



Michael A. Russell, MS, Director
Permitting and Inspections Department

Ann Machado
Zoning Administrator

CITY OF PORTLAND ZONING BOARD OF APPEALS Conditional Use Appeal Application

Applicant Information:

Dana Cunningham
NAME

Subject Property Information:

140 Pennell Ave
PROPERTY ADDRESS

BUSINESS NAME

140 Pennell Ave Portland ME
BUSINESS ADDRESS

CHART/BLOCK/LOT (CBL)

347 A008 001 thru 347 A008 016
PROPERTY OWNER (If Different)

775-5656 genstdana@gmail.com
BUSINESS TELEPHONE & E-MAIL

ADDRESS (If Different)

775-5656 genstdana@gmail.com
PHONE # AND E-MAIL

OWNER
APPLICANT'S RIGHT/TITLE/INTEREST

R3
CURRENT ZONING DESIGNATION

CONDITIONAL USE AUTHORIZED BY SECTION 14- _____

EXISTING USE OF THE PROPERTY:

Singh Family

TYPE OF CONDITIONAL USE PROPOSED:

new attached Accessory Dwelling

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

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

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

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

Dana Cunningham
SIGNATURE OF APPLICANT

10-31-16
DATE

December 22, 2016

City of Portland Zoning Board of Appeals
389 Congress Street
Portland, Maine 04101

RE: Conditional Use Appeal for Accessory Dwelling

To Whom It May Concern:

I am requesting a permit to have an accessory dwelling that will be located above a three car garage and attached to my current dwelling.

I believe this will be good for the neighborhood considering that the unit will be located at the very end of Pennell Avenue where the dwelling unit is surrounded by forests to the rear and North side. The property is located on several city lots that I purchased a few years ago which provides a rural setting within itself, with walking trails that continue by the property down the paper street portion of Pennell Avenue and eventually connecting to the Portland Trail network.

My intention would be to rent the unit at an affordable rate. The location is ideal to those who have children as the property is within walking distance to Lyseth or Lyman Moore Schools.

Thank you for your time and consideration in this matter.

Sincerely,



Dana Cunningham
140 Pennell Avenue
Portland, ME 04103

VICINITY MAP:
NOT TO SCALE

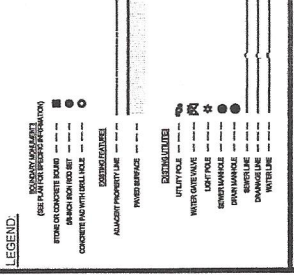


GENERAL NOTES:

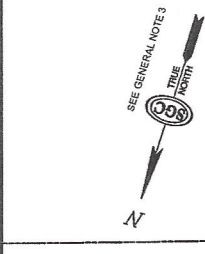
- 1) THIS PLAN AND ALL WORK ASSOCIATED WITH IT WAS PERFORMED BY SGC ENGINEERING, LLC PERMITANT TO A PROFESSIONAL ENGINEER IN THE STATE OF MAINE UNDER THE SUPERVISION OF DANA CUNNINGHAM AND SGC ENGINEERING, LLC DATED AUGUST 23, 2019.
- 2) THE PURPOSE OF THIS PLAN IS ONLY TO SHOW A PRELIMINARY ADDITION TO THE HOUSE SHOWN ON A 2007 SITE PLAN BY SGC AND TO BE CONSIDERED AS A CONCEPTUAL PLAN. THIS PLAN DOES NOT INCLUDE THE LOCATION OF ANYTHING ON THE SITE EXCEPT FOR THE EXISTING HOUSE AND SGC IN 2007.
- 3) NEIGHBORING PROPERTIES AND UTILITIES ARE SHOWN TO THE EXTENT KNOWN TO SGC AND ARE NOT TO BE CONSIDERED AS A GUARANTEE OF THE ACCURACY OF THE INFORMATION PROVIDED. THE LOCATION OF ANY UTILITIES SHOULD BE DETERMINED BY A REGISTERED PROFESSIONAL ENGINEER. THE LOCATION OF ANY UTILITIES SHOULD BE DETERMINED BY A REGISTERED PROFESSIONAL ENGINEER. THE LOCATION OF ANY UTILITIES SHOULD BE DETERMINED BY A REGISTERED PROFESSIONAL ENGINEER.
- 4) ABUTTING PROPERTY OWNER INFORMATION REFERENCED HEREON WAS TAKEN FROM THE CITY OF PORTLAND ASSESSORS OFFICE AS OF THIS SURVEY.
- 5) THE CITY OF PORTLAND HAS BEEN REFERENCED IN THIS PLAN FOR THE PURPOSE OF IDENTIFYING THE LOCATION OF ANY UTILITIES WHICH WOULD BE EXCAVATED, COORDINATED, OR RECONSTRUCTED IN CONNECTION WITH ANY EXCAVATION. (888-344-7238).
- 6) NO DETERMINATION BY SGC ENGINEERING REGARDING THE EXISTENCE OF WETLANDS OR OTHER ENVIRONMENTAL RESTRICTIONS HAS BEEN MADE. PERMITTING IS THE RESPONSIBILITY OF THE APPLICANT.

MAP REFERENCES:

- 1) A PLAN ENTITLED "DEVELOPMENT COORDINATION AND SITE PLAN" DATED SEPTEMBER 2018, SUBMITTED BY DANA CUNNINGHAM AND TITICUM ASSOCIATES AND RECORDED AT DEER ISLAND RECORD 11 PAGE 10.
- 2) A PLAN ENTITLED "STANDARD BOUNDARY SURVEY ADJACENT TO SUBDIVISION PLAN DATED JUNE 20, 2014, SURVEYED BY TITICUM ASSOCIATES AND RECORDED AT DEER ISLAND COUNTY RECORDEYS OFFICE IN PLAN BOOK 230 PAGE 677.
- 3) A PLAN ENTITLED "EXISTING CONDITIONS FOR STORMWATER MANAGEMENT, DATED DECEMBER 14, 2010, SURVEYED BY SGC ENGINEERING, LLC.
- 4) A PLAN ENTITLED "THE PLAN FOR RIGHT GRABCRET, DATED AUGUST 12, 2017, SUBMITTED BY SGC ENGINEERING, LLC.



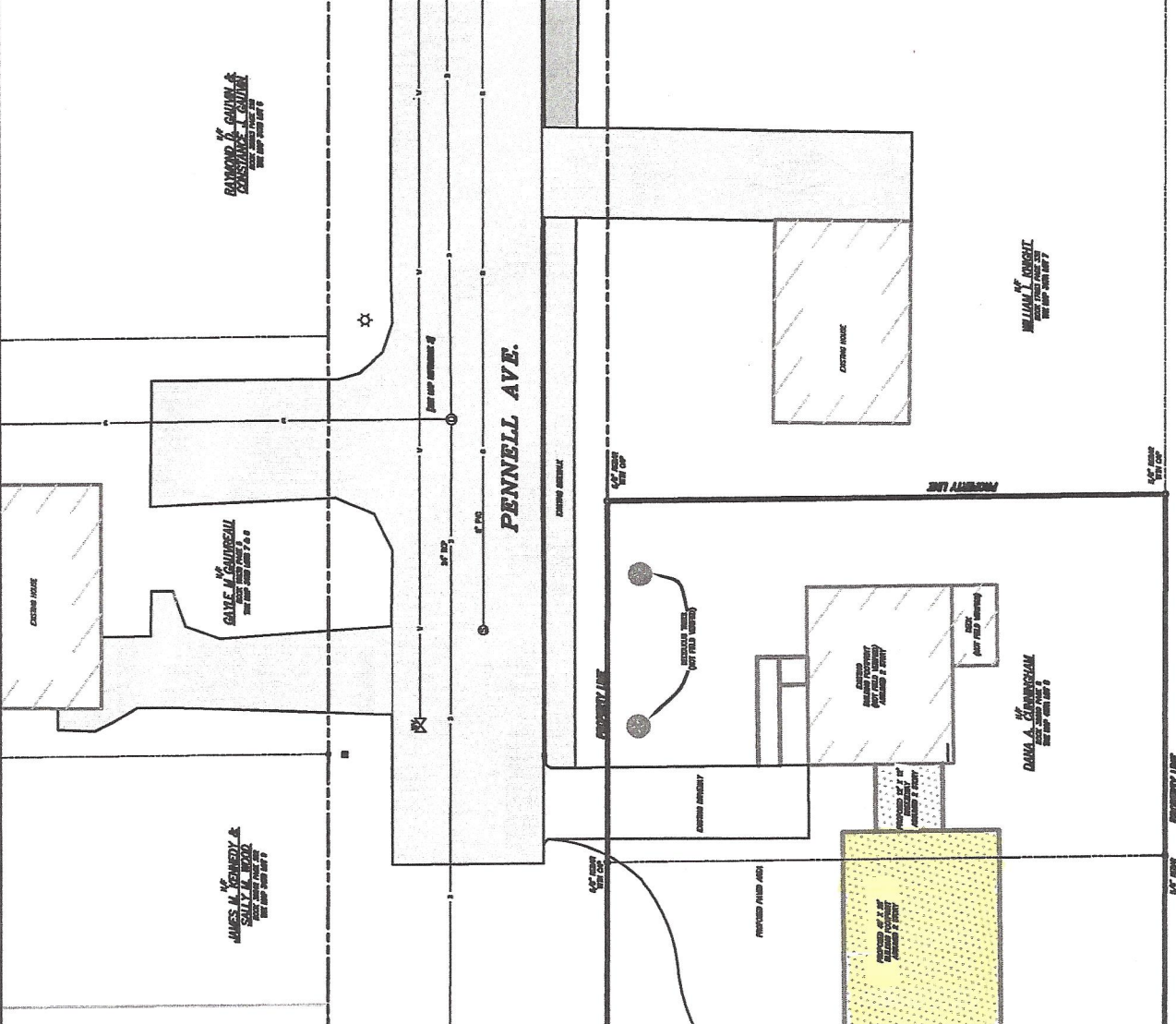
LEGEND:



**JAMES M. TOWNSEND &
SALLY L. MURPHY**
REGISTERED PROFESSIONAL ENGINEERS
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101

DAVE J. CUNNINGHAM
REGISTERED PROFESSIONAL ENGINEER
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101

**DANIEL J. COONEY &
DAVID A. HAYES**
REGISTERED PROFESSIONAL ENGINEERS
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101



REVISONS:

NO.	DATE	DESCRIPTION

APPROXIMATE BOUNDARY LOCATION

DATE: 08/23/19
DRAWN BY: JCH
PROJECT: 2019-08-01
SGC ENGINEERING, LLC
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101
PHONE: (207) 888-3444
WWW.SGCENGINEERING.COM
SERVING OUR CLIENTS IN THE U.S.A. & CANADA
Civil Design & Survey Engineering
- Residential Power Systems Engineering
- Environmental & Regulatory Practicing

BUILDING PERMIT SKETCH
PENNELL AVENUE
CITY OF PORTLAND
CUMBERLAND CO., MAINE
PREPARED FOR:
DANA CUNNINGHAM
170 PENNELL AVENUE
PORTLAND, MAINE 04103

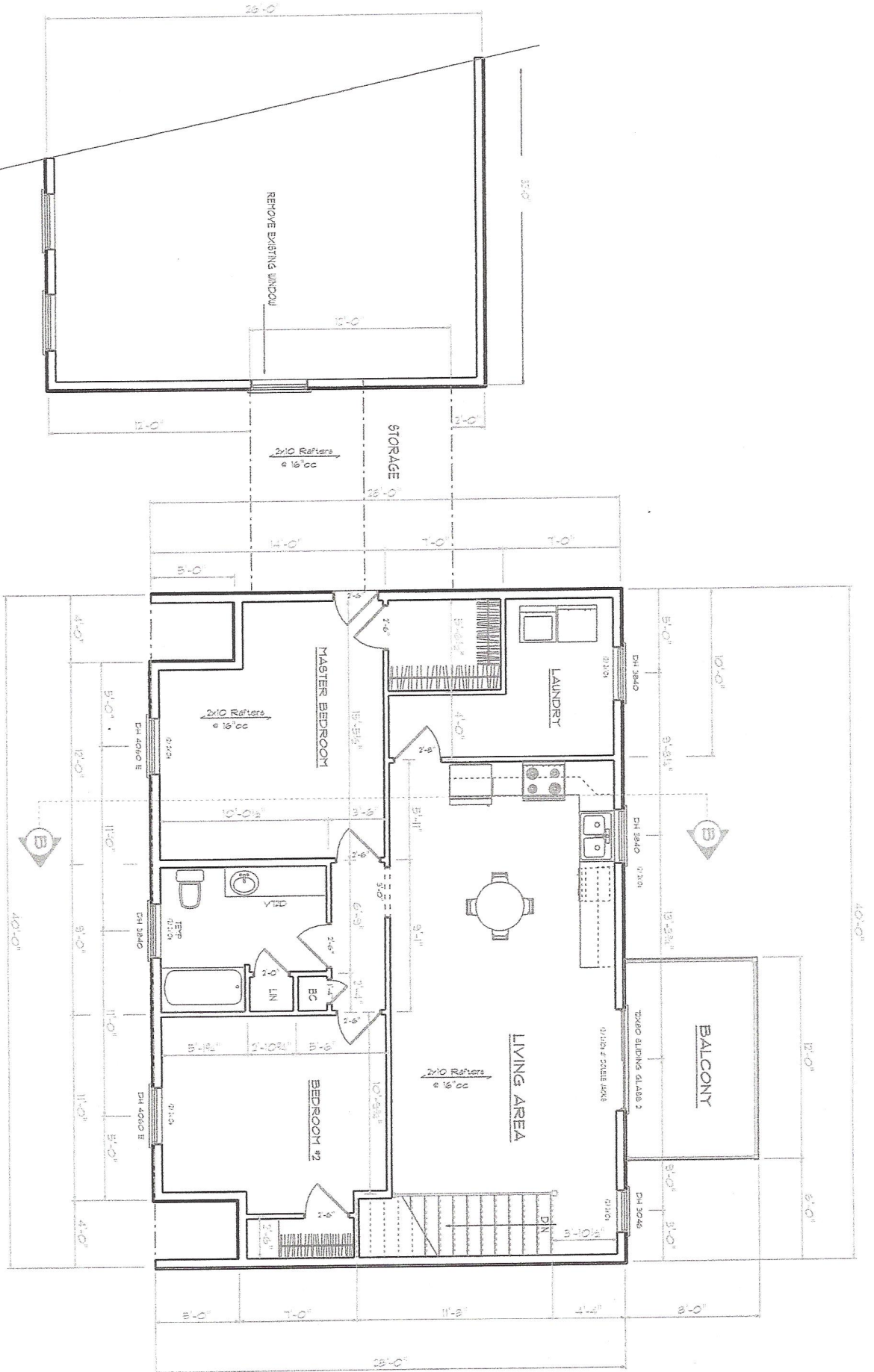
A.L.C. DEVELOPMENT CORP.
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101

DANA A. CUNNINGHAM
REGISTERED PROFESSIONAL ENGINEER
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101

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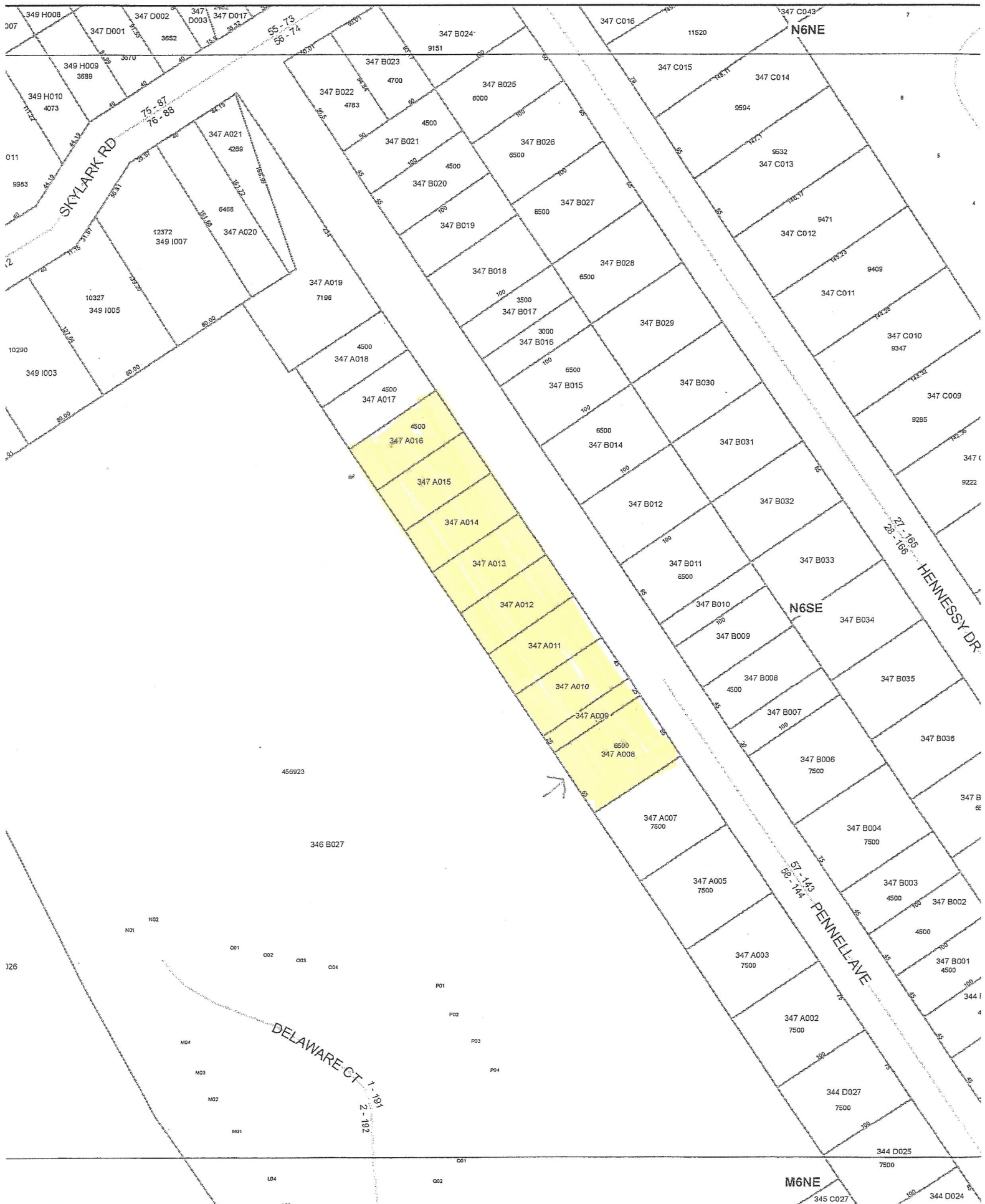
WILLIAM J. WARE
REGISTERED PROFESSIONAL ENGINEER
175 WEST BROAD ST., SUITE 200
PORTLAND, ME 04101



Upper Floor Plan
1/4" = 1'-0"

WAYNE PARADIS INC.
 Custom Design Services
 Plan For: Dana Cunningham
 Tell: 932-3434
 Cell: 229-7641

George Addition
 Drawn by: Wayne Paradis
 Nov. 28, 2005





QUITCLAIM DEED WITH COVENANT

Maine Statutory Short Form

KNOW ALL MEN BY THESE PRESENTS, that I, **Dana A. Cunningham**, of Portland, County of Cumberland, Maine for consideration paid, release to **Dana A. Cunningham**, of Portland, Cumberland County, Maine, whose mailing address is 140 Pennell Avenue, with **QUIT CLAIM COVENANT**, the land in the City of Portland, County of Cumberland, and State of Maine, described as follows:

See Attached Exhibit A

WITNESS his hand and seal this 19th day of October, 2015.

Signed, Sealed and Delivered in the presence of:

Witness

Dana A. Cunningham
Dana A. Cunningham

STATE OF MAINE
Cumberland County, ss.

October 19, 2015

Then personally appeared the above named Dana A. Cunningham and acknowledged the foregoing instrument to be his free act and deed.

Before me,

Jill Morrisseau
Notary Public/Attorney at Law

Jill Morrisseau
My Commission Exp: 5/10/20

EXHIBIT A

Parcel One:

A certain lot or parcel of land located on the westerly side of Pennell Avenue and being more particularly bounded and described as follows:

Commencing at a stone monument with cap 6" below grade with cap PLS #1273, said stone monument is on the easterly side of Pennell Avenue approximately 2.98 feet westerly of a found 5/8" rebar 2" above grade with no cape and bent, thence;

N 85° 37' 18" W a distance of fifty-one and 04/100 (51.04') feet to a 5/8" rebar with cap to be set on the westerly side of Pennell Avenue. Said point also being the point of beginning, thence;

S 17° 51' 00" E a distance of sixty five and 00/100 feet (65.00') along the westerly side of Pennell Avenue to a 5/8" rebar with cap set, thence;

S 71° 31' 00" W a distance of one hundred and 01/100 feet (100.01') along the land on the south now or formerly of William L. Knight as described in Deed Book 17683, Page 338 recorded in the Cumberland County Registry of Deeds and the parcel of land herein described, to a 5/8" rebar with cap set, thence;

N 17° 51' 00" W a distance of sixty-five and 00/100 feet (65.00') along the land to the west now or formerly of ALC Development Corporation as described in Deed Book 18822, Page 58 recorded in the Cumberland County Registry of Deeds and the parcel of land herein described, to a 5/8" rebar with cap to be set, thence;

N 71° 31' 00" E a distance of one hundred and 01/100 feet (100.01') along the land to the north of Stonemark Management, Inc., as Trustee of the Robinson Family Trust, to the westerly sideline of Pennell Avenue to a 5/8" rebar with cap to be set, said point also being the Point of Beginning.

Containing 6500 +/- square feet or .015 acres, more or less, and being lots numbered 36 and the southerly 20 feet of Lot 37 on Plan of the Holmsteads prepared by E.C. Jordan, C.E. and dated September, 1921. Said plan being recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 70.

All bearings herein referenced to the Magnetic Meridian of 1921 and are based on the aforementioned plan.

Subject to a provision contained in a deed from Stonemark Management Corporation, Inc., as Trustee of the Robinson Family Trust to Stonemark Management C., Inc., dated December 19, 2007 recorded in said Registry of Deeds in Book 25727, Page 185 granting a portion of the land conveyed herein, such portion being the above referenced portion of Lot 37 on said Plan of the Holmsteads, which provision provides that if any owner of said portion of said Lot 37 attempts to divide the merged parcel containing said portion and the above-referenced Lot 36 on said Plan

of the Holmsteads, at any time within five years from the date of said deed, then said deed and conveyance shall be and become null and void, and the title to said portion of said Lot 37 conveyed therein shall immediately revert to Stonemark Management Co., Inc., its heirs, successors and assigns.

Meaning and intending to describe the same premises as conveyed by a Warranty Deed from Paul Thomas King Farlow and Sarah Joanne Farlow to Dana A. Cunningham dated September 7, 2012 and recorded in the Cumberland County Registry of Deeds at Book 29923, Page 98.

Parcel Two:

Certain property located in the City of Portland, County of Cumberland and State of Maine, described as follows:

City of Portland Tax Assessor Map for 2012, Lots 347 A-9 through A-16.

Meaning and intending to describe lots numbered: 38, 39, 40, 41, 42, 43, 44 and the remaining portion of Lot 37, all as shown on the Plan of Holmsteads, recorded in the Cumberland County Registry of Deeds in Plan Book 14, Page 70, to which plan reference is hereby made for a more particular description. (Excluded from this conveyance is the southerly portion of Lot 37 described in a deed from StoneMark Management Company, Inc., as Trustee of the Robinson Family Trust to StoneMark Management Company, Inc., dated December 19, 2007 and recorded in the Cumberland County Registry of Deeds, Book 25727, Page 185.)

Being a portion of the premises conveyed by Scott Robinson to the Grantor by deed dated November 27, 2012 and recorded in the Cumberland County Registry of Deeds in Book 30235, Page 190; and by deed of Robin Grady to the Grantor dated November 30, 2012, and recorded in the Cumberland County Registry of Deeds in Book 30235, Page 191.

Meaning and intending to describe the same premises as conveyed by a Release Deed from Gary Baril to Dana Cunningham dated January 28, 2013 and recorded in the Cumberland County Registry of Deeds at Book 30363, Page 99.

ALL INFORMATION CONTAINED
HEREIN IS UNCLASSIFIED
DATE 08/11/09 BY 60322/UC/STP

Received
Recorded Register of Deeds
Oct 27, 2015 09:14:21A
Cumberland County
Nancy A. Lane

RE: New Attached Accessory Unit-140 Pennell Ave., Portland, ME 04103

Memorandum for Standard of Approval

Dear Members of the Zoning Board of Appeals,

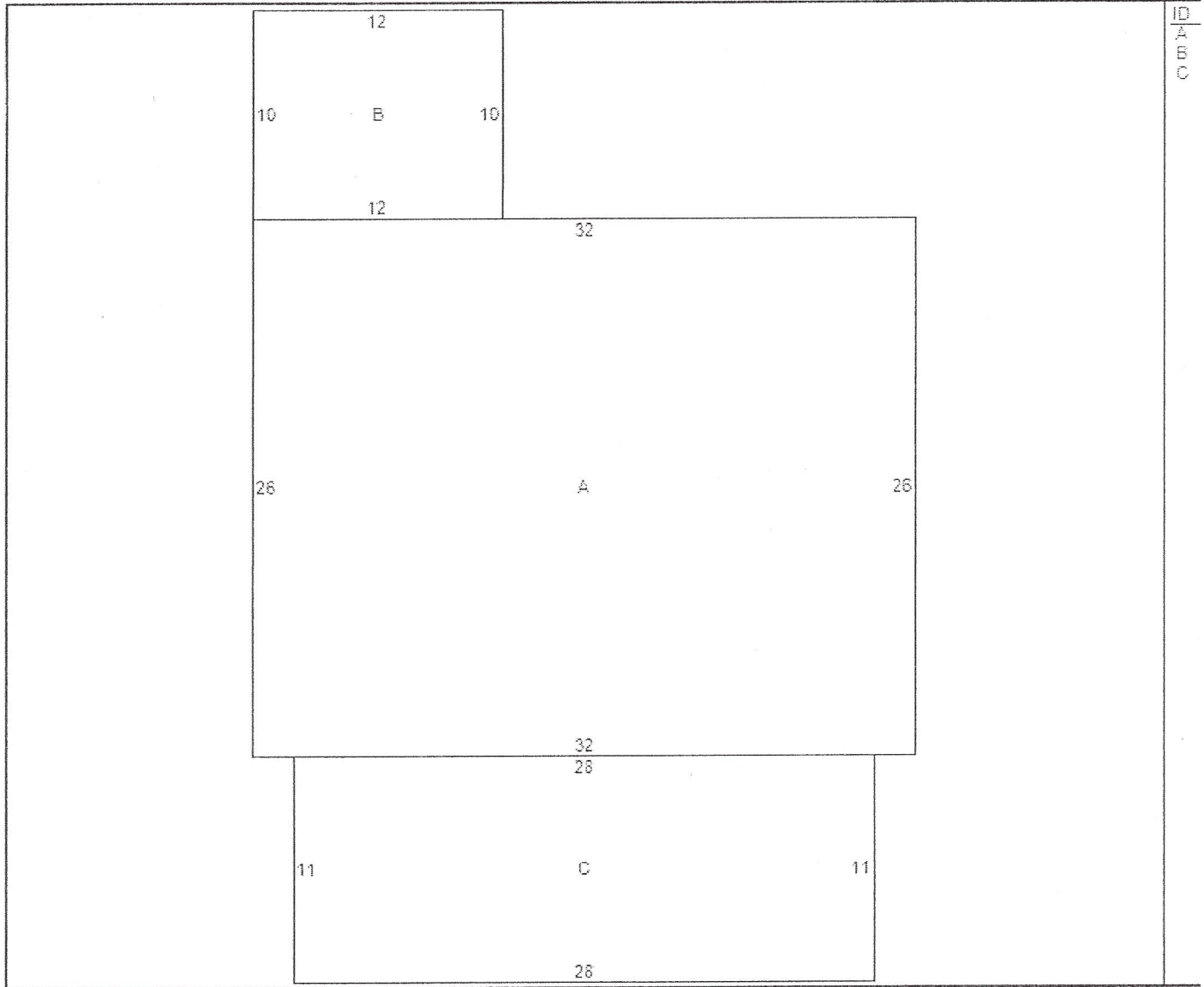
I would like to address the Standard Conditions of Approval for R-3 for an Accessory Unit by providing answers for A-J under Code of Ordinances, Sec 14-88, #2.

- a. The gross floor area of the principal building is 4,192 and the accessory unit will be 1,120 or 26.7%, below the maximum percentage of 30%. The accessory unit exceeds the minimum floor area requirement of 400 square feet.
- b. As shown in the floor plans, the accessory unit does not include any open outside stairways or open fire escapes above ground floor.
- c. The accessory unit will not create any changes to the exterior of the building.
- d. The lot size is 40,500 square feet which exceeds the requirement of 6,500 square feet.
- e. Not listed in Section I 4-88.
- f. Not listed in Section I 4-88.
- g. The main dwelling unit's floor area will be reduced to 3,072 square feet, greater than the 1,000 square feet minimum.
- h. Parking will include 3 spaces in the garage and 3 parking spaces in the driveway. The tenants of the accessory unit will be provided up to 2 spaces.
- i.
 - i. The accessory unit will not create any changes to the exterior of the building.
 - ii. There are no planned changes to the parking surface or landscaping.
- j. The principal unit will be occupied by the owner, Dana Cunningham.

In response to the three standard questions listed on the Conditional Use Appeal Application:

- 1. The property is located at the end of a dead-end street. The intention is to rent to up-to two individuals with no more than two registered vehicles. This will not substantially increase the vehicle traffic that would normally occur in this zone. This will be a residential unit in a residential zone, therefore the hours of operation do not apply.
- 2. The unit will be rented exclusively as a residential unit.
- 3. Again, the unit will be rented exclusively as a residential unit.

If you have any questions or need additional information, please contact Dana Cunningham at 207-775-5656. Thank you.



Cunningham Residence
Gross Floor Plan x 2 Stories

26x32