

The Planning Board of the Village of Montebello held a meeting on Tuesday, June 12, 2018 at The Dr. Jeffrey Oppenheim Community Center, 350 Haverstraw Road, Montebello, New York. Chairman Anthony Caridi called the meeting to order at **7:15 p.m.** and led everyone in the Pledge of Allegiance.

PRESENT

Anthony Caridi, Chairman
Jane Burke, Vice Chairperson
Michael Iatropoulos, Member
Thomas Ternquist, Member
Donald Wanamaker, Member
Stan Shipley, Ad Hoc

OTHERS

Ira Emanuel, Asst. Village Attorney
Alyse Terhune, Asst. Village Attorney
Jonathan Lockman, Village Planner
Max Stach, Village Planner
Martin Spence, Village Engineer
Regina Rivera, Planning/Zoning Clerk

ABSENT

Member Iatropoulos made a motion to approve the minutes of May 8, 2018, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Loren Ware – Public Hearing--Continued
3-Lot Subdivision and Stream and Wetlands Permit
10 Wilbur Road, Montebello, NY**

Application of Loren Ware, 5 Cragmere Road, Suffern, New York, for approval of a Subdivision and Wetlands and Stream Protection Permit entitled “Ware Subdivision.” The applicant is proposing 3 separate lots each with a single-family dwelling with driveway access from Wilbur Road. The property is designated on the Ramapo Tax Map as Section 40.20, Block 1, Lot 5 in an RR-50 Zone.

The application requested an adjournment to the July Planning Board meeting. Member Iatropoulos made a motion to adjourn the Applicant’s appearance and Public Hearing to the July 10, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Stonehedge Heights Corporation – Public Hearing, continued
Stonehedge Farm Subdivision
220 Spook Rock Road, Montebello, NY**

Application of Stonehedge Heights Corporation, 130 East Route 59, Spring Valley, New York, for an informal discussion on the proposed residential subdivision “Stonehedge Farm.” The property, consisting of 11 lots on 16.68 acres, is located on the east side of Spook Rock Road approximately 500 feet south of Topaz Court in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 49.13, Block 1, Lot 13 in an ER-80 Zone (Rural Preservation Overlay District).

Present were the Applicant Marsel Amona, his engineer Stuart Strow of Brooker Engineering, and the Applicant’s attorney, Deborah Loewenberg. Mr. Strow explained that they attended the CDRC meeting on May 29, 2018 and have since addressed many of the engineering issues discussed.

Mr. Stach said that in his memo dated May 23, 2018 (copy on file), he stated that the updated yield plan does in fact yield 12 lots and is subject to revised wetlands boundaries. Regarding the wetlands

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boundaries, he said that the Applicant is waiting for Jurisdictional Determination (JD) from the Army Corps of Engineers (AEOC). Mr. Strow said that the JD has not come back yet and will likely take a while. Mr. Stach said that the Applicant is therefore proceeding at his own risk until verification is received from ACOE. Overall the change to the two cul-de-sacs is favorable, he continued, the proposed lot widths and street frontage meet the minimum requirements, and a 20 foot wide sewer easement on southern part of the site is shorter and less intrusive than previously proposed. He reiterated that the Applicant needs to submit a new EAF Part 1 based on the new layout.

Mr. Emanuel asked Mr. Strow to explain how the additional lot came about, since this is a fairly significant change [from 11 lots]. Mr. Strow said they first presented the plan almost two years ago just before the moratorium, and appeared at several CDRC meetings during the moratorium. In preparation for the end of the moratorium, the Applicant had the wetlands re-delineated in November of 2017 and found that the wetlands were smaller than previously thought. When they were finally able to go to Planning Board, he explained, they were told the proposal was not favorable. In light of this fact and that the Planning Board and consultants effectually rejected the layout, they re-examined and reconfigured the layout and found they were able to yield another lot.

Mr. Emanuel explained that before CDRC, Mr. Stach and Building Inspector Larry Picarello reviewed the RR-50 yield plan to verify those lots meet the requirements, and the report back is that they did. This yield plan is based on the redefinition of the wetlands. While we don't suspect anything is intentionally wrong, you also can't be assured of it until you receive the JD.

Member Burke referred to #10 of Max's comments and noted that only ten news homes may be provided at the Stonehedge project and said that she agrees with that. The house they're calling a caretaker's cottage is actually a large three-story home and it should be on its own lot since the Village does not allow two residences on one lot, she added. She said she was also concerned about the bulk table, the Floor Area Ratio (FAR) and Development Coverage. Because it is average density, it's important to limit the size of these houses, she said, and the only way to do that is through FAR and Development coverage.

Member Wanamaker referred to the horse farm formerly on the property and said that he was concerned about the public water supply. He explained that Mr. Amona shared the Environmental Site Assessment report with him but that the appendices were missing. After careful review of the report, he said, he found that it was lacking insofar as American Society for Testing Materials (ASTM) standards for Phase 1 assessments go. Mr. Stach asked Member Wanamaker what his specific concerns are regarding the prior use. Member Wanamaker explained that it was not uncommon in the past for the dirt road and riding areas to be oiled to prevent dust from being kicked up. He noted that on at least two occasions in Rockland County there were site assessments on similar properties one of which used waste oil for such a purpose. Mr. Stach said that this Board works with State Environmental Quality Review Assessment (SEQRA) and not ASTM standards, adding that this Board's jurisdiction is to determine whether or not there will be an adverse environmental impact regardless of ASTM standards. Member Wanamaker said he understood, but that even the EPA uses the ASTM standards for its inactive hazardous waste site program and that he doesn't think he's off in expressing his opinion here.

Member Ternquist asked what possible adverse impacts can be caused by waste oil. Member Wanamaker said that it's not uncommon to use chlorinated solvents mixed in with oil and is a

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common practice with auto shops, for example. Chlorinated solvents sink into the water table and can potentially contaminate the water supply and pose public health risks, he added. Chairman asked how far down they could penetrate the soil. Mr. Wanamaker said they are considered dense non-aqueous liquids and sink until they hit a confining layer, such as bedrock.

Member Iatropoulos said that since there is no evidence of the horse farm having used waste oil, this Board should not let that possibility cloud its judgment. Member Wanamaker said the report is incomplete and those appendices would have helped. Mr. Strow said they will submit the full report, that he read the entire report and no mention of this potential issue was made, and that he would be surprised if it were included in the missing appendices. It is a significant report and the amount of information is considerable, and as Member Iatropoulos said, we are speculating on something with no evidence, only that it was done on one other horse farm in the county, he added.

Mr. Emanuel said that, assuming it is the case, other than requiring there to be proper cleanup, this does not relate to the SEQRA process to be done for the subdivision. Member Wanamaker said that was because New York State doesn't recognize the ATSM as the standard. Mr. Emanuel said that we are not about to start now, adding that this Board is bound by New York State SEQRA law. Other laws may require cleanup of something that happened in the past, but it doesn't necessarily have anything to do with the subdivision being proposed he said. If once they start digging they discover a problem, remediation could take place then. The point is, there is a separation between planning for property versus what happens with physical construction on the property, and we have to separate ourselves from that. The Applicant has rights too, he added.

Member Burke noted that this property is on a Federal sole source aquifer and asked if the public wellheads, which are New York State DEC regulated wells, are ever tested. Mr. Emanuel said that the entire village is over an aquifer and that since this is a public water supply we should hope the wells are being tested. Member Burke asked if that was relevant to Mr. Wanamaker's concerns. Mr. Wanamaker said it wasn't because any potential issues would affect the ground water.

Chairman Caridi opened the public hearing.

No one wishing to speak, Chairman Caridi said the Board will rely on Mr. Stach to review the missing appendices when they are submitted. Mr. Emanuel asked when the full report will be available. Mr. Amona said it will be ready within the next couple of weeks.

Member Burke brought up Mr. Spence's memo dated May 28, 2018 (copy on file) and asked if it raises any engineering issues worth discussing this evening. Mr. Strow said that other than snow removal storage which was discussed at CDRC, he had no issue with anything in the memo. Member Burke, referring to S-5 of Mr. Spence's memo said the survey needs to be updated. Mr. Strow said it will be and that it will be sealed. Further, regarding S-6 of the memo, the correct dates of the wetlands delineation will be resolved on the map, he added.

Member Burke again asked about the second structure on Lot 1, stating that she noticed how large it was during her visit to the property and that there are people living there now. Mr. Strow said it is the Applicant's intention to allow that structure to remain, noting that several properties in the Village have more than one dwelling on a single lot. Mr. Emanuel said he does not recall any new homes with a second structure on one lot, and clarified that the ones that do predate the Village.

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Member Burke said that she would prefer that the separate structure be on its own lot. Mr. Amona stated that the two houses are only 20 feet apart and share a driveway. Mr. Emanuel countered that the houses are a lot farther apart, then scaling the map noted that the houses are just shy of 100 feet apart. Mr. Amona asked if there could be language in the resolution allowing for the second structure on one lot. Mr. Emanuel said that Mr. Amona would need to convince the Board to agree to that, then advised Mr. Strow to clarify on the map all the structures considered to be part of the "farmstead." There is a conflict in the drawing, he said, pointing out that the note for Lot 1 says "two story frame dwelling, all other buildings to be removed," yet the second house is labeled "to remain." Mr. Strow said the intent is for the second structure to remain and the note will be corrected. Mr. Emanuel said that if that's the case, there are some other issues. Mr. Strow said they will present the notes and reasons for preserving the second house.

Chairman Caridi advised the applicant that for their next appearance they should submit the new EAF Part 1 and above all else present the ACOE JD. Mr. Emanuel said that the Board is not partial to moving forward without the ACOE JD.

Member Burke asked that Mr. Strow address the bulk table requirements. Mr. Emanuel explained that there was a lengthy conversation at CDRC about placing limitations on bulk on the larger lots.

Regarding the SWPP, Mr. Stach asked Mr. Strow if he was going to design for the maximum coverage. Mr. Strow said that unless the code requires it, he would not but said he would be sure to confer with Mr. Spence in preparing a storm water maintenance agreement.

Member Iatropoulos made a motion to continue the application and the public hearing to the July 10th Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

**Jersey Realty Management Properties, LLC—Public Hearing
Parking Lot Expansion
49 N. Airmont Road, Montebello, NY**

Application of Aaron Berger of Jersey Realty Management Properties, LLC, PO Box 415, Monsey, New York 10952. The Applicant is proposing a parking lot expansion for the existing office building at 49 N. Airmont Road to accommodate overflow parking. The property is situated on the south side of N. Airmont Road, approximately 1000 feet east of Rella Boulevard in the Village of Montebello, which is known and designated on the Ramapo Tax Map as Section 55.08, Block 1, Lot 4 in the LO-C Zone.

Present were the Applicant's attorney Dennis Lynch and his engineer David Zigler of Atzl, Nasher & Zigler P.C. Member Wanamaker, having had personal dealings with Mr. Lynch, recused himself from this application.

Mr. Lynch stated that this is a simple project that would correct overflow parking at the site, that there is not a single change in the footprint of the building, that this is a Type II action under SEQRA, and that does not require any new variances because, he reasoned, they were already granted in 2001 when the structure was built. We are seeking simply to add 2187 square feet of pervious parking he and if this Board feels that variances are necessary, we will advance to the ZBA. According to the Planning Board Resolution of July 2001 (copy on file), he continued, Village code states that a non-conforming use can continue unless the structure changes, he said. This structure is not being altered in any way and all that will change is the parking lot which is an accessory to a structure. The definition of "building" in the Village Code does not refer to parking spaces, therefore this application needs no new variances, he said.

Mr. Stach asked why he referred to the building as an existing "non-conforming structure," because typically, if a structure is granted variances, it is rendered conforming. The variances that were granted in 2001 remain, but any other changes to the lot would require more variances. For example, he said, if relief is given to use a certain side yard and parking goes beyond that, the area of use is being increased and therefore a variance is needed. Mr. Lynch agreed and said they will go to the ZBA if need be but from a Planning Board standpoint, this application is rather straightforward.

Member Iatropoulos said this application implies an increase in traffic. The egress/ingress of this parcel has already caused traffic troubles over the last 20 years, he said, and there are many who make the illegal left turns in and out of the lot. This is not as straightforward as one would like to think because there are safety issues at hand, he said. Mr. Zigler offered that the problem is that North Airmont Road was paved since the building was built and the island curb, which is the through-channel, is largely ineffective. The curbs can be re-done and the island can be raised to prevent people from making lefts turns in and out, he said. Mr. Lynch said that with all due respect, if the police don't enforce the law, the Applicant and this Board cannot solve the problem.

Ms. Terhune said that the main issue is that more parking is needed because there are more people coming and going and that becomes a safety issue. Mr. Lynch agreed that is the case but reiterated that police enforcement has nothing to do with site planning. Ms. Terhune asserted that this Board certainly can consider traffic in their deliberations.

Chairman Caridi suggested that Mr. Lynch read the letter from Rockland County Planning Department dated June 12, 2018 (copy on file) and the Rockland County highway Department

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letter dated May 21, 2018 (copy on file) where they directly advise a traffic review to be performed. You are inviting traffic from two directions at one time and it's on a curve, he said, and it's important to consider what the County is advising. He then advised Mr. Lynch to review how they plan on directing traffic property. Mr. Lynch said that he was open to suggestions. Mr. Zigler said he already considered what Rockland County Highway suggested and returned the driveway neck back to the original spot.

Mr. Stach said that one of the issues here is that a variances was given to reduce the side yard from the required 30 feet to 7 ½ feet. The Applicant is proposing to reduce that side yard further to 5 ½ feet, which increases the non-conformance beyond what is permissible via a variance. Mr. Lynch advised that Mr. Stach look up Section 195-88D of the Village code. Mr. Stach said that would be applicable to exiting non-conforming uses, and this is not a use that has permission. You are not non-conforming, he reiterated.

Member Burke said she was on the Board when the project was approved and explained that the building was sold shortly thereafter to an architect who planned to put his practice there. That type of business was allowed, she continued, because it would not generate a lot of traffic. The tenants have increased which is the cause of the parking and traffic headaches and of people parking in non-parking spaces such as the grasscrete. This use has changed, she said, and reminded Mr. Lynch that there is a use covenant. Mr. Stach said the 2001 Planning Board and ZBA decisions reference the covenant to low intensity usage as a requirement of the variance. Mr. Lynch said he had not seen the covenant and added that they are simply asking for 11 more parking spaces

Ms. Terhune advised Mr. Zigler and Mr. Lynch to take a look at the bulk table when they address the issues of variances, noting that they will need at least two more.

Chairman Caridi opened the public hearing.

Mark Olsen, 57 N. Airmont Road, Montebello, noted that the driveway is being shifted further east, which will create more issues with traffic. Also, he said, traffic coming in and out will be increased as indicated by the shorter, narrower parking spaces proposed. The increased traffic coming in and out compounded by the lack of site distance is a real safety concern to him, he said. He then asked what type of pervious surface will be installed in the parking lot expansion. Mr. Zigler said they will use porous pavement. Mr. Olsen, whose background is in engineering and construction, advised that if the porous pavement is not vacuumed and maintained properly, drainage will be affected and more sheet flow can end up on the road.

Chariman Caridi said that Mr. Olsen brought up a good point, and noted that though the driveway is shifting, the curb cut is not changing. Mr. Spence said that was correct, confirmed that the drop curb will remain, that the island was going to be removed but now will remain and that the travel lane will be shifted.

Member Shipley asked how the covenant mentioned in the 2001 decision is to be enforced. The Applicant needs to provide it, he added. Mr. Lynch said they will provide.

Mr. Spence asked Mr. Zigler if he read his review memo dated June 11, 2018 (copy on file). Mr. Zigler said he had and that he will address all the issues mentioned therein. Mr. Lynch, noting that

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the resubmission deadline for the July 2018 Planning Board meeting was in two days, asked if they could adjourn to the August 14th meeting. Mr. Stach suggested they attend the June CDRC meeting to discuss Mr. Spence's memo and other issues, attend the July CDRC to present and discuss the revisions, then proceed to the August Planning Board. Mr. Lynch and Mr. Zigler both agreed with that plan.

Member Iatropoulos made a motion to adjourn the application and the public hearing to the August 14, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote the motion carried unanimously.

Sander Gerber – Public Hearing
Addition of a Circular Driveway, Tennis Court
556 & 558 Haverstraw Road, Montebello, NY

Application of Sander Gerber, 558 Haverstraw Road, Montebello, New York. The Applicant owns both properties and as such is proposing the installation of a circular driveway connecting both residences and the construction of a tennis court. The properties are located at 556 and 558 Haverstraw Road, on the west side of Haverstraw Road, approximately 0 feet north of Coe Farm Road in the Village of Montebello, and designated on the Ramapo Tax Map as Section 40.19, Block 1, Lots 34 and 33 respectively in the RR-50 Zone.

Present for the applicant were his attorney, Amy Mele, his engineers Glenn McCreedy and Zach Kamm of Civil Design Works, LLC, and Ben Grant, Landscape Designer. Ms. Mele explained that the project is comprised of two lots, each with a house, which functions as a family compound. Mr. Sander Gerber, Applicant, owns and resides in one house and owns the other in trust. There are no plans to expand either house, the Applicant just wishes to install a tennis court and some hardscaping and landscaping, she said. While it's true the lot line goes through the tennis court, there is precedent in the Village with another similar compound that built a basketball court between the two lots. Variances of course will be needed, she said, but we are trying to keep that number low. Ever mindful of the impact on the Village, Ms. Mele said that from a physical standpoint, all that will be seen from the street is a beautiful estate.

She then explained that all comments received from outside agencies and from Village consultants will be addressed and that there is still much engineering work to be done, but asked that the Board determine whether or not this is a Type II action under SEQRA at this meeting. If that is the determination, we will adjourn to the August 14th Planning Board meeting and start putting together the ZBA application, she said.

Mr. McCreedy said that he will address the technical items that a number of agencies submitted, especially the Rockland County Drainage Agency review dated May 30, 2018, from which they will need a permit due to the parcel's proximity to the Mahwah River, the Rockland County Planning Department letter dated June 7, 2018, and Rockland County Sewer District letter dated June 12, 2018 (copies on file). Ms. Mele noted that there will be many cross-easements and since there are two lots and wetlands, the project aims to minimally impact the surroundings but will involve some appearances before the ZBA.

Mr. Grant, Landscaping Designer, presented his plan and explained that Mr. Gerber acquired the property and wants to preserve a bygone era with many old oaks and green space, and will tie the two properties together with many species of flowers, shrubs and trees. It will be self-contained and have an historic look and feel as you drive past, he explained.

Member Burke asked if there will be lighting installed at the tennis court. Ms. Mele said that they were considering that and if there is to be lighting, it will shine directly down onto the court only. Member Burke said there should be hours of operation as well.

Mr. Stach said that there is adraft legislation before the Village Board of Trustee for an Environmental Protection Overlay District (EPOD) as put forth in the 2017 Village Comprehensive Plan which includes a robust wetland protection overlay district, and advised that Ms. Mele read it before they next meet. Ms. Mele requested that a copy be sent to her.

Ms. Terhune asked if they are proposing a new pool house. Ms. Mele said the concept of a pool house is included on the plans but that they don't plan on building it now. The applicant would like this Board's approval for the future, she said. Mr. Spence agreed that approval here would save them a second trip to the Rockland County Drainage Agency as well as to the Planning Board.

Ms. Terhune advised that if the Board determines this is a Type II action here, the Applicant will proceed to the ZBA without a referral from this Board. Ms. Mele said that she was hoping they can be on both the Planning Board and ZBA agendas in August, so this Board would be seeing the plans before the ZBA appearance. Mr. McCreedy explained that their objective is to clearly identify the variances and have those depicted properly so they take the correct path and do not have to return repeatedly to get it right. Ms. Terhune said that was her point, that you proceed at your own risk to the ZBA without a referral from this Board. Ms. Mele agreed. Mr. McCreedy said that going to the ZBA and this Board in tandem could work reciprocally.

Chairman Caridi asked about the many issues and variances needed as outlined in a memo dated April 23, 2018 from Building Inspector Larry Picarello (copy on file). Mr. McCreedy said this application was reviewed at the April CDRC and at that time the variances were not clearly identified. The next iteration of the plans will attempt to memorialize the variances, he said. Mr. Stach suggested they attend the next CDRC with revisions. Mr. McCreedy and Ms. Mele agreed the July CDRC was more practical where they will at that time propose more traditional hardscapes and the pool house, essentially overdesigning in order to prevent repeat appearances before Rockland County Drainage and the ZBA.

Chairman Caridi asked if this required ACOE review because work is being proposing in the wetlands buffer. Mr. Spence said it is within the Rockland County Drainage Agency's jurisdiction and that as part of this application the Applicant will be applying for a local Stream and Wetlands Protection Permit as per Chapter 191 of the Village Code, which can be done concurrently with site plan approval. Mr. McCreedy asked if it would be better to have the wetlands delineated by a wetlands specialist and submit that report to the Board. [Wetlands Specialist] Mr. Torgersen has as much jurisdiction as the ACOE, he added. Mr. Spence agreed. Mr. Stach asked if they were encroaching into the flood zone. Mr. McCreedy said they are within the flood plain regulatory area. Mr. Spence said locally they are within the 100 foot regulated area but that the Local Stream and Wetlands permit will take care of that.

Chairman Caridi opened the public hearing.

Joan Cox, 544 Haverstraw Road, Montebello, said that her driveway is eight feet from the Gerber property. While she is not adverse to the tennis court, she explained that drainage is her major issue because they have experienced a lot of flooding along the entire side yard of their property which has pooled at and eroded the front of her property. The same happened with the neighbors on the other side, she added. She is concerned that with the additional impervious surface being added, this situation will worsen. Ms. Cox then asked why the Applicant needs eight additional parking spaces for one house, adding that it's a bit obnoxious for the rest of the neighborhood.

Ms. Mele said that all the changes proposed necessitate drainage mitigation. Not only do the plans show zero net runoff but they will actually improve the current drainage situation. Mr. McCreedy

told Ms. Cox that he would be happy to visit her property during a downpour to observe the conditions in order to help mitigate the drainage issues further.

Richard Nozell, 540 Haverstraw Road, Montebello, said that needles from his evergreen trees are picked by storm water from Mr. Gerber's property and carried down to his lawn. He said he tried putting logs down as a barrier, but to no avail. Further, Mr. Nozell said the existing plantings at the front of the Gerber property are now 20-30 feet tall and obstruct his view. He then explained that he was concerned with how close the proposed parking spaces are to his property line and hoped that there will be some screening.

Mr. Spence and Mr. McCreedy discussed extending the curbing along the driveway so it cuts off the drainage, channeling the storm runoff and keeping it on the Applicant's property.

Fredericka Shpetner, 1 Kevin Drive, Montebello, asked if it is the intent of the Gerber family to make this a family compound with multiple residences. Mr. McCreedy said the two dwellings will remain as they are and that the Applicant only wishes to add recreational amenities for his family. Ms. Shpetner noted that the front house has been rented out for the past year and asked if it will remain a rental. Ms. Mele said that it is her understanding that the front house will be occupied by Mr. Gerber's children. Ms. Shpetner stated that the front property has not been well-maintained this past year. Ms. Cox said that she knows the Gerbers bought the houses for the family and that Mr. Gerber rented one house out to an associate of his. She said those renters left the house in the early spring and that she believes Mr. Gerber's family will be moving in imminently.

Chairman Caridi asked the Planning Clerk to check the status of any property maintenance violations at that address.

No one else wishing to speak, Member Iatropoulos made a motion to declare this Application a Type II action under SEQRA, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

It was reiterated that this application will come to the July CDRC and the August 2018 Planning Board meeting.

Member Iatropoulos made a motion to adjourn the application and to continue the public hearing to the August 14, 2018 Planning Board meeting, seconded by Member Ternquist. Upon vote, the motion carried unanimously.

New Business: none

Member Iatropoulos made a motion to adjourn the meeting at 9:45 p.m., seconded by Member Ternquist. Upon vote, the motion carried unanimously.