

PLANNING & ZBA MEETING

TEUSDAY, JANUARY 7, 2020

MEMBERS PRESENT: PLANNING: KATHY COLE, CLARA MULLIGAN,  
MICHAEL MILES, KATHY MANNIX, THOMAS  
MCGOVERN, RANDY KOZLOWSKI

ZBA: JEFF MULLIGAN (ARRIVED 7:15PM), JEFF  
PASSARELL, BOB WESTFALL, CINDY KELLEN

ABSENT: BRIAN THORN, DIANE ATTEA

OTHERS: BRIAN GLISE (CEO, AVON), LANCE BRABANT (MRB  
ENGINEER, KEVIN MCINTEE (MRB ENGINEER)

VISITORS: JANET MANKO, JUDY FALZOI, BILL BACON, DON  
GUNTHER, KATHY GUNTHER, ANTHONY SPADE, BRIAN  
HARPER, JOHN SCIARABBA, KAYLA GAGNON, MIKE  
BOGOJEVSKI, LYNETTE GREENE, BETTY VALENTINE,  
JERRY VALENTINE, DEB MCCRAY, CHRISTINE  
WHITE, MARK GERHARDY

CLERK: KIM MCDOWELL

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PLANNING & ZBA BOARD MOTION TO OPEN THE MEETING WAS MADE BY BOB  
WESTFALL, SECONDED BY CLARA MULLIGAN.

KATHLEEN COLE -AYE  
TOM MCGOVERN - AYE  
RANDY KOZLOWSKI - AYE  
KATHLEEN MANNIX - AYE  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - ABSENT

JEFF MULLIGAN - ABSENT  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - ABSENT  
JEFF PASSARELL - AYE

CARRIED 9-0.

PLANNING & ZBA BOARD MOTION TO APPROVE THE MINUTES FROM THE  
JOINT MEETINGS ON DECEMBER 16, 2019 MEETING AS SUBMITTED WAS MADE  
BY KATHY COLE; SECONDED BY TOM MCGOVERN.

KATHLEEN COLE -AYE  
TOM MCGOVERN - AYE  
RANDY KOZLOWSKI - AYE  
KATHLEEN MANNIX - ABSTAIN  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - ABSENT

JEFF MULLIGAN - ABSENT  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - ABSENT  
JEFF PASSARELL - AYE

CARRIED 8-0.

GUNTHER, DONALD & KATHLEEN/4550 RED FOX FUN/TAX PARCEL#34.-1-  
3.132-ZBA VARIANCE FOR ACCESSORY STRUCTURE IN FRONT OF A PRIMARY  
STRUCTURE - PUBLIC HEARING

Mr. Gunther stated there was no additional information for his application and he is hoping for approval on the variance tonight.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CINDY; SECONDED BY BOB.

JEFF MULLIGAN - ABSENT  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - ABSENT  
JEFF PASSARELL - AYE

CARRIED 3-0.

Kathy Cole asked if there were any public comments on this application and there were none. Kathy Cole asked if the Board has any other questions/comments and there were none.

Visitor, Judy Falzoi, feels Mr. Gunther has talked with his neighbors and has thoroughly looked at other alternatives; she has no problem with this variance being approved.

Lance discussed the SEQR resolution presented to the Board.

TOWN OF AVON ZONING BOARD OF APPEALS RESOLUTION  
DONALD & KATHLEEN GUNTHER - 4550 RED FOX RUN  
AG - ZONING DISTRICT - TM# 34.-1-3.132  
AREA VARIANCE APPLICATION - ACCESSORY BUILDING IN FRONT  
OF PRIMARY STRUCTURE

SEQR RESOLUTION - TYPE II ACTION

WHEREAS, the Town of Avon Zoning Board of Appeals, (hereinafter referred to as Board of Appeals) is considering an Area Variance approval for an accessory structure to be located in front of the primary structure located 4550 Red Fox Run within the AG zoning district; and

NOW, THEREFORE, BE IT RESOLVED THAT, the Board of Appeals does hereby classify the above referenced Action to be a Type II Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

BE IT FURTHER RESOLVED THAT, Type II Actions are not subject to further review under Part 617 of the SEQR Regulations; and

BE IT FINALLY RESOLVED THAT, the Board of Appeals in making this classification has satisfied the procedural requirements under SEQR and directs this Resolution to be placed in the file on this Action.

The above resolution was offered by Bob Westfall and seconded by Jeff Passarell at a meeting of the Board of Appeals held on Tuesday, January 7, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Jeffery Mulligan - *Absent*  
Jeff Passarell - *Aye*  
Cindy Kellen - *Aye*  
Bob Westfall - *Aye*  
Diane Attea - *Absent*

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Board of Appeals for the January 7, 2020 meeting.

Kim McDowell, L.S.  
Kim McDowell, Clerk of the Board

Lance read the conditions from the decision sheet to the Board.

***TOWN OF AVON***

**OPERA BLOCK BUILDING  
23 GENESEE STREET  
AVON, NEW YORK 14414  
PHONE: (585) 226-2425 • FAX: (585) 226-9299  
[http://www.avon-ny.org/index\\_town.html](http://www.avon-ny.org/index_town.html)**

**BUILDING AND ZONING DEPARTMENT**

**ZONING BOARD OF APPEALS DECISION SHEET**

Hearing Date: January 7, 2020

Project Name/Number: Donald & Kathleen Gunther

- Area Variance Accessory Structure in front of Primary

Subject Property Address: 4550 Red Fox Run

Tax Account #: 34.-1-3.132

Zoning District: AG District

Agenda Item: Area Variance – Accessory Structure located in front of the existing primary structure

Board Members	Present	Motion		Recusal
		Aye	Nye	
1. Jeffery Mulligan, Chairman	No	-		
2. Jeff Passarell	Yes	Aye		
3. Cindy Kellen	Yes	Aye		
4. Bob Westfall	Yes	Aye		
5. Diane Attea	No	-		
Alternate:				

Action: Approved the requested area variance for an accessory structure to be located in front of the primary structure.

Conditions:

1. Commencement of the project is to occur within one (1) year from the approval date or the variance will be deemed null and void.
2. Any modification to the plans, variance, and/or project will require the application to be re-reviewed by the Zoning Board of Appeals and any prior approvals granted be deemed null and void.

Motion made by: Bob Westfall

Seconded by: Cindy Kellen

MOTION TO CLOSE THE PUBLIC HEARING WAS MADE BY CINDY; SECONDED BY BOB.

JEFF MULLIGAN - ABSENT

CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - ABSENT  
JEFF PASSARELL - AYE

CARRIED 3-0.

Brian will approve the permit and Kim will process and get in touch with Mr. Gunther to pick it up.

DG NY SOLAR CS LLC C/O RICHLAND RESOURCES/AVON-EAST AVON ROAD/TAX PARCEL#34.-1-15.21 - SITE PLAN APPLICATION

Mr. Brian Harper was present to answer any questions regarding his application and he stated they have added a vegetative buffer to the site plans.

MOTION TO OPEN THE PUBLIC HEARING WAS MADE BY CLARA; SECONDED BY MIKE.

KATHLEEN COLE -AYE  
TOM MCGOVERN - AYE  
RANDY KOZLOWSKI - AYE  
KATHLEEN MANNIX - AYE  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - ABSENT

CARRIED 6-0.

Kathy asked if anyone in attendance has any questions about this project.

Visitor, Judy Falzoi, asked if the company is insured for everything that happens on premises and they are. Also, she wanted to know what the disposal plans are which Mr. Harper stated the decommissioning plan is included in the submitted application. Ms. Falzoi asked specifically where the panels will go and Mr. Harper stated it will be determined at time of disposal. Ms. Falzoi stated she is happy that they are trying to follow our solar law without exception.

Visitor, Christine White, was wondering how far south the panels will go on the property, and Mr. Harper showed her on the site plan exactly where the panels will be placed. Mrs. White also wanted to know where the access road will be on the property and if it will come out on Pole Bridge Road, which it doesn't. Mrs. White stated that there is a lot of wildlife that runs through the property and will they be able to get into the area where the panels are, which there will be a fence around the perimeter. She is concerned with her property values going down and where the transmission power connection is going to be. Mr. Harper stated there will be poles halfway down the property to Routes 5 & 20 with no crossing over or high voltage poles on property. She also had a question about the PILOT and Lance stated that that process is through the Town Board not the Planning Board.

Visitor, Jerry Valentine, asked how long will the construction portion for this project take and it will be completed by the end of year 2020. Mr. Harper stated everything needed for this project would be accessed from Routes 5 & 20.

Visitor, Betty Valentine, questioned who benefits from this project and Mr. Harper stated it is a community solar project. They hire a third party company to get subscribers in the area who will then get a 10% discount on their bill. She also confirmed that they will be getting funds from the State which in turn benefits both them and Mr. Howlett.

Mrs. White asked how the subscription worked and Mr. Harper doesn't know exactly since it is a third party company but he does know there is a limit to the number of subscribers who can join.

Mrs. Valentine asked if the Planning Board approves this does the Town Board also have to approve the application. Lance described the process of getting the application approved. The Planning Board approves the site plan application and the Zoning Board of Appeals approves the Special Use Permit application which runs simultaneously. This public hearing will be continued to the February 4, 2020 joint board meeting.

Mrs. Valentine feels that the Town should get some benefit for this solar project instead of just the property owner.

Cindy Kellen asked how the project will help with the flooding issues in the area. Mr. Harper stated the SWPPP was done recently and Kayla Gagnon was present who completed the SWPPP. Kayla explained how it was completed and how the vegetative state will help with the run off reduction for the property overall.

Mike Miles asked if the Board will see the SWPPP plan and Lance stated yes they will.

Ms. Falzoi also asked what happens if animals get into the fence and die, who will remove them. Then Mrs. White asked about the type of fence it will be and Mr. Harper described the fence they are planning on using for this project in detail.

Visitor, Debbie McCray from Noyes, asked if it will tie into the substation, and it will with no interruption to service when it is brought online.

Tom McGovern asked what the distance is to the residences from the fence area. Mr. Harper stated it is about 300 feet from their property lines with a vegetative buffer and trees between both. There was some discussion on the slope of the property where the panels will be and the resident's properties.

Mr. White asked if there will still be the wooded area near the solar array and it will stay woods, it will not be farmed.

Clara Mulligan asked why the fence has to come right down to the ground. It is mostly for security and it is required by the design criteria in place. Mr. Harper will look into whether it has to come down to the ground.

Kathy Cole asked if the public hearing will remain open and Lance stated for the purpose of SEQR it will need to stay open

until February 4<sup>th</sup> meeting. Lance asked the applicant if they have started the process with NYSERDA yet; which they have.

Next month's meeting will continue the public hearing and if you have any other questions regarding this project, please submit them in writing to be addressed than.

MOTION TO CLOSE THE ZBA MEETING WAS MADE BY BOB; SECONDED BY JEFF PASSARELL.

JEFF MULLIGAN - AYE  
CINDY KELLEN- AYE  
BOB WESTFALL- AYE  
DIANE ATTEA - ABSENT  
JEFF PASSARELL - AYE

CARRIED 4-0.

PIRANHA MILLING & PAVING CONTRACTORS LLC/TEC DRIVE/TAX PARCEL #35.-1-13.524-SITE PLAN APPLICATION

Mr. Sciarabba, LandTech, presented on behalf of Piranha. Mr. Spade, owner of Piranha, is also on hand to answer any questions. The site plan has been revised with the suggestions that were made at last month's meeting. They added trees, fencing around outdoor storage space, and provided a statement of operations.

Today they received updated comments from Lance and have addressed some of them. They changed the phase line, still working with LCWSA regarding water and backflow, added note that Flex Space tenants' have to get Town Board approval, and concrete/jersey barriers have been added.

Mr. Sciarabba showed some Google Earth images to the Board of what it will look like driving by from the expressway. He explained that there is sufficient buffering with the wooded area already there.

Clara asked how much mulch will be on site at a time. Mr. Spade estimated 40 tons on premises that is not for retail sale just for commercial sale. There will be no died mulch on site.

Kathy Mannix asked how many trucks will be going past the daycare on any given day. Mr. Spade stated that the trucks will be using Route 15 to get to property.

Clara asked you predict 5% growth each year which means a new truck or two per year and that is correct.

Lance appreciates Mr. Sciarabba revised plans to reflect our comments he received today. Lance wanted to confirm that mulch will only be stored on site and there will be some screening of top soil during construction; which is correct.

Lance stated that if approval is granted tonight, we are waiting for the final SWPPP plan and if there are any additional comments from LCWSA that will need to be addressed.

Mike Miles liked the adjustments and he liked the statement of operations. He feels the process and operation of Phase 1 will have implications for future Phase approvals.

Tom McGovern still has some concerns about Flex Space and if any of those businesses want to store equipment outside. Lance reinstated that the Town Board has the authority to set restrictions at that time.

There was discussion on where equipment can be stored on premises and what restrictions the Planning Board can place on Piranha regarding equipment storage. Mr. Spade will only have equipment storage on paved areas on the premises and no equipment can be stored longer than a 1 year period continuously. All dumpsters must be closed/screened per Town Code.

Mr. Spade would like to begin grading the property as soon as possible. Lance stated that they will need to have a letter of credit to the Town before January 23, 2020 and a plan of some sort verifying the work to be completed at this time is under 1-acre. Mr. Spade also requested to have an address for the property soon otherwise he will not be able to start any construction.

Clara asked which part of the property will be mowed/maintained. The area near the pond will not just up to the building and Tec Drive. Brian than asked if there was going to be a fence around the pond so if during the winter time is doesn't look like a place to be driven on.

Lance read the final site plan resolution to the Planning Board members.

TOWN OF AVON PLANNING BOARD RESOLUTION  
PIRANHA MILLING & PAVING CONTRACTORS, LLC  
HOME OFFICE, PHASE 1 - TEC DRIVE  
FINAL SITE PLAN REVIEW

FINAL SITE PLAN APPROVAL RESOLUTION

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is also considering Final Site Plan approval for the construction of a 9,500 sq ft light industrial building to house the operation of the contracting business including office space with the remaining portion to be used for storage and maintenance of equipment. There will also be (1) 60' x 280' building with 10 lease spaces and associated site improvements, as described in the Site Plans dated October 22, 2019, last revised December 18, 2019 and all other relevant information submitted as of January 7, 2020 (the current application); and

WHEREAS, the Planning Board has classified the above referenced Action to be an Unlisted Action under Section 617.5 (c) of the State Environmental Quality Review (SEQR) Regulations; and

WHEREAS, in compliance with NYS Town Law and the regulations of the State Environmental Quality Review Act (SEQRA), a determination of significance and a negative declaration was adopted by the Planning Board on December 16, 2019; and

WHEREAS, on December 16, 2019 the Town Board, pursuant to §130-18 H of the Code, contingent upon the applicant taking title to the subject property and receiving site plan approval from the Planning Board, approved the issuance of a Special Permit; and

NOW, THEREFORE, BE IT RESOLVED that the Planning Board does hereby approves the requested Site Plan with the following conditions:

1. Final Site Plan Approval with conditions specified above herein is valid for a period of 180 days from today. Once all conditions have been addressed, four (4) copies of the Final Site Plan set are to be provided to the Building & Zoning Department for signatures. Once all signatures are obtained, a PDF of the signed Final Site Plans are to be forwarded to the Building & Zoning Department and MRB for their files.
2. All comments regarding the Town Engineer's review, Town DPW Superintendent's review, and Livingston County Water & Sewer Authority's review of the site plans are to be addressed to their satisfaction prior to signatures being affixed to the Final Site Plans.
3. Final Site Plan approval is contingent upon the Statement of Operations dated January 6, 2020 and as discussed at the January 7, 2020 Planning Board Meeting.
4. The stormwater access easement language and map is to be provided to the Town Attorney for review and approval, and filed with the County Clerk and Town Clerk prior to issuance of a Building Permit.
5. A stormwater maintenance agreement with the Town of Avon is required. The maintenance agreement is to be approved and filed with the Town prior to issuance of the Certificate of Occupancy.
6. All equipment, vehicle, and supplies associated with the uses for Phase 1 and as outlined within the Statement of Operations approved at the January 7, 2020 Planning Board meeting, are to be stored on a hard surface area and within the storage areas as identified on the Final Site Plans dated October 22, 2019, last revised December 18, 2019 and as discussed at the January 7, 2020 Planning Board meeting.
7. A Surety Estimate covering erosion and sediment control measures, grading and stabilization of the site, stormwater mitigation measures, and landscaping, is to be submitted for review and approval. The surety is to be posted with the Town prior to issuance of a permit.

The above resolution was offered by Randy Kozlowski and seconded by Michael Miles at a meeting of the Planning Board held on Tuesday, January 7, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - Aye  
Randy Kozlowski - Aye  
Kathy Mannix - Aye  
Thomas McGovern - Aye  
Michael Miles - Aye  
Clara Mulligan - Aye  
Brian Thorn - Absent

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the January 7, 2020 meeting.

Kim McDowell, L.S.  
Kim McDowell, Clerk of the Board

U OF R NOYES HEALTH/LOT 19 TEC DRIVE/TAX PARCEL#35.-1-13.526-  
SITE PLAN REVIEW/DECLARE INTENT TO BE LEAD AGENCY



Mr. Mike Bogojevski, Community Associates, on behalf of U of R Noyes Health, gave a brief description of the application. The property is located on the west side of Tec Drive. The proposed

building will be 3,000 square feet with an additional 3,000 square feet building at a later date. The utilities used will be what is available currently, all storm water runoff will be directed to the pond on site and there will also be a small detention pond in the front. The current proposal has 26 parking spaces and there will be additional parking for second building when added. They submitted a statement of operations. MRB is working on the review comments and Mr. Bogojevski would like to start the SEQR process tonight.

Kathy Cole asked the representatives from Noyes Health here tonight to tell us a little about what the building will be used for. Ms. Lynette Greene, Noyes Health, stated it will be outpatient counseling services to surrounding area and an extension of what is provided at our Dansville facility. They have done a zip code analysis and this area is under served. It is a combination of group, family, and individual services. There will be 8 hour day's varying from day to day so they can offer both day/evening hours. This is all outpatient services. This will reduce the number of folks who travel to emergency rooms when they are in crisis. This will be a walk in and appointment facility. There will be no controlled substance on site and they are not a substance abuse treatment center. There is a licensed or master licensed counselor on site daily.

Mike Miles stated since this is outpatient services and there is a daycare and a brewery nearby, how will that affect your facility. Ms. Greene said there will be no issues with the businesses on Tec Drive for her. They currently have no security at their Dansville office and they do work closely with Police and Sheriff.

They provide a good service to the community and she feels more people are coming into the facility for help. They do about 7-10 transports a month in the Dansville office which is a 7,500 square foot facility

Mike commented that the additional building will bring an additional 100-150 vehicles going in/out on the area.

Clara asked why Tec Drive is the best place for this facility. They have looked at several different existing locations and with the easy access to the expressway, they feel this is the best fit for them.

Mike asked what their landscaping plans are. Ms. Greene showed a picture of a current building that they are looking at to build but they don't have any set plans yet. There will be a sign that maybe be lit. It will roughly look the same as the UET building. They do want a little visibility from the expressway. They haven't made any decisions regarding the building itself and sign.

The additional building will be gauged on how well the first building is doing. Currently they have grown upwards of 20% each year and if that happens in Avon they will definitely need the additional building. Lance stated the current application includes both buildings.

When Noyes is ready to build the additional building, if there are any modifications as to what was initially approved, they will need to come in and get Board approval.

Noyes Health is a non-for-profit, they are self-funded even though U of R is in our name. They have received a grant for the building, there will be no tax on the building or property.

Tom stated he feels this will provide a good service to our residents and community.

This project will be made in Memory of Liz Greene who worked at Avon Elementary school and she passed away suddenly.

Lance stated the only action that can be taken tonight is Declare Intent to be Lead Agency. He will be sending out the package to all involved.

TOWN OF AVON PLANNING BOARD RESOLUTION  
UR MEDICINE/NOYES HEALTH  
LOT 19 - TEC DRIVE  
UR MEDICINE/NOYES HEALTH  
PRELIMINARY SITE PLAN REVIEW  
SEQR - DECLARING INTENT TO BECOME LEAD AGENCY

WHEREAS, the Town of Avon Planning Board (hereinafter referred to as Planning Board), is also considering Site Plan approval for the construction of a ±3,000 s.f. (phase 1) UR Medicine/Noyes Mental Health and Wellness Program building with associated parking and access. Phase 2 will be an additional ±3,000 s.f. building, as described in the Site Plans dated December 24, 2019 and all other relevant information submitted as of January 7, 2020 (the current application); and

WHEREAS, the Planning Board has reviewed the completed State Environmental Quality Review (SEQR) Short Environmental Assessment Form (EAF), Part 1 prepared by the applicant on the above referenced application (hereinafter referred to as the Action); and

WHEREAS, the Planning Board determines that said Action is classified as an Unlisted Action under the SEQR Regulations; and

WHEREAS, the Planning Board determines that said Action is also subject to a coordinated review and approval by other involved agencies under SEQR Regulations; and

WHEREAS, the Planning Board determines that it may be the most appropriate agency to insure the coordination of this Action and will provide written notifications to the involved and interested agencies, for the purposes of conducting a coordinated review and making the determination of significance thereon under the SEQR Regulations.

NOW, THEREFORE BE IT RESOLVED that the Planning Board does hereby declare its intent to be designated as the lead agency for the Action.

BE IT FURTHER RESOLVED, that the Town Engineer (MRB Group) is directed to provide notice hereof to the involved and interested agencies, seeking their agreement (or objection thereto) in writing on or before noon on Monday, February 10, 2020.

The above resolution was offered by Kathleen Cole and seconded by Thomas McGovern at a meeting of the Planning Board held on Tuesday, January 7, 2020. Following discussion thereon, the following roll call vote was taken and recorded:

Kathleen Cole - Aye  
Randy Kozlowski - Aye  
Kathy Mannix - Aye  
Thomas McGovern - Aye  
Michael Miles - Aye  
Clara Mulligan - Aye  
Brian Thorn - Absent

I, Kim McDowell, Clerk of the Board, do hereby attest to the accuracy of the above resolution being acted upon and recorded in the minutes of the Town of Avon Planning Board for the January 7, 2020 meeting.

Kim McDowell, L.S.  
Kim McDowell, Clerk of the Board

Lance gave an overview of the schedule for this application and Kim will make sure that all the Board members are informed of future meetings.

Brian Glise had a question for the Board regarding Fastenal building on Lakeville Road. It is currently zoned general business/light industrial and they would like to put in a collision shop. There was a Special Use Permit approved when it was Balconi but Brian can't find in our records where that is still valid. Lance stated typically in the past Special Use Permits had a one year expiration date on them and he feels that the applicant should come in to discuss their plans with the Board. At that point the Planning Board can grant a Special Use Permit for the property. Brian is not sure if they are taking over the whole building, Bruckel has a lessee who wants to get into the building as soon as possible. The Planning Board agreed that they should come to discuss. Lance stated that they will not need to have a professional site plan for a Special Use Permit.

PLANNING BOARD MOTION TO CLOSE THE MEETING WAS MADE BY CLARA, SECONDED BY TOM.

KATHLEEN COLE -AYE  
TOM MCGOVERN- AYE  
RANDY KOZLOWSKI - AYE  
KATHLEEN MANNIX - AYE  
CLARA MULLIGAN - AYE  
MICHAEL MILES - AYE  
BRIAN THORN - ABSENT

CARRIED 6-0.

MEETING CLOSED.