

327-B-7

1810-1838 Forest Ave.

Zone Change

Dan Link

**CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM**

TO: Sonia Bean, Administrative Assistant
Elizabeth Boynton, Associate Corporation Counsel

FROM: Joseph E. Gray, Jr., Director of Planning and Urban Development

DATE: April 10, 1998

SUBJECT: 1810-1838 Forest Avenue

- 1) Council Meeting at which action is requested (Date): May 4, 1998
- 2) Can action be taken at a later date? x YES NO

I. SUMMARY OF ISSUE

The Planning Board is forwarding a recommendation to the City Council to rezone four lots on Forest Avenue from R-5 to the B-2 zone. The Planning Board also recommended that the property at 1818 Forest Avenue would maintain an R-5 zone in the rear of the property. This R-5 zone would be 80' from the rear lot line. (Attachment A). The purpose of the R-5 zone would be to maintain a buffer between Riverton Park and any future development. This recommendation follows a request by Dan Link to rezone a 4.5 acre lot at 1818 Forest Avenue in order to allow an office for Service Master Contract Cleaning.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

As mentioned above, Mr. Link is requesting the zone change to allow offices for Service Master Contract Cleaning at 1818 Forest Avenue. Currently the building is vacant, although it has been used as office space for 20± years. Offices are a prohibited use in the R-5 zone.

III. INTENDED RESULT (How does it resolve the issue/problem?)

To allow an office use at 1818 Forest Avenue.

IV. FINANCIAL IMPACT n/a

V. STAFF ANALYSIS & RECOMMENDATION

See attached copy of the Board's report to City Council (Attachment B).

Attachments:

- A. Proposed Zoning Map
- B. Planning Report #10-98

Attachment B

PLANNING BOARD REPORT #10-98

PLANNING BOARD REPORT

**ZONE CHANGE REQUEST
R-5 RESIDENTIAL TO B-2 COMMUNITY BUSINESS
1810-1838 FOREST AVENUE**

Submitted to:

Portland City Council
Portland, Maine

April 10, 1998

I. INTRODUCTION

Dan Link is requesting a zone change from R-5 Residential to B-2 Community Business to allow an office for Service Master Contract Cleaning at 1818 Forest Avenue.

During deliberations, the Planning Board decided to advertise from 1810-1838 Forest Avenue to be considered for rezoning from R-5 to B-1 or B-2.

II. FINDINGS

Current Zoning:	R-5 Residential
Proposed Zoning:	B-2 Community Business

	<u>Land Area</u>	<u>Existing Use</u>
1810 Forest Avenue:	18,404 sq. ft.	two-family
1818 Forest Avenue:	203,404 sq. ft.	vacant
1824 Forest Avenue:	11,680 sq. ft.	single family
1838 Forest Avenue:	11,434 sq. ft.	office/business services

Proposed Use:	Offices for Service Master Contract Cleaning (1818 Forest Ave.)
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III. BACKGROUND

Records indicate that 1818 Forest Avenue has been zoned residential for some time. Currently the building is vacant, although it has been used as office space for 20± years. Offices are a prohibited use in the R-5 zone.

IV. SURROUNDING USES

The site is located at 1818 Forest Avenue. To the east of the property is a 2 family building and the Maine Turnpike Overpass. West of the site is a single family building, commercial building, and the Presumpscot Grange Hall. South of the property is Riverton Park. The south side of Forest Avenue is zoned R-5.

The north side of Forest Avenue is zoned I-M, R-5 and B-2. The lot located in the I-M portion of Forest Avenue is vacant. Also on the north side of Forest Avenue is the Friends Meeting House, which is zoned R-5 and Tortilla Flats Restaurant, which is located in the B-2 zone.

V. PROPOSED ZONE CHANGE

Mr. Link is proposing to use the existing three story building at 1818 Forest Avenue for office space. Approximately seven employees would work at the office. Directly behind the building is a three car garage. The applicant would use the garage for storage space. There is an asphalt parking area near the garage. Approximately .17 acres of the site is built on. The remaining portion of the site is vacant. Please see Attachment 7.

The site is approximately 4.5 acres and is located west of the Maine Turnpike overpass. The rear of the property abuts Riverton Park, which is a residential complex.

VI. DEVELOPMENT PLAN

At this time, the applicant is not proposing any changes to the site.

VII. ZONING POLICY ANALYSIS

The applicant is requesting this B-2 zone change at 1818 Forest Avenue to allow an office use. The building has been used as office space for the past 20± years.

During deliberations, the Planning Board decided to advertise from 1810-1838 Forest Avenue to be considered for rezoning from R-5 to B-1 or B-2.

The building located at 1838 Forest Avenue has also, over the years, been used as a commercial building.

The purpose of the B-2 community business zone is (1) to provide appropriate locations in the city for the development and operation of a mixture of commercial uses and services that have a community-wide market such as shopping centers or cluster developments and (2) the variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.

The Board considered whether to rezone only a portion of 1818 Forest Avenue to B-1 or B-2 and leaving the rear of the property residential. This option would leave a buffer for the Riverton Park residents, if at a future time, the site is redeveloped with a more intense business use.

III. MOTIONS FOR THE BOARD TO CONSIDER

On March 24, 1998 the Planning Board voted unanimously (6-0, Malone absent) to recommend the proposed rezoning at 1810-1838 Forest Avenue to B-2 with the exception of 80 feet back from the rear lot line, (from the Maine Turnpike Authority property to southwesterly boundary) at 1818 Forest Avenue to remain R-5, as shown on Attachment A, to the City Council.

Attachments:

1. Zone Change Application
2. Letter from Applicant
3. Zoning Map
4. Surrounding Uses
5. Legal Notice
6. Photos of Area
7. Survey of Site
8. Map

APPLICATION FOR ZONING AMENDMENT
CITY OF PORTLAND, MAINE

Attachment 1

DATE December 4, 1997

TO THE CITY PLANNING BOARD, CITY HALL, PORTLAND, MAINE 04101:

The undersigned hereby requests that you consider whether it would be consistent with the comprehensive plan of the City of Portland, Maine, and make appropriate recommendation for action by the City Council concerning the following proposed amendments to the Zoning Ordinance of the City of Portland, Maine:

A. ZONING MAP AMENDMENT:

FROM R-5 ZONE TO B-2 ZONE

The property situated on 1818 Forest Street/Avenue between Turnpike Street/Avenue and Riverton Drive Street/Avenue on _____ side(s).

Assessor's Reference (Chart, Block and Lot) for the property is as follows:

Tax Map 327, Block B, Lot 7

1. What original deed restrictions, if any, concerning the type of improvements and class of uses permitted were placed on the property involved? Give date restrictions expire:

None

2. Description of the existing use of property: Office

3. Description of the proposed use of property: Office

4. Area of Lot(s): 4.5 Acres

Total Floor Area: 203,404

5. Street Address of Property Involved <u>1818 Forest Avenue</u>	Property Owner and/or Name of Option Holder <u>Bill Nickerson</u>	Date of Acquisition <u>Lease commenced on</u> <u>December 1, 1997</u>
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6. Submission of a site plan, as required in Article V of the Municipal Code.
7. Submission of plans and addresses of property owners abutting the subject property. 1810-1812 Forest Avenue — See Attached
1826-1828 Forest Avenue — Land Survey

B. ZONING TEXT AMENDMENT:

1. Section of Ordinance to be amended: _____
2. Proposed text amendment - Attach on 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 underlined (example).
3. Brief statement of the purpose of the proposed amendment. See letter to Alex Jaegerman
4. If the amendment is intended to facilitate a development, reuse, alteration, addition or modification to a specific property, fill out the sections above under ZONING MAP AMENDMENT.

A fee for this application for a zoning amendment will be charged in accordance with Section 14-54 of the Municipal Code (see copy attached). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

The above information and the attached lists of property -- owners in the vicinity are true and accurate to the best of my knowledge.

12-4-57

Date of Filing

Terry W. Snodgrass

Signature of Applicant

8 Terry W. Snodgrass

801 Boston Street

Portland 275

Address of Applicant

Cumberland Co. 04021

City

State

ZIP

WITHDRAWAL: In the event of withdrawal of the zoning amendment application by the applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: April 11, 1988

Sec. 14-54. Zone Change Fees

The following schedule of fees will be charged by the City for applications for changes of zone according to the following major zoning classifications and pertinent data relating to the specific zone change:

(1) Zoning Map Changes

	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 & Over</u>
Residence Zones	\$150.00	\$200.00	\$250.00	\$300.00
Nonresidential Zones	0-15,000 sq. ft. or 0-5 acres (which-ever is less)	15,000-30,000 sq. ft. or 6-10 acres (which-ever is less)	30,000-45,000 sq. ft. or 10-15 acres (which-ever is less)	45,000-60,000 sq. ft. or 15-20 acres (which-ever is less)

Applicant shall assume payment of cost of all notices, including newspaper publication.

(2) Text Changes: Minimum fee of one hundred dollars (\$100.00). Applicant shall assume payment of cost of all notices, including newspaper publication.

Administrative Policy: All ordinances that would cost more than the maximum to public should be printed in separate pamphlet form and advertised only by reference.

(3) Waiver of Fees: The fee for zone change applications will be waived in the case of an application submitted by any governmental body.

(4) Withdrawal of Application: If a zone change application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City. (Code 1968, * 602.1.F; Ord. No. 589-75, * 1, 10-20-75; Ord. No. 590-75, * 1, 11-19-75; Ord. No. 693-81, 5-18-81; Ord. No. 523-87, 5-18-87)

Attachment 2

Terry N. Snow, P.A.

Attorney at Law

P.O. Box 275

Cumberland Center, Maine 04021-0275

Office

294 Main Street

Cumberland, Maine

Telephone (207) 829-6363

Fax (207) 829-4481

December 4, 1997

Alexander Jaegerman, Chief Planner
Portland Planning Department
Portland City Hall
389 Congress Street
Portland, ME 04101

Dear Mr. Jaegerman:

On behalf of my client, Dan Link, I am submitting the attached application for a zoning change at the property located at 1818 Forest Avenue in Portland, from R-5 to B-2. I would like to thank you for taking the time to meet with Norm Stevens on October 15, 1997 to discuss this matter. That meeting was very helpful.

This property is a 4.5 acre parcel with a substantial three story building which was built in 1900. Directly behind the main structure is a two story structure with a three car garage on the lower level. The garage is surrounded by a good sized asphalt parking area. The lot is located very close to the Maine Turnpike and is across the street from large parcels zoned B-2 and I-M.

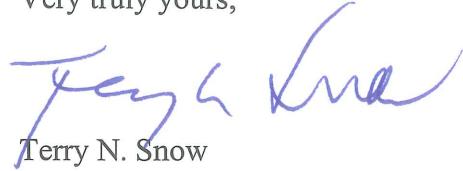
Dan Link would like to use this site as the office for Service Master Contract Cleaning. Most Service Master employees work at other locations and come to the office only infrequently. There are about seven employees who will work at the office. Parking at the site is presently more than sufficient.

The property is presently owned by Bill Nickerson and is subject to a lease purchase agreement with Dan Link. A copy of the agreement is attached along with

Alexander Jaegerman, Chief Planner
Page 2
December 4, 1997

a land survey which shows the plans and addresses of property owners abutting the subject property. I have also enclosed the required application fee of \$150.00. We would like to request the first available Planning Board Workshop. If you need any additional information, please call.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Terry N. Snow".

Terry N. Snow

TNS/njp
Enclosures

cc Dan Link

Attachment 3

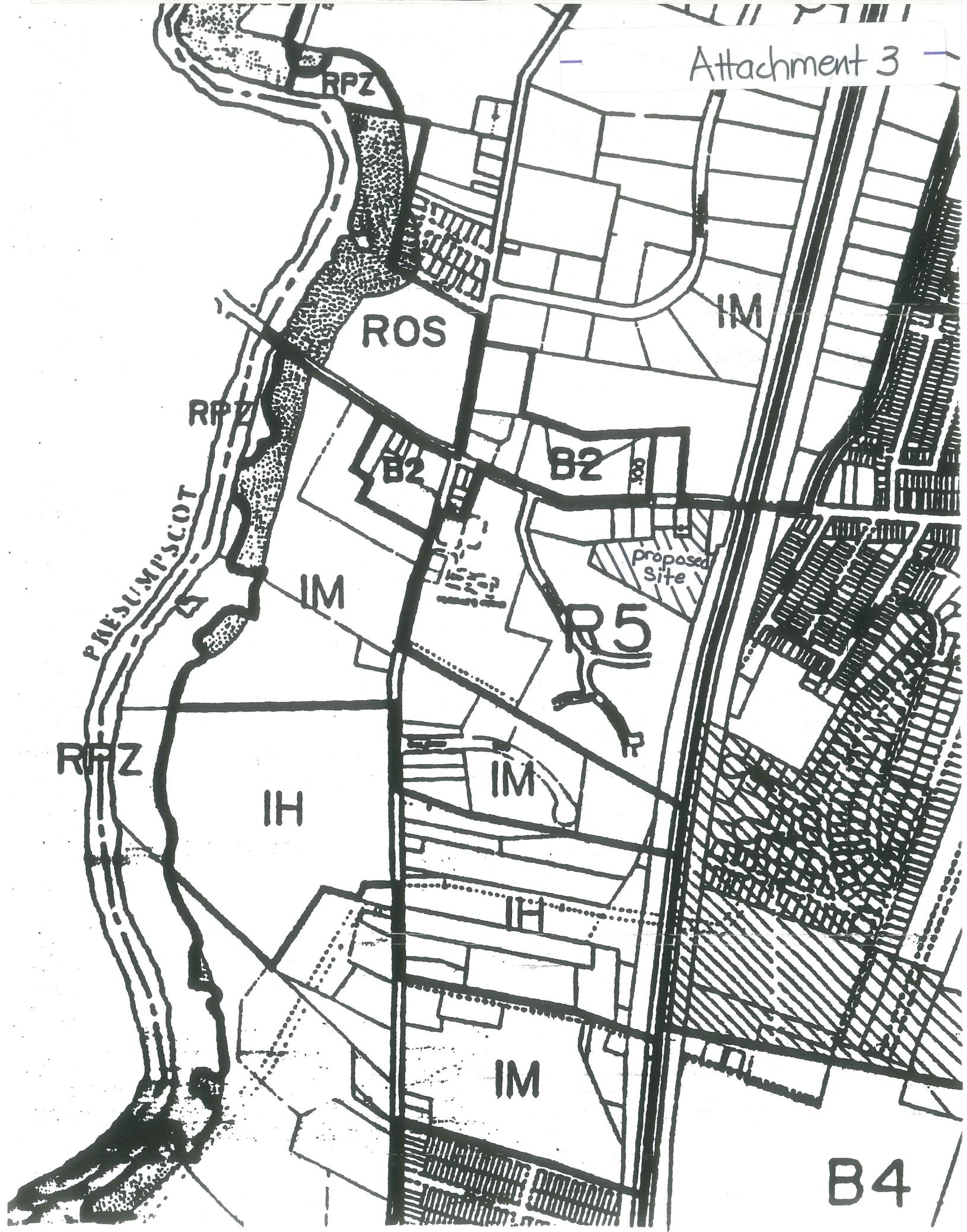
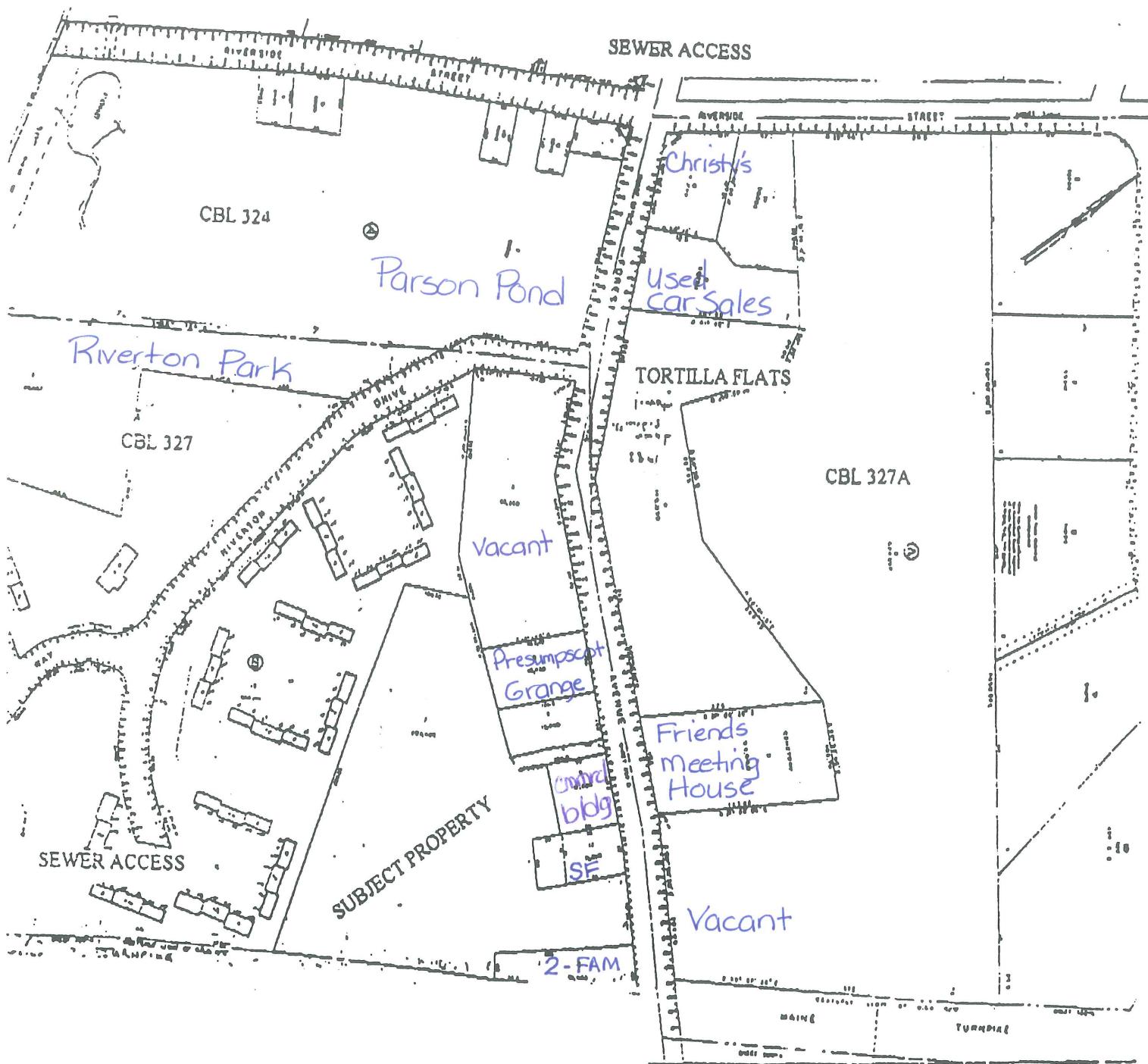


EXHIBIT A



SEWER ACCESS

RIVERSIDE INDUSTRIAL PARKWAY

MAR 10 1998

March 5, 1998

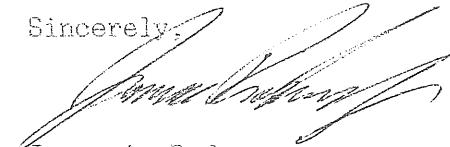
Link Inc
Attn: Dan Link
33 Rigby Rd
S. Portland, ME 04106

Re: Zone change for Forest Ave, Portland from R5 to B2

Dear Dan:

In reference to our conversation regarding the zoning on Forest Avenue, I am in favor of your request to change from R5 zoning to B2 zoning.

Sincerely,



James A. Rodway

JA/lnlr

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Dowling Park, FL 32064
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Fax: 904/658-3346

MAR 24 1998

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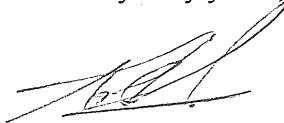
March 18, 1998

Mr. John Carroll, Chairman
Portland Planning Board
City Hall, 4th Floor
389 Congress Street
Portland, ME 04101

To Whom It May Concern:

As the owner of the property at 1818 Forest Avenue in Portland, Maine, I support Mr. Dan Link's request to have all of the property re-zoned from R-5 to B-1 or B-2 zone.

Very truly yours,



W. C. Nickerson

WCN:cmn

CC: Mr. Dan Link



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Riverton Headstart
104 Riverton Dr.
Portland, Me 04103

3/27/98

*Joe Goss
Please Draft*

Dear Mayor Campbell,

I am writing this letter in response to the recent zone change that occurred at the March 24, 1998 Planning Board Meeting. It was brought to my attention that at this meeting a vote was held that would change the Riverton District from an R5, residential zone to a B2, business zone for the area on Forest Ave that serves the Riverton community school, near the Turnpike overpass. When the families and children of this community, Riverton Park, heard this news, as well as staff of this center, we were very concerned about the impact that this would have on the amount of traffic in this area. We were extremely concerned about the effect this would have on children walking to school, summer programs, and sports events, as well as children that live in this community that use Forest Ave to walk to their friend's houses.

The other concern that we felt in this center and community is that no one gave us adequate information or notice about a change taking place. We are aware that this issue needs to go before the City Council and are very concerned that the people that are opposed to this zoning change, are heard.

Respectfully,
Helen Richardson
Helen Richardson
Center Director/ Lead Teacher
Riverton Headstart

PORLAND PLANNING BOARD
PUBLIC NOTICE

Revised Date (3/24/98) - Previous Date(3/10/98) Is Incorrect

Notice is hereby given that the Portland Planning Board will hold a public hearing Tuesday evening, March 24th, 1998, at 6:00 p.m. in Room 209, City Hall, Portland, Maine to consider a rezoning from R-5 to B-1 or B-2 zone for all or a portion of land as shown on the fragmentary map below:



Zone change for all or portion to B-1 or B-2

A request has been made by Dan Link to rezone the property located at 1818 Forest Avenue in order to allow an office for Service Master Contract Cleaning. Also included in this zone change are the properties located at 1810, 1824 and 1838 Forest Avenue.

Further information on this zone change request can be obtained at the Planning Department Office, City Hall, 4th floor or by calling 874-8721, extension 8901.

John Carroll, Chair
Portland Planning Board

© HARLAND STYLE 70

LINK, INC.
DBA SERVICE MASTER CONTRACT CLEANING

33 RIGBY RD, PH 207-780-3880
SOUTH PORTLAND, ME 04106

2731
52-744512112
BRANCH 4

Security features
including
Details on back.

Bill to the
City of Portland
One hundred fifty and 00/00
Dollars including excluding

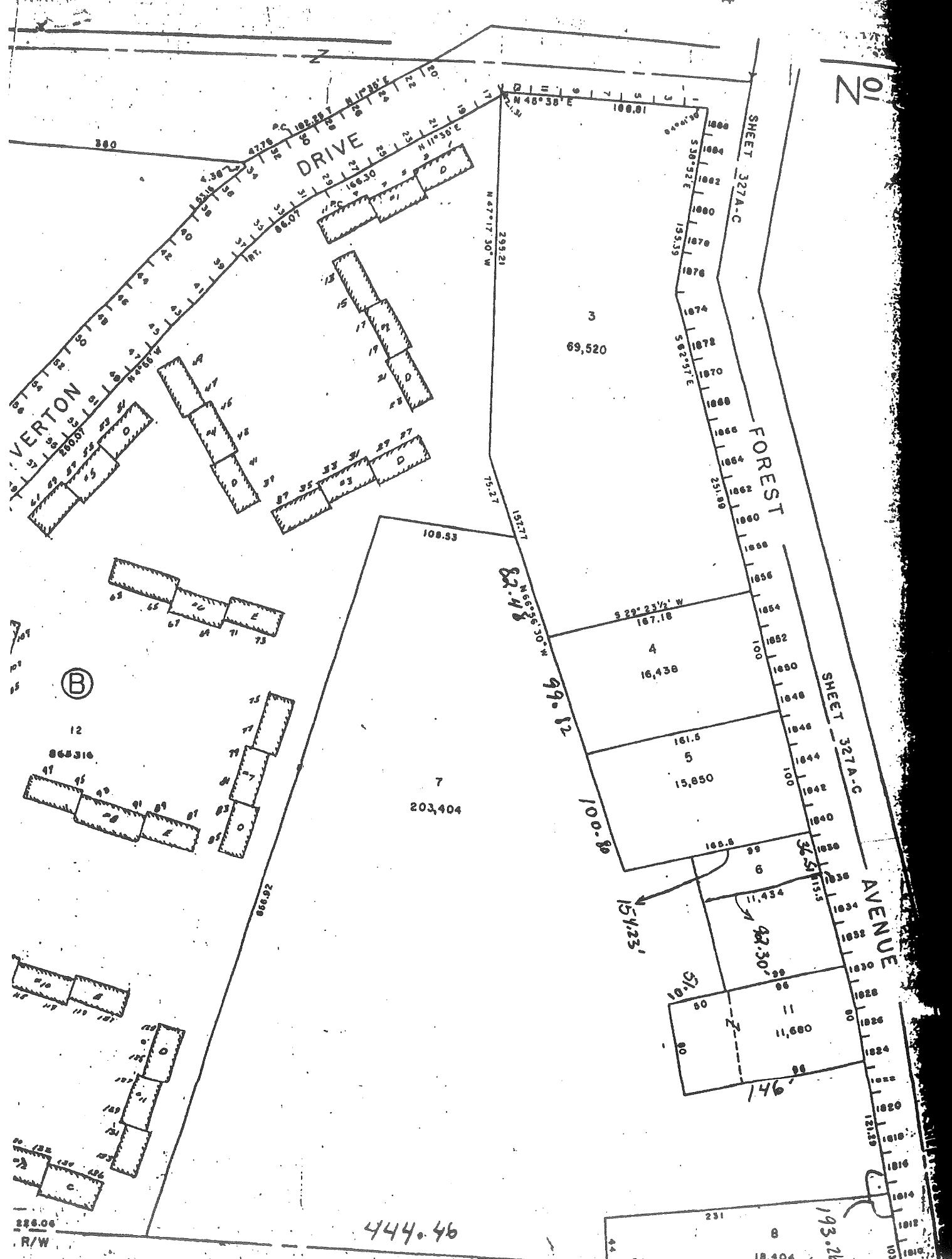
Peoples Heritage Bank
MEMBER FDIC
WESTBROOK, MAINE 04092

For

100 273 110 121127445010 0290 1619710

Debra Mother

MP



Short-Term Lease Agreement

This Lease made in Portland, State of Maine, Dec / 1997, between W. C. Nickerson of Dowling Park, Florida, (hereinafter referred to as Lessor), and Link, Inc. and Dan Link, of So. Portland, Maine, (hereinafter referred to as Lessee).

The Lessor, for and in consideration of the agreements of Lessee set forth below, hereby leases to Lessor, and Lessee hereby leases from Lessor, the premises located at 1818 Forest Ave., Portland, State of Maine (hereinafter referred to as "Premises").

This Lease shall commence upon the final approval of the City of Portland to requested change of use for this property as outlined below and shall be for a term of not less than five (5) years.

A. Agreements of Lessee

Lessee, in consideration of this Lease, agrees:

1. Make application to the City or Portland for change of use permit for the property which will allow Lessee to use the property for the operation of Lessee's business. In the event that Lessee is unable to obtain the change of use permit from the City of Portland, Lessee may terminate this agreement with no further obligations to Lessor.
2. To pay as monthly rent for the Premises the sum of Sixteen Hundred (\$1600.00) dollars payable monthly on the first day of each month.
3. To use and occupy the premises for Business purposes only, and for no other object or purpose without written consent of Lessor, and to not use the Premises for any unlawful purpose deemed extra hazardous.
4. To keep the premises in as good repair as they were at the commencement of the term, excepting any wear and tear arising from reasonable use of the premises.
5. To permit Lessor and Lessor's agents to enter on the Premises at all reasonable hours for the purpose of examining or exhibiting the premises or for making such repairs or alterations as may be necessary for its safety or preservation.
6. Not to assign this Lease or sublet the premises or any portion thereof without written consent of the Lessor.
7. Lease has examined and knows the condition of the Premises, and has received it in good order and repair, except as otherwise noted, and no representations regarding its condition or repair have been made by the Lessor or Lessor's agents, prior to, or at execution of, this Lease.
8. The Lease may be terminated by Lessor in the event of the breach of any of the agreements of Lessee herein contained, in which case Lessor may, to the extent permitted by law, reenter on the Premises and immediately thereon, this Lease shall terminate.
9. The Lessee agrees to observe and comply with all rules, regulations, and laws applicable to the Premises. The Lessee agrees to observe and to insure compliance with the rules and regulations Lessor makes for the safety, care, and cleanliness of the Premises as well as the comfort, quiet and convenience of others.
10. Failure of the Lessor to insist on the strict performance of the terms, agreements and covenants herein contained, or any of them, shall not constitute or be construed as a waiver or relinquishment of Lessor's right thereafter to enforce any such term, agreement or condition, but the same shall continue in full force and effect.
11. To the extent permitted by law, Lessor shall not be liable for any damage to persons or property occurring or arising on the Premises from any cause whatsoever.

12. Lessee agrees to deposit with Lessor, on commencement of this Lease, Sixteen Hundred (\$1600.00) dollars in cash as security for payment of rent herein received and faithful performance by Lessee of all terms, conditions and agreements of the Lease, as well as to indemnify Lessor to the extent permitted by law, for any costs or expense (including but not limited to the costs of storing and disposing of unclaimed property) to which Lessor may be put by reason of any default by Lessee, which default includes, but is not limited to nonpayment of rent and nonpayment of utility charges that the Lessee is required by this Lease to pay directly to Lessor.
13. All the agreements, conditions and undertakings herein contained prior to 1978, and this Lease is for a term of 100 days or more, and the Premises are not otherwise exempt under applicable law, the Disclosure of information on Lead-Based Paint and Lead-Based Paint Hazards (Rentals and Leases is attached and made a part of this Lease.

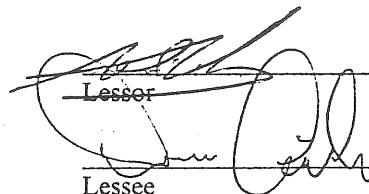
B. Agreements of Lessor

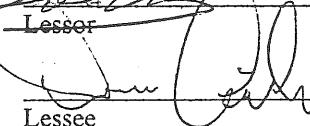
Lessor, in consideration of this Lease, agrees:

1. Replace septic tank drainage field within 270 days of occupancy
2. To rebuild rear foundation corners of exterior of building
3. To credit 50% of Rental payments toward purchase price of \$150,000.00 if property is purchased within thirty six (36) months of the anniversary of this signed agreement.

In Witness Whereof, the parties hereto have set their hands (and seals) the day and year first above written.

Dated:



Lessor


Lessee



Witness

Date 12/1/97

**CITY OF PORTLAND, MAINE
MEMORANDUM**

TO: Chair Carroll and Members of the Portland Planning Board

FROM: Kandice Talbot, Planner

DATE: February 10, 1998

SUBJECT: 1818 Forest Avenue, R-5 to B-2 Zone Change

Introduction

Dan Link is requesting a zone change from R-5 Residential to B-2 Community Business to allow an office for Service Master Contract Cleaning at 1818 Forest Avenue. Currently the building is ~~being used as offices~~, which is a prohibited use in the R-5 zone.

Used as office space for 15 yrs. *Vacant*
The applicant is proposing to use the existing three story building for office space. Approximately seven employees would work at the office. Directly behind the building is a three car garage. The applicant would use the garage for storage space. There is an asphalt parking area near the garage.

The site is approximately 4.5 acres and is located west of the Maine Turnpike overpass. The rear of the property abuts Riverton Park.

Photos of the site will be available at the meeting.

Surrounding Uses

The site is located at 1818 Forest Avenue. To the east of the property is a 2 family building and the Maine Turnpike Overpass. West of the site is a single family building and the Presumpscot Grange Hall. South of the property is Riverton Park. The south side of Forest Avenue is zoned R-5.

The north side of Forest Avenue is zoned I-M and B-2. The lot located in the I-M portion of Forest Avenue is vacant. Also on the north side of Forest Avenue is the Friends Meeting House and Tortilla Flats Restaurant, which are located in the B-2 zone.

Policy Considerations

The applicant is requesting this B-2 zone change to allow an office use. The building is already being used as office space.

The Board may want to consider rezoning only a portion of the property to B-2 and leaving the rear of the property residential. This option would leave a buffer for the Riverton Park residents, if at a future time, the site is redeveloped with a more intense business use.

Attachments

1. Zone Change Application
2. Letter from Applicant
3. Zoning Map
4. Surrounding Uses



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March 18, 1998

Mr. John Carroll, Chairman
Portland Planning Board
City Hall, 4th Floor
389 Congress Street
Portland, ME 04101

To Whom It May Concern:

As the owner of the property at 1818 Forest Avenue in Portland, Maine, I support Mr. Dan Link's request to have all of the property re-zoned from R-5 to B-1 or B-2 zone.

Very truly yours,

W. C. Nickerson

WCN:cmn

CC: Mr. Dan Link

Notice Attachment



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PORTLAND PLANNING BOARD
PUBLIC NOTICE

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Zone change for all or portion to B-1 or B-2

A request has been made by Dan Link to rezone the property located at 1818 Forest Avenue in order to allow an office for Service Master Contract Cleaning. Also included in this zone change are the properties located at 1810, 1824 and 1838 Forest Avenue.

Further information on this zone change request can be obtained at the Planning Department Office, City Hall, 4th floor or by calling 874-8721, extension 8901.

John Carroll, Chair
Portland Planning Board

MAR 10 1998

March 5, 1998

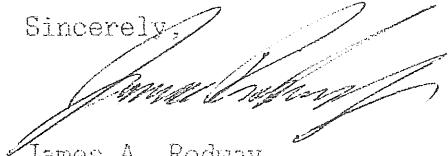
Link Inc
Attn: Dan Link
33 Rigby Rd
S. Portland, ME 04106

Re: Zone change for Forest Ave, Portland from R5 to B2

Dear Dan:

In reference to our conversation regarding the zoning on Forest Avenue, I am in favor of your request to change from R5 zoning to B2 zoning.

Sincerely,



James A. Rodway

JA/lnlr

ServiceMASTER

Franchise Support
and Sales

ServiceMaster Piedmont
A Division of Sydney Marie, Inc.
P.O. Box 4781
Dowling Park, FL 32064
904/658-3345
Fax: 904/658-3346

MAR 24 1998

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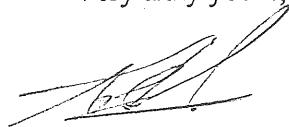
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Portland, ME 04101

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Very truly yours,



W. C. Nickerson

WCN:cmn

CC: Mr. Dan Link



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TruGreen-ChemLawn • American Home Shield

COLOR CODING LEGEND

- **PINK:** Property to be placed under lease purchase agreement.
The area marked out by the Pink outline as well as the area colored completely in pink are the areas covered by the Lease Purchase agreement.
- **SOLID PINK:** Area where business will be operated.
While all of the areas outlined in pink are being leased, the area colored solid pink will be where the business is to be operated. There are no current plans to use the land in back at this time. This area includes the main building and the garage behind the main building.
- **ORANGE:** Additional property owned by lessor.
This area is closely connected to the area being leased. It currently contains three apartments. The lessor also owns this property and has offered his support to the zone change proposal. I have included a letter from him so indicating.
- **BLUE:** Residential Property owned by F. W. Gildart
This property is owned by F.W. Gildart. It is a single family home. Mr. Gildart has verbally given me his support to the idea of a zone change.
- **YELLOW:** Old commercial building owned by James Rodway
This building is an old commercial building which once was a sign company. It is currently owned by James Rodway. Mr. Rodway supports the change to B-2 and has indicated so in the enclosed letter.
- **PURPLE:** Easement for access to back property.
This is a thirty-six foot wide strip of land allowing access to the back property.
- **GREEN:** Presumpscot Grange
This is the portion of land occupied by the Presumpscot Grange Hall. It is used for commercial purposes periodically such as the annual distribution of Telephone Books.

*George N. Campbell, Jr.
Mayor*



*City of Portland
Office of the Mayor and Council
Portland, Maine*

Councilors

*George N. Campbell, Jr.
Philip John Dawson
Karen A. Geraghty
Charles W. Harlow
Tom V. Kane
Cheryl A. Leeman
Nicholas M. Mavodones, Jr.
John F. McDonough
Peter M. Rickett*

April 2, 1998

Helen Richardson
Center Director/Lead Teacher
Riverton Headstart
Riverton Drive
Portland, ME 04103

Dear Ms. Richardson:

Thank you for your letter addressing your concerns regarding the proposed zone change at 1818 Forest Avenue.

At the April 14, 1998 Planning Board Public Hearing, the Planning Board will decide whether to reconsider the proposed zone change from R-5 to B-2. If the Planning Board decides to reconsider the zone change, a new date for a Public Hearing will be determined at that time.

If you have any questions or concerns regarding this zone change, please do not hesitate to contact Kandice Talbot, Planner, at 874-8719.

Sincerely,

George N. Campbell, Jr.
Mayor

O:\PLAN\REZONE\FOR1818\RIVERTON.WPD

Riverton Headstart
104 Riverton Dr.
Portland, Me 04103

3/27/98

*Joe Gray
Please Draft*

Dear Mayor Campbell,

I am writing this letter in response to the recent zone change that occurred at the March 24, 1998 Planning Board Meeting. It was brought to my attention that at this meeting a vote was held that would change the Riverton District from an R5, residential zone to a B2, business zone for the area on Forest Ave that serves the Riverton community school, near the Turnpike overpass. When the families and children of this community, Riverton Park, heard this news, as well as staff of this center, we were very concerned about the impact that this would have on the amount of traffic in this area. We were extremely concerned about the effect this would have on children walking to school, summer programs, and sports events, as well as children that live in this community that use Forest Ave to walk to their friend's houses.

The other concern that we felt in this center and community is that no one gave us adequate information or notice about a change taking place. We are aware that this issue needs to go before the City Council and are very concerned that the people that are opposed to this zoning change, are heard.

Respectfully,
Helen Richardson
Helen Richardson
Center Director/ Lead Teacher
Riverton Headstart

CITY OF PORTLAND, MAINE
MEMORANDUM

TO: Chairman Carroll and Members of the Planning Board

FROM: Natalie L. Burns, Associate Corporation Counsel

DATE: March 26, 1998

RE: Process for Reconsideration

Staff has requested that I provide the Board with a brief memorandum describing the process for reconsideration. The procedure for reconsideration is governed by Article VII section 6 of the Planning Board Rules. A motion to reconsider must be made either at the meeting at which the original action was taken or at the next regular meeting. In order for the motion to reconsider to be in order at the next meeting, it either must appear on the agenda or must be consented to by four members.

The motion to reconsider must be made by a member of the Board who voted in the majority. There is no requirement that a motion for reconsideration be made or considered at this meeting-this is a matter within the Board's discretion. If no motion is made, the original recommendation of the Board will stand.

Natalie

Natalie L. Burns
Associate Corporation Counsel

R-5 to B-2
In since 5/1/96
1976 never
obtained ZC on
perm. T.

CITY OF PORTLAND, MAINE
CITY COUNCIL AGENDA REQUEST FORM

TO: Sonia Bean, Administrative Assistant
Elizabeth Boynton, Associate Corporation Counsel

FROM: Joseph E. Gray, Jr., Director of Planning and Urban Development

DATE: April 10, 1998

SUBJECT: 1810-1838 Forest Avenue

- 1) Council Meeting at which action is requested (Date): May 4, 1998
- 2) Can action be taken at a later date? x YES NO

I. SUMMARY OF ISSUE

The Planning Board is forwarding a recommendation to the City Council to rezone four lots on Forest Avenue from R-5 to the B-2 zone. The Planning Board also recommended that the property at 1818 Forest Avenue would maintain an R-5 zone in the rear of the property. This R-5 zone would be 80' from the rear lot line. (Attachment A). The purpose of the R-5 zone would be to maintain a buffer between Riverton Park and any future development. This recommendation follows a request by Dan Link to rezone a 4.5 acre lot at 1818 Forest Avenue in order to allow an office for Service Master Contract Cleaning.

II. REASON FOR SUBMISSION (What issue/problem will this address?)

As mentioned above, Mr. Link is requesting the zone change to allow offices for Service Master Contract Cleaning at 1818 Forest Avenue. Currently the building is vacant, although it has been used as office space for 20± years. Offices are a prohibited use in the R-5 zone.

III. INTENDED RESULT (How does it resolve the issue/problem?)

To allow an office use at 1818 Forest Avenue.

IV. FINANCIAL IMPACT n/a

V. STAFF ANALYSIS & RECOMMENDATION

See attached copy of the Board's report to City Council (Attachment B).

Attachments:

- A. Proposed Zoning Map
- B. Planning Report #10-98

Attachment B

PLANNING BOARD REPORT #10-98

PLANNING BOARD REPORT

**ZONE CHANGE REQUEST
R-5 RESIDENTIAL TO B-2 COMMUNITY BUSINESS
1810-1838 FOREST AVENUE**

Submitted to:

Portland City Council
Portland, Maine

April 10, 1998

I. INTRODUCTION

Dan Link is requesting a zone change from R-5 Residential to B-2 Community Business to allow an office for Service Master Contract Cleaning at 1818 Forest Avenue.

During deliberations, the Planning Board decided to advertise from 1810-1838 Forest Avenue to be considered for rezoning from R-5 to B-1 or B-2.

II. FINDINGS

Current Zoning: R-5 Residential
Proposed Zoning: B-2 Community Business

	<u>Land Area</u>	<u>Existing Use</u>
1810 Forest Avenue:	18,404 sq. ft.	two-family —
1818 Forest Avenue:	203,404 sq. ft.	vacant
1824 Forest Avenue:	11,680 sq. ft.	single family —
1838 Forest Avenue:	11,434 sq. ft.	office/business services —

Proposed Use: Offices for Service Master Contract Cleaning (1818 Forest Ave.)

III. BACKGROUND

Records indicate that 1818 Forest Avenue has been zoned residential for some time. Currently the building is vacant, although it has been used as office space for 20± years. Offices are a prohibited use in the R-5 zone.

IV. SURROUNDING USES

The site is located at 1818 Forest Avenue. To the east of the property is a 2 family building and the Maine Turnpike Overpass. West of the site is a single family building, commercial building, and the Presumpscot Grange Hall. South of the property is Riverton Park. The south side of Forest Avenue is zoned R-5.

The north side of Forest Avenue is zoned I-M, R-5 and B-2. The lot located in the I-M portion of Forest Avenue is vacant. Also on the north side of Forest Avenue is the Friends Meeting House, which is zoned R-5 and Tortilla Flats Restaurant, which is located in the B-2 zone.

V. PROPOSED ZONE CHANGE

Mr. Link is proposing to use the existing three story building at 1818 Forest Avenue for office space. Approximately seven employees would work at the office. Directly behind the building is a three car garage. The applicant would use the garage for storage space. There is an asphalt parking area near the garage. Approximately .17 acres of the site is built on. The remaining portion of the site is vacant. Please see Attachment 7.

The site is approximately 4.5 acres and is located west of the Maine Turnpike overpass. The rear of the property abuts Riverton Park, which is a residential complex.

VI. DEVELOPMENT PLAN

At this time, the applicant is not proposing any changes to the site.

VII. ZONING POLICY ANALYSIS

The applicant is requesting this B-2 zone change at 1818 Forest Avenue to allow an office use. The building has been used as office space for the past 20± years.

During deliberations, the Planning Board decided to advertise from 1810-1838 Forest Avenue to be considered for rezoning from R-5 to B-1 or B-2.

The building located at 1838 Forest Avenue has also, over the years, been used as a commercial building.

The purpose of the B-2 community business zone is (1) to provide appropriate locations in the city for the development and operation of a mixture of commercial uses and services that have a community-wide market such as shopping centers or cluster developments and (2) the variety, sites and intensity of the permitted commercial uses in the B-2 zone are intended to be greater than those permitted in the B-1 neighborhood business zone.

The Board considered whether to rezone only a portion of 1818 Forest Avenue to B-1 or B-2 and leaving the rear of the property residential. This option would leave a buffer for the Riverton Park residents, if at a future time, the site is redeveloped with a more intense business use.

III. MOTIONS FOR THE BOARD TO CONSIDER

On March 24, 1998 the Planning Board voted unanimously (6-0, Malone absent) to recommend the proposed rezoning at 1810-1838 Forest Avenue to B-2 with the exception of 80 feet back from the rear lot line, (from the Maine Turnpike Authority property to southwesterly boundary) at 1818 Forest Avenue to remain R-5, as shown on Attachment A, to the City Council.

Attachments:

1. Zone Change Application
2. Letter from Applicant
3. Zoning Map
4. Surrounding Uses
5. Legal Notice
6. Photos of Area
7. Survey of Site
8. Map

APPLICATION FOR ZONING AMENDMENT
CITY OF PORTLAND, MAINE

Attachment 1

DATE December 4, 1997

TO THE CITY PLANNING BOARD, CITY HALL, PORTLAND, MAINE 04101:

The undersigned hereby requests that you consider whether it would be consistent with the comprehensive plan of the City of Portland, Maine, and make appropriate recommendation for action by the City Council concerning the following proposed amendments to the Zoning Ordinance of the City of Portland, Maine:

A. ZONING MAP AMENDMENT:

FROM R-5 ZONE TO B-2 ZONE

The property situated on 1818 Forest ~~Street~~/Avenue between Turnpike Street/Avenue and Riverton Drive ~~Street~~/Avenue on _____ side(s).

Assessor's Reference (Chart, Block and Lot) for the property is as follows:

Tax Map 327, Block B, Lot 7

1. What original deed restrictions, if any, concerning the type of improvements and class of uses permitted were placed on the property involved? Give date restrictions expire:

None

2. Description of the existing use of property: Office

3. Description of the proposed use of property: Office

4. Area of Lot(s): 4.5 Acres

Total Floor Area: 203,404

5. Street Address of Property Involved	Property Owner and/or Name of Option Holder	Date of Acquisition
<u>1818 Forest Avenue</u>	<u>Bill Nickerson</u>	<u>Lease commenced on</u> <u>December 1, 1997</u>

6. Submission of a site plan, as required in Article V of the Municipal Code.
7. Submission of plans and addresses of property owners abutting the subject property. 1810-1812 Forest Avenue — See Attached
1826-1828 Forest Avenue — Land Survey

B. ZONING TEXT AMENDMENT:

1. Section of Ordinance to be amended: _____
2. Proposed text amendment - Attach on 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 underlined (example).
3. Brief statement of the purpose of the proposed amendment. See letter to Alex Jaegerman
4. If the amendment is intended to facilitate a development, reuse, alteration, addition or modification to a specific property, fill out the sections above under ZONING MAP AMENDMENT.

A fee for this application for a zoning amendment will be charged in accordance with Section 14-54 of the Municipal Code (see copy attached). The applicant also agrees to pay all costs of publication (or advertising) of the Public Hearing Notice as required for this application. Such amount will be billed to the applicant following the appearance of the advertisement.

The above information and the attached lists of property -- owners in the vicinity are true and accurate to the best of my knowledge.

12-4-97
Date of Filing

Signature of Applic

8 Terry W. Sanders 55 *Jack*
2/12/45 236

Address of Applicant

Cumberland Mo. 64621

WITHDRAWAL: In the event of withdrawal of the zoning amendment application by the applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City of Portland.

Portland Planning Board
Portland, Maine

Effective: April 11, 1988

Sec. 14-54. Zone Change Fees

The following schedule of fees will be charged by the City for applications for changes of zone according to the following major zoning classifications and pertinent data relating to the specific zone change:

(1) Zoning Map Changes

	<u>1-25 Units</u>	<u>26-50 Units</u>	<u>51-75 Units</u>	<u>75 & Over</u>
Residence Zones	\$150.00	\$200.00	\$250.00	\$300.00
Nonresidential Zones	0-15,000 sq. ft. or 0-5 acres (which- ever is less)	15,000-30,000 sq. ft. or 6-10 acres (which- ever is less)	30,000-45,000 sq. ft. or 10-15 acres (which- ever is less)	45,000-60,000 sq. ft. or 15-20 acres (which- ever is less)
	\$150.00	\$200.00	\$250.00	\$300.00

Applicant shall assume payment of cost of all notices, including newspaper publication.

(2) Text Changes: Minimum fee of one hundred dollars (\$100.00). Applicant shall assume payment of cost of all notices, including newspaper publication.

Administrative Policy: All ordinances that would cost more than the maximum to public should be printed in separate pamphlet form and advertised only by reference.

(3) Waiver of Fees: The fee for zone change applications will be waived in the case of an application submitted by any governmental body.

(4) Withdrawal of Application: If a zone change application is withdrawn by an applicant prior to the submission of the advertisement copy to the newspaper to announce the public hearing, a refund of two-thirds of the amount of the zone change fee will be made to the applicant by the City. (Code 1968, * 602.1.F; Ord. No. 589-75, * 1, 10-20-75; Ord. No. 590-75, * 1, 11-19-75; Ord. No. 693-81, 5-18-81; Ord. No. 523-87, 5-18-87)

Attachment 2

Jerry N. Snow, P.A.

Attorney at Law

P.O. Box 275

Cumberland Center, Maine 04021-0275

Office

294 Main Street

Cumberland, Maine

Telephone (207) 829-6363

Fax (207) 829-4481

December 4, 1997

Alexander Jaegerman, Chief Planner
Portland Planning Department
Portland City Hall
389 Congress Street
Portland, ME 04101

Dear Mr. Jaegerman:

On behalf of my client, Dan Link, I am submitting the attached application for a zoning change at the property located at 1818 Forest Avenue in Portland, from R-5 to B-2. I would like to thank you for taking the time to meet with Norm Stevens on October 15, 1997 to discuss this matter. That meeting was very helpful.

This property is a 4.5 acre parcel with a substantial three story building which was built in 1900. Directly behind the main structure is a two story structure with a three car garage on the lower level. The garage is surrounded by a good sized asphalt parking area. The lot is located very close to the Maine Turnpike and is across the street from large parcels zoned B-2 and I-M.

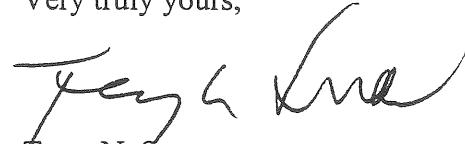
Dan Link would like to use this site as the office for Service Master Contract Cleaning. Most Service Master employees work at other locations and come to the office only infrequently. There are about seven employees who will work at the office. Parking at the site is presently more than sufficient.

The property is presently owned by Bill Nickerson and is subject to a lease purchase agreement with Dan Link. A copy of the agreement is attached along with

Alexander Jaegerman, Chief Planner
Page 2
December 4, 1997

a land survey which shows the plans and addresses of property owners abutting the subject property. I have also enclosed the required application fee of \$150.00. We would like to request the first available Planning Board Workshop. If you need any additional information, please call.

Very truly yours,

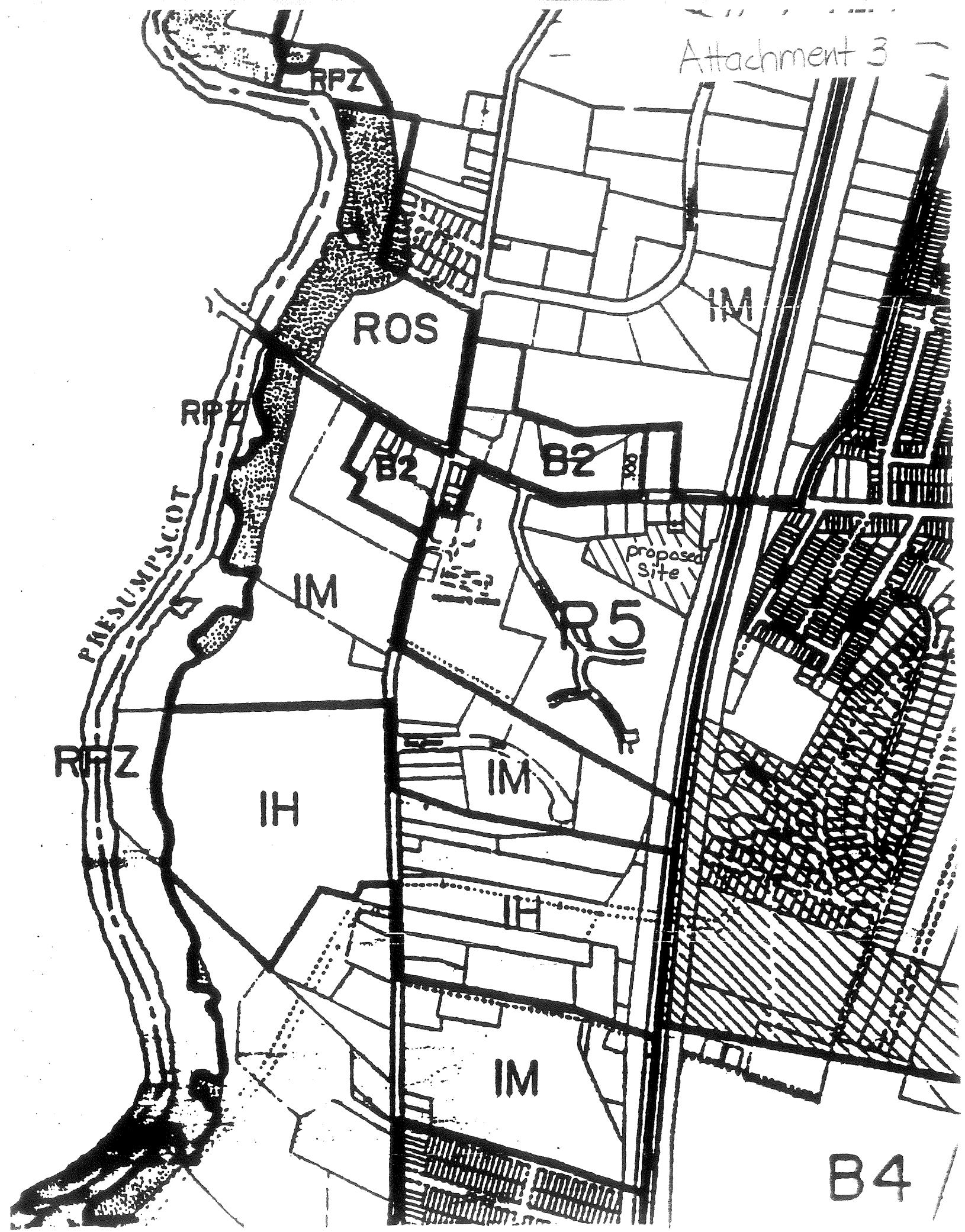


Terry N. Snow

TNS/njp
Enclosures

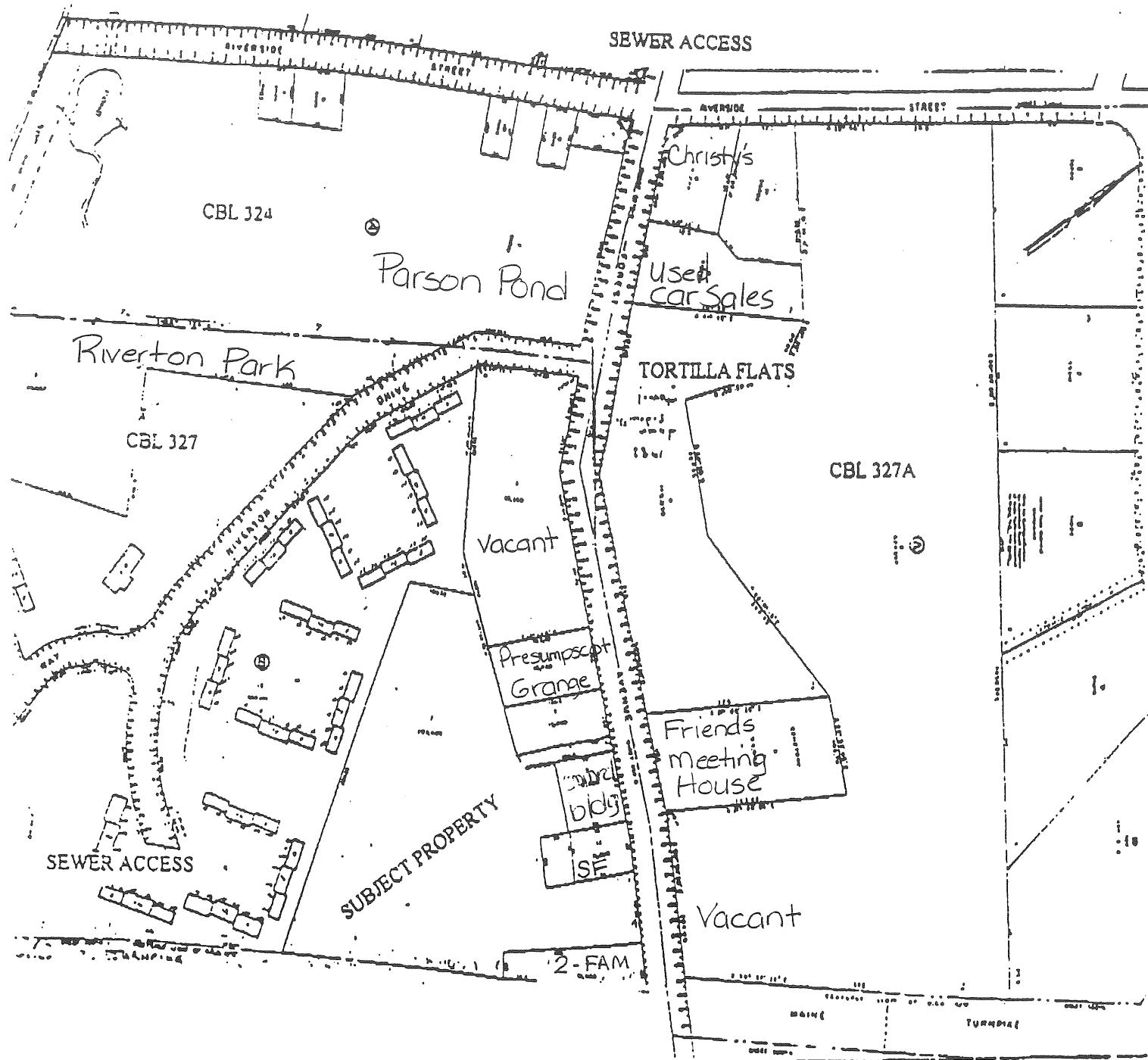
cc Dan Link

Attachment 3



Attachment 4

EXHIBIT A



SEWER ACCESS

RIVERSIDE INDUSTRIAL PARKWAY

PORTLAND PLANNING BOARD
PUBLIC NOTICE

Revised Date (3/24/98) - Previous Date(3/10/98) Is Incorrect

Notice is hereby given that the Portland Planning Board will hold a public hearing Tuesday evening, March 24th, 1998, at 6:00 p.m. in Room 209, City Hall, Portland, Maine to consider a rezoning from R-5 to B-1 or B-2 zone for all or a portion of land as shown on the fragmentary map below:



Zone change for all or portion to B-1 or B-2

A request has been made by Dan Link to rezone the property located at 1818 Forest Avenue in order to allow an office for Service Master Contract Cleaning. Also included in this zone change are the properties located at 1810, 1824 and 1838 Forest Avenue.

Further information on this zone change request can be obtained at the Planning Department Office, City Hall, 4th floor or by calling 874-8721, extension 8901.

John Carroll, Chair
Portland Planning Board



1818 Forest Avenue



Rear - 1818 Forest Avenue



Rear - 1818 Forest Avenue



Rear - 1818 Forest Avenue



1810 Forest Avenue



1824 Forest Avenue



1838 Forest Avenue



Presumpscot Grange

MAR 10 1998

March 5, 1998

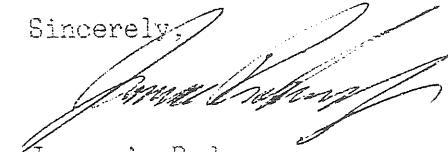
Link Inc
Attn: Dan Link
33 Rigby Rd
S. Portland, ME 04106

Re: Zone change for Forest Ave, Portland from R5 to B2

Dear Dan:

In reference to our conversation regarding the zoning on Forest Avenue, I am in favor of your request to change from R5 zoning to B2 zoning.

Sincerely,



James A. Rodway

JA/lnlc

Servicemaster

Franchise Support
and Sales

ServiceMaster Piedmont
A Division of Sydney Marie, Inc.
P.O. Box 4781
Dowling Park, FL 32064
904/658-3345
Fax: 904/658-3346

W.C. 24 1998

*An independent business licensed
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Residential/Commercial Services
Limited Partnership*

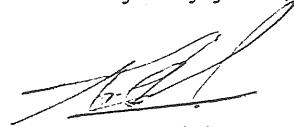
March 18, 1998

Mr. John Carroll, Chairman
Portland Planning Board
City Hall, 4th Floor
389 Congress Street
Portland, ME 04101

To Whom It May Concern:

As the owner of the property at 1818 Forest Avenue in Portland, Maine, I support Mr. Dan Link's request to have all of the property re-zoned from R-5 to B-1 or B-2 zone.

Very truly yours,



W. C. Nickerson

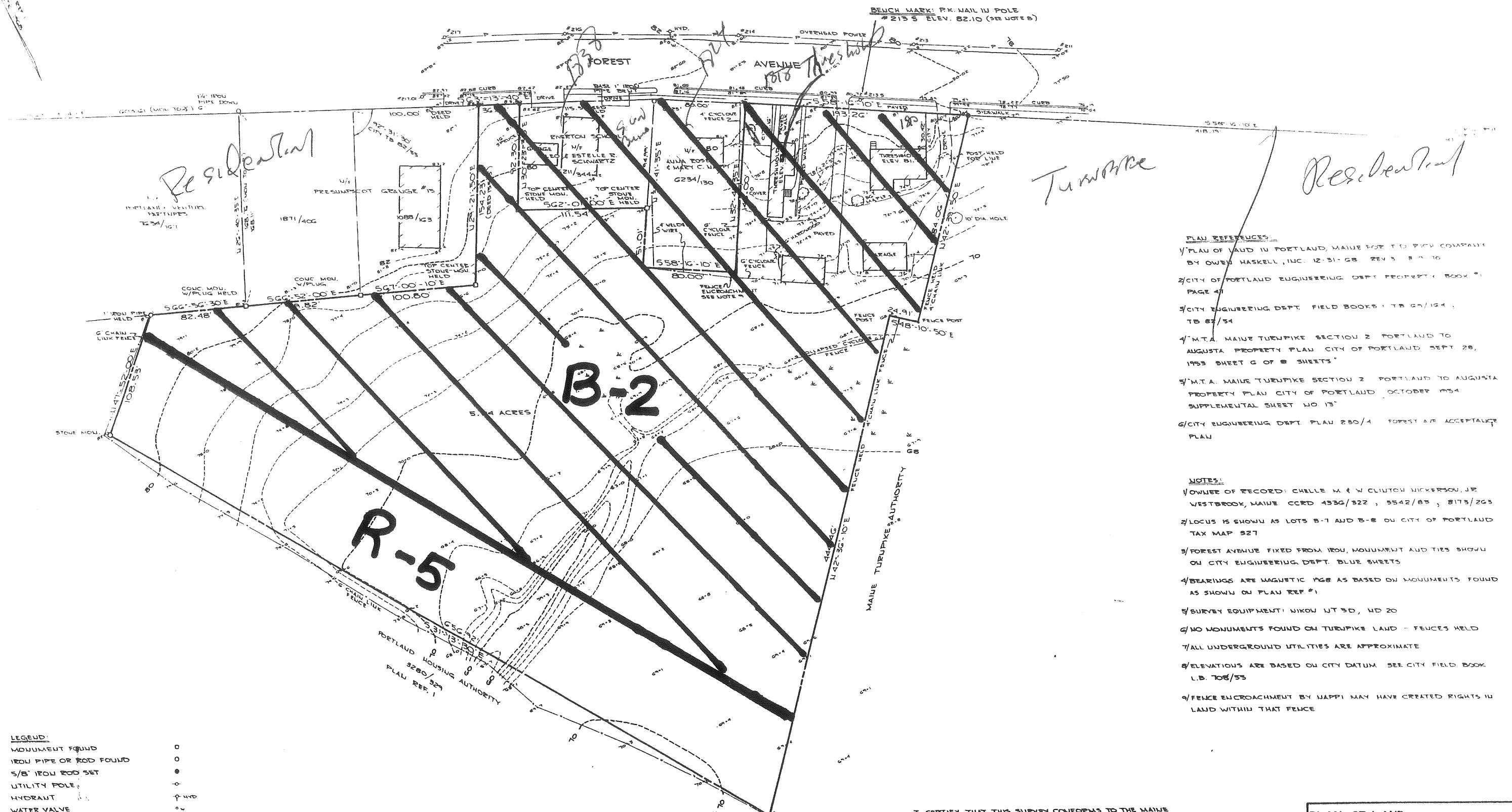
WCN:cmn

CC: Mr. Dan Link



Call 1-800-WE SERVE
ServiceMaster • Terminix • Merry Maids
TruGreen-ChemLawn • American Home Shield

Attachment A

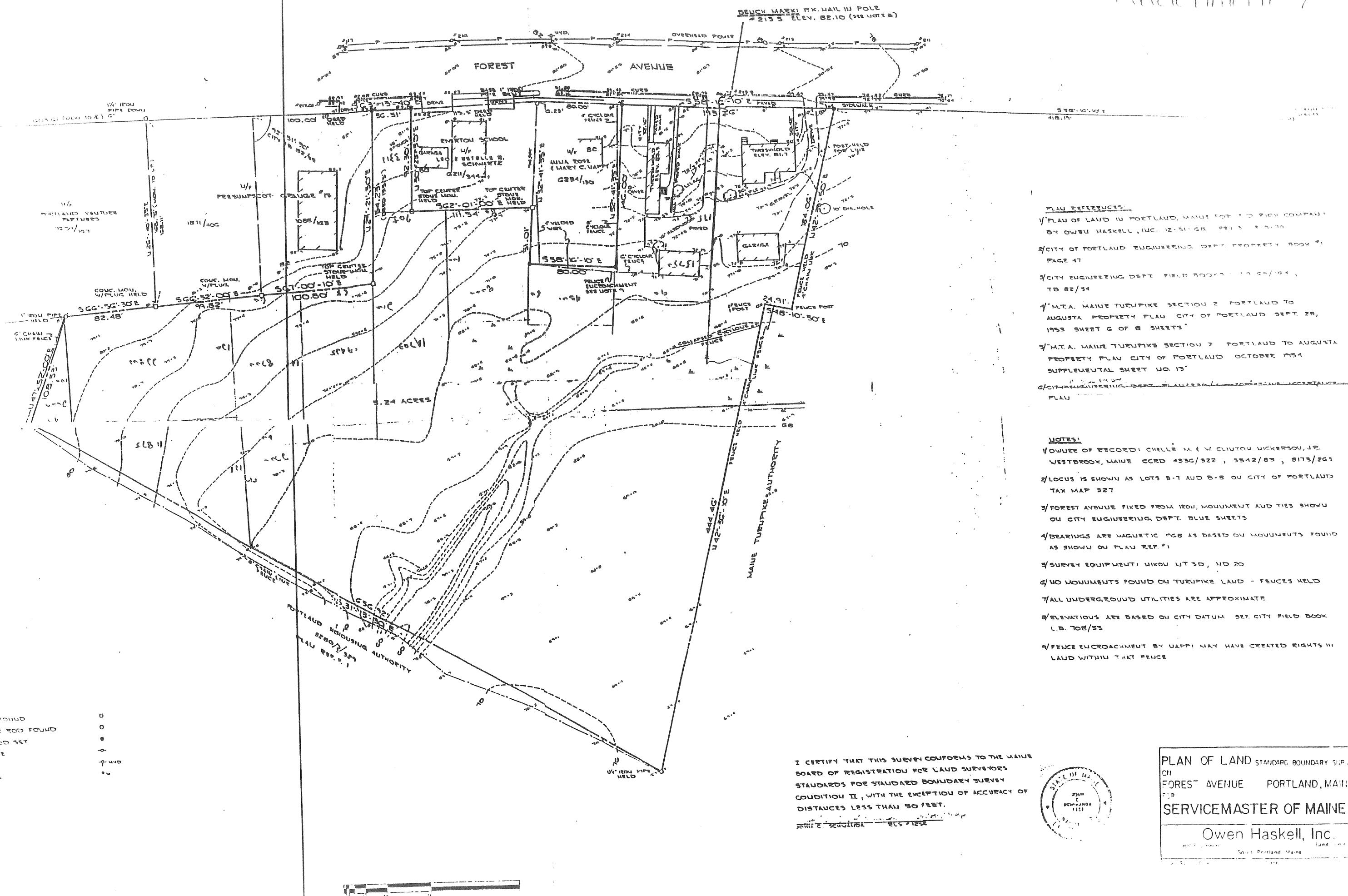


PLAN OF LAND STANDARD BOUNDARY SURVEY
ON FOREST AVENUE PORTLAND, MAINE
FOR SERVICEMASTER OF MAINE, INC.

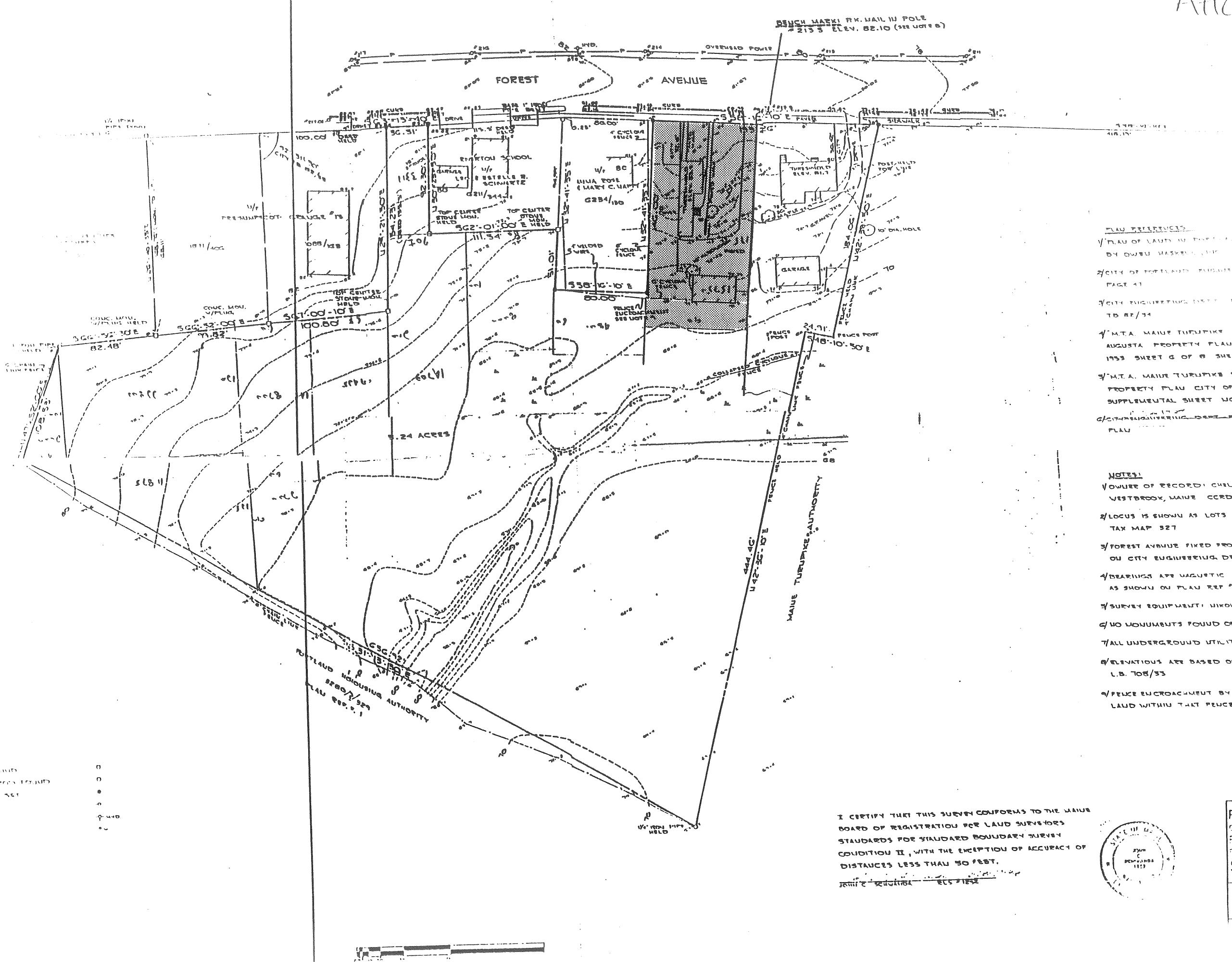
Owen Haskell, Inc.
Civil Engineers
South Portland, Maine
Land Surveyors

Drawn By J.C.S.	Date	Job No.
Traced By M.M.H.	Feb. 5, 1968	5707
Check By J.C.S.	Scale	Drawn No.
Plan No. 1-1		

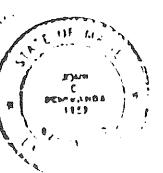
Attachment 7



Attachment 8

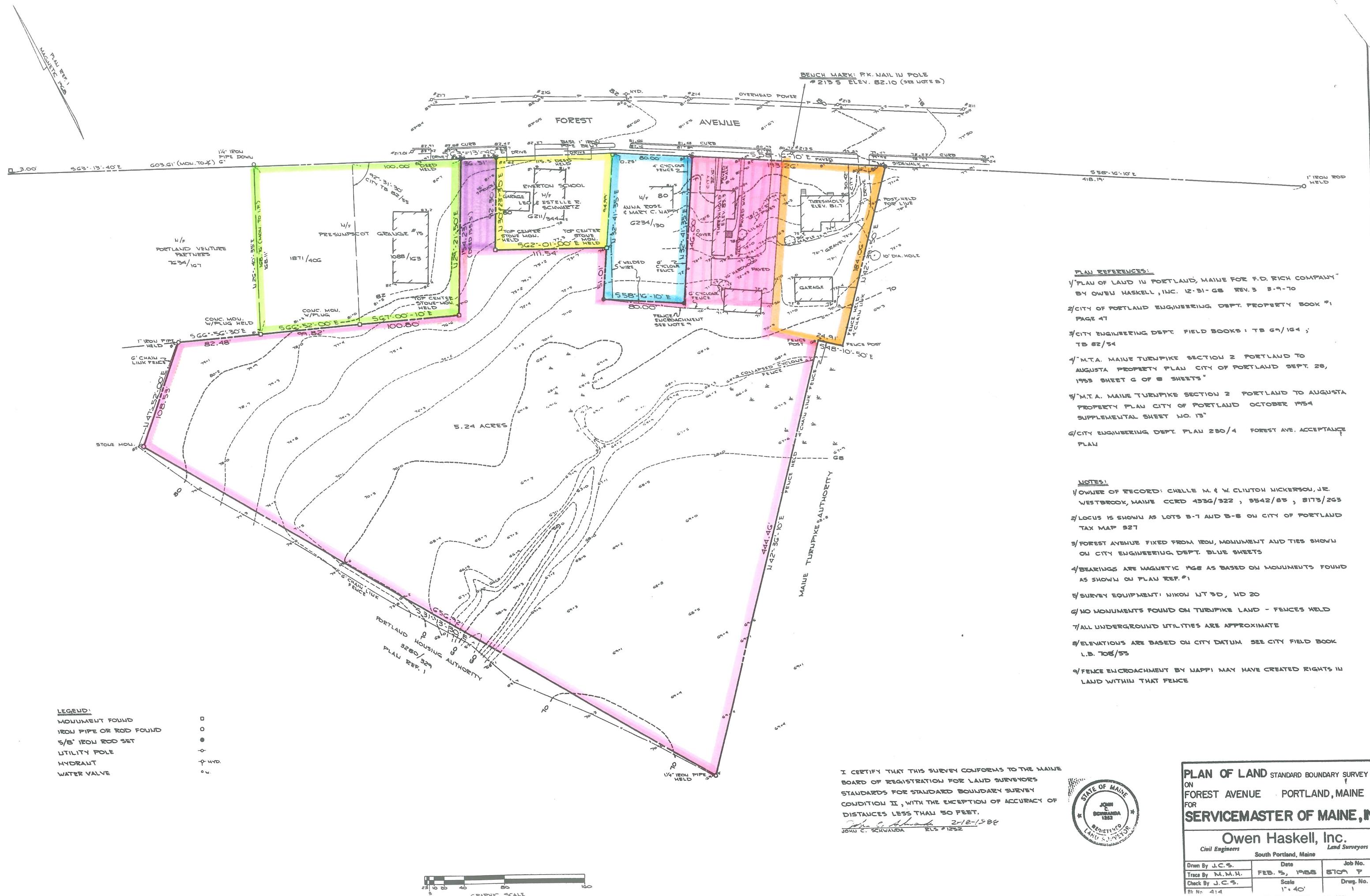


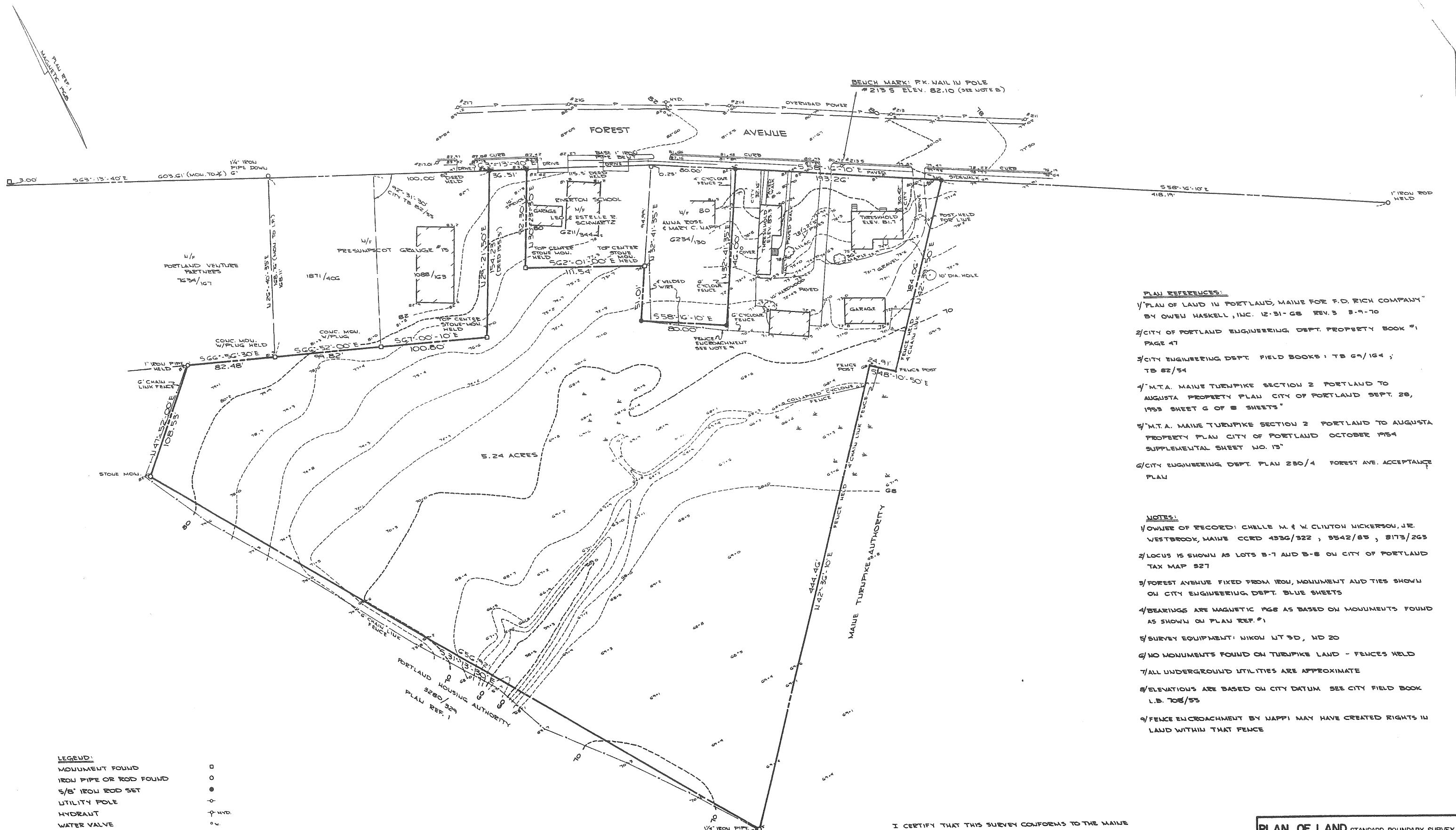
I CERTIFY THAT THIS SURVEY CONFORMS TO THE MINIMUM
BOARD OF REGISTRATION FOR LAND SURVEYORS
STANDARDS FOR STANDARD BOUNDARY SURVEY
CONDITION II, WITH THE EXCEPTION OF ACCURACY OF
DISTANCES LESS THAN 50 FEET.



PLAN OF LAND STANDARD BOUNDARY SURVEY
ON
FOREST AVENUE PORTLAND, MAINE
F.P.
SERVICEMASTER OF MAINE, INC.

Owen Haskell, Inc.
So. Portland, Maine





I CERTIFY THAT THIS SURVEY CONFORMS TO THE MAINE BOARD OF REGISTRATION FOR LAND SURVEYORS STANDARDS FOR STANDARD BOUNDARY SURVEY CONDITION II, WITH THE EXCEPTION OF ACCURACY OF DISTANCES LESS THAN 50 FEET.
 John C. Schawanda 2/8/1988
 John C. Schawanda RLS #1252

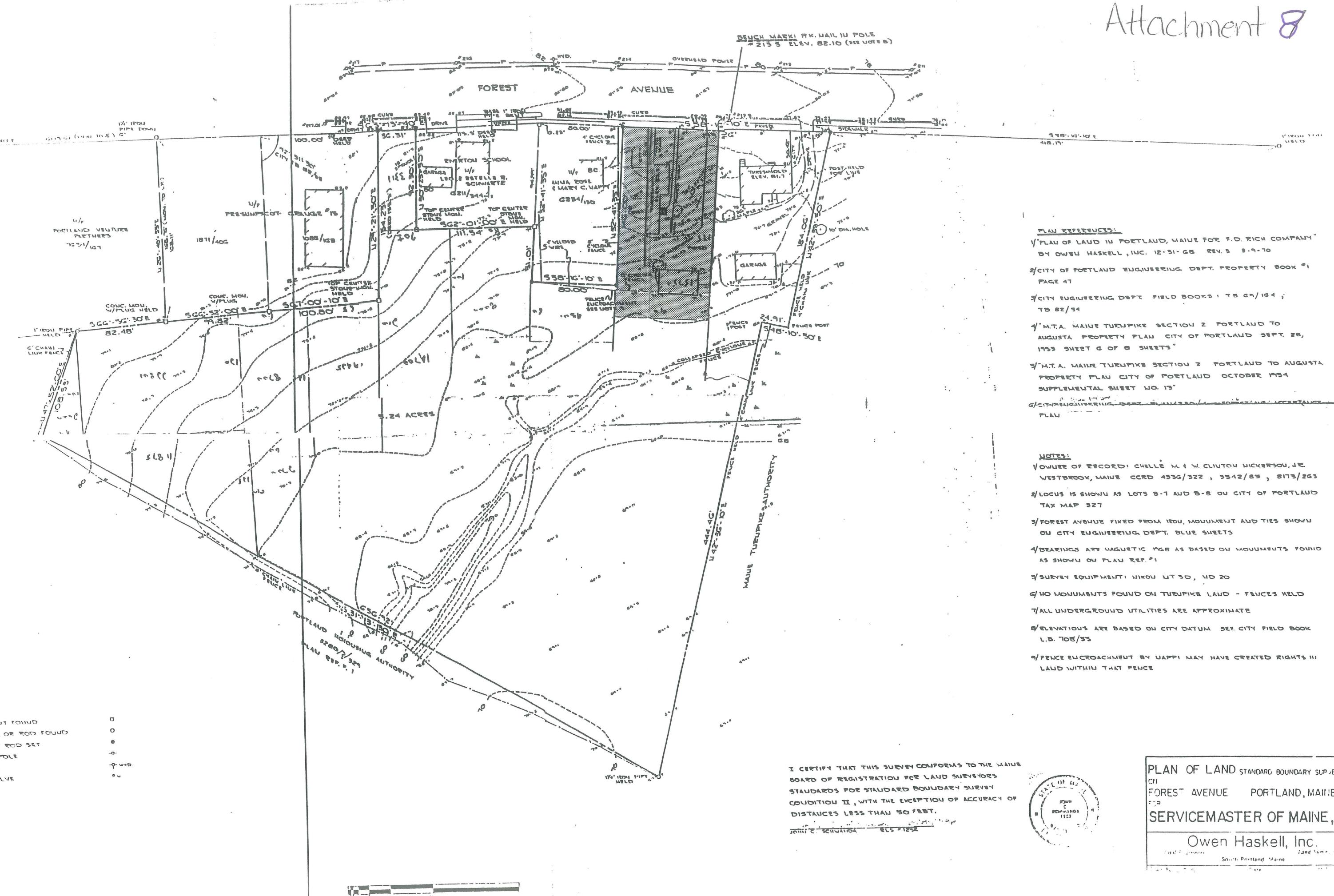


PLAN OF LAND STANDARD BOUNDARY SURVEY
 ON
 FOREST AVENUE PORTLAND, MAINE
 FOR
SERVICEMASTER OF MAINE, INC.

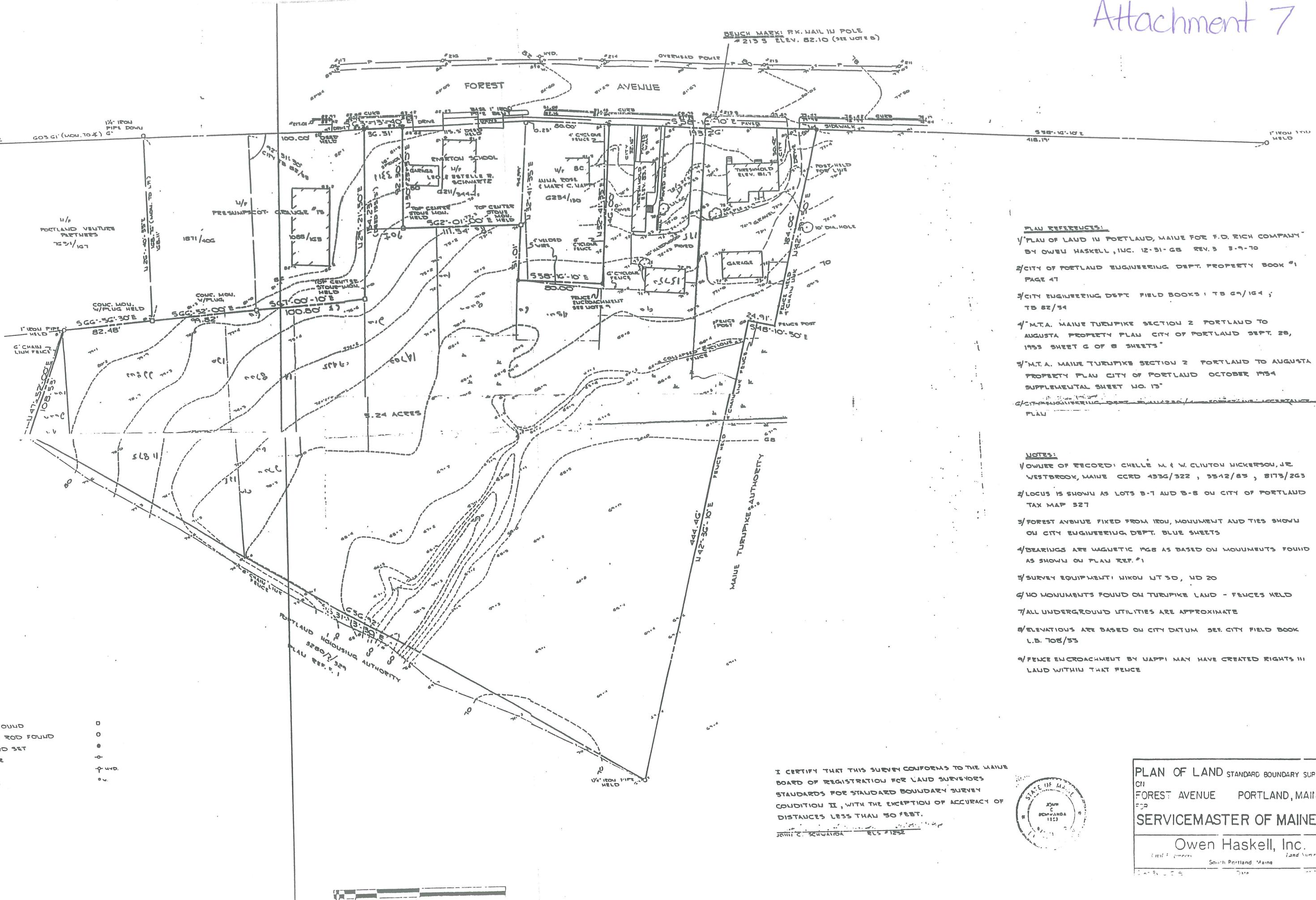
Owen Haskell, Inc.
 Civil Engineers Land Surveyors
 South Portland, Maine

Drawn By J.C.S.	Date	Job No.
Trace By M.M.H.	FEB. 5, 1988	8709 P
Check By J.C.S.	Scale	1" = 40'
Bk No 414	Drawn No.	1

Attachment 8



Attachment 7





THAT THIS SURVEY COUPLED WITH THE MAIN
DE PREGESTATION FOR LAND SURVEYS
CENSUS OF STANDARDS SURVEY
CENSUS LESS THAN 50 FEET.
ON II, WITH THE EXCEPTION OF ACCURACY OF
THE SURVEY COUPLED SURVEY
CENSUS LESS THAN 50 FEET.
21-12-1986
PLS 11252
SCHWABE

Attachment