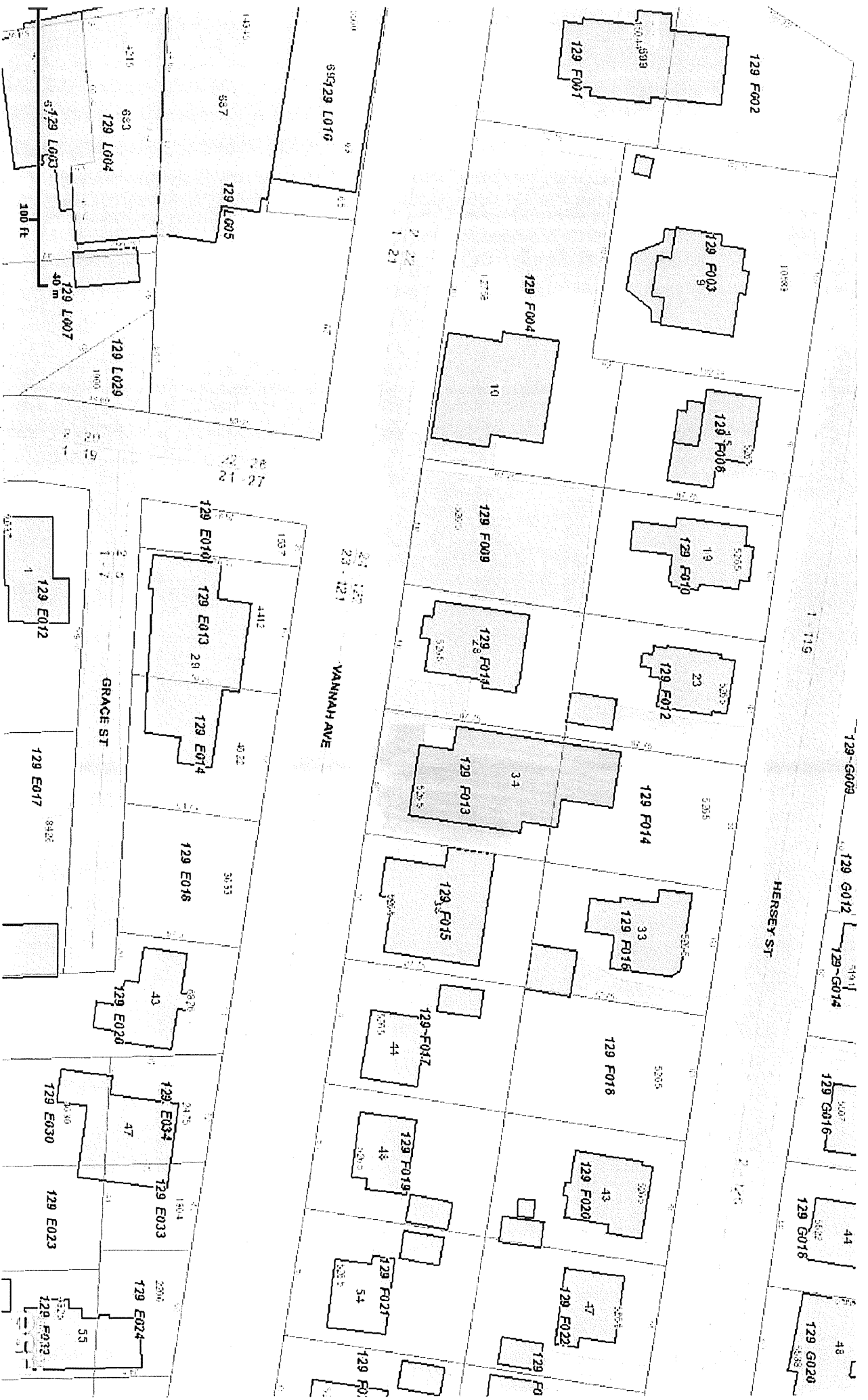
Scale: 1"=30'	Date: 10/12/12	LT:
Drawn: RTG	Checked: KGG	Job: 2012042

Plot plan demonstrates satisfaction of onsite parking requirement:  
 >964 sq ft space for use of public / 150 = 6.42 = 7 parking spaces required for conditional use as Restaurant  
 >2 1 bedroom residential units on 2<sup>nd</sup> floor = 2 parking spaces required  
**Total: 9 required Parking Spaces**  
 [all spaces to-scale overlaid on 2012 survey and each measures required 9' x 16']



Main Room Interior Dimensions: 28'6" X 49'  
 For Use of Public : 646 sq. ft.  
 Staff Space : 1,151 sq. ft.  
 Total Interior Space : 1,797 sq. ft.

# My Map



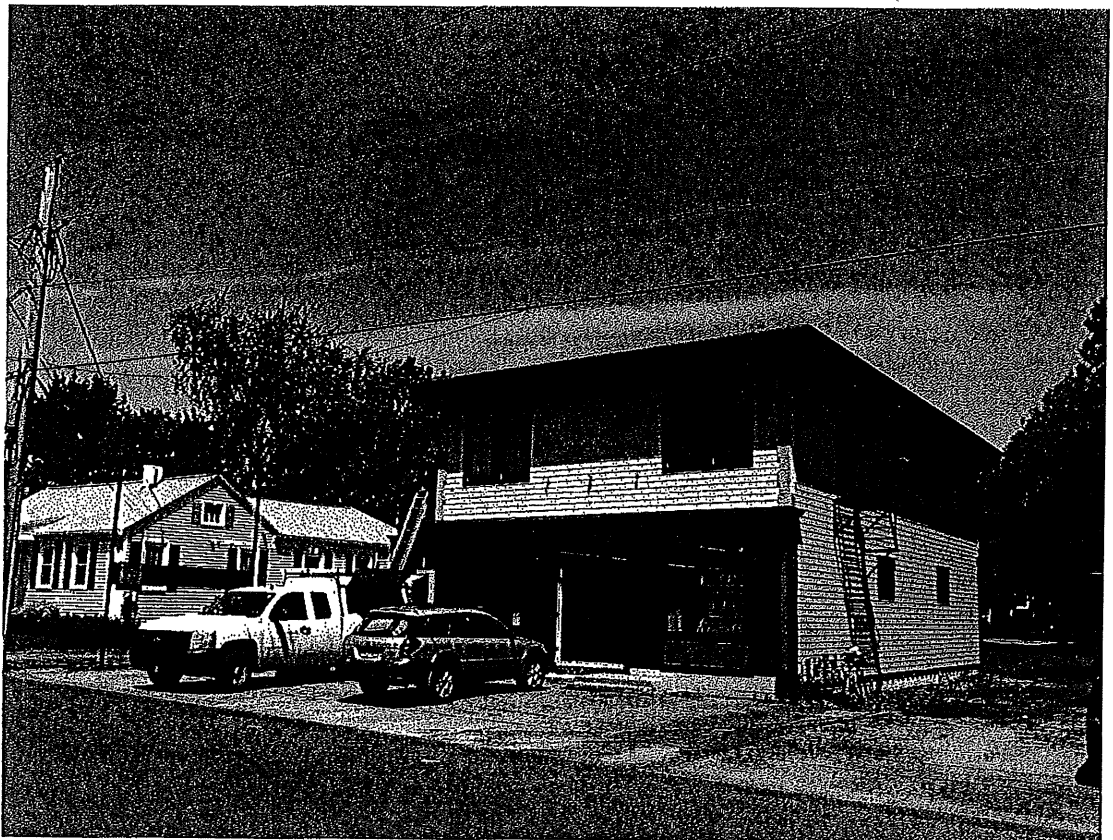
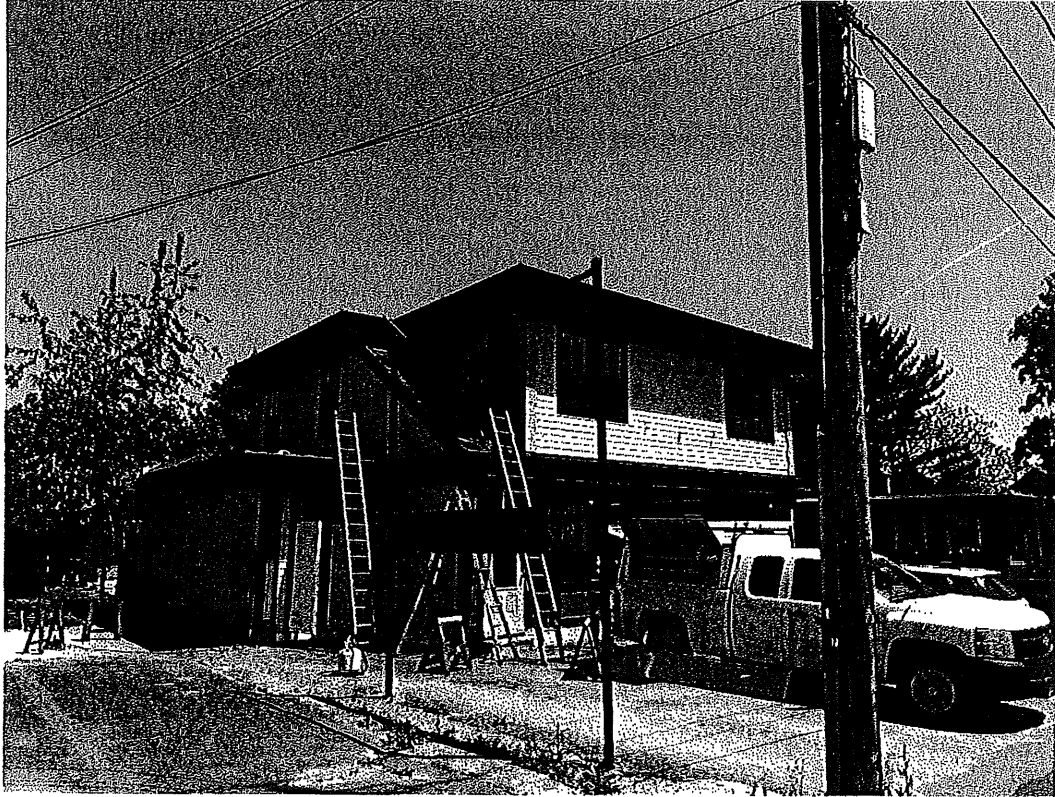


# My Map



Copyright 2011 Esri. All rights reserved. Fri Jan 31 2014 02:43:38 PM.

34 Vannah Front



January 31, 2014

Marge Schmuckal  
Zoning Administrator  
City of Portland  
389 Congress St., Room 315  
Portland, Maine 04101

Re: 34 Vannah Avenue, Portland, Maine – Conditional Use Application

Dear Marge,

I am currently the owner of property located at 34 Vannah Avenue in Portland. The assessors reference of the property is Map 129, Block F, Lot 13. I am currently in lease negotiations with AMA LLC for the first floor of the property. AMA, LLC intends to operate a 26 seat full service neighborhood restaurant. I am in full support of this use and have given them permission to pursue the Conditional Use approval they will need in order to operate. We have not come to final lease terms yet as we are waiting on some feedback from an engineer as to the sprinkler requirements, but I have attached a draft lease as evidence of our continuing negotiations. I have also attached a very rough plan of how they propose the space to be laid out. A final mutually agreed upon floor plan will be worked out in the coming weeks. Please feel free to contact me with any questions you might have regarding the property or AMA's application for a conditional use. I can be reached at 772-555.5

Sincerely,



Stephen Mardigan  
Owner

## COMMERCIAL LEASE (GROSS/MODIFIED GROSS LEASE)

1. PARTIES: Stephen Mardigan ("LANDLORD"), hereby leases to AMA LLC ("TENANT"), and TENANT hereby leases from LANDLORD the below described leased premises:
2. LEASED PREMISES: The leased premises are deemed to contain 1,826 SF of retail space along with the adjacent garage and backyard area. Please see the attached Exhibit A for a general depiction of Tenant's space.  
: The leased premises are located at 34 Vannah Avenue, Portland, Maine  
The leased premises are accepted in "as is" condition except if specifically set forth to the contrary in this lease. TENANT acknowledges that: a) LANDLORD has made no representations and TENANT is not relying on any representations about the leased premises, their suitability for any particular use and/or the physical condition thereof; and b) that the TENANT has conducted its own due diligence inquiries with respect to the leased premises and is satisfied with the results thereof.
3. TERM: The Term of this lease shall be for five (5) years, unless sooner terminated as herein provided, commencing upon substantial completion of Landlord's work (the "Commencement Date") and ending five years from the Commencement Date.
4. RENT: The TENANT shall pay to the LANDLORD the following base rent:  
  
Rent will be based on final cost of landlord's work which has yet to be determined.
5. RENEWAL OPTION: So long as TENANT is not in default of this Lease at the time of exercise of TENANT'S renewal option, TENANT shall have the option to renew this Lease for two (2) option terms of five (5) years each.
6. SECURITY DEPOSIT: Upon the execution of this Lease, TENANT shall pay to LANDLORD the amount of one months rent which shall be held as security for TENANT'S performance as herein provided and refunded to TENANT without interest at the end of this Lease subject to the TENANT's satisfactory compliance with the conditions hereof. TENANT shall immediately replenish the Security Deposit at any time it is applied or used by LANDLORD.
7. UTILITIES: TENANT shall pay, as they become due, all bills for electricity and other utilities (whether they are used for furnishing heat or other purposes) that are furnished to the leased premises and presently separately metered, all bills for fuel furnished to a separate tank servicing the leased premises exclusively, and all charges for telephone and other communication systems used at and supplied to the leased premises and all bills for janitorial services for the leased premises which TENANT shall be responsible for coordinating. LANDLORD agrees to furnish water for ordinary drinking, cleaning, lavatory and toilet facilities and reasonable heat and air conditioning, if installed as part of the structure of the building,

(except to the extent that the same are furnished through separately metered utilities or separate fuel tanks as set forth above) so as to maintain the leased premises and common areas of the building at comfortable levels during normal business hours on regular business days of the heating and air conditioning seasons of each year, to furnish elevator service, if installed as a part of the structure of the building, and to light passageways and stairways during business hours, and to furnish such cleaning service as is customary in similar building in said city or town, all subject to interruption due to any accident, to the making of repairs, alterations or improvements, to labor difficulties, to trouble in obtaining fuel, electricity, service, or supplies from the sources from which they are usually obtained for said building, or to any cause beyond LANDLORD'S control.

LANDLORD shall have no obligation to provide utilities or equipment other than the utilities and equipment within the leased premises as of the commencement date of this Lease. In the event TENANT requires additional utilities or equipment, the installation and maintenance thereof shall be TENANT'S sole obligation, provided that such installation shall be subject to the written consent of LANDLORD.

8. USE OF LEASED PREMISES:

TENANT shall use the leased premises only for the purpose of operating a 26 seat full service restaurant. Neither LANDLORD nor LANDLORD'S BROKER have made any representations to TENANT regarding the uses of the leased premises allowed under applicable law or other restrictions of record, and TENANT acknowledges and agrees that TENANT assumes all responsibility and risk for investigating the same. This lease will be contingent upon TENANT receiving approval from the City of Portland for said use.

9. COMPLIANCE WITH LAWS:

TENANT agrees to conform to the following provisions during the entire term of this Lease (i) TENANT shall not injure or deface the leased premises or building; (ii) No auction sale, inflammable fluids, chemicals, nuisance, objectionable noise or odor shall be permitted on the leased premises; (iii) TENANT shall not permit the use of the leased premises for any purpose other than set forth herein or any use thereof which is improper, offensive, contrary to law or ordinance, or liable to invalidate or increase the premiums for any insurance on the building or its contents or liable to render necessary any alterations or additions to the building; and (iv) TENANT shall not obstruct in any manner any portion of the building not hereby demised or the sidewalks or approaches to said building or any inside or outside windows or doors. TENANT shall observe and comply with all codes, ordinances, laws, regulations and other governmental or quasi-governmental orders or inspections affecting TENANT, the leased premises and/or TENANT'S use and all reasonable rules and security regulations now or hereafter made by LANDLORD for the care and use of the leased premises, the building, its facilities and approaches. TENANT agrees to keep the leased premises equipped with all safety appliances and make all accessibility alterations, improvements or installations to the building, and/or accommodations in TENANT'S use thereof required by law or any public authority as a result of TENANT'S use or occupancy of the premises or TENANT'S alterations or additions thereto, which alterations, improvements and installations shall be subject to LANDLORD'S consent as provided in this Lease.

10. MAINTENANCE      TENANT acknowledges by entry thereupon that the leased premises are in good and satisfactory order, repair and condition, and covenants during said term and further time TENANT holds any part of said premises to keep the leased premises (including without limitation windows, doors and all systems serving exclusively the leased premises) in as good order, repair and condition as the same are in at the commencement of said term, or may be put in thereafter, damage by fire or unavoidable casualty and reasonable use and wear only excepted. Notwithstanding anything to the contrary herein, if TENANT has leased ground floor space, TENANT covenants to keep all plate glass windows in good repair and condition and to carry adequate insurance to provide for the replacement of any such plate glass which is damaged or destroyed.
- A. TENANT'S OBLIGATIONS:
- B. LANDLORD'S OBLIGATIONS:      LANDLORD agrees to maintain and repair the roof, exterior walls and structure of the building of which the leased premises are a part, building systems not exclusively serving the leased premises and the common areas, in the same condition as they are at the commencement of the term or as it may be put in during the term of this Lease, reasonable wear and tear, damage by fire and other casualty only excepted, unless such maintenance or repair is made necessary by fault or neglect of TENANT or the employees, contractors, agents or invitees of TENANT, in which case such maintenance or repair shall be at the expense of TENANT and TENANT shall pay all costs thereof.
11. ALTERATIONS-      TENANT shall not make any alterations or additions, or permit the making of ADDITIONS:      any holes in any part of said building (except for nail holes for hanging art), or paint or place any signs, drapes, curtains, shades, awnings, aerials or flagpoles or the like or permit anyone except TENANT to use any part of the leased premises for desk space or for mailing privileges without on each occasion obtaining prior written consent of LANDLORD. TENANT may install signs of the following dimensions in the following locations, which signs shall be installed TEANT'S sole expense, in compliance with all applicable laws and ordinances, and in compliance with LANDLORD'S sign standards. TENANT shall not suffer or permit any lien of any nature or description to be placed against the building, the leased premises or any portion thereof, and in the case of an such lien attaching to immediately pay and remove the same; this provision shall not be interpreted as meaning that TENANT has any authority or power to permit any lien of any nature or description to attach or to be placed upon LANDLORD'S title or interest in the building, the leased premises, or any portion thereof.
12. ASSIGNMENT-      TENANT shall not by operation of Law or otherwise, assign, mortgage or SUBLEASING:      encumber this Lease, or sublet or permit the leased premises or any part thereof to be used by others, without LANDLORD'S prior express written consent in each instance which consent shall not be unreasonably withheld or delayed. In any case where LANDLORD shall consent to such assignment or subletting, TENANT named herein and any guarantor of this Lease shall remain fully liable for the obligations of TENANT hereunder, including, without limitation, the obligation to pay the rent and other amounts provided under this Lease. For purposes of this Lease, the sale of controlling interest in the stock of a corporate TENANT, sale of the controlling membership interest in an LLC or similar entity, or the change of a general partner of a partnership TENANT shall constitute an assignment of this Lease.

13. SUBORDINATION AND QUIET ENJOYMENT: This Lease automatically shall be subject and subordinate to any and all mortgages, deeds of trust and other instruments in the nature of a mortgage, now or at any time hereafter a lien or liens on the property of which the leased premises are a part and TENANT shall, within ten (10) days after they are requested, promptly execute and deliver such written instruments as shall be necessary to show the subordination of this Lease to said mortgages, deeds of trust or other such instruments in the nature of a mortgage. Provided TENANT performs all of its obligations under this Lease, TENANT shall be entitled to the quiet enjoyment of the leased premises; provided TENANT covenants that it holds the leased premises subject to all easements, covenants and other matters of record, and agrees to abide by same to the extent the same affect the leased premises. TENANT agrees to sign within ten (10) days after they are requested, such estoppel certificates as are requested by LANDLORD or LANDLORD'S lender.

14. LANDLORD'S ACCESS: LANDLORD or agents of LANDLORD may, at all reasonable times during the term of this Lease, enter the leased premises (i) to examine the leased premises and, if LANDLORD shall so elect, to make any repairs or additions LANDLORD may deem necessary and, at TENANT'S expense, to remove any alterations, additions, signs, drapes, curtains, shades, awnings, aerials or flagpoles, or the like, not consented to by LANDLORD in writing, (ii) to show the leased premises to prospective purchasers and mortgagees, and (iii) to show the leased premises to prospective tenants during the \_\_\_\_\_ ( ) months before the expiration of this Lease to affix to any suitable part of the lease premises a notice for leasing the leased premises and to keep the signage affixed without hindrance or molestation. LANDLORD also reserves the right at any time to affix to any suitable part of the leased premises a notice for selling the leased premises or property of which the leased premises are part and to keep the signage affixed without hindrance or molestation.

15. INDEMNIFICATION AND LIABILITY: TENANT will defend and, except to the extent caused solely by the negligence or willful misconduct of LANDLORD, will indemnify LANDLORD and its employees, agents and management company, and save them harmless from any and all injury, loss, claim, damage, liability and expense (including reasonable attorneys' fees) in connection with the loss of life, personal injury or damage to property or business, arising from, related to, or in connection with the occupancy or use by TENANT of the leased premises or any part of LANDLORD'S property or the building, or occasioned wholly or in part by any act or omission of TENANT, its contractors, subcontractors, subtenants, licensees or concessionaires, or its or their respective agents, servants or employees while on or about the leased premises. TENANT shall also pay LANDLORD'S expenses, including reasonable attorneys' fees, incurred by LANDLORD in successfully enforcing any obligation, covenant or agreement of this Lease or resulting from TENANT'S breach of any provisions of this Lease (including without limitation any attorneys' fees, incurred to monitor or intervene in any bankruptcy proceeding involving TENANT), or any document, settlement or other agreements related to this Lease. TENANT agrees not to assert immunity under workers' compensation laws as defense to the enforcement by LANDLORD of the foregoing indemnity. The provisions of this Article shall survive the termination or earlier expiration of the term of this Lease. Without limitation of any other provision herein, neither the LANDLORD, its employees,

agents nor management company shall be liable for, and TENANT hereby releases them from all claims for, any injuries to any person or damages to property or business sustained by TENANT or any person claiming through TENANT due to the building or any part thereof (including the premises), or any appurtenances thereof, being in need of repair or due to the happening of any accident in or about the building or the leased premises or due to any act or negligence of TENANT or of any employee or visitor of TENANT. Without limitation, this provision shall apply to injuries and damage caused by nature, rain, snow, ice, wind, frost, water, steam, gas or odors in any form or by the bursting or leaking of windows, doors, walls, ceilings, floors, pipes, gutters, or other fixtures; and to damage caused to fixtures, furniture, equipment and the like situated at the leased premises, whether owned by the TENANT or others.

16. TENANT'S  
LIABILITY  
INSURANCE:

TENANT shall (i) insure TENANT and LANDLORD, as an additional named insured, with commercial general liability coverage, on an occurrence basis and in such amounts and with such Maine admitted companies and against such risk as LANDLORD shall reasonably require and approve, but in amounts not less than \_\_\_\_\_ (\$ \_\_\_\_\_) combined single limit with deductibles of not less than \$5,000 per occurrence, and (ii) insure LANDLORD and TENANT, as their interests appear, against loss of the contents and improvements of the leased premises under standard Maine all risk perils form, or its equivalent, in such amounts and with such Maine admitted companies as LANDLORD shall reasonably require and approve, with waiver of subrogation if such waiver can be obtained without charge. TENANT shall deposit with LANDLORD certificates for such insurance at or prior to the commencement of the term, and thereafter within thirty (30) days prior to the expiration of any such policies, and TENANT promptly shall deliver to LANDLORD complete copies of TENANT'S insurance policies upon request from LANDLORD. All of the foregoing insurance policies shall provide that such policies shall not be canceled without at least thirty (30) days prior written notice to each insured named therein. TENANT shall list LANDLORD as an additional named insured or loss payee, as the case may be, in all policies required by this Article.

17. FIRE CASUALTY-  
EMINENT  
DOMAIN:

Should a substantial portion of the leased premises, or of the property of which they are a part, be damaged by fire or other casualty, or be taken by eminent domain, LANDLORD may elect to terminate this Lease. When such fire, casualty, or taking renders the leased premises unfit for use and occupation and LANDLORD does not so elect to terminate this Lease, a just and proportionate abatement of rent shall be made until the leased premises, or in the case of a partial taking what may remain thereof, shall have been put in proper condition for use and occupation. LANDLORD reserves and excepts all rights to damages to the leased premises and building and the leasehold hereby created, accrued or subsequently accruing by reason of anything lawfully done in pursuance of any public, or other, authority; and by way of confirmation, TENANT grants to LANDLORD all TENANT'S rights to such damages and covenants to execute and deliver such further instruments of assignment thereof as LANDLORD may from time to time request. LANDLORD shall give TENANT notice of its decision to terminate this Lease or restore said premises within ninety (90) days after any occurrence giving rise to LANDLORD'S right to so terminate or



restore. Notwithstanding anything to the contrary contained herein, LANDLORD'S obligation to put the leased premises or the building in proper condition for use and occupation shall be limited to the amount of the proceeds from any insurance policy or policies or of damages which accrue by reason of any taking by a public or other authority, which are available to LANDLORD for such use.

18. DEFAULT AND  
BANKRUPTCY:

In the event that:

- (a) The TENANT shall default in the payment of any installment of rent or other sum herein specified when due which default is not corrected within seven (7) days after written notice thereof, or
- (b) The TENANT shall default in the observance or performance of any other of the TENANT'S covenants, agreements, or obligations hereunder and such default shall not be corrected within ten (10) days after written notice thereof, or
- (c) The leasehold hereby created shall be taken on execution, or by other process of law; or
- (d) Any assignment shall be made of TENANT'S property for the benefit of creditors, or a receiver, guardian, conservator trustee in bankruptcy or similar officer shall be appointed by a court of competent jurisdiction to take charge of all or any part of TENANT'S property, or a petition is filed by TENANT under any bankruptcy, insolvency or other debtor relief law,

then and in any of said cases (notwithstanding any license of any former breach of covenant or waiver of the benefit hereof or consent in a former instance), LANDLORD shall be entitled to all remedies available to LANDLORD at law and equity including without limitation, the remedy of forcible entry and detainer, and LANDLORD lawfully may, immediately or at any time thereafter, and without demand or notice, mail a notice of termination to the TENANT, or, if permitted by law, enter into and upon the leased premises or any part thereof in the name of the whole and repossess the same as of its former estate, and expel TENANT and those claiming through or under it and remove it or their effects without being deemed guilty of any manner of trespass, and without prejudice to any remedies which might otherwise be used for arrears of rent or preceding breach of covenant, and upon such mailing or entry as aforesaid, this Lease shall terminate; and TENANT covenants and agrees, notwithstanding any entry or re-entry by LANDLORD, whether by summary proceedings, termination, or otherwise, that TENANT shall, as of the date of such termination, immediately be liable for and pay to LANDLORD the entire unpaid rental and all other balances due under this Lease for the remainder of the term. In addition, TENANT agrees to pay to LANDLORD, as damages for any above described breach, all costs of reletting the leased premises including real estate commissions and costs of renovating the premises to suit any new tenant, and TENANT agrees to reimburse LANDLORD in connection with a TENANT default, including without limitation such fees incurred in connection with a bankruptcy proceeding.

19. NOTICE:

Any notice from LANDLORD to TENANT relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if left at the leased premises addressed to TENANT, or upon mailing to the leased premises, certified mail,

return receipt requested, postage prepaid, addressed to TENANT. Such notice shall be deemed served on the date of hand delivery to the leased premises or on the date postmarked, and any time period in this Lease running from the date of notice shall commence on the date of delivery or postmark. Any notice from TENANT to LANDLORD relating to the leased premises or to the occupancy thereof, shall be deemed duly served, if mailed to LANDLORD by registered or certified mail, return receipt requested, postage prepaid, addressed to LANDLORD at LANDLORD'S address set forth in Article 1, or at such other address as LANDLORD may from time to time advise in writing.

20. SURRENDER: TENANT shall at the expiration or other termination of this Lease peaceably yield up the leased premises and all additions alterations and improvements thereto in good order, repair and condition, damage by fire, unavoidable casualty, and reasonable wear and tear only excepted, first moving all goods and effects not attached to the leased premises, repairing all damage caused by such removal, and leaving the leased premises clean and tenantable. If LANDLORD in writing permits TENANT to leave any such goods and chattels at the leased premises, and TENANT does so, TENANT shall have no further claims and rights in such goods and chattels as against LANDLORD or those claiming by, through or under LANDLORD.

21 HAZARDOUS MATERIALS: TENANT covenants and agrees that, with respect to any hazardous, toxic or special wastes, materials or substances including asbestos, waste oil and petroleum products (the "Hazardous Materials") which TENANT, its agents or employees, may use, handle, store or generate in the conduct of its business at the leased premises TENANT will: (i) comply with all applicable laws, ordinances and regulations which relate to the treatment, storage, transportation and handling of the Hazardous Materials (ii) that TENANT will in no event permit or cause any disposal of Hazardous Materials in, on or about the leased premises and in particular will not deposit any Hazardous Materials in, on or about the floor or in any drainage system or in the trash containers which are customarily used for the disposal of solid waste; (iii) that TENANT will with advance notice and at all reasonable times permit LANDLORD or its agents or employees to enter the leased premises to inspect the same for compliance with the terms of this paragraph and will further provide upon five (5) days notice from LANDLORD copies of all records which TENANT may be obligated by federal, state or local law to obtain and keep; (iv) that upon termination of this Lease, TENANT will at its expense, remove all Hazardous Materials from the leased premises which came to exist on, in or under the leased premises during the term of this Lease or any extensions thereof and comply with applicable state, local and federal laws as the same may be amended from time to time; and (v) TENANT further agrees to deliver the leased premises to LANDLORD at the termination of this Lease free of all Hazardous Materials which came to exist on, in or under the leased premises during the term of this Lease or any extensions thereof. The terms used in this paragraph shall include, without limitation, all substances, materials, etc., designated by such terms under any laws, ordinances or regulations, whether federal state or local.

22 LIMITATION OF LIABILITY: TENANT agrees to look solely to LANDLORD'S interest in the building for recovery of any judgment from LANDLORD it being agreed that LANDLORD is not personally liable for any such judgment. The provisions contained in the

foregoing sentence shall not limit any right that TENANT might otherwise have to obtain an injunctive relief against LANDLORD or LANDLORD'S successors in interest, or any other action not involving the personal liability of LANDLORD.

23 LANDLORD  
DEFAULT :

LANDLORD shall in no event be in default in the performance of any of its obligations hereunder unless and until LANDLORD shall have failed to perform such obligation within thirty (30) days or such additional time as is reasonably required to correct any such default after notice by TENANT to LANDLORD properly specifying wherein LANDLORD has failed to perform any such obligation. Further, if the holder of the mortgage on the building of which the leased premises are a part notifies TENANT that such holder has taken over LANDLORD'S rights under this Lease, TENANT shall not assert any right to deduct the cost of repairs or any monetary claim against lender or holder from rent thereafter due and accruing, but shall look solely to LANDLORD for satisfaction of such claim.

24 WAIVER OF  
RIGHTS:

No consent or waiver, express or implied, by either party to or of any breach of any covenant, condition or duty of the other, shall be construed as a consent or waiver to or of any other breach of the same or other covenant, condition or duty.

25 SUCCESSORS  
AND ASSIGNS:

The covenants and agreements of LANDLORD and TENANT shall run with the land and be binding upon and inure to the benefit of them and their respective heirs, executors, administrators, successors and assigns, but no covenant or agreement of LANDLORD, express or implied, shall be binding upon any person except for defaults occurring during such person's period of ownership nor binding individually upon any fiduciary, any shareholder or any beneficiary under any trust.

26 HOLDOVER:

If TENANT fails to vacate the leased premises at the termination of this Lease, then all of the terms of this Lease shall be applicable during said holdover period, except for base rent, which shall be increased to two (2) times the then-current base rent for the period just proceeding such termination; but this provision shall not be interpreted as consent or permission by LANDLORD for TENANT to holdover at the termination of this Lease and the terms of this holdover provision shall not preclude LANDLORD from recovering any other damages, which it incurs as a result of TENANT'S failure to vacate the leased premises at the termination of this Lease.

27 JURY TRIAL  
WAIVER:

NOTWITHSTANDING ANYTHING IN THIS LEASE TO THE CONTRARY, TENANT AND LANDLORD, FOR THEMSELVES AND THEIR SUCCESSORS AND ASSIGNS, HEREBY KNOWINGLY, WILLINGLY, AND VOLUNTARILY WAIVE ANY AND ALL RIGHTS TENANT AND/OR LANDLORD MAY HAVE TO A TRIAL BY JURY IN ANY FORCIBLE ENTRY AND DETAINER ("FED") ACTION OR PROCEEDING BROUGHT BY LANDLORD OR LANDLORD'S SUCCESSORS AND/OR ASSIGNS BASED UPON OR RELATED TO THE PROVISIONS OF THIS LEASE. LANDLORD AND TENANT HEREBY AGREE THAT ANY SUCH FED ACTION OR PROCEEDING SHALL BE HEARD BEFORE A SINGLE JUDGE OF THE APPROPRIATE DISTRICT COURT OR A SINGLE JUDGE OF THE APPROPRIATE SUPERIOR COURT, OR A FEDERAL DISTRICT COURT JUDGE SITTING IN THE DISTRICT OF MAINE.

28 MISCELLANEOUS: If TENANT is more than one person or party, TENANT'S obligations shall be joint and several. Unless repugnant to the context, "LANDLORD" and "TENANT" mean the person or persons, natural or corporate, named above as LANDLORD and TENANT respectively, and their respective heirs, executors, administrators, successors and assigns. LANDLORD and TENANT agree that this Lease shall not be recordable but each party hereto agrees, on request of the other, to execute a Memorandum of Lease in recordable form and mutually satisfactory to the parties. If any provision of this Lease or its application to any person or circumstances shall to any extent be invalid or unenforceable, the remainder of this Lease and the application of such provision to persons or circumstances other than those as to which it is invalid or unenforceable, shall not be affected thereby and each provision of this Lease shall be valid and enforceable to the fullest extent permitted by law. The submission of this Lease or a summary of some or all of its provisions for examination by TENANT does not constitute a reservation of or option for the premises or an offer to lease said premises, and this document shall become effective and binding only upon the execution and delivery hereof by both LANDLORD and TENANT. Employees or agents of LANDLORD have no authority to make or agree to make a lease or any other agreement or undertaking in connection herewith. All negotiations, considerations, representations and understandings between LANDLORD and TENANT are incorporated herein and no prior agreements or understandings, written or oral, shall be effective for any purpose. No provision of this Lease may be modified or altered except by agreement in writing between LANDLORD and TENANT, and no act or omission of any employee or agent of LANDLORD shall alter, change, or modify any of the provisions hereof. Time is of the essence of this agreement. This Lease shall be governed exclusively by the provisions hereof and by the laws of the State of Maine. The headings herein contained are for convenience only, and shall not be considered a part of this Lease.

29 BROKERAGE: Jay Wise of WRE Brokers and Katherine Millett of NAI The Dunham Group are the only brokers involved in this transaction.

DISCLAIMER: THIS IS A LEGAL DOCUMENT. IF NOT FULLY UNDERSTOOD, CONSULT AN ATTORNEY.

IN WITNESS WHEREOF, the said parties hereunto set their hands and seals this \_\_\_\_ day of \_\_\_\_\_, 2014.

TENANT:

AMA LLC

\_\_\_\_\_  
Legal Name of Tenant

\_\_\_\_\_  
Signature

LANDLORD:

Stephen Mardigan

\_\_\_\_\_  
Legal Name of Landlord

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Name/Title

\_\_\_\_\_  
Witness to Tenant

\_\_\_\_\_  
Witness to Landlord

773-5480

⊕ Floor Drain

★ Major Plumbing  
(Hot, & Cold Water  
Drain)

