

## PLANNING BOARD MEETING MINUTES

Minutes of the Augusta Planning Board meeting held on August 23, 2016

Board members present: Justin Poirier, Alison Nichols, Steve Dumont, Pete Pare, Delaine Nye, Bill McKenna, Corey Vose, Tom Connors, Dorean Maines

Board members absent: None

City staff present: Matt Nazar, Betsy Poulin

Guests present: Dan Cummings, Joseph Riddick, Robin Miller, Brad Sawyer, Rev. Erik Karas, Rev. Rebecca Grant, Connie McDonald, Ed Hastings, Dan Stevens, Anne Sites, W. Parsums, Linda Conti, Monica Castellanos, Eileen Wilkins, Dale McCormick, Richard H. Freeman, Patrick Wallace, Paula Wallace, Maryann Griffin, Charles McGillicuddy, Cheryl Clukey, Kari Johnson, Mayor Dave Rollins, Stephen Graham.

**Public Meeting: Proposed Land Use Ordinance revisions per City Council request. Meeting topics include definitions and Land Use Chart revisions for group homes, boarding homes, rooming houses, homeless shelters and sober homes.**

Justin: This is a Public Meeting, different format than a public hearing. No vote will be taken.

Matt: Signs were distributed about the West Side Neighborhood, legal ads placed in the newspaper, direct mailing to residents in the West Side Neighborhood and a local meeting was held. Matt stepped through the memo presented to the Planning Board and posted on the website. This issue has come up due to a variety of things over the past 6 months. The Board of Zoning Appeals (BZA) overturned the Code Officer's decision of the Betsy Ann Ross House being a Rooming House, which is not allowed in the zone. The BZA decided that the Betsy Ann Ross House was a Boarding Home instead; a use which is not defined in the Land Use Ordinance. A few other items have surfaced in the last few months, including the future use of the St. Mark's property, which is in the RB2 Zoning District. RB2 has a very limited set of uses allowed, including Religious Activities and Associated Uses, which is where St. Mark's property currently falls. If the property is no longer used for religious uses, some of the uses currently affiliated with the property, will not be allowed. There has been some question about the intensity of a use on the church property, and whether that is an associated use or a second primary use which does not fit under the zoning. Meetings at the church facilities could become something to consider, whether they be one hour or 30 hours a week.

A handout has been provided to the Board, A Guide to Religious Land Use Protections from the US Department of Justice.

The current definitions in the ordinance have been provided. There is no definition of Boarding Home, the Planning Board should definitely consider how to address this item as a recommendation to City Council.

The state statute for Community Living Arrangements limits how the City can review these properties. Consideration of matching the state language with the Land Use Ordinance definitions should be thought through. This is a housing facility for 8 or fewer individuals, licensed by the state (see the definition in the packet). Any place where a single family home is allowed, a Community Living Arrangement must be allowed. The Planning Board cannot make a recommendation that is in opposition to state statute.

The next handout to discuss is an excerpt from the Comprehensive Plan, which includes different boundaries for the West Side Residential area. (Matt reads from the comprehensive plan excerpts provided to the Planning Board).

A handout about the Fair Housing Act is summarized.

Peter: Please define the state statute about 8 or fewer persons.

Matt: Community Living Arrangements definition is re-read.

Peter: A single family home with 8 disabled individuals living together would be allowed?

Matt: Yes, if it is licensed through the state as a "Group Home".

Peter: Definition of Group Home and Boarding Home in ordinance, how do other municipalities deal with this?

Matt: There could be separate definitions, or Boarding Home and Rooming House can be grouped together, there are many different ways it has been treated.

Delaine: Community Living Arrangement, what constitutes a disability? Are felons considered individuals with disabilities?

Matt: The state definition refers to federal law. He can get this definition for the Board.

Delaine: This is a moratorium for RB1 and BP zoning districts, a greater area than the west side.

Matt: Yes, any ordinance change will affect the entire city.

Alison: Read federal definition of disabilities/handicap from handout. The definition is more comprehensive than she expected.

Eric Harris, priest in charge of St Mark's. The church has been in existence for 175 years. St. Mark's will be in existence until it is decommissioned by the deacon. He heard that people holding governmental offices have told potential users of the property that they should look for another place to operate. He sees that the Planning Board has hard work to do. More than one of the bidders was told what would or would not be allowed on the property. Feels letting the bidders know there was a moratorium would have been enough. Some of the neighbors on the hill have been called a pox, a disease, due to their situation. 140 years ago, the leaders knew having the poor among them would be beneficial. St. Mark's home was placed right in the middle of the neighborhood. Concerned with the perception of trying to cure a disease at the St. Mark's property. Many others in the interfaith community will be following the process and praying for the Planning Board.

Ed Hastings, 10 Sewall Street. Resident for over 20 years. St Mark's is leaving the neighborhood. Indigent vs. transient definition. A shelter which turns out guests on a daily basis should not be allowed. When the church provides a soup kitchen once a month, it is a service. A daily meal is a new use. The introduction of a transient population into a stable neighborhood should not be an option. Feels safe walking in the neighborhood today.

Joseph Riddick. Resident of the West Side Neighborhood and Senior Warden, senior lay leader of the church. Concerned with the task of the Planning Board. Sees the scope has expanded from the City Council charge. Group Homes and Rooming Houses are defined. Notes the mayor's opinion piece in the Kennebec Journal. Has reviewed the minutes, from August 9<sup>th</sup>, which mention St. Mark's. Feels this discussion is about St. Mark's. They are a church in good standing. Heard this summer that a councilor said the church was no longer in existence, which was false. The City has not met with St. Mark's to discuss what uses are allowed. Disagrees with Mr. Nazar about what religious activities are allowed. Feels the City has done wrong. Hopes the Planning Board will not do the same. The St. Mark's home is in state statute to operate for men and women in the State. It has a consecrated chapel. An RFP has gone out for St. Mark's Home. Heard that the City went to a potential vendor to let them know they would not be qualified to use the property, even when the City had an application in to use the home. When each bidder met with the City, they were told they could not do what they wanted to do. A church applied, and was told they could not function as a church on the property. This summer, the City lowered Pleasant Street. They used the St. Mark's property for parking, removed historic trees, and blocked parking. St. Marks was told this never happens. An agreement was reached during construction, and the work to be completed on the St. Mark's property has not been completed. Every religious leader in the city should be concerned about the actions of the City. At the last City Council meeting, members of St. Mark's congregation wanted to speak, but felt they couldn't have a voice. St. Mark's has been an active member of the community since 1840. Feels the Planning Board has a difficult task. St. Mark's will continue to monitor the Planning Board and City as they move forward.

Charles Vose McGillicuddy, President of the Board of the Betsy Ann Ross House of Hope. A definition of Boarding Home in the life safety code was used. Feels the Board of Zoning Appeals made the right decision overturning the permit denial. Restrictive covenants existed in the 1950's, which were struck down, but are still in effect. Heard a resident felt the House is a good idea, but not in that location. It is being rehabilitated currently, will get a new coat of paint. It is close to many amenities for the residents. Grants are being sought for the House, and they have a better chance receive funds due to the close proximity to services and amenities. Hopes to expand the program. Hopes the house will provide a real service for the city, with residents becoming employed, volunteering, etc. Perhaps the House is under the wire with getting a building permit prior to the moratorium. Hopes they can continue to go forward. Transitional housing is a new animal, so it is not in the code.

Richard Freeman, 9 Elm Street. Neighbor to the Betsy Ann Ross House of Hope. Shares his entire backyard with them. Has many members of his family who were members of St. Marks. Feels it is an archaeological treasure. Hopes the Planning Board can encourage the uses on the property.

Dan Cummings, owns 3 buildings on Sewall Street. Has lived in the neighborhood since 1986. Invested in this neighborhood because it is residential, and says such in zoning. Changing the use will not change the fact that poor people live in the neighborhood. The question is whether social service uses allowed, which is different than residential use. He rents places that are clean and safe. Augusta has a transient population. Feels this decision is not just about St. Mark's.

There are other groups who would like these uses in the city. Feels the economics of less costly housing could affect rental properties.

Maryanne Griffin, 77 Bridge Street. Moved into the neighborhood a few years ago, because it is in a historic district. Sees people waiting for services who are drinking dunkin donuts and smoking cigarettes, spending money they don't have. She picks up hypodermic needles in her yard, her neighbor can't sit on her front steps because she has seen transients urinating there. Doesn't feel safe. Worried about her property values plummeting, especially after she has made a large investment to improve her property.

Cheryl Clukey, lives in the West Side Neighborhood. Applauds the Planning Board for taking this on. Works at St. Mark's monthly. Takes offense about hearing the transients called a pox. There are 5 group homes in her 3 block neighborhood. Supports the group homes, but feels a homeless shelter is not properly situated in this neighborhood. Takes offense about hearing that residents in the neighborhood can't have an opinion. It is a mixed neighborhood. She has done a lot of work for the parks in Augusta. Doesn't feel the neighborhood is trying to stop St. Mark's, but does not want a homeless shelter because they are a transient population. St. Mark's has always had a mission to help indigent people, but times have changed. There isn't the same respect from this population today.

Dale McCormick. City Council at Large. Lives in the West Side Neighborhood. Doesn't envy the Planning Board, or the City Council for that matter. It is hard to have the right tools. Section 8 housing vouchers; there should be 4 times as many of these provided. This is probably the root of the problem. Our neighborhood is at a tipping point and there are no laws to deal with this. As Matt says, there are existing laws in place, which have to be followed. Isn't sure the Planning Board can help with the tipping point. Turning residents out of homeless shelters is what causes problems. No shelters in the county do this. 1/3 of the Maine State Housing Authority funding went to homeless people, when she was head of the authority. This money only provides 1/4 of their funding needs. Wishes the Planning Board a wise decision. Wishes this country had stepped up and given Augusta more tools.

Kari Johnson, resident on Water Street. Serves the Unitarian Universalist Church on Winthrop Street. Serves on the Board for a downtown renovation project. Speaks solely as a resident of the City of Augusta. Wants to speak to the larger issue about how the community cares for each other. Hears many views about the homeless shelter and where it should be located. Hopes the community can think about and answer the question about how we can care for each other. Wants to create solutions, not more problems.

Dave Rollins, Mayor of the City lives on Ganneston Drive in Augusta. Was home watching the meeting. Surprised at the tone, about the City scheming against one entity. He is here as the mayor for the greater good for all of us. To suggest that such a complicated issue is a scheme of the City is very insulting. Feels the Planning Board has a tough job, and that the City Council will have a tough job as well. Wants all sides to view each other's opinions with respect. Wants to talk about the accusation about expanding the scope. Feels it is the Planning Board's duty to expand the scope and review these items in regards to the Comprehensive Plan. Our zoning regulations must flow from the Comprehensive Plan, that is State Law, not just guidance. Your

job is to use the Comprehensive Plan to help make recommendations. It was created in 2007, way before St. Mark's came up for sale.

Pete: Feels the Planning Board does have a hard task. He is concerned about a specific comment that a Councilor, maybe the mayor's office, had input about the uses at St. Mark's. He was concerned to hear that maybe a decision had been made already by City Council.

Dave Rollins: Had a meeting with the Bread of Life and multiple others, which is where the comments heard came from.

Ann Sites, lives on Green Street and on the West Side Neighborhood Association. Wants to consider the definitions. The state licensing will help keep an eye on these uses. RB2 is densely populated, and the comprehensive plan should be reviewed as part of the Planning Board's decision.

Stephen Graham, lives on State Street. The JW Ellis Building is where he lives. If someone walks by his building, it looks like a nice historic building. It is an apartment of poor people living in a few rooms trying to get by. He is technically disabled, but he works, it is difficult blue collar work, technically so because he works at Wal-Mart. He is not smoking or drinking starbucks. He imagines the inability to pay, concerns about eating, concerns about paying for health care are what can make the poor unhappy. Sorry the poor are rude sometimes, but they are fighting a tough battle. In a perfect world St. Mark's wouldn't be sold.

Eileen Wilkins, lives in the West Side Neighborhood. Goes to the library all the time. Have there been adverse effects of having boarding or group/homes in the neighborhood? Feels it is answered, and that they are not an issue. Is people urinating on properties more common than dog walkers leaving a mess in someone's yard? More rooming houses are needed, not everyone can afford an apartment. How do we define a non-profit organization sponsored by religious organization? Would its services be considered a religious ministry or not?

Linda Conti, resident of 21 Spring Street. Apartments are allowed in the zone, this is not an issue. Deception that is being played on you that certain things can't be done there. Social Services are not allowed in that zone, currently. Uses associated with religious use are allowed. St. Mark's has operated the food bank and warming center because they are affiliated with St. Mark's. If a church is not being operated, social services are not allowed. To the extent that the City looks like they are picking on someone by religion, it is not the case. If a church were to operate on the property, at what point is an affiliated use overstepping the definition? Residential uses are allowed in the zone. Apartments can be allowed. The density is looked at this point. What kind of residential would be allowed? If there was parking for the food bank, many concerns would have been eliminated. The intensity and kinds of uses are the question. How is the change in use incorporated? It is a sad thing for the neighborhood that the church use looks to be coming to an end. Doesn't want a burden to be placed on the existing neighbors. If social services were to be allowed in the neighborhood, it would require a zone change. Wants the density of housing to not change, and to have social services not allowed.

Public Comment Period Closed. Planning Board Discussion Begins.

Corey: When we have a public hearing, can the City Council make a decision without the Planning Board's decision?

Matt: A recommendation has to be made by the Planning Board in regards to Land Use Ordinance issues. The City Council may not follow this recommendation.

Corey: Feels the Board should remember that this will impact the entire city.

Matt: Any changes to definitions or to the land use table, will have a wider impact than just the West Side neighborhood. Definitions are not adequate for situations coming up for review today. These definitions have existed for the last 10 years, and have not had much need for review.

Justin: The Board should give staff some clarity.

Matt: Yes, staff would like clarity. If you want to meet September 13<sup>th</sup>, I can draft some language for review. If you want a workshop at that meeting, you can have one. Feels staff has not treated anyone incorrectly. Feels the statements against him are unfounded, and feels the attacks on his character are unfounded. He will provide materials with no bias religiously or for the neighborhood. It is outside of his character to do that. Anything from him will be done with full respect and understanding for what the law allows and it will be passed before Corporation Council. It won't be possible to make everyone happy.

Justin: Feels Matt always acts professionally.

Delaine: Did not appreciate the adversarial start to the meeting. Felt personally attacked. Did not appreciate Matt being attacked. Proud that Mayor Rollins came tonight, right on with his comments. Right on for the Comments from Linda Conti. Thank you for Eileen Wilkins and Steve Graham's comments.

Alison: Social services are not allowed in that zone. Reads definition of social services.

Justin: We still need to give Matt some direction.

Alison: Might be good to combine some uses in definitions.

Matt: Boarding Houses and Rooming Houses are essentially identical, except with respect to food. As time has changed, these definitions have merged closer over time.

Alison: Feels merging these definitions is good.

Corey: Feels separate definitions are better. To catch everything. Wants to provide the most information possible to the Council.

Delaine: Would like to see separate definitions. There is a separate definition for a tourist home. Feels they need to work hard for a definition of a homeless shelter, and this is where a lot of

difficulty is coming from right now. And need to talk about what zones a homeless shelter would be allowed in. Of course, religion and federal laws need to be considered. Feels sober homes could be discussed at another time.

Justin: Would food be pulled out of a definition?

Matt: Can provide a few definitions. Looking at a workshop for the next meeting based on conversations by the board.

Alison: Where would a sober house be categorized under current definitions?

Matt: It would be a rooming house most likely.

Justin: Matt, could you provide information about sober homes?

Matt: Yes.

Tom: Does it matter who operates these places?

Matt: It would be good to hear from Corporation Council on this and other matters.

Justin: Reads letter from Lance & Peggy Tapley.

Delaine: Was doing some research on definitions and came across an article on the internet. Copies are available from Matt. Reads the title: "Bring Back Flophouses, Rooming Houses and Micro Apartments".

Justin: Matt, do you have the information needed?

Matt: Yes, there will be a workshop. Where should this item be placed on the agenda? Betsy, what is the agenda?

Betsy: Notes potential agenda.

Delaine: Feels time should be spend on this item.

Matt: Could have a separate meeting as a workshop.

Corey: Could keep the workshop discussion on September 13<sup>th</sup>, and have a public hearing on September 27<sup>th</sup>.

Matt: Material can be available on September 14<sup>th</sup> or 15<sup>th</sup>.

Alison: Sees Religious Activities and Associated Uses as an item to discuss.

Matt: Can provide more information after speaking with City Council.

Alison: The schedule in November should be discussed.

Tuesday November 8<sup>th</sup> is election day, should it be rescheduled to the 15<sup>th</sup> or the 9<sup>th</sup>?  
Have a second meeting reserved for November 29<sup>th</sup>.

Meetings scheduled for November 15<sup>th</sup> and November 29<sup>th</sup>.

Welcome to Doreen Maines, our new Planning Board Member!

Motion by Alison to accept the minutes as written.

Seconded by Steve.

Vote: 8:0. All in Favor. Motion passes.

### **Adjourn**

Motion Tom to adjourn at 9:25 pm.

Seconded by Delaine.

Further Discussion. None.

Vote: 8:0. All in Favor. Motion Passed.

Minutes by Betsy Poulin, Assistant Planner.