

AMY H. CANNON  
County Manager



RAWLS HOWARD  
Director

TRACY JACKSON  
Assistant County Manager



DAVID MOON  
Deputy Director

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*Cumberland County Joint Planning Board*

**MINUTES**  
December 15, 2020

**Members Present**

Mrs. Diane Wheatley – Chairman  
Mr. Stan Crumpler – Vice-Chair  
Mr. Carl Manning  
Mr. Mark Williams  
Mr. Thomas Lloyd  
Mrs. Susan Moody  
Mrs. Jami McLaughlin

**Members Absent**

Ms. Kasandra Herbert  
Mr. Gary Burton  
Mr. Jordan Stewart

**Others Present**

Mrs. Betty Lynd  
Mr. Rawls Howard  
Mrs. Laverne Howard  
Mr. Rick Moorefield  
County Attorney  
Ms. Annie Melvin  
Mr. Christopher Carr  
Asst. County Attorney

I. INVOCATION AND PLEDGE OF ALLEGIANCE

Mrs. Wheatley delivered the invocation and led those present in the Pledge of Allegiance.

II. APPROVAL OF / ADJUSTMENTS TO AGENDA

There were none

**Mrs. Moody made a motion, seconded by Mr. Manning to approve the agenda as submitted. Unanimous approval.**

III. PUBLIC HEARING WITHDRAWAL / DEFERRAL

**CASE NO. 20-143.** CONSIDERATION OF THE JODI MEADOWS PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE MAXIMUM NUMBER OF LOTS TO BE SERVED USING A CLASS "C" PRIVATE STREET; COUNTY SUBDIVISION ORDINANCE, SECTION 2304.C.4.C(4), PRIVATE STREETS; ZONED: RR; TOTAL ACREAGE: 5.59+/-; LOCATED AT 597 GRIMBLE DRIVE; SUBMITTED BY JODI MEADOWS (OWNER) & LORI S. EPLER ON BEHALF OF LARRY KING & ASSOCIATES, R.L.S., P.A. (AGENT). **APPLICANT REQUESTED DEFERRAL UNTIL FEBRUARY 16, 2021 PLANNING BOARD MEETING**

**Mrs. Moody made a motion, seconded by Mr. Crumpler to approve the deferral. Unanimous approval.**

IV. ABSTENTIONS BY BOARD MEMBERS

There were none

V. APPROVAL OF THE MINUTES OF NOVEMBER 17, 2020

**Mr. Crumpler made a motion, seconded by Mr. Williams to approve the minutes as submitted. Unanimous approval.**

VI. CHAIRMAN'S WELCOME AND RULES OF PROCEDURE

Chair Wheatley read the welcome and rules of procedures.

VII. PUBLIC HEARING CONSENT ITEMS

TEXT AMENDMENT

- A. **P20-62. REVISION AND AMENDMENT TO THE CUMBERLAND COUNTY ZONING ORDINANCE IN ITS ENTIRETY FOR THE PURPOSE OF BRINGING THE ORDINANCE INTO COMPLIANCE WITH THE NEWLY ADOPTED CHAPTER 160D STATE STATUTES AND UPDATING THE TABLE OF CONTENTS AS APPROPRIATE. (COUNTY)**

In Case P20-62, the Planning & Inspections staff recommends approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with state statutes allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public.

**In Case P20-62, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the text amendment and finds the request consistent with the 2030 Growth Vision Plan because, while specific land use plan policies do not address a comprehensive update to the County's Zoning Ordinance, a current ordinance that is in compliance with state statutes allows the department to continue to provide efficient and effective services to achieve goals laid out not only in the 2030 Growth Vision Plan, but all detailed land use plans within the County. Approval of this text amendment is also reasonable and in the public interest as it is a comprehensive update to clarify standards and review processes for the public. Unanimous approval.**

INITIAL ZONING CASES

- B. **P20-54. INITIAL ZONING OF 3.64+/- ACRES TO C2(P) PLANNED SERVICE AND RETAIL DISTRICT/CZ CONDITIONAL ZONING FOR TRADES CONTRACTOR ACTIVITIES OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE NORTHWEST SIDE OF SR 1243 (US HWY 301 S), NORTHEAST OF SR 1126 (BROOKLYN CIRCLE); SUBMITTED BY DSI PROPERTIES, LLC (OWNER). (HOPE MILLS)**

In Case P20-54, the Planning & Inspections staff recommends approval of the initial zoning request to C2(P) Planned Service and Retail District/CZ Conditional Zoning for trades contractor activities and finds the request consistent with the Southwest Cumberland Land Use Plan (2013) designation of "Heavy Commercial" as the subject property meets the location criteria for heavy commercial as defined in the Land Use Policies Plan (2009) and the plan supports strip commercial areas along US Hwy 301. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and the permitted use serves as a transition between existing commercial uses and established residential areas.

**In Case P20-54, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the initial zoning request to C2(P) Planned Service and Retail District/CZ Conditional Zoning for trades contractor activities and finds the request consistent with the Southwest**

**Cumberland Land Use Plan (2013) designation of “Heavy Commercial” as the subject property meets the location criteria for heavy commercial as defined in the Land Use Policies Plan (2009) and the plan supports strip commercial areas along US Hwy 301. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and the permitted use serves as a transition between existing commercial uses and established residential areas. Unanimous approval.**

- C. **P20-55.** INITIAL ZONING OF 15.65+/- ACRES TO R7.5 RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE WEST SIDE OF SR 1119 (MUSCAT ROAD) AND SOUTH OF FAIRHAVEN TRAIL; SUBMITTED BY GRRF, LLC (OWNER). (HOPE MILLS)

In Case P20-55, the Planning & Inspections staff recommends approval of the initial zoning request to R7.5 Residential and finds the request consistent with the Southwest Cumberland Land Use Plan (2013) designation of “Low Density Residential” as it allows a density of 2.2 to six units per acre and only allows stick-built homes which are permitted uses in the R7.5 district. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcels have access to public water and sewer.

**In Case P20-55, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the initial zoning request to R7.5 Residential and finds the request consistent with the Southwest Cumberland Land Use Plan (2013) designation of “Low Density Residential” as it allows a density of 2.2 to six units per acre and only allows stick-built homes which are permitted uses in the R7.5 district. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcels have access to public water and sewer. Unanimous approval.**

- D. **P20-56.** INITIAL ZONING OF 3.74+/- ACRES TO C(P) PLANNED COMMERCIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED ON THE WEST SIDE OF SR 1132 (LEGION ROAD), SOUTH OF SR 3301 (IRELAND DRIVE); SUBMITTED BY WASH-A-ROO LAUNDROMAT, INC. & RAYMOND E. NICHOLSON, JR. (OWNERS). (HOPE MILLS)

In Case P20-56, the Planning and Inspections staff recommends approval of the initial zoning request to C(P) Planned Commercial and finds a) The approval is an amendment to the adopted current Southwest Cumberland Land Use Plan (2013) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request. b) The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the subject properties meet the location criteria for “heavy commercial” as defined in the Land Use Policies Plan (2009), including access to public water and sewer, and c) Approval of the initial zoning request is reasonable and in the public interest because the district requested is in harmony with adjacent existing zoning and land uses.

**In Case P20-56, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the initial zoning request to C(P) Planned Commercial and finds a) The approval is an amendment to the adopted current Southwest Cumberland Land Use Plan (2013) map; and that the Board of Commissioners should not require any additional request or application for amendment to said map for this request. b) The following change in conditions was considered in amending the zoning ordinance (zoning map) to meet the development needs of the community: the subject properties meet the location criteria for “heavy commercial” as defined in the Land Use Policies Plan (2009), including access to public water and sewer, and c) Approval of the initial zoning request is reasonable and in the public interest because the district requested is in harmony with adjacent existing zoning and land uses. Unanimous approval.**

- E. **P20-59.** INITIAL ZONING OF 0.32+/- ACRES TO RR RURAL RESIDENTIAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 8422 GODWIN FALCON ROAD; SUBMITTED BY SELENE BURNETTE (OWNER). (GODWIN)

In Case P20-59, the Planning & Inspections staff recommends approval of the initial zoning request to RR Rural Residential and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designation of "Suburban Residential". RR is designated as "Suburban Density Residential" within the Land Use Policies Plan (2009) and will permit a density of no greater than 2.2 units/acre. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcel is served by public water and sewer.

**In Case P20-59, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the initial zoning request to RR Rural Residential and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designation of "Suburban Residential". RR is designated as "Suburban Density Residential" within the Land Use Policies Plan (2009) and will permit a density of no greater than 2.2 units/acre. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcel is served by public water and sewer. Unanimous approval.**

- F. **P20-60.** INITIAL ZONING OF 30.29+/- ACRES TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 7835 ROYAL STREET, 7513 BURNETT ROAD, AND 9162, 9209, 9225, 9238, 9258 MAIN STREET; SUBMITTED BY THE TOWN OF GODWIN, OFFIE RANDALL JOYNER, DESSIE C. STARLING, MARIA J. WADZINSKI & GILLIAM P. WISE (OWNERS). (GODWIN)

In Case P20-60, the Planning & Inspections staff recommends approval of the initial zoning request to A1 Agricultural and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designations of "Farmland", "One Acre Residential", and "Low Density Residential" as the A1 district will not permit a residential density higher than those desired by the designations (at a maximum of 6 units/acre). Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcels are served by public water and sewer.

**In Case P20-60, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the initial zoning request to A1 Agricultural and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designations of "Farmland", "One Acre Residential", and "Low Density Residential" as the A1 district will not permit a residential density higher than those desired by the designations (at a maximum of 6 units/acre). Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcels are served by public water and sewer. Unanimous approval.**

- G. **P20-61.** INITIAL ZONING OF 0.40+/- ACRES TO A1 AGRICULTURAL OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 7456 BURNETT ROAD; SUBMITTED BY JAMES ROBERT GODWIN (OWNER). (GODWIN)

In Case P20-61, the Planning & Inspections staff recommends approval of the initial zoning request to A1 Agricultural and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designation of "Low Density Residential", as the A1 district will not permit a density higher than 6 units/acre. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcel is served by public water and sewer.

**In Case P20-61, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommends approval of the initial zoning request to A1 Agricultural and finds the request consistent with the Northeast Cumberland Land Use Plan (2010) designation of "Low Density Residential", as**

**the A1 district will not permit a density higher than 6 units/acre. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and the parcel is served by public water and sewer. Unanimous approval.**

#### CONDITIONAL ZONING CASE

- H. **P20-57.** REZONING OF 8.85+/- ACRES FROM A1 AGRICULTURAL TO A1 AGRICULTURAL/CZ CONDITIONAL ZONING FOR A 3 LOT ZERO LOT LINE SUBDIVISION OR TO A MORE RESTRICTIVE ZONING DISTRICT, LOCATED ON THE SOUTH SIDE OF SR 1728 (MIDDLE ROAD), WEST OF SR 1725 (DOBBIN HOLMES ROAD); SUBMITTED BY MARY PARKS PATTERSON, CHARLES WAYNE HALL & CARA HALL AND ROBERT WILLIAM SIZEMORE & CLAIRE CULBRETH SIZEMORE (OWNERS). (EASTOVER)

In Case P20-57, the Planning & Inspections staff recommends approval of the rezoning request from A1 Agricultural to A1 Agricultural/CZ Conditional Zoning for a 3 lot zero lot line subdivision and finds the request consistent with the Eastover Land Use Plan (2018) designation of "Rural Density Residential" as it requires that any lot with this designation to be at least 20,000 square feet. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and will only affect applicable setbacks to interior property lines of the parcels.

**In Case P20-57, Mrs. McLaughlin made a motion, seconded by Mr. Crumpler to recommend approval of the rezoning request from A1 Agricultural to A1 Agricultural/CZ Conditional Zoning for a 3 lot zero lot line subdivision and finds the request consistent with the Eastover Land Use Plan (2018) designation of "Rural Density Residential" as it requires that any lot with this designation to be at least 20,000 square feet. Approval of the request is reasonable and in the public interest as the district requested is in harmony with surrounding existing land uses and zoning and will only affect applicable setbacks to interior property lines of the parcels. Unanimous approval.**

#### VIII. PUBLIC HEARING CONTESTED ITEMS

##### INITIAL ZONING CASE

- I. **P20-58.** INITIAL ZONING OF 30.85+/- ACRES TO A1 AGRICULTURAL, R40A RESIDENTIAL, & C(P) PLANNED COMMERCIAL/CZ CONDITIONAL ZONING FOR MOTOR VEHICLE REPAIR OR TO A MORE RESTRICTIVE ZONING DISTRICT; LOCATED AT 8171, 8224, 8249, 8306, 8329, 8334, 8355 GODWIN FALCON RD & REID # 0592890807000, 0593700698000; SUBMITTED BY BARNEY B. GOFF, JR., DEVON MCKOY, GWENDOLYN MCMILLAN, CRAIG LAMONTE ROBINSON, ANGELA SMITH, BOBBY B. SMITH AND JOSEPH SMITH (OWNERS). (GODWIN)

Mrs. Lynd presented the photos and case information.

In Case P20-58, the Planning & Inspections staff **recommends denial** of the initial zoning request of A1 Agricultural, R40A Residential, and C(P) Planned Commercial/CZ Conditional Zoning for motor vehicle repair and instead **recommends approval** of initial zoning to A1 Agricultural where the Northeast Cumberland Land Use Plan (2010) calls for "Suburban Residential" and C(P) Planned Commercial where the land use plan calls for "Commercial" and finds this recommendation consistent with the Northeast Cumberland Land Use Plan as the districts recommended do not create a density higher than 2.2 units/acre and the plan promotes a concentration of commercial activities at the I-95 and Godwin-Falcon Road interchange. Approval of this recommendation is reasonable and in the public interest as the parcels are served by public water and sewer, the recommended districts are in harmony with surrounding existing land uses and zoning and the interchange area will be best served by zoning that would permit convenient goods and services for the traveling public.

There was no one present to speak in favor or in opposition.

Mr. Lloyd asked if there was anything on the lots recommended for rezoning or if they were vacant.

Mrs. Lynd pointed out the areas that were vacant and what seemed like a residential structure on another lot.

Mr. Lloyd confirmed that the town made the request and that staff's recommendation would make at least one residence non-conforming based on a plan that is not a parcel-by-parcel plan, but that is what is going to happen, the house will be non-conforming.

Mrs. Lynd said yes and that ultimately the request will go before the Town of Godwin's Board of Commissioners.

Mr. Lloyd said he understood that, but the staff is still making a recommendation and so is the Board. So, the staff is asking the board to make something non-conforming, on an initial zoning that the town is fine with on a ten-year-old plan. If the house burns down more than fifty percent, they will not be able to rebuild.

Mrs. Lynd said that was correct.

Mr. Howard said a lot of what staff's jobs are is to look at the Town's adopted plans and what they would recommend for the future for the area and base their recommendation off those policies and planning best practices. If the board chooses to adhere to a vision other than what is stated in their plans, that is up to the board and the Town of Godwin at the time of their vote. As staff, they must look at what the policies say and make a recommendation based upon their adopted policies and the future development of the area.

Mr. Lloyd said ultimately the town made the request which is a sign of how the town wants to go which is in essence voting over what they have already approved. They have already corrected the plan by making this request. Mr. Lloyd went on to say that he was against the plan because he has a problem with initially zoning a home and making it non-conforming, so that if something happens to it more than fifty percent, they will not be able to rebuild.

Mr. Howard stated staff understood Mr. Lloyd's perspective.

Mr. Williams said that he knows this is based on a recent annexation that Godwin just completed, and Godwin, Falcon, and Wade are hungry for commercial business. A lot of the area in question used to be a trailer park and it was a nuisance, so they eliminated a lot of that. Mr. Williams said that whatever the Planning Board decided to do, he had a feeling that Godwin would say go ahead and make it commercial.

**After further discussion, In Case P20-58, Mrs. Moody made a motion, seconded by Mr. Crumpler to follow the staff recommendation and recommend denial of the initial zoning request of A1 Agricultural, R40A Residential, and C(P) Planned Commercial/CZ Conditional Zoning for motor vehicle repair and instead recommend approval of initial zoning to A1 Agricultural where the Northeast Cumberland Land Use Plan (2010) calls for "Suburban Residential" and C(P) Planned Commercial where the land use plan calls for "Commercial" and finds this recommendation consistent with the Northeast Cumberland Land Use Plan as the districts recommended do not create a density higher than 2.2 units/acre and the plan promotes a concentration of commercial activities at the I-95 and Godwin-Falcon Road interchange. Approval of this recommendation is reasonable and in the public interest as the parcels are served by public water and sewer, the recommended districts are in harmony with surrounding existing land uses and zoning and the interchange area will be best served by zoning that would permit convenient goods and services for the traveling public. The motion passed with Mr. Lloyd and Mr. Williams voting in opposition.**

IX. PUBLIC HEARING WAIVER CASE

- I. **CASE NO. 20-144.** CONSIDERATION OF THE CAROLYN MICHELLE RATLEY PROPERTY; SUBDIVISION REVIEW; REQUEST FOR A WAIVER FROM THE MINIMUM REQUIRED STREET FRONTAGE OF 20 FEET FOR THE CREATION OF A LOT; COUNTY SUBDIVISION ORDINANCE, SECTION 2303.C, STREET FRONTAGE; ZONED: RR; TOTAL ACREAGE: 1.09+/-; LOCATED AT 5151 ELLIS JACKSON ROAD; SUBMITTED BY CAROLYN MICHELLE RATLEY (OWNER) & J. THOMAS NEVILLE ON BEHALF OF YARBOROUGH WINTERS & NEVILLE, P.A. (AGENT). (COUNTY)

Mrs. Lynd presented the case information and photos.

This is a request to allow the creation of a lot utilizing an easement, not the minimum required street frontage of 20 feet per the County Subdivision Ordinance.

The tract was illegally created by deed on December 13, 2006 (Deed Book 7445, Pages 442-443) when a quarter portion of a 4.27-acre parent tract was deeded to Jessie D. Jackson ("Exhibit 1"). The 4.27-acre parent tract was created prior to subdivision regulations (prior to August 22, 1984). A 20-foot easement was also a part of the deed recorded in 2006. The 1.09-acre tract was then deeded to Carolyn Ratley on June 21, 2018 (Deed Book 10327, Pages 283-284)("Exhibit 2").

The subject property is the only illegal lot under consideration for this request.

The Public Hearing opened.

Chair Wheatley swore in the three people signed up to speak.

Mr. Thomas Neville, attorney for the applicant, spoke in favor. Mr. Neville pointed out the road, Ellis Jackson Road, that is an easement that serves all the properties on both sides of the road. It is an easement contained in the property owner's deeds. The hardship that the applicant's face was created by the deeding of the 1.08 acres and the creation of the subdivision ordinance. Mr. Neville gave some background on the property and stated that the applicants were asking for the waiver so they can develop the tract as a residential tract. Mr. Neville showed photos of properties around the subject property, what he was trying to convey was all the properties were probably all illegal because of the subdivision ordinance, because they were created before the subdivision ordinance and would also need a variance to place a house on the land. The goal is to improve the property and to stay in keeping with what is already there on that road.

Mr. Neville stated that the applicants were available to speak if the Board had questions for them.

Public Hearing closed.

Mr. Lloyd said that he was going to vote for the waiver. He also stated that this happens, not because the ordinance went into effect, but because an attorney transferred property, unbeknownst to clients, by deed, which is a misdemeanor. This has been a problem since the ordinance went into effect. This has happened to the applicant through no fault of their own.

Mrs. Moody asked if the fire department is consulted on these types of cases.

Mrs. Lynd said they send out requests for comments to all interdepartmental agencies as well as outside, if there is not a comment indicated in the staff report, it is because we did not receive a comment from them.

Mr. Moorefield explained how the easements come about and the purposes for ordinances. One of those reasons is so that emergency service responders can have access to the permitted structures, and permits cannot be issued if there is no waiver. Mr. Moorefield recommended that if the waiver is

granted, the Board require a plat to be submitted noting the easement and that it is not maintained by the County or State.

Mr. Neville stated that his client was willing to agree to submitting a plat.

**In Case 20-144, Mr. Crumpler made a motion, seconded by Mr. Lloyd to approve the waiver subject to the following findings of fact as answered by the applicant in "Exhibit A" of their application: a) Because of the size of the tract to be subdivided or developed, its topography, the condition or nature of adjoining areas, or the existence of other unusual physical conditions, strict compliance with the provisions of this ordinance would cause a special hardship to the property owner and be inequitable, and b) The public purposes of this ordinance and the County Zoning Ordinance would be served to an equal or greater degree, and c) The property owner would not be afforded a special privilege denied to others. The motion was also made subject to adding a statement on the final plat declaring Ellis Jackson Road a private easement and relieving the County of any liability of maintenance. Unanimous approval.**

## X. DISCUSSION

- DIRECTOR'S UPDATE
  - Mr. Howard advised the Board that the Land Use Codes Committee met to review Zero Lot Line Development and Conservation Subdivisions and staff would be working on language to present to local stake holders before bringing it to the Board.
  - Mr. Howard said that a Draft Zoning Ordinance has been put together for the Town of Linden and is being vetted through their attorney.
  - Mr. Howard proposed moving Quasi-Judicial hearings, such as waiver cases, to the Board of Adjustment since they handle those types of hearings. Mr. Howard stated there is no current commitment to the Board other than giving a tacit approval to present language for future discussion. The Board agreed to look at proposals. The Board will let Mr. Howard know what direction to take.
  - Mr. Howard said that the next training would be on Quasi-Judicial hearings. He would work to include the Boards of Adjustment for the County and the Municipalities for training.

## XI. ADJOURNMENT

There being no further business, the meeting adjourned at 7:18 pm.