CITY OF ISSAQUAH
Development Commission

7:00 PM Council Chambers
October 2, 2019 **MINUTES** 135 E. Sunset Way

COMMISSION AND ADMINISTRATIVE PERSONNEL PRESENT

Commissioners Present:
Richard Sowa, Chair
Mel Morgan, Vice Chair
Michael Brennan
Kevin Price
Richard Sanford
Brooke Shore
Arthur Schulte, Alternate
Commissioners Not Present (Excused):
Michael Brennan
Ben Rush
Commissioners Not Present (Unexcused):
Mark Rigos, Alternate
Nischitha Venkatesh, Alternate

Administration/Staff:
Lucy Sloman, Land Development Mgr.
Katie Cote, Planning Consultant
Doug Schlepp, Engineering Consultant
Keith Niven, Dev. Srcs. & Econ. Dev. Dir.

Others Present:
Mark Garff, SCJ Alliance
Tyrell Bradley, SCJ Alliance
Mike Foster, O'Neill Service Group
Greg Johnson, The Watershed Company

CALL TO ORDER
SOWA, Chair, called the meeting to order at 7:00 PM.

APPROVAL OF MINUTES
a) It was the consensus of all Commissioners present that minutes of the Development Commission meeting on August 15, 2019 be approved as presented.

b) It was the consensus of all Commissioners present that minutes of the Development Commission meeting on August 21, 2019 be approved as presented.

c) It was the consensus of all Commissioners present that minutes of the Development Commission meeting on September 25, 2019 be approved as presented.

PUBLIC HEARING(S)

a) **Site Development Permit for Evergreen Ford Lincoln Dealership - Quasi-judicial , (D); SDP19-00001; AAS19-00005; LLA19-00003—Continued from September 25, 2019; August 15, 2019; and May 1, 2019**
Presented by:
Katie Cote, Planning Consultant

Staff/Applicant Presentation
Sloman began tonight's presentation by explaining the nature of a quasi-judicial decision and the purpose of querying Commissioners about their ability to both be fair and appear fair in considering this application. She presented a series of questions intended to determine fairness and asked whether any Commissioners can answer no to all questions. There were no disclosures. She also asked a series of questions about ex-parte communications, and asked for any disclosures. There were none.

Cote presented information on the Evergreen Ford Lincoln Dealership application, including a description of the site and details about the proposed development. She continued by giving background about the Development Commission's previous discussion of this application on May 1, 2019; the applicant's responses to questions and modifications as requested at that meeting, given on August 21, 2019; a brief recap of public comment received at the August 15 meeting; and a brief review of what the Development Commission asked of the applicant at the subsequent meeting on September 25, including reviewing whether the waterway in question is a ditch or a stream.

Cote said the applicant team and the City have confirmed the finding that the waterway in question is a ditch under the Issaquah Municipal Code definition of ditch and stream. She said the applicant team also recognizes that because fish exist in the ditch, SEPA does require that the existing fish habitat be protected. Tonight the applicant team intends to present information on the SEPA process that staff has followed. The applicant has prepared information about the water source and impacts to the fish habitat, which will be presented tonight. She said staff has proposed a new SEPA condition, which will be presented later in the presentation. She gave more details about the review work that the applicant team and staff have done since the last Development Commission meeting.

Tyrell Bradley, project engineer, gave information on the two memos they have prepared for the Development Commission tonight. He gave background on the project, including the WSDOT reports that reference the waterway, and clarified WSDOT's work to mitigate the impacts to the ditch, and showed the property in question on a diagram. He spoke about (1) the applicant team's task to determine the source of the water that flows into the ditch; and (2) the impacts of the project on the environment. He clarified the basins that drain into the ditch using a diagram, and noted that 75 percent of the source waters are from the Highlands ("the birdcage"); 24.5 percent from nearby creek runoff into collection ponds, the WSDOT site, and the commercial district; and .5 percent from the project site. He discussed the natural springs near the site, and said the team concluded that flow from the two creeks in question go to the East Fork, not the North Fork, drainage basin.

He said the team's conclusion to the first task given to the team by the Development Commission is that the only water sources draining to the tributary are human-made stormwater systems that collect stormwater runoff from with the two drainage basins, and no natural sources were identified as draining to the tributary. Based on the IMC's definition of a ditch, this tributary is a ditch and not a stream.

He continued with the applicant team's response to the second task, which is whether the project is likely or not likely to have a significant adverse environmental impact with regard to the tributary. He described how the project will impact the primary water quality functions of pollutant filtration, fine sediment control, flood attenuation, shading function, and large woody debris recruitment. He noted that the project will exceed all minimum standards for discharge to a stream as set by Ecology. He described how water would flow through the site, and said the Best Available Science indicates that the water collection system offers benefits to the site. He showed how water would run through the modular filtration system, the detention system, and a level spreader, and then be discharged to a 30-foot vegetated buffer before reaching the ditch, which discharges to the stream.

He said the team's other conclusions to the question of the impact on the environment are as follows: the project will not have a negative impact on the water quality of riparian areas; will not degrade final sediment control; the detention system will perform better than today's conditions; shading functions will not be reduced, either directly or indirectly; and will have no impact on the large woody debris in and around the ditch. As a result, the team's conclusion to the second task is

that the project will not have a significant adverse impact on the riparian functions and services that benefit the ditch.

Cote reiterated that tonight's presentation is intended to answer the questions raised by the Development Commission, and explained that public comment, staff and peer review, and a discussion with the Rivers & Stream Board have all fed into staff's SEPA decision. She introduced a final SEPA condition staff is proposing, as follows:

Condition 1: The purpose and intent of the following conditions are to minimize project-related significant adverse environmental impacts to the adjacent drainage ditch, south of the project site located in the WSDOT right of way. A portion of the ditch has been designed by WSDOT to provide forage and rest habitat for salmonids entering from the North Fork of Issaquah Creek:

> *a) Adjacent onsite planting areas shall be planted with a mixture of native shrubs and trees in order to provide shading and natural water filtration, and groundcover to provide a more structurally complex habitat. If possible, the applicant is encouraged to also add native plants, shrubs, and ground cover in the offsite areas adjacent to the ditch owned by WSDOT. Plant densities shall be a minimum of nine feet on center for trees and five feet on center for shrubs. Planting densities are intended to provide a total number of plants per area—plants should be placed in random, naturalized clusters. Vine maples are considered a shrub and not a tree, so an alternative native tree species must be selected and approved by the City's consultant during landscape permit review.*
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> *b) In order to discourage the intrusion of people or animals, the applicant shall install a four-foot-high split rail wooden fencing along the property line adjacent to the ditch. To prevent vehicle intrusion, wheel stops or similar mechanisms preventing vehicle overhang shall be installed at the edge of the display and along the site perimeter near the ditch. These features must be shown on the applicant's site work permit.*
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> *c) Temporary erosion and sediment control measures shall be required for the site according to City codes and standards; however, as an extra precaution to mitigate the proximity of construction activities to fish habitat, a double-silt fence shall be installed adjacent to the North Fork of Issaquah Creek and the offsite ditch. The location and extent of the fence will be determined with City staff during the site work permit review.*

Public Comment (Continued from May 1, 2019; August 21, 2019; and September 25, 2019)
SOWA re-opened the public hearing for public comment at 7:10 PM.

Connie Marsh, Issaquah resident, gave her interpretation of the terms stream, tributary, and ditch, and questioned why the City's code stipulates that "having no water source" creates a ditch. She explained her research into WSDOT's work and maps, specifically her finding that there are three sources of natural water that go into the tributary. She said the City is asserting it is a ditch, and Evergreen Ford is asserting it is a ditch, and she is speaking on behalf of the fish because the City and developers are not. She continued her comments about mature vegetation that is preserving the stream, and said according to mitigation regulations in the City's code, a salmonids-bearing stream needs a 100-foot buffer. The applicant is saying there will be no impact to the fish, but the code is saying something different.

Steve Pereira, 170 N. Dogwood Street, lives on the North Fork of the Issaquah Creek. He spoke about his concern that water runoff storage capacity would be removed by this project, and the area is known to be prone to flooding. He spoke about the importance of salmon to the community.

He also said the consultant's report seemed to not be very specific about the benefits of having a 100-foot buffer to the lifecycle of salmon. He also talked about the difference between necessary and sufficient conditions. The City's code speaks to preserving the 100-foot buffer with a possible 25 percent reduction, and it seems sufficient to require that the project follow the code for something that the community treasures.

Mary Lynch, 2590 Oak Crest Drive, expressed disappointment with the City staff's presentations to the Rivers & Streams Board meetings about the classification of this waterway as a ditch. It was only with public comment that the work done by WSDOT was brought to the Development Commission and the Rivers & Streams Board by staff. The process is flawed, she continued. We need to ensure that staff represents all parties, including the fish, and we need to identify these issues early on in the process and not wait until the last minute. Also, staff is using data from 1996 in determining that this waterway is a ditch, not a stream, she concluded.

Dave Grotjahn, Issaquah resident, said he is a strong advocate for local businesses, especially those that are environmentally friendly. He gave his reasons for his conclusion that the Evergreen Ford project will in no way harm the fish or environment at the project site. He said this is a win-win for both the community and the environment, including the hundreds of Evergreen Ford employees.

David Kappler, Issaquah Trails Club, gave his opinion about why this waterway is being classified as a ditch. He said SEPA backs up the code when it is not sufficient, although the SEPA revision presented tonight is not adequate. He invited the Commissioners to walk the site and look at the tributary, and see the work and public money that has gone into it. He said the City will also be looking at Chapter 18 of its land use code and encouraged the Development Commission to follow the review process to be sure the codes are in place to appropriately evaluate a project.

Taylor Miller, business owner and Issaquah resident, spoke in favor of allowing this project to move forward. She spoke about her genuine investment in the community. She talked about her experience looking at and walking the site in its current condition, and said this project will enhance and improve the water quality of this ditch. She encouraged the Commission to approve this project and spoke in favor of it.

Kathy McCorry, Executive Director of the Greater Issaquah Chamber of Commerce, referred to a letter already submitted by the Chamber that addresses the long-standing presence of Evergreen Ford. She said the Chambers' review indicates improved vegetation and water quality of the creek as a result of the project. She spoke about the importance of Evergreen Ford's presence in the community and asked that the Commission support permitting the project.

Susan Neville, 2825 NW Pine Cone Drive, Issaquah, referred to a letter she submitted earlier, and said the SEPA condition is new since the Rivers & Streams Board meeting last night. She questioned whether the applicant really had adequate time to review everything before coming up with the condition. She said a lot of the comment at the Rivers & Streams Board meeting was about whether Evergreen Ford is a good partner in the Issaquah business community, and there seems to be consensus that they are. She said she hasn't heard any compromise solutions—it's just all or nothing.

Ned Nelson, 670 NW Everwood Drive, Issaquah, explained his ties to the community and complimented the Commissioners for their service to the community. He referred to the dialogue on the Nextdoor website about the issue of this waterway being a ditch. He said he honors those who oppose the project and the environmental work done all over the City. That said, he said he

walked the site and said the Evergreen Ford site is currently very clean and well maintained. It looks like a model business for our community; why would we want to send them off to another community. Having good businesses is one of the attractions of our City. This project is a "go," he concluded.

Mr. Elliott, Issaquah resident, spoke from the point of view of the fish, and said they seem to like the ditch. The City's code says that a stream should have a 100-foot buffer, but this is a ditch and so it doesn't. It doesn't seem right that the fish in the ditch don't get the same protection; we should be looking at fish wherever they are. He encouraged the Commission to recommend a larger buffer, and would also like to see a compromise that could accommodate both the fish and Evergreen Ford.

Tessa Smith, owner of an architectural firm that does work in this region, spoke about the need to stop bad development and support good development. Cities that don't grow, die. She spoke in favor of protecting the environment but also recognizing good development. She said she understands the appeal of passion, but reason is better. She said she sees a lot of reasonable data for this project that supports it being an improvement to this stream.

Tony Rehn, executive managing partner of Evergreen Chevrolet, gave some background on his and his family's residency in the region. He said it's important to be local and have local ties to the area, and Evergreen Ford has that. He spoke about the importance of family, businesses, promises, and service to the community. Evergreen is part of the fabric of Issaquah, he continued, and employs more than 200 people. We think we have a great location and a good plan, and we will leave this site better than we found it, he continued. He encouraged the Commission to support the project.

Carey Ruby, Sammamish resident, said her family owns property along Locust Street where the ditch is located. She said sometimes weeks and months go by with no water in this ditch, and asked can a compromise be found so the fish stay in the creek and don't go into the ditch. She said the City is growing, and it's sad to see the former dog kennel property empty. She said she supports both Evergreen Ford and the fish, and is encouraging a compromise.

Warren Michelsen read a statement in support of Evergreen Ford's construction of its project as outlined in the presentation. He said it is obvious to him that the ditch is there to drain the overflow from the Highlands into the basins further downstream. This manmade ditch only carries water when a vault in the Highlands is released, and is completely dry at certain times of the year. He referred to the applicant's conclusions and said he agrees. He also said he is concerned that the community could lose a very valuable business if this project does not go forward as designed. It would improve the site over its current condition.

Wright Noel, counsel for Evergreen Ford, spoke to previous comments about a compromise. Evergreen Ford is not in a contest with the environment here, and has worked with the City, the City's code, and the applicant team to make sure it is compliant with SEPA. He said the footprint cannot change without eliminating the project. He said the idea that more review is needed means that tens of thousands more dollars will be spent, including the costs of construction delays. The process is important, but it needs to be concluded and a decision made.

Janet Wall, 22740 SE 56th Street, member of the Rivers & Streams Board, speaking as a resident tonight, spoke about her concern that this waterway is being called a ditch, and as such, would receive no protective buffer under the City's code. She spoke about how the water coming into the ditch would be collected and treated, and expressed her concern that the plans do not adequate

address how the water should be funneled to the treatment system. She spoke about the bank of the tributary that was not revegetated by WSDOT, and said staff indicated that they would have to get WSDOT's permission to amend the vegetation on WSDOT's property, contrary to what staff initially said. She also spoke about her concern about erosion from the stormwater discharge into the tributary and how the applicant intends to meet the City's tree retention requirements. She said she thinks Evergreen Ford should be allowed to develop the site but should at least revegetate and amend those areas where stormwater will be deposited, and abide by the City's tree ordinance. She also said she would like some recognition of the banks as official buffers so there will be no further intrusions into the stream buffer.

Hearing no additional requests to speak, SOWA closed the public hearing at 8:20 PM.

Commissioner Discussion
SHORE asked for an update on the discussion at last night's Rivers & Streams Board meeting. Cote described the presentations made to the Board and said they did not make a decision. They asked how the applicant had studied the water sources and why the waterway is being considered a ditch and not a stream. Sloman clarified the role of the Rivers & Stream Board to the SEPA process, and said a request did arise that the City pursue requesting that additional plantings be allowed on WSDOT's property, which was added to the condition presented tonight. Cote said another part of the condition that was discussed with the Board was some temporary sediment control.

SANFORD asked did the Board discuss additional buffering. Sloman replied they would probably like to have treated it as a stream, but under the City's code, no additional landscaping is required. There was concurrence that a native tree species other than vine maples needed to be selected, she added.

MORGAN said he attended the meeting. One comment was that western red cedars would not be a good choice, and the applicant's landscape expert said that more Douglas firs would be used instead in the tree planting plan. Another comment was a mention of whether the tributary ditch could be a salmon-bearing stream or not, and the answer at the meeting was that it was too shallow of a slope. Greg Johnson, the Watershed Company, said that comment was about fish spawning habitat, not fish habitat in general. The gradient is too low there to maintain good spawning conditions, he said, and gave more explanation why that tributary could not successfully function as a fish reproductive habitat. The Commissioners asked additional clarifying questions about how fish could use the ditch. MORGAN asked whether planting larger trees along the border would provide any benefit in terms of fish habitat. Johnson replied larger trees will gain maturity faster, and commented that the shade is not that important in the summer if the ditch is dry, or in the winter when the temperatures are not high. That said, there could be some flow in the summer, he continued, so there might be some benefit during those events.
Sloman said the joint property line is on the north side of the WSDOT property, so the amount of shading to be gained is questionable. Studies have shown that smaller trees actually are less shocked when planted than larger trees, so they end up being about the same size as the larger trees with less mortality.

SANFORD asked about page 250 of 476, which refers to macroinvertebrates as the primary food source of foraging salmon ("… a streamside forest of ≥ 30 m is needed to protect and maintain fish communities in a natural or near-natural state"), and asked how is that addressed in the report. Johnson referred to the seasonal vs. perennial nature of a stream, and said that provision would be more applicable to a stream. He added that some macroinvertebrates need more than one wet season in order to thrive and be productive.

SCHULTE asked what is the risk, if any, of erosion with the stormwater dispersion system. Bradley explained how the stormwater dispersion system would work, and said the velocities of the water will be close to none as it leaves the water spreader. SHORE asked what happens in an emergency situation. Bradley replied anything larger than a 100-year storm would have increased outflow. He described what would happen in a 100- and 500-year storm event.

MORGAN asked will the ditch edge be curbed and contain all water on the site. Bradley replied yes, the site could be curbed and all water would be channeled to the modular wetland system. MORGAN asked where would rainfall on the site go now and as a result of the project. Bradley showed how the stormwater discharges now, and how the proposed discharge location will be as close as possible to that spot. MORGAN asked so all water coming into the site would go through the detention and treatment system. Bradley replied yes. SCHULTE asked whether the system has back-up power. Bradley said he would defer to the property owner for an answer.

SANFORD asked what is the width of the new vegetated strip in the SEPA condition. Bradley showed it on a diagram, and said it would be about seven feet.

MORGAN asked who maintains the WSDOT plantings on its project site. Sloman replied in general each property owner is responsible for their own property. Eric Hansen, project representative, replied the plantings done by WSDOT are maintained by WSDOT. MORGAN asked about responsibility for maintenance. Sloman replied the City has a performance bond for the plantings that are approved, and regular plantings have to be maintained for three years, then inspected to be sure they have established. However, mitigation plantings are subject to a five-year monitoring period. Doug Schlepp, engineering consultant for the City, explained the maintenance, monitoring, and inspection requirements for the treatment system.

SHORE asked what is the width of WSDOT's plantings on the north side. Sloman replied about 25 to 30 feet. SHORE asked what about the other sides. Bradley replied 24 feet. SHORE asked is any planting done by WSDOT being removed by this project. Bradley replied no.

MORGAN asked about the impact of lights on fish in the tributary, such as from parked cars. Bradley replied all the parking lot lighting will be shielded. MORGAN asked about headlights from parked cars; will there be any impact on fish habitat. Sloman replied on the issue of lighting and fish habitat, the City is updating its Shoreline Master Plan and has received some information on that. She continued standards have not been established yet, and referred to the limitations on parking lot lighting in the City's regulations. So at this point we do not have enough information to know fully what the impacts are, she stated.

MORGAN asked would it be prudent to include a request that all vehicles be backed in along that border. Sloman replied staff did add a SEPA condition to have wheel stops or some other mechanism to ensure cars stay out of the landscape. MORGAN said it seems one of the ways we can ensure a better buffer would be to consider creating a solid fence that would prevent human behavior that could impact the ditch better than a split-rail fence. Sloman gave comments on the use of a split-rail fence rather than a solid fence. MORGAN said his concern is effectively creating a larger buffer without taking away from the project's footprint.

The Commissioners and participants discussed how light from headlights could negatively impact fish habitat, including approaching WSDOT about increasing its vegetation. Bradley said the water coming off of this site will be 100 percent collected and treated, so the riparian area is not needed for the water leaving the site. The stormwater leaving the site will meet Ecology's standards. He

continued WSDOT left its vegetation at the standard indicated by Ecology and its permits, and the project has no impact on WSDOT's property. So asking WSDOT for additional planting is asking them to increase their maintenance, which they found adequate when they left the project.

Niven said the applicant has told the City they are willing to approach WSDOT about plantings as a voluntary measure in response to concerns raised by the Commission. He continued in response to MORGAN's comments, the split-rail fence is appropriate for both openness and because it is a better transition from an urban design standpoint, and said the Commission could consider a hedgerow of some kind instead. Mark Graff, landscape architect, said hedges don't make great neighbors. It kind of walls people off from the buffer, he continued, and visibility is important here for the business. He spoke against the idea and said any native plant would not be appropriate, although wax myrtle might work.

MORGAN said his concern is finding some way to protect salmonids from activity in the nearby parking lot. Garff suggested red twig dogwood might be an appropriate solution. Niven suggested that staff draft a condition that a hedge-type plant be identified that would be installed along with a split-rail fence, and that details be included in the forthcoming landscape plan. Mike Foster gave information about what is currently included in WSDOT's plantings.

The Commissioners discussed the idea of requiring a hedge in addition to a split-rail fence. SOWA said WSDOT's plan was deemed adequate, and questioned why it needs to be more than that. SCHULTE asked MORGAN to clarify the area he is concerned with protecting. MORGAN replied the tributary area only.

SHORE said she thinks the seven-foot WSDOT plantings should be adequate. MORGAN gave examples of how people might be attracted to the tributary. SANFORD said he is concerned about detention of all the runoff, especially if the system fails. SCHULTE said the parking along the ditch appears to have islands among the stalls, with no sidewalks. Bradley said there are no sidewalks, just two planters that bisect the stalls. SCHULTE said walkability in that area appears to be somewhat limited, and doesn't appear to be a place people would likely congregate. Bradley replied correct. There is a plaza in the entrance that would be the place for people to congregate.

MORGAN said his understanding is that the Commission is not approving the SEPA conditions. Sloman replied that is correct. MORGAN said he would suggest add language to condition (b) about "acceptable landscaping material." Staff made a note of it. SCHULTE asked where "The stream and buffer shall be encumbered by a public open space…" in the DNS (page 389 of 476) is being addressed in the site plan. Sloman replied that refers to the 75-foot buffer on the North Fork.

SANFORD asked Garff is the planting area around the tributary equivalent to the mitigation potential of the plantings on the North Fork in terms of sediment and phosphorus removal. Garff replied there is no untreated runoff from the site. He continued WSDOT's plantings are growing vigorously, and we will be adding to the vegetation along the North Fork. SANFORD said in your opinion is the current planting sufficient to maintain the habitat in the ditch. Garff replied yes.

SCHULTE asked are wheel stops planned along the ditch site. Sloman said that is part of the proposed SEPA condition.

MORGAN said the ditch or a stream question seems to be a code matter, and coming to a different conclusion than the City that this is a ditch doesn't seem possible. So the question before the Commission is whether the SEPA plus the new condition would result in a project that is as good as or better than the existing water quality conditions, and it seems like the water quality in the

ditch could end up being improved. SANFORD said he agreed. He continued that the City's definition of a stream in its code is not consistent with County code, and read the definition of "stream" from the County's sensitive areas ordinance. He suggested this be considered when Chapter 18 of the City's land use code is revised. Sloman added that revision is scheduled to take place next year.

Commission Decision

MOVED BY MORGAN, SECONDED BY PRICE that the Development Commission approve the Site Development Permit for the Evergreen Lincoln Ford Project, File No. SDP 19-00001, Associated Adjustment of Standards File No. AAS-19-00005, as described and evaluated in the Staff Report dated May 1, 2019, with attachments 1-8; Briefing Response Memo dated August 21, 2019, with attachments 1-6; project drawings and reports received March 5, 2019 and all subsequent submittals up to July 21, 2019; and subject to the conditions therein and as amended tonight, including revised condition 10, "Consistent with the minimum tree density standards in CIDS 10.10, the applicant shall plant 110 trees measuring a minimum of two-inch caliper onsite or in an approved offsite location, or else make a payment to the City's tree fund in lieu of providing replacement trees." MOTION CARRIED UNANIMOUSLY.

MOVED BY MORGAN, SECONDED BY SANFORD that staff prepare Findings of Fact and conclusions for review and approval by the Development Commission Chair affirming the Development Commission's position to approve the Site Development Permit for the Evergreen Lincoln Ford Project, File No. SDP 19-00001, Associated Adjustment of Standards File No. AAS-19-00005, subject to the conditions listed in the Staff Report dated May 1, 2019, with attachments 1-8; Briefing Response Memo dated August 21, 2019, with attachments 1-6; project drawings and reports received March 5, 2019 and all subsequent submittals up to July 21, 2019; and subject to the conditions therein and as amended tonight. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS / ANNOUNCEMENTS

a) The next meeting is currently scheduled for October 16, 2019 at 7:00 PM in the Council Chambers.

ADJOURNMENT

SOWA thanked participants for expressing their views, and said the exchange of opinions is an important part of the decision making process. With no additional business to conduct, SOWA adjourned the meeting at 9:25 PM.

Respectfully submitted,

Susan Lowe
Recording Secretary