

CITY OF OSWEGO

PLANNING BOARD

January 5, 2021

MEMBERS PRESENT: Cory Moshier, Kim McPherson, Jeffrey Hinderliter, James Scanlon, Daniel Breitweg, and Chairman Freeman.

MEMBERS ABSENT: Brit Hallenbeck.

Chairman Freeman called the meeting to order at 6:30 p.m., Tuesday January 5, 2020. Roll call was duly noted.

A motion to approve the minutes of the November 2020 meeting was made by Cory Moshier and seconded by James Scanlon; minutes unanimously approved.

Chairman Freeman made a motion that all actions taken tonight are excluded, exempt or Type II actions for the purpose of the State Environmental Quality Review Law unless otherwise stated. Motion seconded by Cory Moshier, unanimous approval.

OLD BUSINESS:

- A. Site Plan Discussion – 300 & 400 Kocher Road & 1050 Rear East Seneca Street, Case 20-126; to allow for the construction of a ground mounted solar facility, Section 280-35 thru 280-37.

DISCUSSION: John Switzer was present for the discussion. Mr. Switzer said this is their third solar project within the County of Oswego. He said these are single access trackers and this is the newest technology in solar. He said in the old days they would have the solar panels face south. He said now they have the trackers so they actually track the sun east and west. He said they have a security fence that surrounds both solar arrays. He said it is actually one solar array but two different areas because there are two different plots of land and they wanted to make sure they abided by all the setbacks required by the city. He said there are tree plantings all the way around anywhere there isn't natural vegetative growth. He said they are planning on installing spruce trees and they are planning on two rows because they want to make sure no one can see the facility. He said this is a 4½ megawatt project. He said they received the study back from National Grid and they have given them a number 2 interconnectivity facility so they are a full go with the utility company. He said the DEC mentioned a 100' setback required for any state wetlands. He said they are adhering to those setbacks. Mr. Caraccioli said Kim McPherson is on the speaker phone. Jeffrey Hinderliter said Region 7 Water sent a reply on their review. He said they made comment about an internal policy regarding storm water runoff. He asked if they have implemented what the letter requested. Mr. Switzer said their site plan is already in conformance and their SWPPP is also in compliance. He said they specifically mentioned the southern boundary and said they weren't 100% sure it was jurisdictional but they didn't want to take that chance so they made sure they had 100'. Mr. Caraccioli said the letter from the DEC was issued a week ago. He said it stated they need to conduct a site visit. He asked if anyone has been contacted to set up that visit. Mr. Switzer said the DEC said they need to come out when the snow melts. He said what they have done previously is condition the permit on whatever DEC ultimately determines. Mr. Caraccioli said there isn't much snow on the ground now. He said the other issue the DEC letter dealt with is threatening an endangered species and there were no findings on the site. Jeffrey Hinderliter asked if any of the recommendations for slopes greater than 5% were incorporated on the site. Curt Nichols said they haven't incorporated the 5% rule yet because he isn't sure they have any substantial slopes greater than 5% on the site. He said that guidance has been around for a few years. He said the only place they have considered any slopes that are steep at all was when they were doing the far western side and that fell out so it is no longer involved. Jeffrey Hinderliter said there is no plan, intention, or desire to put an energy storage system. Mr. Switzer said at this time there is no desire. He said if that ever happened they would have to come back. Jeffrey Hinderliter said if they go to approval, he will make that part of the approval that they are not allowed and that it would trigger another Planning Board action as if it is a new site plan. He said there is a need for a decommissioning plan. He asked what the status is on that. Mr. Switzer said he worked with this IDA two times before and they would do the same decommissioning plan that they did the other two times. He said for every two megawatts NYSERDA recommends \$98,000. He said they are at 4½ so that would be \$225,000

bond. Jeffrey Hinderliter said they haven't seen anything formal yet on that. Mr. Caraccioli said they haven't seen it yet. He said they are nearing completion but they still have to have a public hearing on this proposal. He said the IDA requires the decommissioning plan but leaves it to the company and the jurisdiction to work out the particulars. Jeffrey Hinderliter said he would be hesitant for the Planning Board to pursue any motion until they had that in front of them. He said the County letter states they will need a highway work permit. He said the County had recommendations that should be addressed also. Mr. Switzer said they have already secured the highway permit. Jeffrey Hinderliter asked what measures they have taken to help implement and maintain native vegetation. Mr. Switzer said the reason they like to institute spruce is because they grow very well in the soil here. He said they want things that will grow quickly. He said other than what they noted on their Environmental Assessment Form and SWPPP they are not going to be doing any disturbance. He said they will go out there once a quarter and mow. Jeff McGann said they don't have the DEC total answer here and they have to do a site visit. He said if what the DEC says changes the site plan, are they willing to review this and make a decision based on that and if the site plan changes they will have to come back. He asked at what point they require all of this stuff to be in place before they make a decision or are they going to make a decision multiple times. Jeffrey Hinderliter asked what it will change. Mr. Switzer said he thinks nothing. Jeffrey Hinderliter asked if they are coming to confirm their delineation is accurate. Mr. Switzer said yes. He said maybe they will move a flag a foot here or there but he would be surprised if anything changes. He said how they have done this previously is condition the permit on DEC's ultimate jurisdictional determination. He said the NY-Sun program is a melting ice cube. He said the incentives are getting less and less. He said it is important to get this project moving in order for them to get into the program. He said as a developer he is getting his hands tied a little bit by saying he agrees to condition the permit on what DEC says because if DEC wallops them with saying it is all wetlands he is putting his project in jeopardy because he doesn't get a chance to come back and say he doesn't agree. He said in order to get into this program they are willing to condition the permit on DEC's ultimate determination. Jeffrey Hinderliter said the potential impact of the DEC determination is a reduction in the size of the solar arrays. He said what they are seeing is the maximum impact. He said if the DEC comes back with a different delineation then they could see the number of panels decrease. Mr. Switzer said what they are looking at here is their maximum impact plan. Mr. Caraccioli said they have a connectivity study and analysis by National Grid that allows for this size connection. Mr. Switzer said yes. Mr. Caraccioli said they may be able to reach out to the DEC to get the site visit sooner than later. Jeffrey Hinderliter said if the site revision is a reduction he assumes they can approve this maximum layout with a possible reduction without having to have a second approval. Mr. Caraccioli said for the project in Scriba there were issues with respect to the solar panels and their proximity to certain residential neighbors. He said there was a wetland issue as well and they had to reconfigure the solar panels. He said they moved them further away from the residential neighbors which satisfied their concerns and made the project better. He said he is willing to keep an open mind in recommending the conditioned approval. He said they haven't heard from neighbors yet. Jeff McGann said the public was notified. Jeffrey Hinderliter asked about the panels and their ability to be recycled. He asked about the environmental risks of the panels. He said concerns he has heard are what happens in 50 years and are solar fields going to become the

next brownfield cleanup that taxpayers have to deal with. Mr. Switzer said one of the reasons he got into this business is because renewable energy is a positive. He said when they leave this site it will be in as good of shape or better. He said that is not only a requirement pursuant to his agreement with the town but also a requirement pursuant to his lease agreement. He said they are in the land conservation business. He said there are two equipment pads that are 20x40 but other than that all this stuff is just pulled out of the ground. He said in 25-35 years when they are gone there will be a nice piece of land there. Kim McPherson said the decommissioning plan will be forthcoming. Mr. Caraccioli said the decommissioning plan is a component of the approval process. Mr. Switzer said they will have it to them first thing in the morning. Jeffrey Hinderliter asked Mr. Caraccioli if he feels they are prepared for a vote. Mr. Caraccioli said a vote that makes approval contingent on the various items outlined in the DEC and the County's proposal would be necessary. He said that would include the wetland delineation and confirmation, the SWPPP, the decommissioning plan, the highway permit, and no energy storage system would be allowed as part of this site plan approval.

DECISION: Daniel Breitweg made a motion for site plan approval with the following conditions: developer supplies them with a decommissioning plan, there will be no energy storage, the DEC inspection issues designated in the letter are taken care of, the items the County has raised are taken care of, and they have a copy of the highway plan. Motion seconded by James Scanlon, unanimous approval.

NEW BUSINESS:

1. Site Plan Review & Approval – 364A Walnut Street, Case 21-01; to allow for the Pipeline 55/51 Project together with new fencing, Section 280-35 thru 280-37.

DISCUSSION: Stan Falise, representing National Grid, was present for the discussion. Mr. Falise said Pipeline 51 originates at Kingdom Road. He said it was originally put in to feed Alcan Aluminum. He said when the Steam Plant converted to natural gas they installed Pipeline 55. He said 51 and 55 interconnect in Walnut Street. He said since then the federal government has required utilities to provide inspection for these different pipelines. He said because of the connection that is there now, they cannot inspect 51 and 55. He said the plan is to break the two pipelines apart, rebuild them in a configuration that will let the pig flow from Kingdom Road to Walnut Street. He said that portion of the project was completed last year. He said they will break those apart which will allow for the pig to be shot from the 51/55 interconnect over to the Steam Station. He said they will also install a new higher security 8' high fence. He said this isn't just happening here. He said it is happening throughout National Grid's territories. Jeffrey Hinderliter said they have talked about this site numerous times. He said the current site plan does not reflect what they have discussed in the past for this site. He said they have expressed concern about sending any drainage down Walnut Street. He said he believes they had come to the agreement that a drainage swale and drainage would be directed the other direction away from the Walnut Street drainage system because it is already inundated. He said on this plan they are installing a culvert pipe that is going to take that drainage and outlet it into an unimproved swale that goes down that edge of Walnut Street. He asked what changed between the field meetings and this plan. Mr. Falise said the current plan should put no more flow down Walnut Street than goes there today. He said the majority of the flow is going to go in the opposite direction. He said the plan is to take the majority of the water and take it the opposite direction. He said there will be less water going down the Walnut Street direction than there is today. Jeffrey Hinderliter said he doesn't see any alternative drainage. He said the concern is not necessarily the amount of water that would have sheet flowed there before; he said it is that they are concentrating it. He said they are now putting it into a pipe and the pipe is discharging into the unimproved ditch. He said they discussed before that if water was going to be sent that way they would need more information from National Grid to do an analysis to show how much water they are sending that way, how it impacts the drainage system beneath it to ensure that it doesn't overwhelm it. He said if it does overwhelm it, National Grid will need to install detainment to equalize the higher flow with a longer time. Mr. Falise said he is looking for the history that Stantec put into this to determine what direction the flow is going. Jeffrey Hinderliter said the last conversation he had with them was that they were going to send the flow the other direction and check dams and swales would be installed to get it to flow naturally down to the wetlands. He said he doesn't see any of those swales on there. He said the plan is not what was discussed. He said he would like a follow up conversation with Stantec. He said the city has its own drainage issues that they have to look at but they can't allow a project to make it worse. He said the fence is a no brainer because these sites need to be secure. Mr. Falise said he will set up a call to discuss this. Mr. Caraccioli said what Jeffrey Hinderliter is saying is if there were a site plan approval it

should be conditioned upon a drainage detention proposal that is acceptable to the city engineer. Jeffrey Hinderliter said yes. Mr. Caraccioli said except for the drainage containment proposal Jeffrey Hinderliter is finding this plan acceptable and even with respect to the drainage containment proposal he is finding ways that can be worked out. Jeffrey Hinderliter said yes. He said he is confident they can work something out. Jeff McGann said he would recommend they take a vote with contingencies. Chairman Freeman asked if this proposal includes the under river piping. Mr. Falise said no. He said it is completely separate. Chairman Freeman asked what were the two sites that National Grid put in by the Paloma Street substation and the one on Hillside Ave. Mr. Falise said they are all part of the same project. He said they will put the pig in at the Walnut Street 51/55 interconnect. He said it is battery powered. He said it can go 2,500' and then it runs out of battery. He said on the east side of the river there will be a charging port and then on the other side there will be a charging port. He said they have already put five in. He said the pig travels 2,500' and runs out of power. He said they stop it in that vault, hook a generator to it, recharge it, and send it another 2,500'. Chairman Freeman asked if they will be coming back to the Planning Board at some point for the under river crossing. Mr. Falise said yes.

DECISION: Jeffrey Hinderliter made a motion for site plan approval with the condition that the drainage is approved by the city engineer. Motion seconded by Cory Moshier, unanimous approval.

2. Advisory to the ZBA – Area Variance – 364A Walnut Street, Case 21-02; to allow for the construction of an eight foot (8') high fence, Section 280-78(A).

DECISION: Jeffrey Hinderliter made a motion for site plan approval. Motion seconded by James Scanlon, unanimous approval.

3. Site Plan Review & Approval – 249 West First Street, Case 21-03; to allow for the renovation of the existing YMCA into a mixed-use building, Section 280-35 thru 280-37.

DISCUSSION: Anthony Pauldine was present for the discussion. Mr. Caraccioli said Kim McPherson had to step away for a minute. Jeff McGann said they have a copy of an authorization form because Anthony Pauldine is the contract purchaser of the property. He said the YMCA is the current owner. He said Kerri Webb, the director, did an authorization for Anthony Pauldine to speak. He said they should also have the feedback from the County concerning the parking plan. He said he doesn't know if the County got the parking plan sent to them because the comments say there needs to be a detailed parking plan which there is. He said to give a little background on the renovation of the YMCA; the bottom floor will be commercial with residential units above so it is a mixed use. He said they are not only adding the new units where the existing pool is now but they are also straightening out the special permit to reflect mixed use. Jeffrey Hinderliter said Kim McPherson is ready again. Mr. Caraccioli said he was asked by Ms. Webb to draft the contract for the purchase of the property in his capacity as a private attorney. He said he doesn't believe there is any conflict in that regard. He said Cory Moshier has recused himself because he works with Anthony Pauldine and would be directly benefitted should this project be approved. He said, as far as the County and the parking plan, he thinks that is easily corrected by just submitting the parking plan. Jeff McGann said that Anthony Pauldine already had approval for the old Y that he currently owns. He said what they are talking about is the old Y pool that is connected to his building but is currently on the tax map with the new Y at the Armory. He said that will be split to put the pool on with the old Y that Anthony Pauldine owns. He said that will be merged into the existing tax map number that Anthony Pauldine currently has. Mr. Caraccioli said the pool building is not going to remain a pool. Anthony Pauldine said that is correct. He said about three years ago they purchased the Y. He said the YMCA put together a drive for a connecting corridor to the pool. He said they didn't want to sell the pool originally so they separated it with a boundary line. He said then they found out from National Grid that they could not do the connecting corridor without a huge expense because of electrical access that was behind the two buildings with a pole that was only reached between the buildings. He said it held their project up because they couldn't answer the question of whether the power was going to come in the front of the building or the back of the building. He said if the Y did the connecting corridor they had to change all of their power to the front of the building. He said National Grid said the Y would have to pay for that. He said the Y couldn't commit to that so they were in a state of limbo for a long period of time. He said COVID exacerbated the issue. He said at this point the YMCA has made the determination that they will not be able to do the connecting corridor and was willing to sell the building. He said he has no desire to run a pool. He said they are planning on six townhouse type structures in that building. He said the deep end of the pool will be part of the basement. He said when they bought the yellow building; part of their sales agreement was to give to the YMCA eight parking spaces assuming that they were going to use the pool someday. He said part of this new purchase offer is they are relinquishing those eight parking spaces back to them and will no longer have the usage of those. He said he thinks it is a moot point because the parking lot is huge and the parking plan would suffice but this was a way to clean it up and help the Y financially. Mr. Caraccioli asked if the eight parking spaces were to

the north of the yellow building. Anthony Pauldine said they weren't delineated at the time. He said it was something they were going to figure out later. He said the parcel that the pool sits on is 50' deep and the building is 46'. He said it doesn't have a single parking space. He said without the connecting corridor the Y can't use the building. He said he is the only other person that can put the building to use. He said the means of egress into the building are already defined in their building to get to the pool because that is the way it was originally. He said there is an emergency exit on the rear of the building onto the riverbank. He said this is a nice clean way to take care of the building. James Scanlon asked if they will be able to use the back at all. Anthony Pauldine said no because there is such a steep drop off. Mr. Caraccioli said the parking area that is adjacent and south of the pool building will be the YMCA property. Anthony Pauldine said yes. He said where the blacktop starts is all the Armory property. Jeffrey Hinderliter said one of the comments by the County was delineation of parking spaces. He said a concern he has is they have the entry and there are 12 parking spaces along that. He said if those are perpendicular spots it is going to be tight getting a car in and out of there. He said if a fire truck pulls in there are they going to have to jockey around a car. He said in his mind he is able to look at the numbers and fit it but the plan doesn't necessarily show that. He said his concern with the parking plan shown is he doesn't see any delineation. He asked if they intend on parking perpendicular to that side facing the Pontiac parking. Anthony Pauldine said that would probably be changing. He said it has been a long time since he looked at the parking plan. He said when they submitted that and got the approval then they did the apron and slightly widened it out so there is enough room for cars to pull in and out at the same time. He said if they can't park there then that might be part of the roadway and it also gives them a place to put snow. Mr. Caraccioli asked if it is one entry one exit. Anthony Pauldine said there is an opportunity for two. He said there are two aprons. He said one is up close to the building. He said it was so close that he wasn't comfortable with finishing off the apron in between so there is a small four foot grass verge. He said if a parking design would be better for flow in and out then that is a possibility. He said he would be happy to work with them. He said fortunately there is a lot more parking than is required. Jeffrey Hinderliter said the County's other concern is per their ordinance 10% of the total off-street parking area shall be landscaped according to landscaping plan. He said this is an existing lot so what effect does that have on the County's recommendation. Jeff McGann said he thinks the fact that it is a pre-existing lot and the fact that it is in the traditional downtown plays into the fact. He said they are dealing with a minimal amount of green space. He said there is green space between the sidewalk and the road. Anthony Pauldine said the old parking lot blacktop went right up to the sidewalk. He said they weren't comfortable with cars hanging over the sidewalk so they shortened it and seeded it. Mr. Caraccioli said it is better than it was. Jeffrey Hinderliter said if they are dealing with an existing parking lot he thinks there is a certain measure where it is grandfathered. He said he isn't sure they need to address the County's comment in the approval. Mr. Caraccioli said if they determine it is a non-conforming use then it is somewhat moot. He asked if there is any consideration to creating some type of island. Anthony Pauldine said he would like not to be locked into that because it is existing. He said the way the drainage was designed is it comes off of the building and is shallow. He said they left it that way so the runoff is slow and everything pitches to the center. He said it is the same exact area that was there before. He said it is actually a lesser area than was there. Jeff McGann said in this case he thinks it would

also narrow the egress pathways around there. He said he doesn't know if there is enough room to still maintain what is required for the depth of a parking spot. He said there will be more green space than there was before. He said the landscaping can be a hedgerow planted on the north side to give a little buffer to the Pontiac. Anthony Pauldine said on the south side there is an apple tree and rose bushes. Jeffrey Hinderliter asked if he has an intention of striping the parking lot eventually. Anthony Pauldine said once they have a good plan he would like to stripe it. Jeffrey Hinderliter said if they call it a townhouse per code they would need a structural separation between units. He said he would caution the architects to use a different term. He said when it comes to marketing that is fine but when it comes to plans and permitting avoid the term. He said he doesn't think he intends on structurally separating the foundation. Anthony Pauldine said that is why they said townhouse style where there is an upstairs and downstairs. Jeffrey Hinderliter asked if it is appropriate to request a striping plan. Mr. Caraccioli said he would incorporate that into number 4 on the agenda.

DECISION: James Scanlon made a motion for site plan approval. Motion seconded by Chairman Freeman, unanimous approval.

4. Off-Street Parking Plan Review & Approval – 249 West First Street, Case 21-04; to allow parking for a proposed mixed-use building, Section 280-39(A)(b) & 280-39(E).

DECISION: Jeffrey Hinderliter made a motion for off-street parking plan approval with subsequent approval of the City Engineer’s office of the striping plan. Motion seconded by Daniel Breitweg, unanimous approval.

5. Advisory to the ZBA – Amendment to Special Permit Use Case #17-63 – 249 West First Street, Case 21-05; to allow for a mixed-use building, Section 280-16(B).

DECISION: Jeffrey Hinderliter made a motion for site plan approval. Motion seconded by Daniel Breitweg, unanimous approval.

6. Site Plan Review & Approval – 264-266 George Washington Boulevard, Case 21-06; to allow for an existing rental property to become a tourist home, Section 280-35 thru 280-37.

DISCUSSION: William Stahl was present for the discussion. Mr. Stahl said he has owned 264 George Washington Blvd. for about 15 months. He said it is currently permitted as rental property. He said it is a multifamily building so there are three units. He said his goal is to turn one of the units into a tourist home. He said this would allow people visiting the area for work or pleasure a great place to stay. He said the property is in great condition, good location, and has parking. Daniel Breitweg said code enforcement needs his address. He said there has been a bookcase out there for the last five days. He said the City sent a letter but the letter was returned. Mr. Stahl said he will remedy that immediately tomorrow morning. He said he has a tenant moving out. Jeff McGann said they looked at the history and there are no other violations. Jeffrey Hinderliter asked if he is designating a particular unit for this. Mr. Stahl said the unit that is a one bedroom and used to be a salon and a clothing store. He said upstairs they have a three bedroom and in the back unit there is another three bedroom. He said he would be happy to designate a unit. He said the one bedroom would probably be his aim. He said if down the road another unit became vacant he would like to consider advertising that as a tourist home. He said if that is against the guidelines then he would be happy to restrict it to whatever the town would allow. Jeffrey Hinderliter said if he is requesting one unit then they would want a unit designated so one unit doesn't turn into two. He said if they are approving one unit to be used as a tourist home then they will approve that specific unit. Jeff McGann said he would agree with that. He said if you are going to do one you want to designate it. He said if you are going to give approval for all three so that the approval is there whether you use all three for that purpose or not. Jeffrey Hinderliter asked if there is an issue with receiving approval for all three units to be a tourist home but then using them as a traditional rental. Mr. Caraccioli said let's go to the definition of tourist home. He said the definition says an owner occupied dwelling in which overnight accommodations and meals are provided for transient guests for compensation but such use is secondary to the owner occupancy of the dwelling. He said it states overnight accommodations not to exceed seven consecutive nights and sometimes also referred to as a bed and breakfast. He said they had a pretty significant discussion in the zoning development committee when this came about in terms of Airbnb. He said they decided not to incorporate Airbnb whether to restrict it, prohibit it, or allow it. He asked how they get past the owner occupancy. Jeff McGann said they did have one come through on E. 5th St. as an Airbnb which is not owner occupied owned by Grace Schulz. Jeffrey Hinderliter asked if it came through as a tourist home. Jeff McGann said because there is no other description in there he believes it came through as a tourist home. He said a traditional bed-and-breakfast is owner occupied but Airbnb is not owner occupied. He said that is another gray area in the zoning because Airbnb is not directly addressed. Chairman Freeman asked if she lived next-door. Jeff McGann said she owns the two houses next-door but does not live in either one. Mr. Caraccioli said he is not opposed to this and thinks it is a good and clever use. He said he just wants to make sure that they are being consistent. He said if they've done it over there they shouldn't exclude it over here. He said multifamily dwellings are not permitted in this particular district. Jeff McGann said a TN2 allows for single and two family. He said

multifamily is not allowed but he believes there has been rental permits on this before the zoning change and it has the parking so it would be grandfathered as a multifamily. Mr. Caraccioli asked if they are three separate units with their own living quarters. Mr. Stahl said yes. James Scanlon asked how he will manage these. Mr. Stahl said he has a licensed property manager whose name is Rebecca Carswell. He said he thinks that should answer some of the concerns of the owner not living in it. He said she also has a network of maintenance people. He said for a tourist home there are several sites with Airbnb being the most popular. He said there are several other less known ones that work with traveling professionals. He said he would definitely be on Airbnb. He said they have a great screening process. He said he gets to see previous reviews and if he thinks anyone is going to be detrimental to his property or the community they wouldn't be allowed. Cory Moshier asked what unit he would like to make a tourist home. Mr. Stahl said he would like the one bedroom. He said there was a question in his mind if he could get approved for all three. He said if he had a vacancy rather than it sitting vacant he could list it online. He said if there is an objection to that he would like to focus on the one bedroom and then they could take the other units separately in the future if that need ever arises. Jeffrey Hinderliter asked if it is designated as a tourist home for all three does that preclude if someone wants to do a long-term rental. Mr. Caraccioli said the strict reading of the code would say it would be limited to seven days. Jeff McGann said he thinks there is a little bit of a difference with this property. He said Grace's house wasn't set up as apartment units to rent out. He said it was literally rooms to be rented out. He said they did not have separate kitchens or units like this one does. Jeffrey Hinderliter asked if that structure requires a rental permit. Jeff McGann said hers does not. He said she received a special permit for an Airbnb so they don't require a rental permit. He said the difference in this is there are actually three fully functional units. He said if they are going to entertain looking at the three units, he would recommend keep rental permits on the ones that are long-term. Jeffrey Hinderliter said the question is if you change it to a three unit tourist home does it lose its multifamily standing. Jeff McGann gave this scenario. He said if he is looking for all three units and for now he keeps two with rental permits and one goes to an Airbnb, six months down the road he decides to make the other two units Airbnb and that goes for the next two years and then it starts to decline and he wants to turn it back into a multifamily. He said once that status has been changed for a year it loses its status and he would not be able to turn it back into a three unit rental. Mr. Stahl asked if he had one unit that would always be occupied by long-term tenants and never be an Airbnb, would that fall into what he just described. Jeff McGann said if he was going to have two units as a rental and one unit is an Airbnb, once that Airbnb has existed for a year he would lose that three family multifamily status. He said if he decided he was not going to do Airbnb anymore it would be a two family because it would lose its status after a year. Mr. Caraccioli said he would agree with that. He said he doesn't have the ZBA determination on this. He said he sees the Planning Board minutes from 10 years ago. He said at the time it was a beauty parlor and two apartments and they asked for it to be converted into a multifamily three unit apartment. He said the Planning Board gave a favorable approval. He asked if they checked the ZBA minutes to see if that was actually done. He said he assumes it was. Jeff McGann said he believes everything went through but they may have sent the packet back down to the clerk's office. Mr. Caraccioli said they have the Planning Board minutes with the favorable recommendation but they don't have what the ZBA did. He said there was a recommendation

that the two northerly most parking spaces be eliminated. He said he doesn't know what the ZBA did because they are clearly there now. He said if the multifamily dwelling component continues with three rental permits if Mr. Stahl decides to utilize shorter term rentals what difference does it make in allowing short term rentals when it is a multifamily now. He said the neighbors may have a concern with the shorter term rentals. Jeff McGann said there is a gray area in there. He said it is a rental now but is there a definition in there that says it has to be a yearly rental. Jeffrey Hinderliter said the state recognizes that transient use implies that a person using that space is unfamiliar with it and so there tends to be increased life safety features in those spaces. He said for a person who is familiar with their house and knows how to get in and out you can have narrower doorways and non-standard stairs. He said transient homes you tend to get people who don't know the area so from a state code level the distinction falls there. He said from a city regulation level they are no longer requiring rental permits so the city's ability to regulate that as a rental greatly lessens. Mr. Caraccioli said this puts the burden on the city to determine which unit is being used as a tourist home and which is a rental. He said he wouldn't want that job. He said he doesn't think any property owner would be diligent enough to pick up the phone every two weeks to say when it is a tourist home. He said he doesn't see anything in the definition of a multifamily that requires a six month or a year lease. He read the definition of a multifamily. He said going back 10 years ago they approved the conversion of this property to a multifamily dwelling and there are three separate units. He said that is a given right now. He said after one year that use is abandoned and that use is lost and can never come back based on our current zoning. He said the only way they could get it back would be by a use variance but that is not a winning argument. He said the question is how the use as a multifamily dwelling continues under what Mr. Stahl is requesting. He said they can't overlook the impact on the neighborhood. Jeffrey Hinderliter said if they are interpreting that the multifamily has room in it for an Airbnb is there any Planning Board action required. Mr. Caraccioli said that is ultimately what he is probably getting at. Chairman Freeman asked if there are any questions from the public and Rick Dashner came forward. He said he is here with his father, Richard Dashner, who owns the property next-door. He said their biggest concern is who is going to manage the property and how do they contact them. Mr. Stahl said Rebecca Carswell is his property manager and she is a licensed real estate agent. Jeff McGann said she works for Century 21. He said she is a longtime real estate agent and a licensed property manager. He said they deal with her quite often and she manages multiple properties in the city. He said she is a legitimate property manager and probably the most established licensed property manager that they deal with. Rick Dashner said he does a better job keeping up with it than the last person. Mr. Stahl said he purchased the property from an older woman who lived in California. He said she wasn't really into the real estate business and it was too much for her. He said she didn't have control of the property and didn't know what was going on. He said everyone was taking advantage of her. He said the property manager was telling her the units were vacant but when he was there there were clearly people occupying them. He said they let it fall into disrepair. Rick Dashner says he is an out-of-town owner. Mr. Stahl said yes. He said a lot of people run successful businesses from living out of town. He said he thinks he has the right people in place to do this successfully. He said he would never want to do anything to decrease the value or have neighbors impacted by his tenants whether it be short term or long term. Rick Dashner says his biggest concern is the

turnover next door and who will verify that it is a short term rental. Mr. Stahl said there are people who book through Airbnb who may be looking to stay for 30 days for contract work. He said he wouldn't have an official lease in place. He said it would be more of a tourist home agreement through a site such as Airbnb. Rick Dashner said that it's a problem with the definition of tourist home here. He said it doesn't fit with Airbnb. He said the seven day rental fits with Airbnb with a potential of longer. Mr. Stahl said he wouldn't want to do anything that the town defines as against what he is legally allowed to do. He said as long as a tenant is behaving and taking care of the unit the length of time isn't important. He said having the right people in there is important and some of these services allow you to do better screening. Rick Dashner said, as the neighbors, their concern is who is going to manage it and watch the turnover. Richard Dashner asked if they were still going to be students living there. He asked who is going to rent an Airbnb with students in there hooting and hollering. Mr. Stahl said there is definitely a possibility of students being in the other units. He said he has stayed in each one of these units and sound doesn't really leak through. He said it is really no different than a hotel. He said with a screening of the tenants he's trying to get in there he really doesn't think that will be an issue. He said when you have longer-term tenants that can be a bigger issue. He said if you have an issue with a short term tenant it is very easy to get them out of the property. He said the main reason the previous owner wanted to sell this property was because there were drug addicts in the top unit. He said the place was flea infested and they didn't want to leave. He said the people across the street told him that the tenants were filming into their property, they assumed to figure out when they were not there. He said one of the neighbors told him she was happy to have students in there because she knew if they were bad then every year they would be gone. He said he is working with his property manager to make sure they don't get anyone that he wouldn't want living next to him in there. Jeffrey Hinderliter said he thinks at this point to call it a tourist home is difficult. He said his recommendation would be if he applies as a tourist home the application would be rejected. He said this is not his intended use. He said he's not going to provide a meal nor is he going to restrict it to seven days only. He said his desired use for it is a multifamily with three units that can be rented at his leisure as a landlord whether it is a day or a year. He said the platform with which he reserves that rental he is choosing to use software to do it rather than an application process for a long-term lease. He said his thought is there is no case necessarily. He said he still needs to meet the rental permit requirements because it is a rental unit subject to the City's inspections and all the City's laws regarding rental units including noise ordinances. He said the City has had great success in targeting homes that don't adhere to our noise ordinances or property maintenance ordinances. He said if they take a motion it would be to reject the application or a withdrawal. Mr. Caraccioli said he would recommend it be withdrawn with no action. He said the neighbor wants to be made aware and have some type of way of communicating if there is an issue. He said not just with the City but with Mr. Stahl and his property manager. Mr. Stahl asked them to please reach out if there any issues as he would like to be the first to know. Chairman Freeman asked if the neighbors have any problem with the snow removal or parking. Rick Dashner said that is Fifth Avenue that they are talking about and they are on Washington Boulevard. Chairman Freeman asked if they know of any problems there. Rick Dashner said the way that they plow the snow is toward Washington Boulevard to the bus stop. He said they part it in the middle and part goes down Fifth Avenue and part goes towards Washington Boulevard. He said

it makes it a problem for people that want to get on the bus. Chairman Freeman said he thinks that is why those spaces were supposed to be removed. Jeffrey Hinderliter said if that action was voted on it comes down to the city enforcing it. Jeffrey Hinderliter told Mr. Stahl that even if he withdraws; zoning would enforce what was agreed-upon on the property in the zoning agreement. He said if there aren't supposed to be parking spots there they will follow up and tell him that those spots need to be removed. Jeff McGann said in reality there are 10 or 11 parking spaces there. He said they require two parking spaces per unit so he is required to have six parking spots so he has more than he needs. He said to remove those spots at the end does not jeopardize what his requirements are. He said he would not disagree with what was said that sometimes a shorter term rental can be beneficial if you have a bad tenant. He said his last question is are they saying that he should withdraw this, keep the rental permits, and then he is allowed to rent as he sees fit time period wise. Jeffrey Hinderliter said their rental permit doesn't dictate a limit on the lease. Jeff McGann said there is not. Jeffrey Hinderliter said any further Airbnb's would need to step under their rental permit process going forward. Mr. Caraccioli said the rental permit has to stay in place and then how the rooms are rented out is a function of Mr. Stahl and his tenants. He said the tenant can be for two days, a week, three months, a year, or more. Jeffrey Hinderliter asked if he would like to withdraw his application. Mr. Stahl said yes. He said when this property was converted it sounds like there was talk of removing some parking spaces. He said when he purchased this property that wasn't conveyed to him. He said especially with the snow in the city having parking is very valuable, not just to him but for people in the community. He said he would like everyone to consider keeping these parking spaces since no one is complaining about them and they benefit everyone. He said he understands the city has to make decisions that is best for the town but he disagrees that what is best for the town is removing any spots. He said he thinks his property is best for the parking that it has. Mr. Caraccioli asked if he offers that spot to neighbors. Mr. Stahl said he has never been asked but there is plenty of room. Mr. Caraccioli said that is good to know. He said there is a great need for off-street parking especially in the winter. He said if he has excess parking, that might work in his favor. He said that is not to say that they would take a blind eye to the zoning regulations as they are a matter of record. He said as of today he doesn't have a zoning board decision from 10 years ago. Jeff McGann said the best thing for them to do would be to pull the file, make a determination, and then go from there.

DECISION: This application was withdrawn.

7. Off-Street Parking Plan Review & Approval – 264-266 George Washington Boulevard, Case 21-07; to allow parking for proposed tourist home, Section 280-39(B).

DECISION: This application was withdrawn.

8. Advisory to the ZBA – Special Permit – 264-266 George Washington Boulevard, Case 21-08; to allow for a tourist home, Section 280-13(B).

DECISION: This application was withdrawn.

Jeffrey Hinderliter made a motion to adjourn. Motion seconded by Cory Moshier, unanimous approval.

Approved: _____

Richard Freeman

Planning Board Chairperson

Jeff McGann

Planning Board Secretary