

**INVER GROVE HEIGHTS CITY COUNCIL MEETING  
MONDAY, JUNE 28, 2021 - 6:00 P.M. - 8150 BARBARA AVENUE**

**1. CALL TO ORDER:**

The City Council of Inver Grove Heights met in regular session on Monday, June 28, 2021, in person. Mayor Bartholomew called the meeting to order at 6:00 p.m. The Pledge of Allegiance was recited.

**2. ROLL CALL:**

Present In-Person: Mayor Bartholomew, Council Members: Piekarski Krech, Dietrich, Murphy, and Gliva; City Clerk Kiernan, Interim City Administrator/Community Development Director Rand, City Attorney McCauley Nason, Information Technology Manager Gade, Interim Public Works Director Eckles, Environmental Specialist Sutherland, City Planner Hunting, and Associate Planner Botten.

Also Present: Carah Koch, Executive Director, Dakota Broadband Board; Peter Chmielewski, Lennar Multifamily Communities (LMC); David Higgins, McGough; Charlie Hexum, CBRE; David Stradtman, Rachel Development.

**3. PRESENTATIONS:****Dakota County Broadband Presentation - Carah Koch**

Information Technology Manager Marc Gade stated Carah Koch, Executive Director for the Dakota Broadband Board will be giving a presentation, update, and background information on the Dakota Broadband Board (DBB), of which the city is a member. An update will also be given on the DBB's efforts at creating a commercial network and opportunities for the DBB and its members.

Carah Koch, Executive Director for the Dakota Broadband Board gave the following presentation:  
DBB Background and Structure:

- Joint Powers Organization formed between 10 cities in Dakota County, Dakota County, and the Dakota County CDA (Community Development Agency).
  - The Joint Powers Agreement was signed at the end of 2017/beginning of 2018.
  - Purpose is to create a high-performance network for broadband fiber assets.
    - This connects physical buildings and parks across the city.
    - The purpose focuses on efficient management. Prior to the DBB, each member paid for their own maintenance and locates of their fiber assets.
    - With the creation of the DBB, creates an opportunity to save money and efficiently use taxpayer dollars to take care of these assets.
    - Utilize any excess capacity that is in the ground.
    - The main cost of putting fiber in the ground is the initial construction. Cost of fiber is minimal compared to construction costs.
    - If there is excess capacity in the ground, use the excess to pursue public/private partnerships that can encourage economic development across the city and benefits the communities that are a part of the organization.
- The DBB will not be a retail provider of broadband internet to citizens and/or businesses in the community it serves.
- The Board is made up of elected officials from each community.
  - There are Committees:
    - The Board
    - Executive Committee
    - Technical Advisory Committee. Includes one member from each community, usually Staff. Information Technology Manager Marc Gade is the city representative.

**Dakota Broadband Network (2021)**

- 223 miles of fiber.
- Members are a part of the DBB, you retain ownership of your fiber assets at all times.
- County owns 64% of the fiber assets. Serves as the "core backbone" of services.
- Through partnerships, members have the capacity to enable critical connections to public facilities, providing better service to citizens across the community.

**Member Investment in Broadband**

- The DBB network is expanded through a project process.
  - For example, Inver Grove Heights identified projects that provide value to the city.
  - Through a defined public process that the DBB and its members have developed, the DBB and its Contractors/Contracted services will do the project management for the city.
    - Alleviates the burden on Staff and resources internally.
    - Not hiring a consultant every time for a project.
    - This is part of the DBB membership.
  - Process includes:
    - Annual planning structure. On an ongoing basis, herself and the contracted maintenance provider would meet with Staff and other Staff members of the DBB and identify Capital Improvement Projects.
    - Collaboration helps determine projects they can partner with. For example: Inver Grove Heights has partnered with Dakota County. This saves costs for members instead of doing it on their own.

City of Inver Grove Heights Project Examples:

- New fiber infrastructure was built in the city:
  - Inver Wood Golf Course
  - Fire Stations
  - Water Treatment Facility
  - City Hall
- All those projects are built to expand the network, serve citizens, and support the redundancy.
- Increased efficiency and service delivery based on economy of scale.
- Savings to the city as a part of locates (the flags in the ground whenever there is a project, for locating utilities). There are savings for members for locates.
- Savings on the project process.
- Potential for economic development as an outcome of the DBB membership and partners; commercial or residential.
- Enhanced preparedness for unexpected emergencies.
- City ownership of assets reduces the dependency on external providers for data connectivity.
  - Empowers the city to identify needs and priorities and achieve them.

CNET (any service to non-members of the DBB) Opportunities and Options:

- Systems Plan that defined its future in 2017.
- Discussion about updating the plan.
- Value to updating the plan to understand the current state of broadband.
- The Board had a discussion about this at their April meeting.
  - The outcome is that there are different perspectives on how the DBB should move forward.
  - Value in going back to cities and touching base with Councilmembers.
    - Ask if this is the direction Council wants the DBB to go.
    - If wanting to continue looking at CNET. The use of existing capacity in the ground, how, where, what is the focus.
    - Gather input as a Council and as a community to understand thoughts about this.

CNET Opportunities and Options:

- Can have discussion about what the design of CNET infrastructure would look like.
  - Technical options:
    - Lease out excess capacity.
    - Lease out individual fibers.
    - Apply electronics and change how the structure of the system was implemented.
- Different directions of the focus of CNET:
  - Economic Development:
    - Connect business
    - Promote business growth
    - Promote retention across the city
    - Expanding access to those un-served or under-served

- o Improving services for businesses and residents throughout Inver Grove Heights:
  - If currently served, are there additional options for public/private partnerships that would enhance or meet the needs of the service.

Mayor Bartholomew commented capacity in the ground that is not used could be used toward development of a business park or a larger residential development without cable in the area. The city is not looking to be in the business, there is capacity and can sell/rent to anyone that wants to provide it. Ms. Koch responded the DBB states in multiple documents they will not be providing the service.

**4. CONSENT AGENDA:**

- A.**
  - i.** Minutes from the May 24, 2021, City Council Meeting.
  - ii.** Minutes from the June 7, 2021, City Council Work Session.
  - iii.** Minutes from the June 17, 2021, Special City Council Meeting.
- B.** Disbursements for Period Ending June 22, 2021. **Resolution 2021-174**
- C.** Consider Approval of Personnel Actions.
- D.** Consider approving Hand Benefits & Trust Company as the Designated Trustee of the City of Inver Grove Heights HRA Trust. **Resolution 2021-175**
- E.** Consider **Resolution 2021-176** Appointing Brian Swoboda as City Forester.
- F.** Consider Approval of Chicken License.
- G.** Approve a **Resolution 2021-177** relating to the Preliminary and Final Plat and PUD Development Plan for the Crossings at Inver Wood Second consisting of one lot for the 24-unit townhome development located at 1462 80th Street.
- H.** Approve a **Resolution 2021-178** relating to a Vacation of the interior Drainage and Utility Easements for Lots 3 and 4, Scenic Hills First Addition. Property located on 80th Street and Austin Way.
- I.** Approve a **Resolution 2021-179** relating to a Variance to allow a deck addition to encroach into the Shoreland setback for property located at 4709 Babcock Trail for the applicant Keehun Nam.
- J.** Approve a **Resolution 2021-180** relating to the Final Plat of Eagles Landing locate at 2655 70th Street for the applicant Builders Lot Group.
- K.** Approve Custom Grading Agreement, Access Easement Agreement, Permanent Drainage, Utility and Stormwater Ponding Easement Agreement for Lot 5, Block 1, Broadmore Ponds (3945 89th St E).
- L.** Approve Encroachment Agreement for Landowner Improvements within City Drainage and Utility Easement for 500 Aidan Cove (Lot 10, Block 1, Tipperary).
- M.** Consider **Resolution 2021-181** Approving Union Pacific Railroad Agreement for Public Watermain Related to Fortistar RNG Expansion.
- N.** Consider **Resolutions 2021-182 & 2021-183** Calling for Hearing on Proposed Assessments, Declaring Costs to be Assessed, and Ordering Preparation of Proposed Assessments for City Project No. 2020- 06 - Good Samaritan Pond (1301 50th St.).
- O.** Consider Acceptance of RFP Fire Services Evaluation Study Recommendation to award contract to Citygate Associates, LLC, and authorize Interim City Administrator to enter into a contract with Citygate Associates LLC. **Resolution 2021-184**
- P.** Consider Approval of a New Group Day Membership for the Veterans Memorial Community Center.

Mayor Bartholomew stated he has requests to pull Agenda Item 4F, 4G, and 4K.  
Councilmember Murphy requested pulling Agenda Item 4E.

**Motion by Dietrich second by Gliva to approve the Consent Agenda with the exception of Agenda Items 4E, 4F, 4G, and 4K.**

**Ayes: 5**  
**Nays: 0**      **Motion carried.**

**Agenda Item 4E. Consider Resolution 2021-176 Appointing Brian Swoboda as City Forester.**

Interim City Administrator/Community Development Director Heather Rand stated Brian Swoboda has been serving as the City Forester. There is not an official Resolution in city records, this item officially approve him in the role. Mr. Swoboda is the Parks Superintendent and has been employed with the city for over 25 years. He has been overseeing the maintenance of park grounds and facilities for five years and has served the city well in this capacity. Approval is recommended.

Councilmember Murphy has no issues with Park Superintendent Swoboda's qualifications, his concern is that he is uncomfortable with any city employee having the ability to walk on private property without consent. Interim City Administrator Rand responded typical procedure would be driving by, seeing diseased trees, notifying the property owner via mail. Going onto property without any announcement would be bad form for any employees unless it is an emergency.

Councilmember Murphy questioned if the entire property rights issue could be revisited and still be able to approve this Motion. Interim City Administrator Rand suggested having Mr. Swoboda attend a Work Session to discuss his experiences and the Tree Ordinance. Most residents appreciate Mr. Swoboda's services and invite him in which is usually how this works when having concerns about a tree and do not have to call in a professional.

Councilmember Murphy still felt uncomfortable without clarification. He was not against Mr. Swoboda's qualifications. He agrees with moving this item to a Work Session. Interim City Administrator Rand responded this would not be discussed until fall due to upcoming budget items. She recommended approval and would invite the Parks Superintendent to a Work Session in September for further discussion on property rights.

Mayor Bartholomew asked for clarification from Councilmember Murphy about what he was looking for. If it were an understanding that a city employee would not go on private property unless invited. He asked what could be said to get them to the next Work Session. Councilmember Murphy responded as long as it is not common practice. He was unsure approving this would cause issues. He believed the answer was not clear enough for him to understand. If it can be approved this evening and discussed at a Work Session and able to make changes even though it is being voted on tonight, he is fine with it.

Mayor Bartholomew agreed it was a good idea to see what the policy is. It can be asked when the City Forester can go on to someone's property. He felt it was a good service.

City Attorney Bridget McCauley Nason stated the Resolution officially designates Brian Swoboda as the City Forester. The existing Code includes language about entry onto private property. It provides certain authority to the Forester to identify diseased trees and order their removal. The issue is there is not a formal record of who the Forester is and if this person is authorized to act in that capacity. She hears that more discussion is wanted about what the rights of private property owners are and what the city authority is as it relates to entry onto private property. If this item is moved to a Work Session, that could also include a presentation by Parks Superintendent Swoboda, and information from Legal about what the Code says and city options. Exploring the property rights portion as it overlaps with the city's protection of public health, safety, and welfare. Councilmember Murphy responded he is comfortable with what was stated.

**Motion by Murphy second by Dietrich to approve Resolution 2021-176 Appointing Brian Swoboda as City Forester and that there will be a Work Session for additional information regarding the restrictions and parameters for the city.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**Agenda Item 4F. Consider Approval of Chicken License.**

Interim City Administrator Rand stated the city allows urban chicken coops on smaller residential lots. For agriculture lots, a Chicken License is not required. The property up for discussion is located at 7935 Charles Way. These are newer residents and have never had a chicken coop at this location. They filled out an application that

met specifications including a plan and pictures of the coop. The intent is to have two hen chickens. There were two letters written in objection. Some of those individuals may be in attendance. The Applicant is in attendance and may want to address the Council. Staff recommends approval. If approving and the Applicant does not meet the requirements of City Code, the neighbors can complain, and the Code Compliance Coordinator would follow up with the operators of the coop. If they do not comply, Staff would come back before Council and request a relocation.

Doug Allen, Applicant, 7935 Charles Way, introduced himself to the Council. Mayor Bartholomew asked if Mr. Allen understood what the Ordinance says and is ready to comply. He asked if it were understood if there are complaints they will be investigated and if wrong, they would have to be remedied. Mr. Allen responded yes to all questions.

Councilmember Piekarski Krech referenced the photo in the packets and asked if that was what the Applicant intended to use. Mr. Allen responded that was just the coop, they intend to set up a run from under the deck.

Troy Ausen, 7906 Claiborne Lane, adjacent to the property under discussion, said where they live has a Convenance that is still in place restricting the use of "animals, livestock, or poultry of any kind being raised". The Convenance is good for 30 years and was signed in 1995. Unless the city overrules the Convenance, it clearly states poultry is not allowed on any property in the Prairie View addition. He has nothing personal against the Applicant, does not know them as they just moved in. If anyone wanted to have chickens in the neighborhood, the lots are 90x140 deep and abut each other, he would object to anyone having chickens on that small of a lot. He has a copy of the Convenance if the Council wanted to see it. Mayor Bartholomew recommended giving the Convenance to the City Clerk.

Councilmember Piekarski Krech questioned if a Convenance was a private item between landowners. It is something the Homeowner's Association or group would have to deal with. The Council does not deal with private agreements on properties.

Mr. Ausen responded this was by the development company and handed off to a committee within the neighborhood. If not adhering to some type of Convenance, people can do whatever they want as long as the city does not say no. Councilmember Piekarski Krech asked for further information about the committee. Mr. Ausen responded there is currently not an established committee. He said what happens is they end up with campers at every other house, trailers, boats sitting outside, cars sitting out in the street for hours on end until someone calls the city, and the city comes out and does something about it. Councilmember Piekarski Krech responded it is not the cities responsibility to enforce a Convenance placed in a private development.

City Attorney McCauley Nason responded about the Convenance that may or may not exist and may or may not apply to this property saying it would be a private agreement between the homeowners. Those are enforceable by way of private contract law. City Code does not provide any grounds for denial based on any private Convenance and restrictions on the land. It is not a basis in the City Code. She stated it is common, for example, to have Homeowners Associations that prohibit fences or have other requirements. The city would still issue a fence Permit if applied for and the application complies with City Code requirements. If someone were to construct a fence in violation of a Homeowners Association Convenance, that would be a private matter between the Homeowner's Association or other homeowners and that property owner. The city cannot enforce private restrictions and Convenance, the city can only enforce its Code. Those restrictions would not be valid legal grounds for the city to deny the Chicken License in this case.

Mr. Ausen said another concern was noise. Whether they are Roosters or Chickens, they will crow. He was unsure this was something the city would check on. If the chickens begin to crow, he asked if something would be done with them. He felt it more of a novelty item to have chickens as a pet. Organic items can be purchased at a store. Those are the objections he has toward this request. Mayor Bartholomew stated if there is violation of the Code and its reported, the city would investigate.

Councilmember Murphy felt he did not have enough information to make an informed decision. He asked to have this item discussed at a later meeting so Staff can help him understand the impact to the neighborhood and make the objections clearer. He suggested putting this item off until July for additional time.

Councilmember Piekarski Krech stated she has never heard a Hen crow.

City Attorney McCauley Nason suggested if additional information is needed, a Motion could be made to continue consideration of this Agenda Item to the July 12<sup>th</sup> City Council Meeting. If approved, additional information could be provided and considered again at that meeting. There is no timeframe established in the Code. The Application was recently submitted, there is no need for approvals from the Applicant.

**Motion by Murphy second by Piekarski Krech to table this item and continue the discussion with further information about the Consideration of Approval of Chicken License to the next City Council Meeting in July.**

**Ayes: 5**  
**Nays: 0      Motion carried.**

Councilmember Dietrich requested the information be sent to all Councilmembers.

**G. Approve a Resolution relating to the Preliminary and Final Plat and PUD Development Plan for the Crossings at Inver Wood Second consisting of one lot for the 24-unit townhome development located at 1462 80th Street. Resolution 2021-177.**

City Attorney McCauley Nason stated upon reviewing the Resolution of Approval, there is one suggested wording change to Condition #2: "The final plans and grading, drainage, erosion control, and utility plans are subject to the review and approval of the City Engineer". She requests the Council consider a Resolution amending Condition #2 as stated.

**Motion by Piekarski Krech second by Gliva to approve the Resolution 2021-177 relating to the Preliminary and Final Plat and PUD Development Plan for the Crossings at Inver Wood Second consisting of one lot for the 24-unit townhome development located at 1462 80th Street with the amended condition as stated.**

**Ayes: 5**  
**Nays: 0      Motion carried.**

**Agenda Item 4K. Approve Custom Grading Agreement, Access Easement Agreement, Permanent Drainage, Utility and Stormwater Ponding Easement Agreement for Lot 5, Block 1, Broadmore Ponds (3945 89th St E).**

Interim Public Works Director Klay Eckles stated the Applicant is in attendance and brought to Staff's attention there was a drafting error on one of the documents in the packet with an easement that was not in the right location. Staff offered to approve it conditionally with the change, or to table it and bring it to another meeting. The Applicant requested tabling. This item will be brought back on another Council Agenda for approval with correction of the drafting of the easement. Recommendation is to table until the first meeting in July.

**Motion by Piekarski Krech second by Murphy to table Approve Custom Grading Agreement, Access Easement Agreement, Permanent Drainage, Utility and Stormwater Ponding Easement Agreement for Lot 5, Block 1, Broadmore Ponds (3945 89th St E) until the first City Council Meeting in July.**

**Ayes: 5**  
**Nays: 0      Motion carried.**

**5. PUBLIC HEARING:**

**6. REGULAR AGENDA:*****Community Development:*****A. Consider Approval of Rental License.**

Interim City Administrator Rand stated Staff recommends approval of a Rental License for property located at 6512 Dawn Avenue. The License Application was complete, necessary fees were paid, a BCA background check was done on the Landlord, the Police Department/Designee has approved the License. In this city the process for licensing residential properties is every other year. Staff recommends approval.

**Motion by Gliva second by Dietrich to approve the Rental License for property located at 6512 Dawn Avenue.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**B. Consider the Third Reading of an Ordinance Amending Inver Grove Heights City Code Title 5, Chapter 4 adding section related to Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit.**

**1. Consider an Ordinance Amending City Code Title 5, Chapter 4 Related to the Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit. Ordinance 1416**

**2. Consider a Resolution Approving the Publication of a Summary of Ordinance Amending City Code Title 5, Chapter 4 Related to the Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit. Resolution 2021-185**

**3. Consider a Resolution Amending the 2021 Inver Grove Heights Fee Schedule to add a fee for a Temporary Goat Grazing Permit. Resolution 2021-186**

Environmental Specialist Ally Sutherland presented the Third Reading of the Ordinance. The City Council approved the Second Reading on June 14<sup>th</sup>. One revision was made at the Second Reading to allow temporary structures subject to Staff review. There were no additional changes suggested. For the Third Reading the City Attorney's Office suggested additional clarification which is included in the packets as a red line document. There is another Resolution included to adopt a new Permit Fee. The \$50.00 fee was recommended to cover Staff review costs. This is based off of existing city Permit Fees and comparison of neighboring communities.

Councilmember Piekarski Krech asked if the Permit goes to the Landowner or to the Owner of the goats. Environmental Specialist Sutherland responded it was either the homeowner or Contractor that can apply. City Attorney McCauley Nason responded both the goat owner and the homeowner would need to sign off on the Application. The goat owner would have to provide proof of Insurance and other requirements in compliance with the terms of the Ordinance.

Mayor Bartholomew stated he heard from one resident today in favor of this. Environmental Specialist Sutherland commented she has received a couple of inquiries in the last month about if this was allowed, but nothing specific to the Ordinance.

City Attorney McCauley Nason stated there are three different items for Council approval. The second item requires a super majority 4/5 vote. If the Council is in agreement all three items could be voted on at once. They can be taken individually if there are concerns about the supermajority requirement.

**Motion by Gliva second by Piekarski Krech to approve the Third Reading of an Ordinance Amending Inver Grove Heights City Code Title 5, Chapter 4 adding section related to Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit.**

**1. Consider an Ordinance 1416 Amending City Code Title 5, Chapter 4 Related to the Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit. Ordinance 1416**

**2. Consider a Resolution 2021-185 Approving the Publication of a Summary of Ordinance Amending City Code Title 5, Chapter 4 Related to the Temporary Harboring and Keeping of Goats for Prescribed Grazing by Permit.**

**3. Consider a Resolution 2021-186 Amending the 2021 Inver Grove Heights Fee Schedule to add a fee for a Temporary Goat Grazing Permit.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**C. Consider the Second Reading of an Ordinance Amendment to allow Market Gardens as a permitted use in the E-2, R-1, and R-2 Districts.**

City Planner Allan Hunting stated the Council looked at the Second Reading on May 24<sup>th</sup>. There were questions on the permitting process and how that would work so the item was tabled to today's meeting. The City Attorney and Staff suggest the following changes:

- Eliminate the entire licensing section based on historical Court cases and previous Attorney General's opinions that cities cannot require a Permit or fee for the sale of agricultural type food products. Staff recommends that portion of the Draft Code be removed.
- Removing signage for Market Gardens from this Ordinance. It should be referenced in the Sign Code, not in additional sections of the City Code. This would be something they would discuss as they need to address a larger sign Ordinance revision. Based on recommendation from the City Attorney it should not be included in the Market Gardens section.
- A reference to Permits be removed.
- Reference to Compost Bins being removed because the City Code has regulations on composting piles, not bins.
- Section on animals. Clouds the issue.
- Noise concerns are covered elsewhere in the City Code and should be removed.

Staff recommends approval of the Second Reading.

Councilmember Piekarski Krech asked if removing those items does not make it moot. She asked what they were regulating, they have no authority to do anything, and why there was a need for this. City Planner Hunting responded there is authority on how they operate. A license or fee for someone to actually sell cannot be required. Hours of operation, how it is operated, where, and zoning, can be controlled. It is like a permitted use, they are allowed to do it, but there are standard conditions to conform to.

City Attorney McCauley Nason stated there is a distinction between zoning and licensing. The Ordinance originally said they would change zoning to allow these as a permitted use. Due to research, they removed the licensing portion and are making it a zoning use. The restrictions are related to the use itself, which is the Market Garden. It is currently in the zoning purview as to how it was originally presented which was zoning along with licensing. The city has a right to control it by zoning, in regard to what types of uses are allowed in different districts.

Councilmember Gliva asked how Market Gardens would be tracked and what they would do if there were a problem. City Attorney McCauley Nason responded they cannot really keep track of who has them, it will be known if there is a problem. It would come to the city's attention if there was a violation of zoning regulations such as setbacks, negative impacts, or failure to maintain the Market Gardens in accordance with the sales outside of the hours of operation. If there is a violation of the Zoning Ordinance there are remedies available that could include criminal citations or civil injunctions. Councilmember Gliva asked if other cities were looked into. City Attorney McCauley Nason responded some communities have imposed a fee. For the city, further research indicated it does not appear to be Constitutional. It is recommended to not impose a license fee or license on these uses.

Councilmember Murphy commented that some initial conversations surrounded minor barriers for entry. He felt they have lost a significant amount of control. He asked if there was a difference between a license to sell and a cost of a license to cover staff time. City Attorney McCauley Nason responded there was some creativity engaged by other cities with respect to the licensing. There is a Constitutional provision that says you cannot impose a license for the sale of the products grown on your own property.

Councilmember Piekarski Krech questioned if the Zoning Ordinance currently states you cannot sell from your property. She asked what they were doing if they cannot regulate agricultural product sales. City Attorney McCauley Nason responded if wanting to raise and sell from your property currently, it could not be done because it would be a violation of the Zoning Ordinance. The city cannot require a license for the sale of product. Mayor Bartholomew stated the intent is to make it an allowable use and set conditions to size, hours, and days of the week.

Councilmember Dietrich said she asked on May 24<sup>th</sup> about anticipated Staff time and the cost. She asked for an answer to that question if there is not a cost for licensing. City Planner Hunting responded since it is a permitted use there would be no Staff review. The only issue would be if someone violated the section of the Code and would have to go out and determine the violation. It is a permitted use; Staff does not review every permitted use. There are regulations in the Code that say rules have to be followed, if they are not and there is a complaint, enforcement would follow up. Councilmember Dietrich asked if it was anticipated it becoming cumbersome on Staff as far as getting callbacks. City Planner Hunting responded he did not believe so. He does not know how many of these they will receive. Unless there are complaints from residents to go out and look, he does not believe there would be a large burden on time.

Mayor Bartholomew asked how individuals would be made aware of hours, rules, and size. City Planner Hunting responded information would be placed on the city website.

Councilmember Piekarski Krech stated she has received feedback from some of the city growers and not knowing how popular this may be, some are concerned it would affect the local market and if it does, there is the potential to losing it. Markets have been closed down in other cities when the clientele was not enough to support growers. Some commercial growers in town are concerned now that there is no fee, they themselves are paying a large amount of money in fees and licenses. This opens up the entire city to it. She said while there may not be many, it is an issue to keep in mind.

Dawn Gaetke, 7477 Cahill Avenue, stated for the Second Reading the sign provision was removed. While she does not have an issue with it, if a market gardener and put a sign up and a neighbor complains, the market is in limbo. She asked if it was okay to have a sign or if it is not. She was unsure how to get the word out but to have a sign in the yard advertising the sale of something. When this was discussed at the Planning Commission level, Commissioner Weber wanted to make sure the signs were no bigger than a certain size. She encouraged the Council to include the sign verbiage Amendment. There is currently sign verbiage about community garden signs within this Statute. She understands the need to clean things up, but in the meantime does not want them to be in sign limbo. She requested leaving sign verbiage in.

Mayor Bartholomew asked the City Planner about signs and the proposal that says they would address the signs with the overall review of the signage Ordinance. City Planner Hunting responded it was not something that would be done tomorrow. They are looking at going over the entire Sign Code which would take some time. There is potential for a gap. He questioned moving forward with the sign section here. Based on discussion with the City Attorney, it is not something that can automatically be put into Code with this Ordinance. It is not as clear but should be in the sign section. Mayor Bartholomew felt there would not be a huge rush for Market Gardens at this time and could likely tolerate a little gap. City Planner Hunting responded he would not expect it, this Applicant was the first person to bring up the topic.

Councilmember Piekarski Krech stated last time they discussed taking ornamentals out, that item is still included. Ms. Gaetke agreed ornamentals is mentioned and has been there since the first version. She did not believe it was clear about wanting ornamentals left in or left out. It was left unclear.

Mayor Bartholomew stated the Second Reading has elements that have been recommended be removed per the City Planner:

- Dropping license requirement
- Remove signage portion
- Fee

- Animals were dropped
- Noise

Councilmember Piekarski Krech requested ornamentals be taken out, it adds competition to those in town doing this as a business. Market Gardens is a growing space where food to be sold is grown. City Attorney McCauley Nason responded if the Motion is to move the Second Reading, they could direct Staff to remove the reference to ornamentals for the Third Reading.

**Motion by Dietrich second by Gliva to approve the Second Reading of an Ordinance Amendment to allow Market Gardens as a permitted use in the E-2, R-1, and R-2 Districts and direct Staff to remove the reference to ornamentals for the Third Reading.**

**Ayes: 5**

**Nays: 0 Motion carried.**

Mayor Bartholomew stated the Third Reading will take place at the first meeting in July.

**D. CHRIS ENSTROM - Consider a Resolution relating to a Variance to allow a porch addition to encroach into the rear yard setback for property located at 6506 Arctic Court. Resolution 2021-187**

City Planner Hunting discussed property located in Blackstone Ridge on 6506 Arctic Court. The Applicant proposes to add onto the back of the house with a deck and enclosed porch. Due to the angle of the setback, a portion of the porch area would encroach up to 22 feet from the rear property line. Items unique to the site:

- On the cul de sac it is the narrowest lot depth wise in the whole development. It is 105 feet deep. Typically, others are 120 feet deep. If having additional depth, it would have room to do the addition.
- With the setback of 22 feet in some developments in the northwest area, there were approvals for reduced setbacks on front and side yards. This development did not have any reduced setbacks approved in rear yards; it is the standard 30 feet. They are not asking for another variance on top of the flexibility that a developer was asking for.
- In most cases the smaller and narrower lots would encounter variance requests from side yard setbacks as opposed to rear. Rear yard setback is 30 feet and still has enough room for an addition.

He stated the Planning Commission Staff had concern about the northwest area with smaller lots and the potential for a greater number of variances and the precedence it may set. They also asked if this is approved, what it would do to the impervious surface allotment for the lot. He did a review, and it still falls within the improved impervious surface coverage.

He stated Staff brings out the points about the uniqueness of the lot and mention the potential of precedence for other variances. Planning Commission had some of the same issues. They had a Motion to approve the variance, it failed on a 5/4 vote, with no further action taken. Staff has placed Resolutions for approval or denial of the variance in the Council packets

Mayor Bartholomew asked if this was the shallowest lot in this particular cul de sac. City Planner Hunting responded yes; all other lots are deeper. This one is shallower.

Councilmember Dietrich asked if there have been any comments from neighbors since the Planning Commission meeting. City Planner Hunting responded no.

Chris Enstrom, 6506 Arctic Court, stated he is applying for a variance to build a porch and a deck on the back of his home. It is consistent in depth with other existing structures in the development. There will never be another home directly behind his, the trees there are protected, behind the trees there is an infiltration basin that prohibits any future home builds. The Planning Commission report outlined the practical difficulty exists because of how shallow his lot is. It is 20 feet shallower than any other lot in the development. He was unsure why the Planning Commission had a split vote. There was a lot of discussion by the Commissioner's and confusion about

the side and rear of the home with one Commissioner referring to the side of the home when the structure would be in the back of the home. He believes the confusion partially contributed to a split vote and resulted in the vote not passing.

He stated he is unable to redraw the lot lines, a practical difficulty exists with building a standard porch on his home. If he built a porch based on the 30-foot setback requirement it would only be 8 feet deep and not functional. There are 123 homes in Settler's Ridge, 121 structures could be built without a variance. The remaining lots in the development are deeper. This highlights the uniqueness of his property and the practical difficulty. With an enclosed porch there is still a lot of open space visually. Adjacent lots will not be negatively impacted.

He referenced a letter from the Settler's Ridge Architectural Committee dated March 12, 2021. That Committee has seen the plans and approved. If the City Council does not approve the variance his next step would be to build a deck minus the porch with the same overall footprint. He asked the Council for approval to grant the variance. He referenced a matter that took place on April 26, 2021 to approve an amendment to allow encroachment on a back lot line as close as 10 feet. In that matter the City Planner stated no neighbors would be impacted by the structure, the Agenda Item passed unanimously. He asks for similar treatment. His request leaves 22 feet of open space between his structure and the back lot line and does not negatively impact adjacent homeowners.

Mayor Bartholomew asked Mr. Enstrom if he was in agreement with all the conditions if approved. Mr. Enstrom agreed and stated his understanding was that the addition is built in harmony with the neighborhood, to standard Building Codes, using identical siding already on the home, and he will be using a licensed and bonded Contractor.

Mayor Bartholomew stated this is a very unique lot, he sees the practical difficulty with the shallow depth.

Councilmember Murphy agreed there is a defensible practical difficulty. It is on a cul-de-sac and one of the shallowest in the community. He would support the request.

**Motion by Murphy second by Dietrich to approve Resolution 2021-187 relating to a Variance to allow a porch addition to encroach into the rear yard setback for property located at 6506 Arctic Court with the Practical Difficulty as stated in the approval Resolution.**

**Ayes: 5**

**Nays: 0      Motion carried.**

**E. LENNAR MULTI FAMILY COMMUNITIES - Consider a Resolution relating to a Comprehensive Plan Amendment to change the land use designation from RC, Regional Commercial to HDR High Density Residential for Outlots C and D, Argenta Hills. Property located on Amana Trail, west of Target.**

City Planner Hunting referenced the two vacant lots currently zoned regional commercial in the Argenta Hills Development on a diagram. The request is to change both outlots to high density residential. The Developer is proposing to develop 312 apartment units in a 13-structure development. Action is not for site plan approval, just land use change. The following was discussed regarding the parcels:

- In 2017 there was a request for a 400-unit building. The action was denied.
- In 2018 a different Developer came in with a smaller project for 220 units on the western 10 acres of Outlot D leaving the balance regional commercial. Council conditionally approved the Comp Plan Amendment subject to site plan approval, preliminary plat, and PUD approvals. No Application was ever submitted, action did not go further.
- Tonight, a new Application comes forward requesting a land use change over both outlots.

Staff supports the change. It provides additional rooftops in the area to help the current commercial. The Planning Commission was in support of the change with a split vote of 6/3.

Mayor Bartholomew asked what the status of the Comprehensive Amendment for Outlot D was and if it was still in effect. City Attorney McCauley Nason responded she has not had time to research it but is something her office can look into based on the original approval and see if the original approval was still in effect at this time or not. Mayor Bartholomew stated that no matter what happens this evening, he would like to know what the status of the prior action is, whether it is denial or approval, and what affect it would have. They know it would not go into effect unless they have a plat but asked how long it exists. City Attorney McCauley Nason responded she would research and provide an answer to the full Council.

Interim City Administrator Heather Rand stated in working with Interim Parks and Recreation Director Jon Oyanagi and now current Interim Parks and Recreation Director Bob Bierscheid, they have been making progress on park development in this area. The following update was given:

- Northwest Area Park #1.
  - City has acquired the land.
  - Expect plans and specifications for that park to be in front of the City Council and hope the Council will authorize to issue for Request for Proposals (RFP) for park development.
  - In August they hope the Council will award a Contract.
  - Begin mid-September for commencement of constructing the park.
  - Parcel is over 8 acres in size.
- Park #2. Referenced as the Cole Property. Owned by the Cole Family Trust.
  - Progress was made on this location last week.
  - Over 8 acres.
  - Some land is intended to be nature preserve.
  - The county is interested in continuing their trails through the site.
  - The city has interest in developing park amenities.
  - The Cole family has let Staff know they are willing to move forward with acquisition negotiations.
    - First step is to conduct a survey and appraisals.
    - Family is willing to work with the city and county to have documents in place by fall.
  - Cole family land continues across the Eagan border. This could be a very large, almost regional park with both the City of Eagan and Inver Grove Heights with trail connectors.
- Park #3. Owned by the Riley family.
  - City has yet to acquire.
  - Part of a larger preliminary plat developed by At Home Apartments.
  - Over 4 acres of land.
  - The city has had discussions of agreements to acquire the land.
    - Hopeful that over the summer the City Council would approve the plat so the city has access to the parkland and can move forward with development.
- Park #4. Peltier Reserve.
  - 2 lots. Small in size.
  - Intent is to connect via trails.
  - Part of the Peltier Reserve Development
- Park #5. Fleming owns the property.
  - Will not be a multi acre park.
  - Owners are in discussions with a Developer that is active in the area.
  - Development team indicated they would like single family homes in the area.
  - Willing to dedicate park land rather than pay fees.
  - They would like to have their plat considered this fall.

She will continue to update the Council about parks in their Friday updates.

Peter Chmielewski, Division President for Lennar Multifamily Communities (LMC), 1514 West Nelson, Chicago, Illinois, stated they are looking for a Comprehensive Plan Amendment to change the allowance in land use in Outlots C & D for high density residential.

David Higgins, Vice President of Development, McGough, 4048 Harriet Avenue, Minneapolis, MN, stated McGough acquired this Master Plan area in 2008. The Master Plan area is not just what is intended to be end to end retail, it includes the single-family home developments to the north of Amana Trail, which had medium density residential and was down zoned.

History of the site:

- Target was obtained in a difficult and changing retail climate. The climate caused them to stop construction of the project. The city partnered with McGough and Target to help with financial assistance to help the project start again.
- Before considering multi-family, two commercial opportunities developed over the next four years. Subsequent to that, each small retail space took another 2-3 years to materialize.
- The retail landscape changed in the downturn of 2008-2012. It has been very limited and the uniform response from the retail community has been the lack of rooftops.
- In 2016 seeing that there was very limited success with retail in this area, and the rapid rise of online retail opposed to bricks and mortar, they looked at other commercial retail locations that were Target anchored sites.

He stated included in the Council packets is correspondence from a Commercial Retail Broker named Jennifer Helm. She previously submitted information to both the Planning Commission and City Council about Target anchored commercial centers. Ms. Helm represents multiple centers without success in bringing big box to the opposite end just like the experience at Argenta Hills. He stated they looked into the same things those Developer's looked at, pivoting to multi family. The way people are choosing to live is evolving. Roughly a couple of years ago the Twin Cities Metro, for the first time, became a renter majority market. This is from the way people are choosing to live, how long they live in certain places, and how long they are in jobs. That is changing the nature of residential. There is a lot of single-family growth, there has been no multi family growth in this community since Blackberry Point opened in 2005. Recently, there have been a couple of projects before the city, those are not considered modern day apartments anymore.

When a Developer worked with them in 2018, a group came forward saying there was not enough discussion in advance with the community and they sought to change that. The change proved to be a compromise including density, location, and number of buildings. At that time, the understanding was to continue and make an effort with retail. The only attention received on the entire 17 acres is one call two years ago from a self-storage facility looking for two acres. That is the only interest since acquiring this site almost 15 years ago. Retail Brokers have worked very hard to fill the main street. As soon as they had success with the City Council on the 10 acres in Outlot D with getting the use change in the Comp Plan, they continued to work with the city but had a difficult time with development fees the city was charging.

He said a key topic came up with the issue of open space. At the time McGough did the Master Plan for the entire area, they worked diligently with the city to adhere to city plans including:

- The Comprehensive Plan
- Documentation that called for open space in the northwest quadrant to maintain historic topography
- Create and maintain trail connections between developments
- Not go out and create playground space

Part of that development contributed 22 acres of open space including some of the trails between homes that expand open space, not a traditional park but continues to be publicly open. Discussions with the community surrounded the lack of success the city had with parks. At that time there were no parks on the board. They sought compromise in maintaining the height and density of a significant project they felt the market was calling for and appropriate for this site. Part of the concession included discussion about preserving a small amount of green space, up to an acre. The community asked at that time why they could not build shorter, smaller buildings and do it in a way that is not as dense. They have listened to that and continue to see high demand for multifamily.

Mr. Higgins stated conversations have continued with peers in the multifamily development community and Brokers continuing to press for retail. A product was found that is in strong demand and financially feasible. It is a smaller product, not as tall or dense. They looked at the market and spoke with a peer developer in 2019 and

had an opportunity to move forward with them but fell apart due to COVID. Reconsidering this again, they determined this was taking too long and the development deserves more of a boost for main street retail. They needed a strong partner that is reliable, builds high quality projects, has strong capital backing, a deep track record, and could be strongly invested in the community.

He stated LMC Multifamily is a group that McGough previously partnered with in Bloomington and one of the most successful multi family developments in the metro at Bloomington Central Station called IndiGO. LMC has developed other projects in the market very successfully. McGough knows their track record and have had success with them. They had expressed interest in the site in the past and went back to them. They have been able to put together a project that responds to numerous things the community discussed. He was involved in the Comp Plan approval in 2018 and was not aware of a time limit. The City Council has already signed off on high density residential on a majority of the site and is something he asked the Council to consider.

Charlie Hexum, CBRE, Minneapolis, 1513 Utica Avenue South, St. Louis Park, MN, stated he and his business partner Rob Wise, spearhead the retail agency leasing team for CBRE in Minnesota. They represent McGough in Argenta Hills and took over this listing in 2018. Background:

- The team has a portfolio of 3.5 million square feet of retail GOA throughout the State of Minnesota.
- A majority is in the suburban Twin Cities area along with Rochester, Mankato, and Duluth.
- Worked on projects and completed deals in every major retail market in the State.
  - On both the tenant/landlord side.
- Day to day is filled with interacting with retailers/brokers.
  - Range from national corporate users to local operators.
  - Regional franchise type tenants.

Consistent feedback received from a lot of these tenants and representatives is there is not enough housing density to support them in making a decision to put a location in the Argenta Hills Development to date. Based on that feedback, CBRE, Mr. Wise, and himself support the proposed land use change and believes the project will help increase the density, and in turn help fill the vacancy on main street and outlot opportunities with Target and the two parcels McGough own.

An arial view of the area shows how much retail is available other than the 17 acres under discussion. Along main street there is opportunity to get a strong diversified tenant mix that can serve the community. The two pad sites could serve as a free-standing restaurant or drive thru. They do not believe that would be driven without additional density and housing based on the number of units currently in the area and the feedback received. An updated demographic comparison was displayed showing growth has occurred since 2017. It has also occurred in other competing/surrounding markets. Those markets had a head start based on the population in 2017. They believe continued growth will help improve the effort to attract more retail and dining options on the pad sites and with Target, if they ever decide to develop their outlots. Based on feedback received the last three years, it would take many years if ever to match neighboring/competitive markets to get perspective retailers to discuss the 17 acres. Much more density is needed to even justify a location in a market like this.

Mr. Hexum shared Prospective Categories they have pursued to come to main street buildings:

- On the 17 acres;
  - Junior Box and Box Tenants (TJ Maxx, Total Wine, Kohls, Fleet Farm)
  - ICSC (International Council of Shopping Centers)
    - Both Mr. Hexum and Mr. Wise are members and attend the Convention in Las Vegas every year. This is the largest deal making Convention in the World.
- Main Street;
  - Corporate User (Chili's, Texas Roadhouse, QSR's such as Café Zupas and Jersey Mike's, Noodles & Company, Chipotle) and (Boutique Fitness, Coffee, Cell Phone, or Daycare) All these groups have said more density is needed in order to consider.
  - Medical and Service oriented users.

They want to fill in main street and pad sites and believe the best way to do that is to allow this additional apartment density on the land adjacent to it.

Councilmember Gliva was looking for the City of Mendota Heights on the density comparison. Mr. Hexum responded the retailers they would try to attract for the 17 acres have turned it down, not feasible, and do not exist in Mendota Heights. These are markets that are regional, trade areas, a little larger where you see those developments. Given the parcel size of the land, that is what they were going for to develop. Mendota Heights has more neighborhood type components and a strong retail community. Other than the Village area and the other development, it is not on the scale as some of the other markets.

Councilmember Piekarski Krech questioned if Mendota Heights can attract an area like the Village, why cannot this one. Mr. Hexum responded the project put together in Mendota Heights, similar to what is being discussed here, has helped that center. Additional density will allow Inver Grove Heights to get users they would want on main street.

Councilmember Murphy asked about Service Oriented Users and if that was a chain. Mr. Hexum responded Collier's had it up until 2018. Mr. Wise and himself came on in February 2018 and have been doing the leasing since then. Councilmember Murphy asked if it was a change for them as individuals involved in signing new leases. Mr. Hexum responded he was not involved in the past transaction and could not answer the question but believed that was a use category that would be a good tenant along main street in Argenta Hills.

Peter Chmielewski, Division President for Lennar Multifamily Communities (LMC), 1514 West Nelson, Chicago, Illinois, gave the following background for LMC:

- Lennar Corporation has been active in the State of Minnesota and the Twin Cities area.
- They are the largest home builder in the Twin Cities for 15 years and active in Inver Grove Heights.
- Lennar Corporation started in 1954. A publically traded company.
- Over the past few years have diversified itself and other entities related to home building.
- LMC (Lennar Multifamily Communities) is their largest venture to date.
  - This began 10-years ago with one guy, no assets.
  - Currently there are 650 Associates across the U.S.
  - Within four years they are the fourth largest multifamily Developer within the U.S. This shows the capability they have under the Lennar Corporation.
  - Have had successes in the top 20-40 markets throughout the U.S.
  - Like to integrate themselves within the communities in which they develop.

He explained his background stating he graduated from the University of Minnesota Architecture School. He moved back to Chicago after that, worked as an Architect for five years, and then joined LMC following Graduate School. After that he had the opportunity to open their office in Minneapolis and moved back here for two years. Since then, he manages both the Chicago and Minneapolis offices. During his time here he had the opportunity to partner with McGough in Bloomington on a complex site that involved city funding. 395 units were built in Bloomington with 97% occupied. They have been able to continually raise rents and keep residents there well above the average of competing multi family Developers. Onyx in Edina was developed with 240 apartment homes and two multi-family, mixed-use towers in northeast Minneapolis.

Their company is not the type of company to build something and walk away. They are a long-term Developer that has everything in house:

- LMC Development. Portion of the company he works for.
- LMC Builders. In house General Contractor. Two of those Contractors are in attendance this evening, they would be building this project.
- LMC Investments. Works on debt and equity raising.
- LMC Living.
  - There are 110 different multi-family communities across the U.S. and over 35 apartment homes.
  - Manage all of their own communities.
    - Walk into any of their buildings and the first person seen is an LMC Employee.
    - This speaks to the quality of their buildings.

- If any problems are created, they are creating problems for themselves.

Pictures were displayed of some developments they have done in the past. He encouraged the Council to visit a site.

Area Construction/Proposed Development: Concerns:

- How many rooftops are coming to the area; Seemingly it is a lot.
  - Over 1,000 apartment homes and over 450 for sale homes.
  - Comparing this to comparable cities and suburbs throughout Minnesota and throughout the United States, this still falls short of the growth in the housing need.

There have been conversations about 2,200 homes, this includes ones that have begun and confirmed with Staff.

- U.S. Homeownership Rates since WWII have stabilized around 68-69%. Continued to be stable for about 40 years.
  - Rose to its highest rate of 69.2% in 2004.
  - Each percentage point represents 3.2 million people or roughly 1.5 million homes.
    - Big gravitation for multi family living. They call it multi family communities rather than apartment complexes. Very different type of housing than existed in the past.
    - There is a housing shortage. Prices continue to rise for the average U.S. family to be able to afford a home.
    - There are more renters by choice. Multi-family has changed. It is a highly amenitized closely managed community.
    - Vacancy rates in the last 40 years have stabilized to under 10% for Class A Multi Family. At an all-time low. Less than 5% vacancy in Inver Grove Heights.

Stabilized Multi Family Occupancy Rates:

- 100+ unit occupancy in a Minneapolis market is almost 91%.
- LMC properties in a Minneapolis market is just over 95%
- Occupancy within a 5-mile radius is at 98.2%
- Development in Inver Grove Heights dating back to the early 1970's.
  - To date in that time period, almost 3,000 apartment buildings have been built in the city.
  - Competing communities are doing every 5-10 years.
  - Huge lack of multi family development in the city. Last constructed was Blackberry Point in 2005.
  - 152 apartment homes in 2021.
  - LMC Development proposes 312 apartment homes in 2023.
  - Next one comes years after for a very sustainable growth period.

2040 Comprehensive Plan Land Use (Map):

- Shows there is not a lot of high density residential in the city.
- Interested in this site for years.
  - Worked with McGough in 2017, did not win that bid.
  - In 2019 conversations were had.
  - In 2021 discussions underway for the potential to develop here.

Proposed Development, concept site plan:

- Discussing the Comprehensive Plan Amendment to allow for multi-family use.
  - 14 years since this has tried to be developed for retail.
  - 19,000 square feet of main street is still vacant.
  - 14,000 square feet of main street is occupied.
  - Could be another 14 years before they can get another retailer to take over this space.

Strongly believe this is the best path forward for the city, for current and future residents, the viability of retail, continued growth and investment into the city, and to help pay for obligations. Strongly believe allowing high density residential on the site is the best thing for the community.

Councilmember Piekarski Krech referenced the site plan and the lack of garage space/indoor parking in a Minnesota climate. She cannot she going into a nice apartment/home and having to clean the snow off her car. Mr. Chmielewski responded they have several sites like this in Chicago that have done extremely well. It allows for a diversity of housing. This site size calls for a garden style community. They would love the opportunity to come

back and talk about the development specifically but are currently looking for the Comprehensive Plan Amendment to allow for high density residential.

Mayor Bartholomew wanted to ensure conversations have been had with Staff about parking requirements in high residential. There is a limitation on garage parking for balance, or a requirement for underground parking. He does not want this to become a deal breaker at the end when a variance for garages may be needed. He does not think the garage is the way to go. He believes it should be taken into consideration if it is a feasible development with less garage parking or none. Mr. Chmielewski responded it was not financially feasible for this type of development on this site at this time. Given the demand metrics in the area, comparable sites, and construction pricing, the plan they bring forward is the one they believe to be financially viable, meets the need of the community, and the firms financing this type of development. Conversations have been had with Staff and they understand the obligations. Their Zoning Attorney is in attendance and has been working closely on a variance for underground parking.

Mayor Bartholomew asked the City Clerk about the numerous emails received both for and against. City Clerk Rebecca Kiernan responded there were 48 emails sent in regard to this Comprehensive Plan. 6 were in support with 42 opposed. The emails need to be received into the record.

**Motion by Piekarski Krech second by Gliva to receive the 48 emails into the record.**

**Ayes: 5**

**Nays: 0 Motion carried.**

Mayor Bartholomew stated there are a lot of people in attendance that may want to speak regarding this issue. If an email has been sent, it has been received and is on record. He requested those that did not send an email to come up and speak and those that did send an email to be mindful and respectful of the time and know their email has been received and added to the record. They will be adhering to a three-minute discussion period. The City Clerk will be keeping the time.

Katie Pluff, 7670 Addisen Path, stated she does not want 21 structures with parking garages and all concrete. She looks directly on it from her home. She said the community has done their due diligence and asked the city what would be built there. They were told it was retail. At that time, they asked about parks, but the closest one would be across a busy road and would need an under/over pass to get to it from their development. In referenced to the Peltier project, the neighbors sent in emails because they believed that development needed a park, so they did not have to go through what the development they live in has had to go through. They are looking for a community and do not often feel they are getting one. She said there are numerous apartments coming on board. She questioned why this lot, when it is the only lot remaining where they can put something like the Village in Mendota Heights. Something that interests people will draw them to the area, not apartments. She commented the Planning Commission said the area was the gateway to Inver Grove Heights. She did not believe a gateway is an apartment building and does not build a community. A community is restaurants, buildings, activities, people joining together.

Samantha Fitzgerald, 7668 Addisen Path, stated the people behind her are those that are in opposition and have sent emails. She said they were before the Council in 2017 and 2018, and still do not feel the best use of the land is high density residential. So much has changed in the last three years. She displayed a diagram stating the red depicted apartments, blue is existing, and there is Senior Living. The area under discussion is the only spot for retail. She questioned with all of these homes coming in, where people would shop. They do not want to continue taking their money to West St. Paul and Egan.

Jaime Besser, 7656 Addisen Path, stated a lot of people in the neighborhood were involved when McGough came through the first time with 400 units. At that time, the area wanted to work with McGough to help put rooftops in to help main street. It never went further. It was not just the height; it was the density in the small area. At that time, it was 400 units of studio to one bedroom. Now it is 312 units with 1-2 bedrooms. There is not really a density change, it is the same number of density/bodies. This development proposes 13 buildings with 9

garages, parking, 13 dumpsters needing to be unloaded, and a clubhouse. It did not feel right to have this huge parking lot with 21 buildings on it. When the first proposal came forward, it was conditional they consider all things their neighborhood had discussed such as setting it back further, buffers, and parks. She would hate to see the Council change this to high density residential without having that plan change. She said they are coming out of a pandemic; people are not going back to work. Their path system is less than one mile long. They use that lot to walk, the development would bring all those people onto their one-mile path system. Access to others would be difficult. She spoke about Main Street and has heard talk about the fees. Impact fees that were on the Bond are strictly for the northwest quadrant. This penalizes multi family homes which is why it is not economical for them to build garage spaces underground. It also penalizes retail and commercial. The rent for the city is extremely high. She says she struggles with Main Street being empty when she has heard of so many places that have tried to go in there and have said it was not economical. Adding more people to the area would add more people on the streets and would increase traffic further onto already dangerous streets. She said they knew their lots were small when they purchased in the area, but now that they have been there, they understand the impacts this brings to the area. She stated Lennar mentions the ability to manage the property, they also have the ability to sell if it does not work out.

Peter Klucas, 7642 Addisen Path, stated he does not see the creativity here. They would fill up the land just to fill up six empty spaces in retail. He did not feel that made sense and suggested doing a combination of retail and development. He commented it has been said that for 15 years that nobody came into the space but seems like things are picking up in the area. Something is needed, the entire city does not have a downtown and is spread out all over. He asked if the space could be used to do both instead of one or the other.

Lisa Nathe, 7650 Addisen Path, was concerned about the amount of people shoved into the space and where they would go. She had kids when they moved in and were little and promised a park, they are now in high school. She was concerned about the massive amount of people, even if over 1,000. She questioned where would they go, there is not anywhere to walk, they feel cramped in. She is not thrilled about the project.

Steven Karye, 7671 Addisen Path, stated the Council addressed his park concerns from his email. He would like to keep it retail and would like to see a grocery store there. His major concern would be traffic on Amana Trail. There are only two exits out of the subdivision, Addisen Path and Alverno. Trying to get out on Addisen Path during peak hours has a wait. Adding an apartment complex, they would need new traffic controls on Amana otherwise it would be unbearable for them living north of the development.

Peter Hodges, 7649 Addisen Path, stated he lives on the walking path and did not sign up for having thousands of people from a high-density complex on a path that goes right next to his backyard. He agrees with the neighbors' concerns about the street. There are kids in the street all of the time, that is where they play. This will not help the problem. The Park across a busy street does them no good there. There is no green space anywhere around. His kids are 15 and 18, they do not play at parks. It does not mean he did not want that area and park for his neighbors. He was present at the meeting in 2018 with the last proposal for luxury apartments. The current retail space is not designed to be functional. Nobody would park behind to get coffee in the front, he would not do it. It was an ill-fated design from the start. He looked at putting a business in there but did not like the idea of running around to the front. He feels this is just another pitch to put something in there to get approval. He is not comfortable with any of it. There are not good designs there now for the area to take the traffic. He said it would be nice to have a sign that says their area is a neighborhood, do not drive thru, there is no shortcut.

Casey Petersen 7699 Addisen Court, has concerns about the traffic. The road changed to a 45 miles per hour road with no stop sign. Add another 300 units with families and it would be dangerous. He understands this is not a deal that turned out the way Developers originally intended. He also works in commercial real estate; he understands the risks. Pivoting from retail that would have traffic during certain times of the day to multi family that would have traffic at all times of the day and bring need for city services like parks and outdoor space without first having addressed those outdoor spaces, to him, is the wrong way to go.

Mr. Chmielewski responded this is a sensitive area and understands. He commends an area that is so involved. They want to be involved as well. He stated they create a sense of community within their developments. He encouraged people to visit one of their developments to see for themselves. The level of community engagement they have within their developments is paramount and pride themselves on that. They want to become a part of Inver Grove Heights. Both want the same things, but different ideas on how to get there and what the path and solution is. He said they are the fourth Developer that has looked at this site. The concerns were:

- It was too high, they brought the height down
- When there was too much density, they reduced the density
- Too much parking, they reduced the parking
- Not enough vegetation, they increased it
- Not enough green space, they added it

He said there is a point where the vision they want is not feasible. There needs to be a balance between what is wanted and what is needed, what is financially viable and what is just viable in general. Every open space was someone else's space at one time. The neighborhood there currently was used by someone else who opposed the development. If that development were not allowed the neighbors would not have those homes to live in. The same applies to future residents of the multi family community, if denied, they would not have the opportunity the other neighbors have had.

He said there is a contradiction in the argument about wanting retail, but not wanting traffic. The Traffic Study will be done later this week. The study done in 2017 compared retail outlots to a 400-unit community and had less than half the traffic demand. This has 312 compared to 400 apartments. The traffic would be less if there was retail.

He responded about retail demand stating it has been 14 years, 19,000 square feet, they still need more rooftops. When having the neighborhood meeting on walkability, the architect and designers looked at more connection points, walkability, and paths throughout their design and are excited to share that in the future. For park demand, this type of community, family and young children are not as high. This type of community in the Midwest only has 3% of the units with children 18 years of age or younger. They should expect about nine kids.

With the question about number of residents, for 312 units they should get about 500-600 residents. Not over 1,000. Comparing the design, they do mixed use, high rise towers, and garden style communities. They would love to be able to do a mixed-use, parking underground, retail, walkability. Looking at demand metrics, population, lack of growth, and retail vacancy in the area, it is a stop gap. The 2,000 rooftops are a start. They feel they are the best group, best equipped, have taken into consideration the concerns and sensitivities brought up in the past and believe they have addressed them. He felt the aerial Comp Plan does not show the community, design, materials, they put in. They are excited to come back and show that. Tonight, they are asking to look at the last 14 years of this site and look at what is possible. They are excited to be a part of it and hope to contribute to the overall community.

Mayor Bartholomew stated in 2018 there were 220 units, the Comprehensive Plan was adjusted, and nothing moved forward. He said it was stated the reason it did not come forward was because they did not feel like they were embraced in the community and did not feel it would be an optimal fit. This request asks for a larger piece of the outlot, taking more of the commercial, and 92 more units. He stated they have heard that the above ground parking or the garage parking is the only product that is going to work. He struggles with that. They have struggled with taking away commercial property and making it residential. Mr. Chmielewski responded they were not part of the 2017 or 2018 application.

Councilmember Gliva asked about the relationship with the Target store in the area and if they have the rights or easements or have to approve what is going in the lots. Mr. Higgins with McGough responded there is an Operating Easement Agreement (OEA) which controls the overall maintenance, operations, lighting, security, and landscaping. It also controls use. Target continues to support the change on the 17 acres to multi family. If they felt retail was the answer that would support the area and further support their operations, they have the ability to say they do not believe in having multi family. They continue to be supportive to modify the document to allow

multi family. Commissioner Gliva asked if they have that in writing. Mr. Higgins responded Target does not by policy do formal support letters for projects. They have said the exact same thing in writing and email form that they said back in 2017/2018 which is that they appreciate the request for a support letter, they do not issue those. However, let the bodies know (Commission and Council) that Target is cooperating to modify the OEA to allow multi-family at the site. Target is supporting it because they can stop it, and they have chosen not to. Mayor Bartholomew asked if Target's correspondence has been sent to Staff. Mr. Higgins responded it was not issued to the city, it was an email issued to McGough. It can be shared with the Council if they like. Councilmember Piekarski Krech believed they saw it the last time.

Mr. Higgins clarified a point made earlier regarding density when they came forward in 2018. McGough agreed to continue working on the remaining 17 acres in a retail format. At that time, it was asked what would happen if moving forward with 220 units and not succeeding so many years down the road on retail. It was asked if it could be converted to multi family. McGough responded it was a possibility but would continue to try on retail. Taking the density of 220 units and applying it in a future scenario where retail did not work on Outlot C, using the same density in a total unit count, across 17 acres, equals 376 units. Looking at the conceptual Comprehensive Plan that was approved, that would be a reduction of 51 units from total density consistent with the first approval. Mayor Bartholomew stated at that time it was 220, the request is for 92 more. That is the issue he has to work through in his mind.

Councilmember Dietrich had a question regarding the OEA asking if Target has the governing body to say no to other types of retail and if it gives them the authority to deny. Mr. Higgins responded there are a range of uses that are allowed and uses not included in the allowed list. For example, an identical department store to Target would probably not be allowed in that location, but other big box or junior boxes would be allowed. This is traditional in shopping center OEA's everywhere. Councilmember Dietrich was trying to understand the specifics. For example, a spectacle shop or anything medical may not be allowed because they have a pharmacy. She asked how aggregate Target would get to things they would deny. Mr. Higgins responded it was a question of scale. They could be more concerned with businesses such as massage parlors or non-medical, or other businesses that may not be neighborhood appropriate or consistent with their business or clientele. Not any different than something that is highly regulated. Councilmember Dietrich asked if Target has the authority to say no if they believed something would direct competition. Mr. Higgins responded the concept of an anchor tenant means you are bringing in the anchor for the whole development. By virtue of coming in first, they have the ability to block very direct competition. An eyeglasses shop helping to contribute to main street will not have Target up in arms. They want main street to succeed. Target has said they are not going to touch developing their outlot until main street experiences some real success.

Mr. Higgins asked if it would be helpful to provide the Traffic Study previously referenced that shows 400 units being half the traffic of commercial. Mayor Bartholomew asked Mr. Higgins if he had that information with him. Mr. Higgins responded he could find it in an email. The commercial development that was approved for the 17 acres would have generated 5,364 cars a day. 400 units of residential was calculated at 2,660 cars a day, a difference of 2,704 trips daily less than commercial. Mayor Bartholomew asked if a study like this has been provided to Staff in the past. Mr. Higgins responded he thought that has been shared with Staff.

Councilmember Murphy stated there is good information both for and against the zoning change. For him it was not about parks. He agrees there is a long-term need in the city. He believes people bring the business and homes bring the people. From what he has researched, the unbiased opinion is that it happens concurrently. He was not sure he was ready to give up a prime location for retail in the northwest without letting the 1,500 to 2,000 new families coming to town and letting that play out.

Mayor Bartholomew stated they realize they need density. In 2018 he reluctantly went along with the density to go from 400 to 220 mainly because he wanted to see commercial stay there, keep the zoning, and not give it up. He has come to the understanding that he does not believe they are going to see the commercial development they want to see there but wants to keep retail and firmly believes in the need for density. He can support the Comprehensive Plan change to add the 92 units to the 220 they currently have but believes they would run into a problem with parking. If doing a Comp Plan change and cannot allow garage parking, they would have to re-discuss. He would support at this time with the caveat of knowing garage parking is not going to work. Without a

preliminary plat, the Comp Plan Amendment is moot because it is going to be contingent on an agreed upon plat. He stated that was his hesitation, but he would support the Comp Plan Amendment at this time.

Councilmember Gliva thanked everyone for their input, the neighborhood and businesses who are on main street and trying to make a go of it. She is given it a lot of thought and has driven around the whole area. She watched the Planning Commission meeting a couple of weeks ago and while they did approve 6/3, she did not know it was going to be that vote. It seemed like everyone was on the fence. She agreed with one of the Planning Commission's comments and believes as a city, they do have a hodgepodge when someone wants to come in and the city says let us do it. She looks at the 17 acres and wants it done right. With main street having parking in the back and walking around to the front, she did not understand the concept living in Minnesota. She commented this has a concept of garages and walking to them. She referenced an area northwest of the 17 acres, a five-acre plot owned by Tradition Companies. She was not sure if that was buildable and was unsure if anyone has asked them. She felt there was not everyone sitting at a table and discussing what they want to do here.

She said as a consumer, she does go to the main street that as a consumer but does not feel it is a great welcoming space. She worries they would put high density in. She has looked at other properties and appreciates Lennar being a Developer and wanting to stay there. She is struggling with not looking at the whole picture again and putting something in. The last thing she would like to have is Target sitting there with space next to it, she does not want it to look like the back parking lot like on Cahill Avenue and 65<sup>th</sup> Street. She does not want another parking lot that sits as outlot and then Target decides they still do not have enough density. She does not believe they have the correct information on what they should do. She believes they have room to figure out an all-inclusive plan. She personally does not know she could vote either way and would be in favor of tabling.

Councilmember Dietrich stated she was at the Planning Commission meeting and took note of the narrative. Some of the phrases she heard a lot were "in my opinion" "many many years, if ever" "I think" "we are trying to step it up with high density" and "very". Those words have a lot of weight and impact but not a lot of aggregate data. She does not like to base a big decision like this on opinions. She agrees with Councilmember Gliva about not having a Comprehensive Plan for the whole city, not just this area. When she has been out campaigning, she hears that people want some of the more unique retail she believes can come here. Once this area is gone, they will not get it back. They need to be very deliberate with their decisions, placing things where they need to go the first time. She would like to take a pretty big step back. If pressed to make a decision tonight it is going to be a no. She felt a task force could help to look into a Comprehensive Plan for this entire area. They need the study for the current state of density instead of using heavily weighted words like in my opinion and very, words to make a reaction. She would like to see data, if not Inver Grove Heights, the current state of density for Dakota County, and the time to look into getting it for just Inver Grove Heights. She wanted to know how they can orchestrate getting a Comprehensive Plan going forward. She commented that maybe Interim City Administrator Rand could help with that. She stated those were her comments and hopes she has articulated their feelings.

City Attorney McCauley Nason wanted to let the Council know of their options. There is an Agenda Item before them, it is indicated in the planning memo that the first 60-day deadline is July 16<sup>th</sup>, 2021. There is time if there is additional information the Council Members would like prior to making a formal decision/formal vote. Council can continue the Agenda Item to either/or the first or second meeting in July, or the first meeting in August. In the Council packets for consideration is a Resolution of approval or a Motion could be made to deny the Application for the Comprehensive Plan Amendment.

Councilmember Dietrich questioned if tabling, they would only be afforded a few weeks. City Attorney McCauley Nason responded no, there is additional time the Council needs that would require extension beyond the first 60 days. Council can have up to 120 days from the date of application. An additional 60 days from July 16<sup>th</sup> would put them to the end of August, early September.

Councilmember Dietrich asked Interim City Administrator Rand how much time she believed it may take to get a Comprehensive Plan together. She questioned if it would be strategic work sessions for Council, Commissions,

or a Task Force. She asked what kind of timeframe they were talking about. She does not want to waste anyone's time. Interim City Administrator Rand responded she would need to understand what additional information was needed. Currently there is a Comprehensive Plan for the city they modify a bit when markets change. She requested further direction from Council before she can give an estimate on time. She would need to know who should be at the table, what Consultants. Another factor to consider is the Development team, they have a tight schedule, and this may not be amenable to them. There may need to be discussion with them about what tabling this may mean.

Councilmember Piekarski Krech stated they are doing a couple of small area studies in the area, she asked if they would have any impact on this and how soon they were coming to fruition. Interim City Administrator Rand responded there is a small area plan that would be brought before the Planning Commission for area north of Highway 55 and Argenta. They hope that takes place in late July. In August it would come to the Council. She stated the other study is lagging about a month behind, for the area south of Highway 55. They are trying to identify transportation access needs around Argenta Trail and what high density and office warehouse opportunities are south of Highway 55.

Mayor Bartholomew directed a comment to Mr. Chmielewski stating he has heard Councilmember comments and the City Attorney's statement. As Councilmember Dietrich stated, she, and the Council would be grateful for more information to help make a decision. He asked if Mr. Chmielewski would be amenable to tabling to a date in the future, such as August for further information. He stated he was sure Mr. Chmielewski would participate in the scope, and whoever on the Council was agreeable along with Interim City Administrator Rand. He asked if he would be amenable to tabling to that date or a date in the future. Mr. Chmielewski responded yes, he would, and requested more direction on the scope.

Mayor Bartholomew questioned how long it would take to get a scope or agreement together so things can move along. Interim City Administrator Rand responded that maybe Councilmember Dietrich would have interest in meeting with Staff and get the additional information she is requesting, they could have the development team at the table. She is hearing things such as comprehensive and bigger picture for the Argenta Hills area. She recommends having the stakeholders and property owners at the table to cooperate with them. She said they need to be careful with what the city actually has the authority to suggest. She was hopeful that over the next 30 days interested Stakeholder parties could meet. She suggested getting together after July 4<sup>th</sup> or send an email of some of the specific questions and interest that they could discuss with the team and property owners.

Councilmembers Dietrich apologized, stating it was more Council as a body, the Planning Commission, and paid Staff, that need to get on the same page and move forward. Things need to be cleared up.

Councilmember Murphy believed a more Comprehensive Plan for this portion of the city makes sense. He does not believe it was something they could accomplish within the next couple of months. He sees it as a different issue than what is before the Council this evening. Having a bigger plan does not impact him as much because what he is hearing from residents on what they want and plan for, is for the city to try harder with retail in this location. It is two different issues for him, but he is supportive of meeting and working on it.

**Motion by Murphy second by Dietrich to deny the Resolution relating to the Comprehensive Plan Amendment change to the land use designation.**

**Ayes: 3 (Murphy, Dietrich, Gliva)**

**Nays: 2 Motion failed.**

City Attorney McCauley Nason stated in this situation, per 15.99, she would be asking those that voted in favor of the Motion to deny the application for Comprehensive Plan Amendment to state on the record what their reasons for voting were. That includes Findings of Facts and reasons for denial. There were a number of concerns raised:

- Preserving existing designated commercial growth spaces.
- The opportunity to have potential retail and commercial expansion in the future.
- More time for retail uses to evolve.

- There should not be any rush to change the currently designated land use.

Councilmember Murphy stated he wants to preserve the regional commercial and let recent development play itself out. He believes both residential and retail grow concurrently.

Councilmember Dietrich stated the reasons given by Councilmember Murphy would be her fundamental reasons as well as ones listed by the City Attorney.

Councilmember Gliva stated initially she would have tabled but given what she knows today, she does not believe this is well thought out for the whole area. She is not ready to give up on commercial.

**F. RACHEL DEVELOPMENT - Consider Denial Resolution for the property located at 7855 Cahill Ave.**

City Attorney McCauley Nason stated there are two Resolutions for consideration. The item came before the Council at the last meeting. The Council voted to deny by virtue of the failure of a Motion to approve the Comprehensive Plan Amendment to change the land use designation from CC Community Commercial to MDR Medium Density Residential. The first document for consideration is the Resolution adopting written Findings of Fact and reasons for denial which reflect those that were presented by the Council at its meeting. The second document has to do with the Zoning Ordinance Amendment, rezoning the property from B-3 to R-3C. That application was tabled to this Council meeting. There is a Resolution of Denial in the packet. At the time Council had previously reviewed this item there was a Resolution of Approval. The Resolution of Denial indicated because the Comprehensive Plan Amendment failed, the rezoning must be denied because it is inconsistent with the remaining and existing Comprehensive Plan and provides grounds for denial of that action.

She looks for Council to take two separate actions:

1. Vote on the Resolution included related to adoption of the Resolution Memorializing the Findings of Fact and reason for denial, by those who voted against the approval.
2. Vote the Resolution to deny the application for the Zoning Ordinance Amendment.

The Applicant is in attendance and wants the opportunity to speak with the Council before taking any formal action.

David Stradtman, Rachel Development, Otsego, Minnesota, stated the reason he wanted to address the Council is that he was caught off guard when presenting here two weeks ago. Typically, there is commentary, he did not see the vote coming until it took place. He did not realize there were negative feelings by several of the Councilmembers that voted against it. For example, Councilmember's Dietrich and Gliva. He has worked in real estate development for almost 30 years. The first half of that was in retail development. He worked for SuperValu, currently UNFI, the company that owns Cub Foods. 20 years ago, he was before the Council with what was a Kowalski's grocery store, to the Cub Foods that it is today. That background gives him a unique perspective on this location across the street from the grocery store. Cub Foods is a dominant grocer in the Twin Cities market. Grocery anchored retail centers, are what real estate investment trusts look to acquire that type of retail commercial asset. Grocery stores drive retail traffic. That is what makes the McDonald's and other retail successful. Over 1,000 people a day go through Cub Foods doors. If retail would come to the site under discussion, it would be there. For 20 years, the best driver of retail traffic is across the street, if retail were going to be there, it would be there.

He stated the 40-unit senior facility, assisted living, memory care is considered commercial in Apple Valley, Prior Lake, Savage, Centerville, and Rogers. The only city he is working on entitlements on that has made a change to medium density residential is Champlin. The Zoning Code is clear it is not allowed in a B-3 Zoning District but is considered commercial in many other municipalities. Looking at B-3 commercial, the last development group that came before the Council proposed mini storage on the site. That was a conditional use in the B-3 Zoning Code, was approved, and went away. The city has since changed the B-3 Zoning Code to not allow mini storage. Retail driver, Cub, has been there for 20+ years. There is not retail there, there is a reason for it. If not the senior use, he asked what could go there. He asked the Council to consider the potential unforeseen collateral circumstance. He asked what could go there and if it were something they would otherwise want. He asked the

Council what type of use they would like to see that has not had 25 years to locate there. None of the people that live north of the proposed development came to the Planning Commission meeting against this Application. The Planning Commission unanimously voted to recommend approval of the application for the Comp Plan Amendment. He asked the Council to reconsider the position taken. He stated this is very different from the Argenta Hills project. It is one property, adjacent to retail, had the opportunity to be retail for 25 years and it is not. He believes their proposed land use would be a good one in this location and asks for the Council to reconsider. The landowner is in attendance and has owned the land for quite a while and has struggled to be able to sell it for development.

Councilmember Dietrich appreciated the education and his background with Cub and the emails. She said she had asked if Community Development had directed him in any areas that are already zoned for that type of business. She asked if he was able to get any further. Mr. Stradtman responded he had conversations with Heather Botten. Part of the reason that retail goes next to grocery stores is visibility. Their use is something they want to be visible to the community. That is because those that occupy their facility are not independent. They need care and they are trying to take care of the most vulnerable in the community and want the location to be something people think of. People think of Cub Foods because they go there often. When their grandparent or parent needs memory care or assistance, they think of the facility across from Cub. That is why they are a quasi-commercial use.

Councilmember Dietrich asked if he was entertaining areas that are zoned properly. Mr. Stradtman responded they are focused on this location. If denied from this location, they would look within the city but is unsure there is a solution for them. Councilmember Dietrich stated there is definitely a need for his type of product here but need to be careful with the commercial the city has left. In reference to Cub being a driver, there used to be a Rainbow Foods that was considered a driver. Rainbow Foods pulled out and the building was sold to a School District. There is a very successful Brewery in that area. According to what she has heard tonight, that should not be and is something of an anomaly. She has spoken to business owners there and if it were not for COVID they would have broke even their first year of business, which is almost unheard of in the restaurant industry. She wanted to be very deliberate about this location because you cannot always rely on statistics. They are good and have supporting data. Mr. Stradtman responded he worked for SuperValu when Rainbow went into that location. They were unsure why that went in because it was a long way away from rooftops. Walmart went in after. He commented that looking at a map of Inver Grove Heights, the location Cub is in is probably not where they wanted their location, it is a strong neighborhood community grocery store location. He stated reuse of large box vacancies are a challenge. The School District in the building is not a retail use, reusing the facility for what it was originally intended. The site proposed has physical limitations, he struggles with the alternative. It is likely it sits vacant again for an extended period of time or get an application for something having less discretion over and really not something the city wants there. He felt it was important to give it consideration. This location is bounded to the north with residents, that neighborhood group came out in opposition to mini storage, there has not been opposition to this.

Councilmember Gliva asked in his opinion, based on his years of experience, why would not another retail, for example a bagel place, be there and why would he want to be there if a retail space does not. Mr. Stradtman responded a bagel shop would need a lot of traffic and parking. They are not as concerned with daily trips or parking needs. They have flexibility. She has difficulty understanding with so much traffic in the area with Cub and the School. Mr. Stradtman responded after leaving SuperValu he developed retail anchor centers like this. He did retail transactions with bagel shops and Jimmy Johns, if they wanted to be there, they would be there.

Troy Carlson, 5712 Oakridge Court South, Afton, lived in Inver Grove Heights for 21 years and just moved. His mom purchased this property about 16 years ago as an investment. Now it has become a Trust problem, his mom passed away. In answering the question about why a bagel shop would never buy the place, is because it is a very expensive property to fix and get the dirt out of there, park behind, run off problem. Bagel shops do not make a lot of money, and a lot of money will have to be spent. Assisted Living would be able to bring in more income and be able to afford to build on the property. He stated his Agent is in attendance and has had the property listed for more than two years. He has had five phone calls from retailers looking at the property. It has

been marketed; nobody wants to go in there. He commented his mom tried marketing it through the years, he was not sure how hard it had been marketed.

He stated he used to live near the area that was just up for discussion, the LMC property. He has watched the property sit for 17 years. He stated he is a Sub Contractor to McGough; they do a lot of work and did the retail buildings in the area. He felt the property under discussion now may be the same. It will sit there. There is a great client that wants to build a beautiful project, this is the opportunity to do it. He asks the Council to reconsider.

Mayor Bartholomew referenced the recommendation to reconsider denial and asked the City Attorney to describe the process. City Attorney McCauley Nason responded the request from the Applicant is for the Council to reconsider its decision on the Comprehensive Plan Amendment Application. She stated Inver Grove Heights City Code Section 152 provides that the Council has the opportunity to make a Motion to reconsider a decision. That Motion can only be made at the meeting where the action is taken or the next regular meeting. This is the next meeting since that decision was made. The Motion has to be made by one on the prevailing side but can be seconded by any member. The prevailing side would be the Nays (those voting against the Comprehensive Plan Amendment). The process requires a member of the prevailing side make a Motion to reconsider the vote on the Application for the Comprehensive Plan Amendment. There would be a second opportunity for discussion. It would be a majority vote for that Motion to reconsider to pass. If the Motion to reconsider is approved, the original Motion to approve is on the table, which is already made and seconded. Then there would be an opportunity for further discussion on the merits of the application and then vote again.

Councilmember Murphy stated he struggles with people saying the Council's decisions are a surprise. He was not sure why it could be surprising when a decision has been made. He appreciated this presentation because he may have missed something the first time around and this one seemed to be a far more substantial presentation. He appreciated the information. He was intrigued about Cub Foods being a driver but struggles with examples with Waconia and Maple Grove where they managed to create rooftops. He struggles with statistics, but they make sense to him. He stated there are difficulties with the land and asked Staff to remind the Council what those were. He questioned if the land was contaminated. Interim City Administrator Rand responded there is some contamination in the soil and water management issues where water needs to be managed on site. Both those factors contribute to a more expensive cost per square foot development cost than seen elsewhere in the city.

Councilmember Gliva stated she is struggling with this. If Cub really is a driver, why do not they have anything there was a good comment.

City Attorney McCauley Nason said if considering a Motion to reconsider, that must be made at this meeting, it cannot be continued for a future meeting.

Mayor Bartholomew reminded everyone the water issues on the parcel are very extensive and would be difficult for any developer to fix. There has been the opportunity for two Developers to fix it for the city as part of the development of the property including the Rachel Development. He looks at this as a business, all the people that would be working there, support staff, traffic of visitors, then shopping in town. His thoughts were to get a troubled piece of property with soil conditions and water runoff developed. He commented that was the reason he would like to see this. Marketing a piece of property that has sat for a long time for the cost of the development due to the hinderance on the property. He would like the Council to reconsider the denial.

Councilmember Piekarski Krech stated she likes bagels too, but Papa Johns and Cherry Berry could not even make it with Cub there. Councilmember Murphy stated that was why he struggles with Cub as a driver, he thought of those same two examples. Councilmember Piekarski Krech stated she has struggled for years with how to bring things to Inver Grove Heights. She has spoken with Developers and gone into stores she likes and talk to CEO's; they just do not have an interest in Inver Grove Heights. One thing is because the city is so spread out and the rooftops. When Rainbow changed, the Staff and the Mayor called everyone HyVee, Trader Joe's, not one had interest.

Councilmember Murphy stated based on new information he would like to make a Motion to reconsider. He appreciated the new information and presentation. He felt he did not have enough information last time.

**Motion by Murphy second by Gliva to reconsider the denial from the previous meeting on the Application for the Comprehensive Plan Amendment.**

**Ayes: 5**

**Nays: 0 Motion carried.**

City Attorney McCauley Nason stated the Motion is to reconsider the vote on the previous application for the Comprehensive Plan Amendment. That Motion passed which means the original Motion is now on the floor. The original Motion was to approve the Comprehensive Plan Amendment. It was made and seconded by Councilmember Piekarski Krech and Mayor Bartholomew. That Motion is currently on the table, to approve the Comprehensive Plan Amendment. This requires a 4/5 vote in order to pass. It would be proper for the Council to engage in discussion regarding the merits of the application. After discussion it would be time for a vote on the original Motion.

Mayor Bartholomew restated this is an opportunity to correct a piece of property that is challenged. To bring employment into the city. Provide service and velocity to businesses in the area from Cub, Cub Liquor Store, Hometown Meats, and the Corner Store gas station. He believes it would be a plus for the community. It is not ideal, but is a noble product, pays for problems on the property, and brings velocity. Those are the reasons why he would like to see a Comp Plan change.

Councilmember Murphy asked what the Comprehensive Plan change was. Councilmember Piekarski Krech responded it would change from B-3 to Medium Density Residential to allow that type of facility.

Associate Planner Heather Botten stated the request would go from Community Commercial to Medium Density Residential for the Comprehensive Plan Amendment. Rezoning the parcel from B-3 General Business to R-3C Multiple Family. The Comprehensive Plan Amendment is a 4/5 vote, rezoning needs a 3/5 vote.

Mayor Bartholomew referenced the Comprehensive Plan Amendment and stated it would be contingent upon an approved plat. They would not get to a position to approve the Comp Plan and the Applicant would go away and they are looking at a three-story apartment building, that cannot happen because it is contingent on the preliminary and final. Associate Planner Botten responded correct. One of the three conditions of approval is that the Comprehensive Plan Amendment would be contingent upon development approval. Councilmember Piekarski Krech stated if something did not work out it would still be B-3.

**Motion by Piekarski Krech second by Bartholomew to approve the Comprehensive Plan Amendment.**

**Ayes: 5**

**Nays: 0 Motion carried.**

Mayor Bartholomew asked Associate Planner Botten what is involved with rezoning for the record. Associate Planner Botten responded rezoning is an Ordinance Amendment. There are no conditions attached. It would be changing the parcel from B-3 General Business to R-3C Multi Family Residential. Mayor Bartholomew said that would be contingent on the Comprehensive Plan which is contingent on the preliminary and final. Associate Planner Botten agreed and stated there are not specific conditions to that Ordinance.

Councilmember Murphy asked if it all reverses itself if for some reason it falls through. If what was just voted on, and what they are about to vote on. Associate Planner Botten responded the Comprehensive Plan Amendment would. City Attorney McCauley Nason responded she is looking at the Ordinance Amending Title 10 Chapter 4 which was in the June 14<sup>th</sup> City Council packet. That Ordinance rezones just the property. If the Council wants to consider the Ordinance, she recommends considering adoption of the Ordinance with an Amendment to the Ordinance shown in the Council packet to include that this Zoning Ordinance Amendment should not be

effective unless/until the Comprehensive Plan Amendment changing the Comprehensive land use is enacted. She suggests the Ordinance before the Council include a condition that says, "this Ordinance shall be in full force and effect from and after it's publication according to Law, and only upon enactment of the Comprehensive Plan Map Amendment change to change the Comprehensive Land Use designation of the property from Community Commercial to Medium Density Residential". If you never get the Comprehensive Plan Amendment in full force and effect you never have the rezoning take effect. Council agreed.

**Motion by Gliva second by Piekarski Krech to approve the Ordinance change contingent upon the fact that the Ordinance shall be in full force and effect from and after its publication according to Law, and only upon enactment of the Comprehensive Plan Map Amendment change to change the Comprehensive Land Use designation of the property from Community Commercial to Medium Density Residential.**

**Ayes: 5**

**Nays: 0 Motion carried.**

**7. PUBLIC COMMENT:**

There was no public comment.

**8. MAYOR AND COUNCIL COMMENTS:**

Mayor Bartholomew stated there is a meeting tomorrow at 2:30.

Councilmember Murphy asked what the goal was for tomorrow's meeting. Interim City Administrator Rand responded Sharon Klumpp, from Baker Tilly, is presenting her information with respects to candidates for City Administrator. Her goal would be to suggest the Council narrow down, of the 10, to 3-4 candidates the Council would interview. Dates have been reserved in mid-July for interviews. She stated Ms. Klumpp will share her impressions and asks that Council discuss between each other, to limit the field to 3 or 4. Mayor Bartholomew stated the Council could have a discussion to see more than 3 or 4. Interim City Administrator Rand agreed. Councilmember Gliva asked if this would be a public meeting. Interim City Administrator Rand responded yes. She reminded the Council it is confidential information. During the meeting names or existing employment will not be divulged until they are considered finalist candidates. That information is not considered public information. Councilmember Murphy commented it would be difficult to get it to 3. Mayor Bartholomew responded he was not opposed to having more than 3.

Councilmember Piekarski Krech wished everyone a safe 4<sup>th</sup> of July and asked if setting off fireworks, be careful, it is very dry. She does not want the Fire Fighters to have to work over the Fourth.

Councilmember Dietrich thanked the committee members that worked on the RFP; Councilmembers Piekarski Krech and Murphy, Interim City Administrator Rand, Finance Director Hove, Fire Chief Thill, Assistant Chief Bergum, Battalion Chief Oswald, and International Association of Fire Fighter Local President Rank. She thanked them for all their work. Mayor Bartholomew agreed and thanked them.

**9. EXECUTIVE SESSION:**

**10. ADJOURN:**

**Motion by Murphy second by Piekarski Krech to adjourn the meeting at 10:02 p.m.**

**Ayes: 5**

**Nays: 0 Motion carried.**

Minutes prepared by Recording Clerk Sheri Yourczek