



PORTLAND MAINE

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Jeff Levine, AICP, Director
Marge Schmuckal, Zoning Administrator

TO: David Marshall, City Counselor
FROM: Marge Schmuckal, Zoning Administrator
DATE: October 18, 2012
RE: Determination concerning the Foundation House uses

047-A-27
047-C-16
047-C-17
046-A-6

Hi David,

I am responding to your original request to re-analyze the uses for Foundation House in or around Deering Street. On October 17th I met with Danika and Patrick Babcock to discuss how they used their buildings that they own. I am attaching a copy of GIS map indicating the location of those properties. All properties are in the R-6 multi-family residential zone. My focus was on the definition of a *Sheltered care group home*:

"A facility which, in addition to providing food and shelter to a defined population, provides guidance or counseling services. Such services are a primary function of the facility".

First, the Foundation properties charge rent. Secondly, food is not provided. Everyone provides their own meals. So the first criteria of providing food and shelter has not been met. The definition goes on to say that guidance or counseling services are a primary function of the facility. I did not find that any of the properties had any significant counseling or formal guidance on-site. All such counseling and guidance is off-site near by in the B-3 business zone. The Foundation leases several suites on the third floor of the State Theater building on Congress Street. I visited the site for a firsthand look. So I have concluded that none of the four properties could meet the definition of a "sheltered care group home".

Further discussions lead me to believe that 38 Deering Street is still functioning as a single family dwelling. The Foundation does use that address as a mailing address for their business. I discussed home occupation requirements with them concerning their use at that location. I am currently not convinced that it is a major "business" site. And yes, they have lived in the building on occasion. And they still have their home in Cape Elizabeth. They own two homes. I find that no different from many people who own a home on the mainland and a home on one of the islands. I had further discussions concerning.

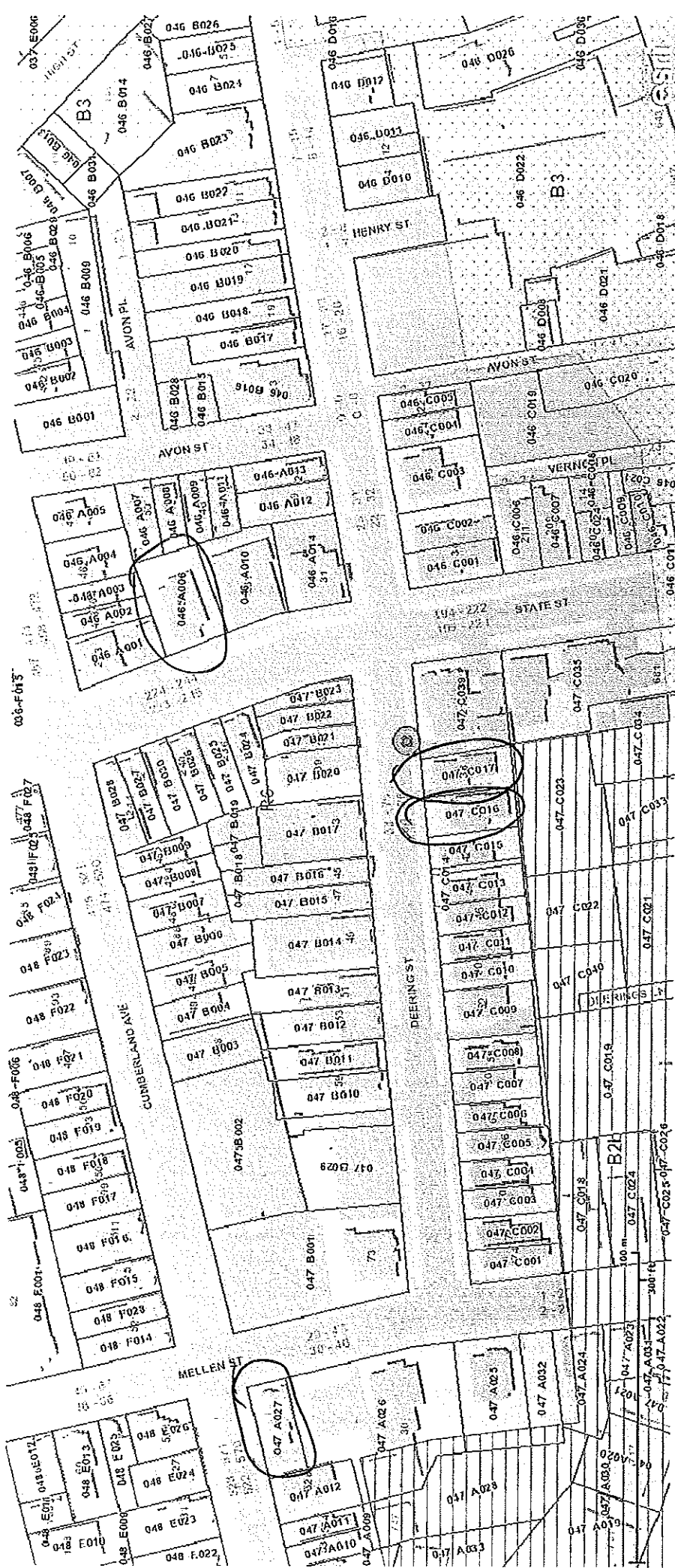
40 Deering Street which is legally considered to be a single family dwelling. I believe that property is now being use more like a lodging house. Currently the Babcocks are working with an architect, Will Winkleman, for some interior alterations to the building. I will be meeting with Will Winkleman to go over his plans. I am encouraging the owners to apply for a change of use permit to legalize the use to a lodging house, a permitted listed use in the R-6 zone. There are other criteria for a lodging house that the applicant must meet. That is where the architect comes in. I will be meeting with the architect within the next two weeks. I can update you at that time as to the status of this property.

under "G" Drive
(then "Marge")

This determination is subject to appeal. If you or anyone from the public wishes to exercise their right to appeal, they have 30 days from the date of this letter in which to appeal. If there is no appeal within a timely manner, my decision is binding and not subject to appeal. Please contact this office for the necessary paperwork that is required to file an appeal.

I hope this helps you,
Marge Schmuckal

Fpundation House properties



Foundation House

The Extended Care Sober Living Facility Professionals Trust

Patrick Babcock
Founder/Executive Director
207-767-1717
Patrick@foundationhouse.com

www.foundationhouse.com
Mailing Address
38 Deering Street
Portland, Maine 04101

Marge Schmuckal - Foundation House

From: Marge Schmuckal
To: David Marshall
Date: 10/18/2012 1:27 PM
Subject: Foundation House
CC: Alex Jaegerman; Danielle West-Chuhta; Jeff Levine; Mark Rees
Attachments: foundation properties map.pdf

Hi David,

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I hope this helps you,

Marge Schmuckal

individual, secured units (accessed with or without supervision) used for the exclusive purpose of storage of non-hazardous business or personal materials.

Setback: The required distance and the land resulting therefrom between a street line and the closest possible line of conforming structure.

Sheltered care group home: A facility which, in addition to providing food and shelter to a defined population, provides guidance or counseling services. Such services are a primary function of the facility.

Shore frontage: The length of a lot bordering on a water body or wetland measured in a straight line between the intersections of the lot lines with the shoreline.

Shoreland zone: The land area located within two hundred fifty (250) feet, horizontal distance, of the normal high water line of any river; within two hundred fifty (250) feet, horizontal distance, of the upland edge of a coastal wetland, including all areas affected by tidal action; within 250 feet of the upland edge of freshwater wetland; or within seventy-five (75) feet, horizontal distance, of the normal high water line of a stream.

Sign: Signs shall be as defined in section 14-367.

Single-component manufactured housing: Manufactured housing which is constructed and transported in one (1) section that is a habitable dwelling unit. For purposes of planned residential unit development and multiplex development, single-component manufactured housing shall not be considered a dwelling unit, except in the FH Flexible Housing Zone.

Special needs independent living unit: A dwelling unit developed and managed by a nonprofit organization for habitation by persons with special social, physical or mental needs beyond strictly economic needs. Such persons shall be provided required levels of supervision, care and/or counseling services appropriate to their special needs, and the services shall be provided by either the sponsoring nonprofit agency or through another entity with which the agency has entered into a contractual arrangement.

Sports complex: One or more facilities located on the same parcel of land where athletic events are held and with a combined

Day care facility: A facility which provides a regular program of care and protection for children under the age of sixteen (16), for consideration, for any part of the day.

Drinking establishment: Means and includes any establishment required to be licensed to sell alcoholic beverages for on-premises consumption, which is not regularly used for the purpose of providing full-course meals, as defined in Title 28-A of the Maine Revised Statutes, on the premises.

Drive-through facility: A commercial facility which provides a service directly to a motor vehicle occupant and where the customer drives a motor vehicle onto the premises and to a window or mechanical device through or by which the customer is served with or without exiting the vehicle. Drive-throughs do not include major or minor auto service stations.

Drive-through features: Features associated with drive-throughs including but not limited to designated travel or stacking lanes, intercom systems, menu boards, service windows, kiosks, mechanical devices, etc.

Dwelling: A building or portion thereof used exclusively for residential occupancy, including single-family, two-family and multifamily dwellings, but not including hotels, lodging houses, sheltered care group homes or tourist homes.

Dwelling, one-family: A detached building used exclusively for occupancy by one (1) family.

Dwelling, two-family: A single building containing two dwelling units used exclusively for occupancy by two (2) families living independently of each other.

Dwelling, multifamily: A building or portion thereof containing three (3) or more dwelling units.

Dwelling unit: One (1) or more rooms with private bath and kitchen facilities comprising an independent self-contained dwelling unit.

Earth moving activity means any removal or placement, excavation, filling, stockpiling or grading of soil, earth, loam, sand, gravel, rock and other mineral deposits.

Emergency operations: Emergency operations shall include operations conducted for the public health, safety or general welfare, such as protection of resources from immediate destruction or loss, law enforcement, and operations to rescue human beings and livestock from the threat of destruction or injury.

Emergency shelter: A facility providing temporary overnight shelter to homeless individuals in a dormitory-style or per-bed arrangement.

Essential services: The construction, alteration or maintenance of gas, electrical or communication facilities; steam, fuel, electric power or water transmission or distribution lines, towers and related equipment; telephone cables or lines, poles and related equipment; gas, oil, water, slurry or other similar pipelines; municipal sewage lines, collection or supply systems; and associated storage tanks. Such systems may include towers, poles, wires, mains, drains, pipes, conduits, cables, fire alarms and police call boxes, traffic signals, hydrants and similar accessories, but shall not include service drops or buildings which are necessary for the furnishing of such services.

Fabrication: Manufacturing, excluding the refining or other initial processing of basic raw materials such as metal ores, lumber or rubber. Fabrication relates to stamping, cutting, or otherwise shaping the processed materials into useful objects.

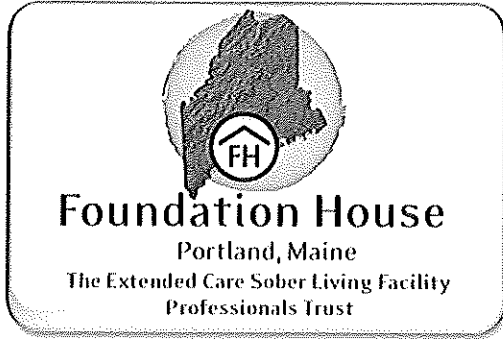
Family: Not more than sixteen (16) individuals living together in a dwelling unit as a single nonprofit housekeeping unit. A group occupying a hotel, fraternity house or sorority house shall not be considered as a family. The family may include necessary servants.

Family amusement centers: Any structure, open to the public, which may contain coin-operated games and similar entertainment and amusement devices.

Fill. Soil, earth, loam, sand, gravel, rock and other mineral deposits.

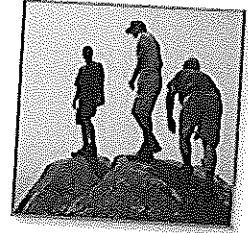
Filling. The placement of soil, earth, loam, sand, gravel, rock and other mineral deposits. Filling shall include stockpiling as defined herein.

Floor area: A floor space enclosed by exterior or standard



Providing affordable, short & long-term, "high-dignity & low-drama", extended care & sober living for men in early recovery from chemical dependency and alcoholism, offering each individual resident the highest probability of a successful and sober life.

Foundation House is widely regarded by the country's top primary treatment facilities to be the extended care provider of choice. We take particular pride in our well known and established monthly / annual sober success rate of over 90%. Many claim that; we do it. After all, joy is contagious.



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The Standards

The following guidelines and rules are designed to protect the Foundation House community and to enhance each resident's chance for ongoing recovery.

These behaviors and actions will result in immediate residency termination

- **Drinking alcohol, using drugs (not approved), and/or having either of these or paraphernalia in your possession** (Prescription and over the counter drugs are treated as drugs by this policy). See: [Terms & Testing](#)
- Possession of firearms, weapons of any kind, any explosive, or any other dangerous items or materials.
- Violence or threatening behavior.
- Destruction of property.
- Theft of property of the house or another resident (this includes borrowing without permission ie: food). Taking that which is not yours is stealing.
- Smoking or evidence of smoking in the house.
- Sexual activity or exclusive relationship with any person in Foundation House.
- Gambling.
- Blatant disregard.
- Any one unauthorized or unconfirmed overnight.
- Awareness of other resident's violation of dismissible infraction without reporting it to staff immediately.
- Conducting your own or other business on Foundation House property.
- Any illegal activity on or around Foundation House. This includes having stolen property or harboring a fugitive.
- Parking on Foundation House property if you don't have current registration, license and insurance.
- Failure to pay Foundation House rent and fees.

These behaviors and actions will result in a staff review of the resident's status and may result in a residency termination

- Making false or misleading statements upon intake regarding medication, health, warrants, court dates, etc.
- The use of provocative, vulgar, foul, or abusive language and or any form of expression that is insulting to the physical, mental, or emotional condition of any person regarding race, ethnic group, gender, religion or sexual orientation.
- Exhibiting a consistent pattern of resistance and defiance (be positive with a willing attitude, and be open to suggestions).
- Disregard of the "Good Neighbor Policy" - After 10:00 PM the house should experience quiet time; guests need to be out of the house by no later than 11:00 PM; allow for common sense and compassion to dictate this policy.
- Absolutely no screaming or foul play on any of the outside porches.
- No climbing over the porch railings on the third floors. The first time a resident is caught doing this, he may be asked to leave.
- Not attending 12 step meetings, at least one meeting a day until Senior Peer Status. Once a Senior Peer, you must attend a minimum of 3 meetings a week.
- Not getting a 12 Step sponsor within the first month as a resident.
- Not obtaining employment, a volunteer job, or going to school within your first month of residency (minimum of 20 hours per week).
- House meetings are at 5:00 PM sharp, every Sunday evening. Residents are not to miss, nor are they to be late for these mandatory meetings. Senior Peers, without pre-approved notice, are not to miss, nor are they to be late, for these mandatory meetings.
- Being late for curfew.
- Permitting visitors in resident bedrooms without resident consent.
- Not participating in weekly house cleaning (every Mon. & Thurs.)
- Not having a clean room (including bed made by 10:00 AM).
- Excessive sleeping or napping in common areas / noise on porches.
- Television - The TV is to be used responsibly. Irresponsible use may be defined as:
 - Lengthy daytime viewing
 - Monopolizing the common area
 - General behavior detrimental to the well being of the house

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AAA

HOUSE RULES

These are some general guidelines in the house and should be treated accordingly — with respect to other residents. Infractions of these rules will result in a warning. An excessive accumulation of such warnings will result in immediate residency termination

- Quiet time is 10:00 PM to 7:00 AM. Please be considerate of others. Excessive noise, slamming of doors, doing laundry, etc., is not acceptable during these times. If radios or TV's are played too loudly, they will not be permitted.
- The kitchen, laundry, halls, and stairway areas must be kept clean at all times. You must clean up after yourself, which includes: sweeping if necessary, wiping up counters after use, washing or rinsing your dishes, wiping up spills, etc. Please be courteous of others.

- Phone calls can be made and received on the house phone. The time limit on phone calls is 10 minutes. Incoming phone calls on the house phone should be only of the emergency nature after 11:00 PM. Please respect others.
- Knock before entering another bedroom. Do not enter another bedroom if no one is there.
- All residents are expected to maintain reasonable personal hygiene; taking showers, keeping clothes clean, etc.
- All residents are to notify Foundation House staff and House Manager of changes in medication – ie: new med prescribed, stopping a med, starting a med (this also includes any over the counter medication that is NOT APPROVED on list posted in house).
- All residents are to give their house manager a 24-hour notice for overnights and missed house meetings – and it must also be noted on the house calendar.
- The use of aerosol cans, candles, and incense, are not permitted anywhere inside or outside of the house.

Personal Information Disclosure

Foundation House reserves the right to deny residency to applicants who have a prior history of sex offense, murder, or any variation of manslaughter.

This denial extends to any resident who falsifies information in their application and/or intake interview to Foundation House.

Any pre-meditated or known attempts to conceal falsified information - in regard to the aforementioned criminal behavior - while a resident at Foundation House, may result in immediate residency termination.



MAIN OFFICE:
PO Box 6279 • Cape Elizabeth, ME 04107
ph: (207) 767-1717
toll-free: (888) 606-AANA (2262)
recovery@foundationhouse.net

PORTLAND OFFICE: *Home Office*
38 Deering St • Portland, ME 04101
ph: (207) 771-0235
fax: (207) 771-0236
recovery@foundationhouse.net

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Website Design by [Phrizbie Design Inc](#)



Providing affordable, short & long-term, "high-dignity & low-drama", extended care & sober living for men in early recovery from chemical dependency and alcoholism, offering each individual resident the highest probability of a successful and sober life.

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State St. Both houses are located in the heart of downtown Portland, Maine.

Foundation House is an extended care program that transitions into sober living as our residents progress through the process of early recovery. There are specific standards in place which serve to protect the safety of the house as a whole, and the integrity of each individual resident who lives there.

Foundation House is not a "treatment rehab", nor is it a "program". It is a peer-to-peer supportive living facility where we manage "the process" of staying sober, not the individual. Foundation House homes emphasize structure, accountability, *and* independence. Pardon the pun, but we set the bar particularly high when it comes to establishing a culture of highly dignified recovery and long term sobriety.

Foundation House sleeping arrangements feature single and double occupancy rooms . In this family style living, residents share common dining, family, and living rooms. Residents cook for themselves and share in house chores.

Various peer stages are realized as each resident continues to progress through the first 3 months of his stay at Foundation House.

Foundation House expects each resident to follow Foundation House traditions.

All Foundation House homes are newly renovated. Each home is outfitted with new furnishings, household supplies, and televisions with DVD's and free Cable with HBO and Showtime.

Cell phones are allowed, as are computers, play stations, and cars. There are coin operated laundry facilities on site.

All utilities, along with monthly experiential and group outings are covered by Foundation House.

Visiting is permitted every day between 9 AM and Midnight.

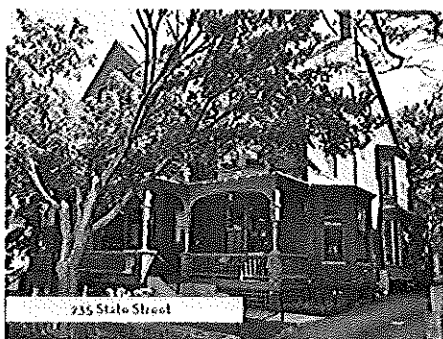
Here is a list of what each resident should bring to Foundation House upon arrival.

There is a three month minimum commitment.

Men's Houses

Portland[1]: 42 Mellen St., downtown

Portland[2]: 235 State St., downtown



A Member of
NAATP
Foundation House is a proud member of the National
Association of Addiction Treatment Providers

MAIN OFFICE:
PO Box 6279 • Cape Elizabeth, ME 04107
ph: (207) 767-1717
toll-free: (888) 606-AANA (2262)
recovery@foundationhouse.net

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fax: (207) 771-0236
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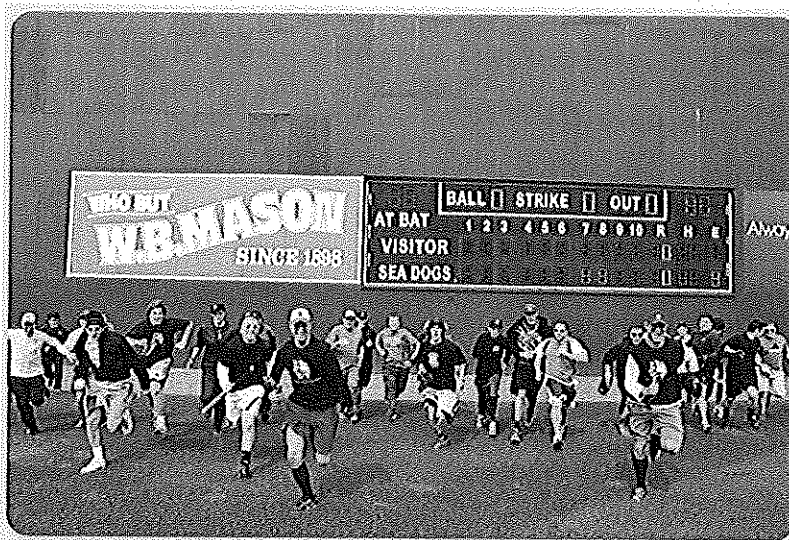
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Our Philosophy – Our Way of Life

Recovery from chemical dependency is a process that takes time.

Before any "miracle" can happen, certain steps must be taken to ensure the safety and success of the journey. First and foremost, FoundationHouse believes that those steps are the "12-Steps" of Alcoholics Anonymous (AA).

Beyond just the 12-steps of AA, it is imperative for an individual to seek out and accept a support group made up of men and women who have shared the same experience and who through their collective strength guide each other as peers along the path of recovery. Foundation House is a place where men who have been living there for anywhere from three months to one year (senior peers) help the new resident by showing them exactly how they were able to attain a continued stretch of sober time. Common traits in the lives of these men, just to name a few, are structure, responsibility, accountability, honesty, support, trust, and respect.

At Foundation House we focus on two primary issues: "relapse prevention" and "the restoring of our individual dignity". We incorporate various elements to help in the transition to independent living: LADC therapy; medication management (if necessary); job placement; financial management; daily 12-Step based and staff run process, life-skills, and study groups; sunday evening resident "check-in" house meetings; house outings (beach barbecues, paintball, Red Sox baseball games, etc.); alumni support groups and meetings; guest speakers; clinical referrals; sponsorship referrals; and more.

The Foundation House weekly signature event features our Saturday evening spring-summer-fall softball league, and fall-winter-spring (inside the Dome) flag football league. The culmination of our softball league is our championship game, played at Hadlock Field - the minor league ballpark and

home to the Boston Red Sox AA Affiliate, the Portland Sea Dogs. It is an all day event with concessions available throughout the day, and all Foundation House family, friends, and alumni invited to participate.

Recovery takes time. And one day at a time, we ask of each resident only what we are willing to do ourselves. In this case, it is an uncompromising commitment to our recovery.

This is not just our philosophy ... it is our way of life.

Our Approach, Goal and Commitment

Foundation House establishes a culture of highly dignified recovery and long term sobriety.

A common theme at Foundation House is the discovery of what "drives" us rather than what "motivates" us. Motivation comes in waves, it is transient, and for the addict and alcoholic, in between those waves is a dangerous place to be. Drive, on the other hand, suggests a constant, ever reminding us to fill the gaps with the "next right thing to do".

Our resident's success is our success. Upon completion of a resident's stay, it is our goal that they have learned how not only to help themselves, but others as well. We teach the old adages "In order to help yourself, help someone else", and "You can't keep it unless you give it away".

At Foundation House, we remove the stigma of addiction and return the dignity that we are all born with to those who have nearly lost it all.

Foundation House staff is available 24 hours a day, 7 days a week.

Our 90% Success Rate and the 12 month promise!

Foundation House first opened its doors in 2002. By the end of 2003, and each year thereafter, we have operated with an average sober success rate of 90%. This means that out of the 38 beds we have available between our two houses, an average of over 35 men per month — on an annual basis — stay sober while living at Foundation House.

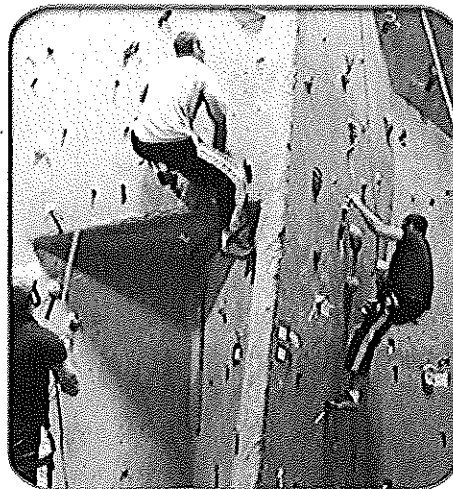
Industry wide, for decades, individuals who leave short term rehabilitation facilities average anywhere from a 3—15 % chance of continued, and long term recovery from chemical dependency.

Thusly, our 90% statistic cannot be overlooked, or overemphasized — Foundation House's sober success rate is quite simply an industry leader. As a result, we are confident that our residents can, and do stay sober for their first year while living at Foundation House in Portland, Maine.

And knowing what a fantastic achievement that truly is, having been there ourselves, we promise to give each resident who remains sober for 365 continuous days in our homes, the 13th month free.

This is a promise that we have gladly kept for a number of our residents who have long since spent over 365 continuous days of sobriety within our Foundation House homes!

What we Offer



Marge Schmuckal - Foundation House

From: Marge Schmuckal
To: David Marshall
Date: 10/2/2012 12:49 PM
Subject: Foundation House
CC: ALEX JAEGERMAN; Danielle West-Chuhta; Jeff Levine; Mark Rees

Hi David,

I wanted to update you on the status of your request and my efforts to meet with Patrick Babcock who is the owner of Foundation House. He is leaving town on business for little over a week. And today he is unavailable. However, I did set up a meeting with him when he returns. We are meeting on October 17, 2012 at 11:00 am.

I did have a brief (15-20 minutes) telephone conversation with him about the use of his properties. He did inform me that all the meetings with any of the residents are held on the 3rd floor of the State Theater building and not in any of the properties that he owns. He promised me that I would be able to view the properties including the offices/meeting place at the State Theater building.

I am hoping to have Alex Jaegerman join me for my conversation with Mr. Babcock on October 17th.

Sorry for the further delays,
Marge

Marge Schmuckal - Re: Half Way House On Mellen

From: Marge Schmuckal
To: Danielle West-Chuhta; Dave Marshall; Mark Rees
Date: 9/20/2012 11:57 AM
Subject: Re: Half Way House On Mellen
CC: Jeff Levine

Hi David,

The definition of a "Sheltered care group home" under 14-47 is:

"A facility which, in addition to providing food and shelter to a defined population, provides guidance or counseling services. Such services are a primary function of the facility."

Further, under the conditional use (appeal to the Zoning Board of Appeals) section 14-137(a)2 of the R-6 zone, there are more provisions that must be met. That is where it states:

"A sheltered care group home shall not be located within five hundred (500) feet of another, as measured along street lines to the respective property lines."

Your other question regarding what is the difference between what Foundation House is doing and the activities of a sheltered care group home is the crux of it all. As my previous e-mail to you outlined, several of their properties have already received approvals and building permits based upon the information given at those times (i.e. around 2004). The task that you gave to me yesterday will be to determine whether they have changed how they are running those properties. I will also be reviewing the two new single family dwellings that the Foundation apparently owns. I will also check on what other properties the Foundation owns. I will be reviewing the Foundation's web site as you instructed me and will request a meeting with Mr. & Mrs. Babcock. I will also be requesting to visit their properties for a fuller view of what is actually happening on-site.

I hope this addresses your immediate questions.

Marge Schmuckal

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/20/2012 11:18 AM >>>
Hey Marge,

Thanks for the explanation. The email dave@damfineart.com has been down. Sorry for the confusion.

What is the definition of a sheltered group home?

I would like to know what the difference is between what Foundation House is going and the activities of a sheltered group home.

Also, I would like to have the language of the ordinance that requires a distance between sheltered group homes.

I appreciate your help.

Marge Schmuckal - Re: Half Way House On Mellen

From: Dave Marshall <marshalldistrict2@gmail.com>
To: Danielle West-Chuhta <DWCHUHTA@portlandmaine.gov>, Marge Schmuckal <MES@...>
Date: 9/20/2012 11:19 AM
Subject: Re: Half Way House On Mellen

Hey Marge,

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Also, I would like to have the language of the ordinance that requires a distance between sheltered group homes.

I appreciate your help.

On Monday, September 17, 2012, Danielle West-Chuhta wrote:

Councilor Marshall:

I see that you were cc'd on the e-mail below from Marge Schmuckal. Do you require any additional information on this issue?

Thanks,

Danielle
 Danielle P. West-Chuhta
 Acting Corporation Counsel
 City of Portland, Maine
 (207) 874-8480

>>> Marge Schmuckal 9/17/2012 12:10 PM >>>

Hi Mark,

There has been what I think to be confusion between two issues in this neighborhood area. The latest issue which I believe that Doug Sneed, Keri Lord and Anne Pringle were concerned about was a property at 10 Mellen Street. There was a rumor going around that a foundation owned by Jill & Patrick Babcock was purchasing this property. I responded in an e-mail on 9/11/2012 to legal giving my knowledge on this property. My e-mail addressed this particular concern. Apparently not enough folks were on the CC list. I have had contact with the potential purchaser of 10 Mellen Street, who is not part of any foundation. He is Tyler Brinkman. Inspection Services shows this property to be a two family dwelling. Mr. Brinkman has told me that the owner actually used the property as a lodging house. The owner has passed away and the estate is selling the property. Lodging Houses are an allowed use in the zone in which the property is located. I advised Mr. Brinkman to take out a change of use permit to legalize the use. Inspection Services does not have a permit for this property yet.

The other issue confused with this one is one concerning a foundation that is owned by Jill and Patrick Babcock. Our office has been dealing with them for many years (since 2004). Our offices have met with Patrick and Jill over the years on exactly how they are using their buildings. Most recently Penny St. Lewis

Marge Schmuckal - Re: Re: Foundation House IMPORTANT!

From: Dave Marshall <marshalldistrict2@gmail.com>
To: Danielle West-Chuhta <DWCHUHTA@portlandmaine.gov>, Mark Rees <MHR@portla...>
Date: 9/19/2012 9:03 AM
Subject: Re: Re: Foundation House IMPORTANT!
CC: Marge Schmuckal <MES@portlandmaine.gov>

Hey Marge,

Please provide a determination to me for each of the Foundation House properties in Parkside. Please consider the info on their website. I would like a zoning determination by the end of the month. Thanks.

--

Best Wishes,
David A. Marshall 207.409.6617

Executive Director of the Maine Artist Collective and Constellation Gallery 511 Congress St, Portland, ME
maineartist.org Fine Artist damfineart.com
Portland City Councilor

Under Maine's Freedom of Access ("Right to Know") law, all e-mail and e-mail attachments received or prepared for use in matters concerning City business or containing information relating to City business are likely to be regarded as public records which may be inspected by any person upon request, unless otherwise made confidential by law.

On Sep 19, 2012 8:48 AM, "Danielle West-Chuhta" <DWCHUHTA@portlandmaine.gov> wrote:

Councilor Marshall:

I would defer to Marge Schmuckal since she makes zoning determinations, but I think it depends on which building you are talking about on that website you highlighted below. Each building is different and depends on the number of rooms, residents, programs offered etc. I know that one of the buildings on Mellen Street was recently granted approval as a lodging house under the ordinance and I believe that one of the other buildings may be classified as a sheltered care group home. If you have further questions, please feel free to contact me or Marge. I would note that I also sent you a summary from Marge on this issue yesterday.
Thanks,

Danielle

Danielle P. West-Chuhta
Acting Corporation Counsel
City of Portland, Maine
(207) 874-8480

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/18/2012 3:31 PM >>>
OK, please let me know how <http://www.foundationhouse.net/> fits into the ordinance.

On Tuesday, September 18, 2012, Danielle West-Chuhta wrote:
Councilor Marshall:

I just wanted to send you a summary I just sent to Jeff Levine regarding the sheltered group homes issue you requested information on.

Thanks,

Danielle

Danielle P. West-Chuhta
Acting Corporation Counsel
City of Portland, Maine
(207) 874-8480

>>> Danielle West-Chuhta (Danielle West-Chuhta) 9/18/2012 3:13 PM >>>

Jeff:

I think that Alex is correct, the Ordinance specifically provides that Sheltered care group homes are conditional uses in the R-6 zone. Section 14-137(a)(2) specifically, however, does not apply to homes that primarily serving "handicapped persons, parolees, persons involved in correctional prerelease programs or current illegal drug users.

I think that this provision is limited in this way, because (from what Gary told me before he retired) the City tried to enact a broader separation requirement, but the providers opposed it. The City also tried a limitation on the total number of houses in a specific area and zone, but the legislature over rode this attempt as well. The City tried to implement a fair share require (i.e. the City limited the number of these facilities in Portland until neighboring communities took their fair share), but the City lost that case (i.e. the requirement was found unconstitutional). See Pharos House v. City of Portland. Finally, thereafter, one City Councilor also made some public remarks about the need to limit the number of these facilities in Portland and the FHA came down on the Councilor and other spokes people in the neighborhood (Parkside) and threatened federal litigation.

It should be noted that currently, state law provides that a housing facility for 8 or fewer persons with disabilities that is approved, authorized, certified or licensed by the State, for persons with disabilities are not to be excluded by municipal zoning ordinances from the benefits of normal residential surroundings, such community living arrangements are deemed a single-family use of property for purposes of zoning. See 30-A M.R.S.A. section 4357-A.

Finally, state and federal fair housing laws also still prohibit and protect persons from housing discrimination on the basis of disability, etc. In the sale, rental, advertising, financing, etc.

I hope that this helps.

Thanks,

Danielle

Danielle P. West-Chuhta
Acting Corporation Counsel
City of Portland, Maine
(207) 874-8480

>>> Jeff Levine 9/18/2012 12:58 PM >>>

I am meeting with Anne Pringle about this issue and would like any advice from your office about the applicability of the "dispersal requirement" referred to and whether there are issues that make it not apply in some cases (see the email.)

Jeff

Jeff Levine, AICP, Director
Planning & Urban Development Department
389 Congress Street 4th Floor
Portland, Maine 04101
Phone (207)874-8430
Fax (207)756-8258

--

Best Wishes,
Dave Marshall

David A. Marshall
Portland City Councilor Fine Artist
[207.409.6617](tel:207.409.6617) DAMFineArt.com
Constellation Gallery 511 Congress St, Portland, ME

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Marge Schmuckal - Re: Fwd: Half Way House On Mellen

From: Danielle West-Chuhta (Danielle West-Chuhta)
To: Marge Schmuckal
Date: 9/18/2012 3:46 PM
Subject: Re: Fwd: Half Way House On Mellen

Marge:

I think that this answers my question I just posed in my voice mail. No plans have come in yet so who knows - it could be a lodging house or a sheltered care group home depending on the plans that someone presents, is my guess. The Foundation House places that they have now - what are they considered? Lodging houses or sheltered care group homes?

Thanks,

Danielle

>>> Marge Schmuckal 9/17/2012 12:10 PM >>>

Hi Mark,

There has been what I think to be confusion between two issues in this neighborhood area. The latest issue which I believe that Doug Sneed, Keri Lord and Anne Pringle were concerned about was a property at 10 Mellen Street. There was a rumor going around that a foundation owned by Jill & Patrick Babcock was purchasing this property. I responded in an e-mail on 9/11/2012 to legal giving my knowledge on this property. My e-mail addressed this particular concern. Apparently not enough folks were on the CC list. I have had contact with the potential purchaser of 10 Mellen Street, who is not part of any foundation. He is Tyler Brinkman. Inspection Services shows this property to be a two family dwelling. Mr. Brinkman has told me that the owner actually used the property as a lodging house. The owner has passed away and the estate is selling the property. Lodging Houses are an allowed use in the zone in which the property is located. I advised Mr. Brinkman to take out a change of use permit to legalize the use. Inspection Services does not have a permit for this property yet.

The other issue confused with this one is one concerning a foundation that is owned by Jill and Patrick Babcock. Our office has been dealing with them for many years (since 2004). Our offices have met with Patrick and Jill over the years on exactly how they are using their buildings. Most recently Penny St. Lewis and I met with them when they purchased 38 Deering Street. He intended to make it his single family residence, but not his primary residence. He did not intend to have meetings there, just his family on occasion would be residing there. He did say he may want a care-takers unit there when he & his family wasn't there. He would need a permit for that. Inspection Services does not have a permit for a care-takers unit there.

42 Mellen Street has been a lodging house since 2004. There supposedly are no meetings there. Transport arrangements are provided when any resident requires one to go to meetings. The property is specifically for residences who have already gone thru detox alcohol programs. It is supposed to be a safe place for men who want to stay off alcohol because no alcohol is required on-premises.

235-237 State Street (there is no 335-337 State St) is a legal 8 family dwelling unit building. I have not evidence that this building is being used any differently.

38 & 40 Deering Street are currently single family dwellings each. The only evidence I have at this point is that some of the men apparently from Mellen Street, go to 40 Deering Street (maybe 38 Deering Street) during the day, but they do not stay over night or reside in the premises. That is unusual, but not really defining. Very often I understand that the men in the neighborhood do trash clean up on the surrounding streets.

The biggest concern seems to be about the owners and why they are purchasing so many properties in the

neighborhood. There is a lot of speculation. There is no restriction from someone purchasing properties. Yes it is unusual, but I at this point, I am not seeing real violations of zoning. There may be more going on that I am not aware of. I would love to have some concrete information. Alex and I have spoken with the neighborhood association and are aware of these issues. We have intended to bring the Babcocks in to discuss their further purchase and intent, but have not done so yet.

We may need an internal meeting with everyone prior to bringing in the Babcocks.

I hope this helps everyone,
Marge Schmuckal
Zoning Administrator

>>> Mark Rees 9/16/2012 9:10 AM >>>

Hi Marge, Do you know if anyone got back to Councilor Marshall on this matter, plus the related email I will send next?

Thanks

Mark

Mark H. Rees
City Manager
City of Portland, Maine
389 Congress Street
Portland, ME 04101
MHR@portlandmaine.gov
(207)874-8689

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/11/2012 9:24 AM >>>
Do we know anything about a half way house on Mellen Street?

----- Forwarded message -----

From: **Doug Sneed**
Date: Tuesday, September 11, 2012
Subject: Half Way House On Mellen
To: "Dave Marshall (marshalldistrict2@gmail.com)" <marshalldistrict2@gmail.com>
Cc: Rebecca Waxman Sneed <rebecca@dougsneed.com>

Dave,

What do you know about a half-way house on Mellon being proposed?

Thanks

Doug

Doug Sneed

President



doug@dougsneed.com

T: 207-233-9985 F: 207-772-7276

For quick links to vendors please go to www.dougsneed.com/lines.html

Now representing KIMBALL HOSPITALITY in New England

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Best Wishes,
Dave Marshall

David A. Marshall
Portland City Councilor Fine Artist
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Marge Schmuckal - Re: Foundation House IMPORTANT!

From: Marge Schmuckal
To: Alex Jaegerman; Anne Pringle
Date: 9/11/2012 2:09 PM
Subject: Re: Foundation House IMPORTANT!
CC: Jeff Levine; Keri Lord

Hi Anne,

I believe you are speaking about 10 Mellen Street. I also think you may be in error as to the purchaser of this property. On August 21 I sat down with Tyler Brinkman who really wanted to purchase this property. We went over the Inspection records that show the legal zoning use to be a two family dwelling. I have found out that it was being used as a lodging house for years. The property is in a B-2b zone which allows such a lodging use. However, a change of use permit is required to legally change the use to a lodging house. There are no dispersal requirements for lodging houses in the B-2b zone.

I do not know if the building is under contract and who the actual purchaser actually is. I do know that it is an estate sale. The broker also contacted me when he found out about the illegal use. But there may be some unfounded fears. Tyler was a serious contender. He was researching the need to install a sprinkler system and other requirements.

I hope this helps you,
Marge

>>> Anne Pringle <oldmayor@maine.rr.com> 9/11/2012 12:24 PM >>>
Keri Lord learned today that Foundation House has yet another property under contract - the pink house on Mellen Street, just off Congress Street.

There is growing concern that this use is taking over the Parkside neighborhood and rehab houses are also sprouting elsewhere, e.g. Bramhall Street.

What is going on?

What is the City's position on this?

Please point me to the code section that notes the dispersal requirement. Thanks!

Anne

2004 Submission

Foundation House

PO Box 6279-0079 Cape Elizabeth, Maine 04107 Ph: 207-767-1717 Fax: 207-767-5111

Project explanation

Foundation House provides affordable, short and long-term transitional sober living accommodations for men in recovery from chemical dependency. The founders have formed this company in order to provide residents with a highly-dignified living environment emphasizing low in-house drama.

In June of 2003, Foundation House opened the doors at our primary site. The property is located at 42 Mellen Street in the heart of downtown Portland. By August 1st, we had filled all available beds and have continued to successfully operate at maximum capacity virtually every month since. We currently have an average daily waiting list of 10 men who are seeking to reside in Foundation House.

Foundation House has already proven its strength in helping residents achieve an unparalleled success rate for continued sobriety. The house at 42 Mellen Street is currently operating at a 95% success rate for continued, monthly, individual sobriety. The recovery rate under the Foundation House model is an industry leader.

The mission statement of Foundation House remains - high dignity, low drama recovery.

By being involved in each step of the way as residents transition from an in-patient facility to independent, affordable living, we at Foundation House can insure that our residents are receiving the highest quality, affordable living available, in a sober and safe environment. This is accomplished by the highly structured climate established in each house. We manage the process rather than the individual. The process takes shape as each resident is provided with a 23-page 'resident handbook' detailing the comprehensive structure of the Foundation House sober living, recovery process.

It is important to note that Foundation House is **NOT** a program. The men who reside at a Foundation House property are similar to other individuals renting in any given neighborhood. What distinguishes them is their commitment and desire to lead an upstanding, sober life supported by clearly-defined guidelines and the support of other like-minded individuals in the house.

For a number of years, there has been alarmingly little opportunity for low-income and disadvantaged individuals to obtain affordable rental housing in the Greater Portland area. Foundation House helps address the affordable housing crisis that currently exists. At a time when these individuals are being turned away, Foundation House welcomes them home. Currently, the need for this resource in Greater Portland far outweighs the supply.

The lack of affordable housing is a problem for our entire community - Foundation House is part of the solution.

We provide the best environment for people in early recovery from substance abuse to learn how to live "Clean & Sober". Simply put, we already know what it takes to stay "Clean & Sober", and we have the resources -- personnel and systems -- to create continued success for all of our residents.

Owner, Patrick Babcock brings extensive, first-hand knowledge and experience to the field of addiction recovery and has been sober for 8 ½ years. Co-owner, Danika Babcock, has been in property management for over 2 ½ years and has developed a solid network of relationships with well-regarded service providers in the field of real estate property management in the Greater Portland Area. Their combined experience serves to complement the success of Foundation House.

The property at 42 Mellen Street is owned by Jill L. Babcock. Patrick Babcock, her son, has Power of Attorney over all of Mrs. Babcock's real estate holdings. PK Holdings Inc. [dba Foundation House] has an exclusive lease with Mrs. Babcock for the property located at 42 Mellen Street.

Marge Schmuckal - Re: Fwd: Half Way House On Mellen

From: Marge Schmuckal
To: Mark Rees
Date: 9/17/2012 12:10 PM
Subject: Re: Fwd: Half Way House On Mellen
CC: ALEX JAEGERMAN; Danielle West-Chuhta; David A. Marshall; Jeff Levine

Hi Mark,

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We may need an internal meeting with everyone prior to bringing in the Babcocks.

I hope this helps everyone,
Marge Schmuckal
Zoning Administrator

>>> Mark Rees 9/16/2012 9:10 AM >>>

Hi Marge, Do you know if anyone got back to Councilor Marshall on this matter, plus the related email I will send next?

Thanks

Mark

Mark H. Rees
City Manager
City of Portland, Maine
389 Congress Street
Portland, ME 04101
MHR@portlandmaine.gov
(207)874-8689

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/11/2012 9:24 AM >>>

Do we know anything about a half way house on Mellen Street?

----- Forwarded message -----

From: **Doug Sneed**
Date: Tuesday, September 11, 2012
Subject: Half Way House On Mellen
To: "Dave Marshall (marshalldistrict2@gmail.com)" <marshalldistrict2@gmail.com>
Cc: Rebecca Waxman Sneed <rebecca@dougsneed.com>

Dave,

What do you know about a half-way house on Mellon being proposed?

Thanks

Doug

Doug Sneed

President





doug@dougsneed.com

T: 207-233-9985 F: 207-772-7276

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--

Best Wishes,
Dave Marshall

David A. Marshall
Portland City Councilor Fine Artist
207.409.6617 DAMFineArt.com
Constellation Gallery 511 Congress St, Portland, ME

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Marge Schmuckal - Re: Fwd: Half Way House On Mellen

From: Marge Schmuckal
To: Barbara Barhydt; Danielle West-Chuhta; Tammy Munson
Date: 9/11/2012 10:52 AM
Subject: Re: Fwd: Half Way House On Mellen

It would be helpful to have an address.

Serenity House is at 30 Mellen Street - It has been a half-way house for over 40 years.

The Foundation House Lodging House is at 42 Mellen Street - It has been a lodging house since 2004.

I am aware of 10 Mellen Street which is for sale. Our records show that the use is 2 dwelling units. However, apparently it has been used illegally as a lodging house. If a lodging house use is to continue it must be legalized with a change of use permit.

*Patrick
Jill Babcock
503 0666 4000
CAPE ELIZABETH
04107*

Marge

>>> Danielle West-Chuhta (Danielle West-Chuhta) 9/11/2012 10:22 AM >>>
Anyone know anything about this project?

Thanks,

D

>>> Gary Wood 9/11/2012 10:18 AM >>>
any body have any info

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/11/2012 9:24 AM >>>
Do we know anything about a half way house on Mellen Street?

----- Forwarded message -----

From: Doug Sneed
Date: Tuesday, September 11, 2012
Subject: Half Way House On Mellen
To: "Dave Marshall (marshalldistrict2@gmail.com)" <marshalldistrict2@gmail.com>
Cc: Rebecca Waxman Sneed <rebecca@dougsneed.com>

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Thanks

Doug

Doug Sneed

President



doug@dougsneed.com

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Marge Schmuckal - Re: Parkside Issue with Rehab Facilities

From: Mark Rees
To: Marge Schmuckal
Date: 9/16/2012 9:11 AM
Subject: Re: Parkside Issue with Rehab Facilities
CC: Jeff Levine

Marge, this is the second email.

Mark

Mark H. Rees
 City Manager
 City of Portland, Maine
 389 Congress Street
 Portland, ME 04101
MHR@portlandmaine.gov
 (207)874-8689

>>> Dave Marshall <marshalldistrict2@gmail.com> 9/11/2012 9:30 AM >>>
 Please provide me with information concerning this issue.

On Thursday, June 21, 2012, Dave Marshall wrote:

Hey Mark and Gary,

This issue is a new one to me. Please see the message below that I received from Tony Holt, who owns property in Parkside.

The problem with turning this neighborhood into a rehab center. The person in CE (whose name Marge has) has purchased at least 5 properties within a couple of blocks of each other, each property being held by a different LLC. The properties are 335 and 337 State St. (one building with two separate entries) and 243 State St. These are abutting, historical brick properties, 243 being on the corner of State and Cumberland Ave. and 235/237 being the next one up the street. Next are 38 Deering St. and 40 Deering St., abutting properties.

When he first purchase 38 Deering many months ago, he told Marge that he planned to live there. (He still lives in CE). Then he bought the house next door at 40 Deering St., and we all wonder whether he's planning to live there as well. His other purchase is the frame house on the corner of Cumberland Ave and Mellen St. It abuts Serenity House, yet another rehab that has been in existence for a long time. Everyone in the immediate neighborhood is greatly concerned with what is happening here. I personally am very much in favor of recovery efforts and rehabs in general. However, this planned CONCENTRATION of alcoholics and drug addicts is both a threat to threat to the neighborhood and against the zoning ordinance which states that there can be such uses cannot be located within 500 feet of another. 243 State, 38 Deering and 40 Deering are all well within 500 feet of the existing rehab (Foundation House) located at 235/237 State. The neighbors are organizing. We want enforcement.

46-A-1

46-A-1
 8 legal
 DU.
 PRKAZ
 LLC
 owner

--

Best Wishes,
Dave Marshall

David A. Marshall
Portland City Councilor Fine Artist
207.409.6617 DAMFineArt.com
Constellation Gallery 511 Congress St, Portland, ME

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Best Wishes,
Dave Marshall

David A. Marshall
Portland City Councilor Fine Artist
207.409.6617 DAMFineArt.com
Constellation Gallery 511 Congress St, Portland, ME

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Marge Schmuckal - Determination concerning Foundation House

From: Marge Schmuckal
To: Anne Pringle; Keri Lord; Tony Holt
Date: 10/19/2012 2:13 PM
Subject: Determination concerning Foundation House
Attachments: foundation house memo.doc

I have just made a determination concerning Foundation House and its use. I am attaching a copy of that determination letter.

Feel free to contact me with any questions 874-8695.

Marge

Marge Schmuckal - the Foundation properties on Deering Street

From: Marge Schmuckal
To: ALEX JAEGERMAN
Date: 10/2/2012 10:48 AM
Subject: the Foundation properties on Deering Street
CC: Danielle West-Chuhta

Alex,

I have finally been able to set a time and date for a sit-down discussion with Patrick Babcock concerning his properties. Are you available Wednesday October 17th at 11:00? It would be in my office unless we can get the 4th floor conference room.

I did have a 15-20 minute conversation on the phone with him. He has rented space in the State Theater building on the 3rd floor where he hold meetings. His "official" meetings with his clients are held there, not in any of the buildings. But he is willing to sit down and talk about his properties again. I am hoping you can join me.

thank you,

Marge

From: Keri <klord7@maine.rr.com>
To: MES@portlandmaine.gov
Date: 9/11/2012 2:28 PM
Subject: Re: 10 Mellen St - Foundation House

interesting..... thanks Marge

T-Mobile, America's First Nationwide 4G Network
Sent by Samsung Mobile

Marge Schmuckal <MES@portlandmaine.gov> wrote:

>Hi Keri,
>I have other information. I have met with the potential purchaser on 8/21/2012. His name is Tyler Brinkman. He seemed really anxious to purchase the property. Of course, there may be a change in who actually purchased the property. No one has to check-in with the City prior to purchasing any property.
>Marge
>
>>>> <klord7@maine.rr.com> 9/11/2012 1:01 PM >>>
>Hi
>
>Have had a call from a neighbor on Congress St thinks that Foundation House has 10 Mellen St under contract....
>
>Keri Lord

Marge Schmuckal - 38 and 40 Deering St.

From: Tony Holt <tonyholt.maine@gmail.com>
To: MES@portlandmaine.gov
Date: 3/29/2012 1:45 PM
Subject: 38 and 40 Deering St.

Good Afternoon, Marge,
38 Deering St.(47-C-17) is owned by LCB38, LLC;
40 Deering St. (47-C-16) is owned by BWB40, LLC.
Both have the same address, P.O. Box 6279, Cape Elizabeth
Thanks for your time this morning,

--
TONY HOLT