

**INVER GROVE HEIGHTS CITY COUNCIL MEETING
MONDAY, May 11, 2020 - 7:05 P.M. - 8150 BARBARA AVENUE.**

****Meeting via Zoom Video Conferencing****

1. CALL TO ORDER:

The City Council of Inver Grove Heights met in regular session on Monday, May 11, 2020, via Zoom Video Conferencing. Mayor Tourville called the meeting to order at 7:05 p.m. The Pledge of Allegiance was recited.

2. ROLL CALL:

Present via Zoom Video Conferencing were: Mayor Tourville, Council Members Piekarski Krech, Bartholomew, Perry, and Dietrich; City Administrator Lynch, City Attorney McCauley Nason, Emergency Management Director/Police Chief Chiodo, Parks and Recreation Director Carlson, Community Development Director Rand, Public Works Director Thureen, IT Manager Gade, Assistant City Engineer Dodge, Associate City Planner Botten, City Planner Hunting, City Attorneys Nason and Kuntz, City Engineer Kaldunski, and City Clerk Kiernan.

3. PRESENTATIONS:

Inver Glen Library Update

Jade Cabagnet, Branch Manager, Inver Glen Library, gave the following update about the Library:

- March 18th, 2020: Library closed to slow the spread of Covid-19.
- Curbside Pickup: Dakota County Library follows safety precautions to offer this service in a contact-less safe and easy way.
 - Requests for items can be placed by calling, emailing, or placing a hold on the website.
 - Notification is sent stating the item is ready for pick up.
 - Call the Library and arrange for a pickup time.
 - Items are placed in a bag and left on a table outside.
 - Have had over 15,000 checkouts since the service began with over 12,000 customers throughout Dakota County.
- Books by Mail: Available for residents unable to visit the Library or use Curbside pickup due to illness, disability, visual impairment, or those designated higher risk. Call or email the Library for this service.
- Virtual Programming: Virtual Storytime's have been available on Facebook Live on Monday, Wednesday, and Friday mornings. Families with children aged three and up can join a 20-minute Storytime with books, rhymes, and songs. Story times are archived and available for families to watch on demand.
- There is also a West African story telling series, virtual book clubs for adults, and many other programs. Check the website for further information.
- Digital Resources: Additional copies of books were purchased in various formats. These are apps where you can download audio and eBook content.
- Expanded access to online resources:
 - Database Ancestry Website. Available remotely through the end of this month.
 - Data for fixing cars is available from home or remotely.
- Library Staff can assist with Census questions over the phone, along with other informational needs.
- Online Library Cards. Online Registration Forms are available on the website.

Looking Ahead:

- A book has been selected for Inver Grove Heights Reads coming up in the Fall. The book title is Dream Country by Shannon Gibney. More information is available on the website.
- Summer Reading Program.

Branch Manager Jade Cabagnot stated even though the library doors are closed, Staff is still busy working to get access to information and resources people need.

Councilmember Piekarski Krech thanked Branch Manager Cabagnot and stated a lot of families with young children really appreciate the service.

4. CONSENT AGENDA:

- A.** i. Minutes from the April 27, 2020 City Council Meeting.
- B.** Disbursements for Period Ending May 5,2020. **Resolution 2020-77**
- C.** Consider Approval of Rental Licenses.
- D.** Confirm and Approve Personnel Actions.
- E.** Approve Grant Application to MN DEED for Host Community Grant Program Funds. **Resolution 2020-78**
- F.** Consider a **Resolution 2020-79** approving a Conditional Use Permit to install a 58' antenna whereas 52.5' is the maximum height allowed in the Agricultural zoning district. This request is for the property located at 10583 Barnes Avenue. Dakota Electric.
- G.** Consider Approval of Agreement for Professional Services for the Grove Parking Lot Project.
- H.** Consider Approval of Contractor for VMCC/Grove Door Replacement Project.
- I.** Consider Approval of Contractor for VMCC/Grove Aquatic Controller Replacement Project.
- J.** Receive Proposals and Accept Quote for Fire Hydrant Reconditioning.
- K.** Consider Final Compensating Change Order No. 1, Final Pay Voucher No. 2, Engineer's Final Report, and **Resolution 2020-80** Accepting Work for City Project No. 2019-04 – 68th Street Storm Sewer Outfall Repair.
- L.** Consider **Resolution 2020-81** Approving of a Joint Powers Agreement (JPA) with Dakota County for Milling, Bituminous Overlay, and City Utility Repairs for City Project No. 2020-09F– Utility Improvements for 2020 County Mill and Overlay.
- M.** Consider **Resolution 2020-82** Approving Cost Share Contract with Dakota County Soil and Water Conservation District for Storm Water Grant Funding for City Project No. 2016-09G 60th Street, 62nd Street, and Bacon Avenue Improvements.
- N.** Consider **Resolution 2020-83** Approving Cost Share Contract with Dakota County Soil and Water Conservation District for Storm Water Grant Funding for City Project No. 2019-09D – 64th Street Area Improvements.
- O.** Consider **Resolution 2020-84** Accepting Contract Amendment No. 1 for Additional Engineering Services from Bolton & Menk for City Project No. 2019-09D – 64th Street Area Improvements.

Councilmember Piekarski Krech and Councilmember Dietrich requested pulling Agenda Item 4E.

Motion by Bartholomew second by Piekarski Krech to approve the Consent Agenda with the exception of Agenda Item 4E.

Ayes: 5

Nays: 0 Motion carried.

Agenda Item 4E. Approve Grant Application to MN DEED for Host Community Grant Program Funds. Resolution 2020-78.

Councilmember Dietrich wanted clarification where it states, "this will be for design and construction of a retaining wall, sidewalks, and other utility development in 2020". She wanted to confirm for residents that is what the funds would be used for. Parks and Recreation Director Eric Carlson responded if the Grant is received it would be used to construct a retaining wall, sidewalk, and miscellaneous work related to the next phase of development at Heritage Village Park. It would not be used for the restrooms, shelters, and playground equipment. Councilmember Dietrich asked if that also means they are not making a commitment to do anything further. Parks and Recreation Director Carlson responded they are not. If the

Grant is received and improvements are made, those improvements will be there whenever they are ready for the next phase.

Councilmember Piekarski Krech stated she was concerned about using this money for the park, she felt there were more beneficial things that could be done for economic development. She commented she did not see where this would bring jobs into the City. Community Development Director Heather Rand stated they have been focused on using the Grant funds to continue to advance Concord Boulevards redevelopment. They are hopeful with the partnership of the Dakota County CDA in working towards a new multi family housing project in the immediate vicinity. She stated this park asset is important to the housing development.

Mayor Tourville asked if the funds go back if they are not used by a certain time. He asked if there would be other ideas coming forward. Community Development Director Rand responded they have until June 30, 2021 to utilize the funds. The Grant application for this installment is due Friday. If application is not made now, they would lose out on the opportunity for the upcoming year.

Mayor Tourville stated this was for infrastructure needed for that area. He stated he agreed with Councilmember Piekarski Krech to look at other opportunities going forward. Councilmember Piekarski Krech stated she did not believe this was an appropriate use for DEED money.

Motion by Bartholomew second by Perry to approve the Grant Application to MN DEED for Host Community Grant Program Funds. Resolution 2020-78.

Ayes: 4

Nays: 1 (Piekarski Krech) Motion carried.

5. PUBLIC COMMENT:

There were no public comments.

6. PUBLIC HEARING:

A. Continuation of Assessment Hearing to Consider Resolution Adopting Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2019-09D – 64th Street Area Improvements. Resolution 2020-85.

Mayor Tourville stated this is a continuation of a Public Hearing that was held at the last meeting.

City Attorney Bridget McCauley Nason stated background information on this item will be discussed. Once that is finished, a Motion would be needed to open the Public Hearing, take comments, a Motion would be made to close the Public Hearing, and then consideration of approval of the Resolution.

Assistant City Engineer Steve Dodge discussed the continuation of the Assessment Hearing for the 2020 Pavement Management Program, City Project 2019-09D, 64th Street Area Improvements. The area is off of Blaine Avenue, 64th Street, Bowman Circle, and Upper 64th Street.

- The project was built in 1986.
- Maintenance has been done on it.
- Council authorized feasibility because there was an original petition from 64th Street. When Staff reviewed the area with Council, Upper 64th Street was also added.
- The improvement hearing was held in October 2019.
- The proposed improvements include four stormwater quality additions (manholes), pavement replacement project, spot curb repairs, sanitary sewer, and minor water main repairs.
- South of 64th Street onto Bowman Circle and Upper 64th Court, a ravine is located behind them that is eroded and goes down to a DNR pond. Residents living in the area are aware of what has been

occurring and the improvements that may be needed to stop erosion and better convey water down a storm system to the DNR pond.

- General improvements would be to collect runoff in manholes at points.
- Improve an existing basin. Rebuild to be a filtration basin to help water quality before water enters DNR ponds.
- Project costs: \$1.5 million dollars.
 - Involves mostly street costs at \$785,000.
 - Some storm, water main, and sanitary sewer.
 - Ravine improvements would be \$387,000.
- Funding would come through the Pavement Management Fund at \$432,000.
 - Assessments would pay for \$523,000.
 - The rest would come from watermain and sewer funding.
 - Stormwater Utility Fund would pay for the ravine improvements, those are not being assessed.
- Special Assessments:
 - An Independent Appraiser provided a special benefit analysis for the project.
 - The special benefit cap provided is \$12,980.
 - The improvement hearing provided a feasibility cost of \$11,347 for assessments.
 - Competitive bids resulted in lower project costs for an assessment of \$10,668.
 - They would be just under 55% for the assessment amount.
 - Assessments are only for street and storm costs along the streets where the improvements are being done.
 - Final assessment is available for review.
 - Lots 43 and 42 were part of the 65th Street stormwater assessment. Their assessments were adjusted to give them credit for previous payments.
 - 10-year term with 3.15% interest.
 - The assessment should be paid within 30 days of being levied.
 - Interest would not begin accruing until 2021.
 - Deferred assessments are available for those that are 65 or older, active military, or 100% disability.

He stated 10A is part of Lot 10.

Assistant City Engineer Dodge listed the following project schedule:

- City Council holds Assessment Hearing: May 11, 2020.
- City Council awards project and approves agreements: TBD.
- Begin construction: May/June 2020.
- End construction: October 2020.

Recommendations are as follows:

- Hold the Assessment Hearing.
- Pass the Resolution adopting the final assessment roll:
 - \$10, 667.78 for single family parcels.
 - 10-year term of 3.15%.

After the Hearing is closed the following items would be coming up on the regular Agenda.

- Deferred assessments.
- Award of Contract and approving change orders for the Contract.
- Approve Easement Agreements.
- Geotechnical Construction Testing Services Agreement.

Councilmember Piekarski Krech asked if any correspondence has been received. Assistant City Engineer Dodge responded they have not received any feedback related to assessments other than the informational meetings that were held in March.

Motion by Piekarski Krech second by Perry to close the Public Hearing at 7:27PM

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

Mayor Tourville suggested matching the interest rate of 2.15% for 10 years that was discussed at the last Council meeting. Councilmember Bartholomew, Piekarski Krech, and Perry agreed.

Motion by Bartholomew second by Piekarski Krech to adopt the Continuation of Assessment Hearing to Consider Resolution 2020-85 Adopting Final Assessment Roll for the 2019 Pavement Management Program, City Project No. 2019-09D – 64th Street Area Improvements with the adjustment to the interest rate at 2.15%

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

7. REGULAR AGENDA:

Engineering:

A. Consider Resolution Approving Special Assessment Deferment and a Subdivision and Special Assessment Agreement for City Project No. 2019-09D – 64th Street Area Improvements. Resolution 2020-86.

Assistant City Engineer Steve Dodge stated this is the previous Agenda Items special assessment deferment. The large lot has the ability to be split so the assessment is deferred for 30 years without interest. If they lot split or build on it, the assessment becomes due. He stated this has been done before and can make sure it can be done without any variances.

Motion by Piekarski Krech second by Bartholomew to approve Consider Resolution 2020-86 Approving Special Assessment Deferment and a Subdivision and Special Assessment Agreement for City Project No. 2019-09D – 64th Street Area Improvements.

Councilmember Bartholomew asked if the interest rate would be 2.15%. City Engineer Dodge responded it is zero interest until the agreement is started by land acquisition or lot split. They have the same option that the current assessments have to follow the ten-year term. He recommends Council amend the Motion to the same 2.15% interest rate.

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

B. Consider Resolution Awarding Contract for City Project No. 2019-09D – 64th Street Area Improvements. Resolution 2020-87.

Assistant City Engineer Dodge stated they received several bids and would like to award the bid to the low bid Contractor, Valley Paving. This does not include raingardens. Those were bid but were taken out because they bid high. Other improvements were more cost effective and feasible. Steep terrains made it difficult for rain garden placement.

Motion by Piekarski Krech second by Perry to approve Consider Resolution 2020-87 Awarding Contract for City Project No. 2019-09D – 64th Street Area Improvements.

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

C. Consider Resolution Approving Land Acquisition Agreements related to City Project No. 2019-09D – 64th Street Area Improvements. Resolution 2020-88.

Assistant City Engineer Dodge stated Staff and the Consultant have been working hard to acquire the necessary temporary and permanent easements from four property owners. The total amount comes to \$27,000.

Motion by Perry second by Piekarski Krech to approve Consider Resolution 2020-88 Approving Land Acquisition Agreements related to City Project No. 2019-09D – 64th Street Area Improvements.

Ayes: 5

Nays: 0 Motion carried.

D. Consider Approving Change Order No. 1 and Change Order No. 2 for City Project No. 201909D – 64th Street Area Improvement.

Assistant City Engineer Dodge stated after plans were bid and working with residents' feedback, plan alterations were made along with the Contractor. The raingardens were taken out at an expense of over \$32,000, and \$19,000 was deducted from changes made for a total of \$50,000 taken out of the project. He stated that Change Order Number 2 is for \$46,000 back. They are altering the plans to work with residents in their backyards and storm sewer changes. He recommended approval of Change Orders 1 and 2 for a Contract with Valley Paving in the amount of \$46,663 for Change Order 2, and \$19,405.00 for Change Order 1.

Motion by Perry second by Bartholomew to approve Consider Approving Change Order No. 1 and Change Order No. 2 for City Project No. 201909D – 64th Street Area Improvement.

Ayes: 5

Nays: 0 Motion carried.

E. Consider Resolution Accepting Proposal for Geotechnical Services from American Engineering Testing, Inc. (AET) for City Project No. 2019-09D – 64th Street Area Improvements. Resolution 2020-89.

Assistant City Engineer Dodge stated this is the standard Construction Geotechnical Services Agreement for testing gravel, pavement, and curb. This agreement allows for equipment to be brought in between the homes to get to the ravine. Due to the large equipment needed for this, the residents were offered a survey of the outside, inside, and foundation of their homes and the ability to take photos and keep them for the record. They will also have vibration monitoring equipment set to monitor daily. When the vibration gets too high residents can call the City immediately and let the Contractor know. He stated both homeowners were in favor of making these efforts to protect their homes. He recommended approval.

Motion by Perry second by Piekarski Krech to approve Consider Resolution 2020-89 Accepting Proposal for Geotechnical Services from American Engineering Testing, Inc. (AET) for City Project No. 2019-09D – 64th Street Area Improvements.

Ayes: 5

Nays: 0 Motion carried.

Planning:

F. KURT MCCLUNG; Consider a Resolution relating to a Preliminary Plat for a two-lot subdivision to be known as Lakeview Ridge, property located at 6180 Babcock Trail. Resolution 2020-90.

Associate City Planner Heather Botten stated the request is for property located on the east side of Babcock Trail, south of 60th Street. The Applicant requests sub dividing his property into two parcels, the southern lot includes the existing home, the northern lot would be vacant with the intent to build a new

single-family home on it. The property is zoned R-1B, single family and guided low density residential. The plat is consistent with zoning and Comprehensive Plan designations and meets all of the minimum lot size and width requirements. She stated the Applicant said a new home could fit on the new lot and comply with setback requirements. The property is located on a County Road, the Dakota County Plot Commission reviewed the request and asks that the existing driveway remain in the same spot and the new driveway would run along the northern property line. She stated a driveway easement is needed to the north and if that is ever sub-divided, they would have to have a shared driveway. The Applicant has agreed to that and would be providing a driveway access agreement. She stated Staff and the Planning Commission recommend approval.

Motion by Bartholomew second by Dietrich to approve Consider a Resolution 2020-90 relating to a Preliminary Plat for a two-lot subdivision to be known as Lakeview Ridge, property located at 6180 Babcock Trail.

Ayes: 5

Nays: 0 Motion carried.

G. ALLIANT VENTURES III, LLC; Consider the following Resolutions for the property located at 9697 Inver Grove Trail.

- 1.) an Ordinance rezoning the property from E-1, Estate Residential District to R-1C, Single Family Residential District. Ordinance #1382.**
- 2.) a Preliminary Plat for a 14-lot subdivision to be known as Inver Grove Trail. Resolution 2020-91.**
- 3.) a Variance from minimum lot size and width standards. Resolution 2020-92.**
- 4.) a Variance from front yard and side yard setbacks.**
- 5.) a Conditional Use Permit to allow three lots to exceed the allowed impervious surface. Resolution 2020-93.**

City Planner Hunting stated the request is for a 14-lot subdivision on an approximate 15-acre parcel. The development area is 4.5 acres. He addressed the following requests:

1. The first request is for rezoning. The property is zoned E-1 Estate, requesting R-1C which is consistent with the Comprehensive Plan.
2. The preliminary plat consists of 14 lots on the eastern half of the site. Street A comes in off of Cahill Avenue. There would be five Outlots for stormwater purposes. Outlot E is for future development.
3. Lot sizes range from 8,500 to 14,600 square feet. Average lot size is about 11,500. Proposed lot widths range from 60 to 85 feet.
4. Variances from lot width and lot area and setbacks. Setbacks from front to rear, going from 30 feet to 25 feet. For side yard, would like flexibility of 15 feet as opposed to the standard 5 feet garage 10 feet house. He stated the site is constrained by a number of limitations. There are a couple of large wetlands on the site, they have a 2,200-foot-wide utility easement on the west side, and a 60-foot private easement on the east side.
5. The Conditional Use Permit includes lots 1, 3, and 4. Proposed impervious surface would exceed what is required. Two of the lots by 25 feet and the other by 200 feet.

He stated Planning Staff recommends approval of all requests with conditions listed. Conditions include one of Planning Commissions that the minimum lot size be increased to 70 feet wide. The Planning Commission recommends the following:

- Approval of the rezoning.
- There was discussion regarding lot size variances and lot widths. The Planning Commission recommended approval of all variances but recommend the minimum lot widths be increased at least 70 feet at the front setback.
- Recommend approval of the plat with the same 70-foot-wide condition.

- Conditional Use Permit. If approved with the 70-foot-wide lot, it would increase some of the lot sizes, and may potentially decrease the lot. They did not want to recommend approval of any Conditional Use Permits for impervious surface as they may not be required. Recommendation was for denial because it was uncertain if there could be any significant changes to the plat.

He stated the Applicant is still pursuing the 60-foot-wide lot variance.

Councilmember Bartholomew asked if Fire has reviewed the house separations and were satisfied. City Planner Hunting responded that Fire was looking more for general access to the street. 15 feet is still the same as the standard R-1C separation. Any movement of one house dictates the movement of another.

Mayor Tourville asked if it would work if the Applicant is told to go with 70 feet versus 60.

Bob Machacek, 4655 Nichols Road, Eagan, stated they designed a project and came up with something they believe works, then the Planning Commission came back with those minimums. He stated if they had to do that, they would lose two lots.

Mayor Tourville requested a photo of the product. Mr. Machacek responded he did not have a picture. He commented about the Public meeting stating the neighbors were shown this layout and it was well received. A builder has not been picked yet so he was unable to comment on what would be built. Mayor Tourville asked if it would be a standalone townhome or single family. Mr. Machacek responded it would be standalone single family. Mayor Tourville asked if there was a price point. Mr. Machacek responded it would be in the low \$400,000 to \$500,000. He stated going to 70-foot minimum lots would push the overall product into a higher price bracket which is something they are trying to minimize.

Councilmember Piekarski Krech asked if something like this has been done before, lots getting variances with the lot area. City Planner Hunting responded they have not had a subdivision with this number of variances. There was discussion with the Applicant about the possibility of developing this as a planned unit development without having to ask for direct variances. Due to other limitations and restrictions, the Applicant chose to follow this path. Lot sizes and widths in the northwest area have 65-foot-wide lots. He stated these are in that area, at least seven are greater than 60 feet, and seven are at 60 feet at the front setback line. Councilmember Piekarski Krech stated it says all of them. City Planner Hunting responded none of the lots would be less than 60 feet.

Mayor Tourville stated they have had planned unit developments that have had less than 70-foot lots. People want an option for less yard and brings in a price point that is more attractive. He stated it is a difficult piece of property, a lot of people have looked at it, and it has been under tax forfeiture.

IT Manager Marc Gade stated there were two people on the line that wished to speak.

City Administrator Joe Lynch asked the Applicant who would end up owning Outlot A, B, and C. He stated there is a property ownership dispute at the southeast of Inver Grove Trail and Cahill. There is a platted lot on a piece of property he did not believe was owned by the Applicant. Mr. Machacek responded there is a corner that is not owned by them and was not included in the plat. He stated he had his Engineer, John Molinaro from Pioneer Engineering, who responded that is Lot 14. Mr. Molinaro stated south of the property there is land between our plat and the roadway owned by another entity and not a part of this plat. Outlots A, B, and C will be under easement and dedicated to the City. Mayor Tourville commented Lot 14 does not seem big enough to do anything with and asked what happens with it. Mr. Molinaro responded in order to move forward for plat, Lot 14 would need to dedicate an additional right of way to Cahill Avenue, there would be a small parcel left.

City Administrator Lynch asked the Applicant about pollution on the property and what Outlot that is contained on. He stated the City of Inver Grove Heights does not wish to own that Outlot. Mr. Molinaro responded they hired an Environmental Firm who has designed contingency plans, those were submitted to the MPCA and they just received their approval of the plan. He commented it is believed most of the contamination would be on Lots 1-4.

Mayor Tourville asked if they would add as a condition, that the City would not be taking over the lots that have contamination. Mr. Machacek responded they would clean it up themselves. Mr. Molinaro stated losing two lots would hurt because they have substantial cleanup that would occur there. Mayor Tourville asked if the developer would deal with stormwater. City Planner Hunting responded that was correct. Mayor Tourville asked if stormwater control would be a part of getting final approval. City Planner Hunting responded this is the preliminary plat, the Council will see a final plat with final grading and stormwater management plans.

Dave Gibbens, 9655 Inver Grove Trail, stated his property is immediately north of this area. When the City took some of the property for the curve of Cahill, they exchanged it for the little Outlot that is not owned by the developer. He commented that should have been exchanged for the part the City took on the southwest corner.

Mayor Tourville asked if anyone had any additional information about this. City Administrator Lynch responded the property that was exchanged was on the other side of the road. City Attorney Tim Kuntz stated when the City constructed Cahill it acquired land from the School District, which owned property to the south, and some property for the right of way. A portion of the school property was severed, it ended up north of Cahill, separated from the rest of the school property line south. The remnant was created at that time. Mayor Tourville asked who owned the parcel. City Attorney Kuntz responded the Lades family owns the parcel. When the property was mortgaged, the remnant was not included in the language. When the mortgage was foreclosed, the bank ended up with it. The bank did not own the remnant because it was never a part of the mortgage. The bank sold it to the current developer and did not include the remnant.

Mayor Tourville asked if that triangle of land will be a problem and if that needs to be settled so there is no dispute. City Administrator Lynch responded he directed Engineering staff to negotiate with the Lades family to acquire the property, so it is City owned. He stated he could work with the Applicant on the future status of the property.

Councilmember Piekarski Krech asked why the City would want the Outlots and why they would approve a preliminary plan if they would receive Outlots they do not want. City Attorney Kuntz responded drainage and utility easements are needed to deal with stormwater runoff. He stated they do not want Outlots that are polluted or tax forfeited.

City Engineer Tom Kaldunski stated Outlot B is a regional basin, Outlot A is an infiltration basin. Assistant City Engineer Dodge stated it is standard practices that when a City takes over a street, they would have runoff directed to Outlot C. The City should be maintaining the stormwater. Outlot A is a similar situation. He stated with Outlot E, which is a large DNR wetland, it is standard practice to get full Outlot over a DNR wetland. Mayor Tourville stated they do not want it if it is contaminated, it needs to be in a state where it is cleaned up before the City takes responsibility for it. Councilmember Piekarski Krech stated they do not take over every stormwater pond either, it is part of some of the construction. She commented that runoff from the street is not just from the street. She questions the precedent they are setting by taking all the Outlots, especially Outlot E, which is large. Assistant City Engineer Dodge responded Outlot E was for future development, the City is not taking it over.

Assistant City Engineer Dodge stated the triangular parcel spoken about previously has enough right of way to get a sidewalk through. The City would like to work with the developer to purchase. He stated they have made an offer to the Lades family and are waiting to hear back. There are other benefits to getting the parcel, it would not only help with a sidewalk, but also helps out with Outlot 14.

Mayor Tourville stated two Outlots were being taken for potential stormwater. Assistant City Engineer Dodge responded it would be Outlot B, Outlot A, and Outlot C. He stated they need to work with the City Attorney for conditions that state they would not be taking them over before contamination is cleaned up.

Councilmember Piekarski Krech asked if those would be dedicated to the City. Assistant City Engineer Dodge responded it is standard practice that they are dedicated to the City.

Motion by Bartholomew second by Dietrich to approve ALLIANT VENTURES III, LLC; Consider the following Resolutions for the property located at 9697 Inver Grove Trail.

- 1.) an Ordinance rezoning the property from E-1, Estate Residential District to R-1C, Single Family Residential District. Ordinance #1382.
- 2.) a Preliminary Plat for a 14-lot subdivision to be known as Inver Grove Trail. Resolution 2020-91.
- 3.) a Variance from minimum lot size and width standards. Resolution 2020-92.
- 4.) a Variance from front yard and side yard setbacks.

City Attorney Kuntz asked if the Variance is for 70 or 60 feet in the Motion. Councilmember Bartholomew responded it is as the Applicant proposed, 60 feet.

Ayes: 5

Nays: 0 Motion carried.

Mayor Tourville stated the next Motion would be to allow three lots (Lots 1, 3, and 4) to exceed the allowed impervious surface. There is an Outlot stormwater pond behind this. City Planner Hunting stated Lots 1 and 3 were only to exceed by about 25 square feet each. Lot 4 was about 200 square feet.

Motion by Bartholomew second by Perry to approve ALLIANT VENTURES III, LLC; Consider the following Resolutions for the property located at 9697 Inver Grove Trail.

- 5.) a Conditional Use Permit to allow three lots to exceed the allowed impervious surface. Resolution 2020-93.

Ayes: 5

Nays: 0 Motion carried.

H. CAHILL STORAGE

- 1.) Consider Resolution Rescinding the Council Actions of January 13, 2020 And January 27, 2020 Relating To Denial Of A Conditional Use Permit For A Mini-Storage Facility At 7855 Cahill Avenue And Relating To Denial Of The Conditional Use Permit For Impervious Surface To Exceed 25% Within The Shoreland Overlay District For Property At 7855 Cahill Avenue. Resolution 2020-94.
- 2.) Consider Resolution Approving A Conditional Use Permit for a Mini-Storage Facility and to Exceed 25% Impervious Surface Within the Shoreland Overlay District of Simley Lake. Resolution 2020-95.

City Attorney Kuntz stated the Council acted on January 13, and 27, 2020 to deny a Conditional Use Permit for a mini storage, and for exceedance of impervious surface. The vote was taken on January 13th. On January 27th there was a Resolution to memorialize the reasons for denial and the fact findings of the Council. The following four items have occurred since that time:

1. There was an inquiry about how the stormwater plan dealt with runoff from the site in its relationship to the adjoining public park. City Engineer Kaldunski wrote a supplemental stormwater management report addressing how that is being handled and managed. The stormwater plan meets or exceeds City standards.
2. There was an inquiry about safety issues during nighttime hours. It was suggested to the developer that a condition be added to the Conditional Use Permit prohibiting operation of the business from 12:00 midnight to 6:00 a.m. During that time there would be no business activity, the storage facility would not be operational, and no customers or tenants would be allowed on site. The Applicant indicated it would agree to a condition.

City Attorney Kuntz stated one of the Resolutions is a for approving the Conditional Use Permit with the condition added.

He stated around February 27, 2020 the Applicant alleged that the City decision was arbitrary. The context of the legal position was that with respect to zoning and land use matters, certain items are reviewed in a legislative compacity. Zoning or rezoning is a legislative function. He stated the land use approval use permits, interim use permits, and variances are quasi-judicial meaning the City has to act like a Judge and determine whether it meets the criteria set by Ordinance for approval of a permit. The controversy is on the statement that the Council were not quasi-judicial in that they did not address the Planner's report which found that all criteria in the engineering report had been met. He stated the issue of controversy was there were not contrary findings by the Council with respect to the findings by the Planner.

He stated the second legal issue deals with the findings that were made. Finding that the City does not think that this use should be where it is suggested to be. The controversy is that it is already identified as a conditional use in that zone, the property is zoned to allow it as a conditional use. The issue has already been determined by the zoning of the property that allows such a use as a conditional use and not for the City what it intends to have there. It is already allowed by the Ordinance for mini storage as a conditional use.

City Attorney Kuntz stated the first item is a Resolution rescinding the denial and a Resolution granting two conditional use permits. One for a mini storage and one for exceeding the impervious surface. One Motion is needed for both because they are interrelated with each other. Passage of that Motion would require a 4/5 vote.

City Clerk Rebecca Kiernan stated as of May 8th, 2020 she has received 12 notifications from the following in opposition:

1. John Wendt and Linda Dehrer-Wendt
2. Jeff Tollefson, 7760 Boyd Avenue
3. Laurie Thurber, 3201 78th Street East
4. Larry and Judy Solarz
5. Gregory Lindblom, 7725 Cahill Avenue
6. John and Donna Patteron, 7900 Boyd Avenue
7. Dr. C. Lawrence Clark, 3220 Cunteen Trail
8. Mike Philipp, 3295, 80th Street East, #502
9. Julie Heckenbach, 8100 Casper Way
10. Brandon Wolters, 8100 Casper Way
11. Thomas Larson (Wife and Daughter)
12. Robert Tjostelson, objection by phone

Motion by Perry second by Piekarski Krech to accept the list of names into the record.

Ayes: 5

Nays: 0 Motion carried.

Sharon Mueller stated the people that owned it before had to fill that lot before they could build their home. The lot was overfilled, and some fill went down the hill. She was concerned about the pipe they want to install to drain water into the small pond in the park and felt there will be erosion if they put it in. She was concerned about additional water going into the pond stating when they get a large rainfall now, the trail is filled with water. She invited them to the west side of the park to check out the pipe the City put in with erosion around the pipe draining down into the park. She commented that situation has never been fixed. She stated there is a drain down there with the cover off half the time. She stated when looking at the four homes, every one of them has erosion problems in their back yards. She urged the Council to vote no.

She commented if the pipe goes in and there is erosion, she does not want her tax money being used to fix it.

Jim Mueller stated in the late 70's they put a pipe in on the west side of Boyd. The trail there is covered with water all of the time. He commented he puts the cover back on a lot. He stated it is a mess. He stated if this is approved, they should have the property be responsible for not only what happens now, but 10 years from now. He commented the current fill is not the best.

Robbie Latta introduced himself from the Applicant's Engineering group, Civil Site Group. Mayor Tourville asked for an overview about the pipe, erosion, and the water. Mr. Latta responded the stormwater system for the proposed improvements incorporates a filtration basin that acts as a holding pond/underground basin for the parking lot and building. That should slow down and act as a rate control for any stormwater leaving the impervious surfaces of the property. He stated there is an outlet at the bottom that allows water to slowly drain out of it and down the pipe. The pipe will not cause erosion because it has an outlet.

Mr. Latta stated there was concern about disturbance with the pipe installation and responded with slopes this steep, an erosion control blanket will go in after the pipe has been installed and after it has been backfilled.

Mayor Tourville asked for further information about rainfall and stormwater runoff. Mr. Latta responded that ensures the stormwater leaves the site at a rate equal to, or lower than the existing conditions. He stated the basin serves to lower the stormwater discharge rate from the existing conditions for a two, 10, and 100-year storm.

City Engineer Kaldunski stated the storage area is on a 3.5-acre parcel and is a part of a 106-acre drainage area and a small portion of the drainage. He described the basin locations stating water from this site will go due west close to where the Boyd Avenue storm sewer comes out. A pipe would run continually to the bottom of the hill. He referenced an illustration of 10-foot diameter pipes stating it looks like there are rocks all around it and gives an additional storage feature as follows:

- Collects all the water from the roof and the pavement.
- Pre-treats stormwater to remove sediment.
- Provides volume control.
- Provides rate control for 2, 5, 10, and 100-year events.
- Discharges to basin bottom.

He stated this pipe will get to the normal water level where the basin is and taken lower than what comes out at Boyd Avenue. That will be the ponding this site will handle. The amount of flow is no more than the water that goes there today. He stated this is a great solution with the addition of the underground pond on site to capture the water.

City Engineer Kaldunski referenced a diagram of the energy dissipation structure. This allows energy to dissipate into the manhole structure, goes out the pipe into the existing water, and reduces the velocity. He stated this is similar to what is on the other side coming from Boyd Avenue, the difference is that Boyd Avenue does not have a pond or a 10-foot diameter pipe with rock around it to handle the flows.

Councilmember Bartholomew asked who is responsible for the upkeep and maintenance of this system. City Engineer Kaldunski responded the City has a long-standing policy of entering into Stormwater Facility Maintenance Agreements. It says the owner of the commercial property is responsible for maintaining and operating this system. This would be from his site, into the 10-foot diameter pipe, including the outlet structures and the basin, it is the landowner's responsibility per the agreement. He stated the document also says if they do not maintain it to City standards, the City has the ability of doing the work and sending the landowner/developer the bill. This would be for as long as the Stormwater Management Facility Agreement is in place. He stated there are some agreements that are for 25 years.

Mayor Tourville suggested Engineering take a look at the west side. City Engineer Kaldunski responded all outlets and ponds are inspected on a five-year basis. That one is on the list of projects that need to be done. He stated the list has over \$10 million dollars' worth of repairs and funding sources to do all of them.

Councilmember Bartholomew commented about the agreement for the hours of operation, and that there be no operation from midnight to 6:00 a.m. He asked if the Applicant would consider no hours of operation from 10:00 p.m. to 6:00 a.m.

Max French, Adams French Property, responded that would be something they would need to discuss with the rest of the management team. Normal hours of operation are from 7:00 a.m. to 9:00 p.m., they also have 24-hour emergency hours for emergency personnel. Councilmember Bartholomew asked if the Applicant would consider the 10:00 p.m. time and get back to the Council. Mayor Tourville stated it could be listed as one of the Conditions, 10:00 p.m. to 6:00 a.m. If that does not work, they would come back to Council. They would not allow emergency storage, but if there was an emergency, they would operate like any other business.

Mayor Tourville stated another item was to make sure there were no pole lights, lighting of the building was to City standards, and facing down. Another concern was traffic safety due to the proximity to the school. City Planner Hunting responded traffic was looked into. Storage facilities are very low traffic generators compared to retail. Councilmember Piekarski Krech stated people going in and out of a storage facility tend to be in trucks and trailers, not cars. She stated it could be more of an issue with pedestrians and walkers to school. Mayor Tourville responded this would not have access to 80th Street, it would be on Cahill.

Mr. French stated he reached out to the management team regarding Councilmember Bartholomew's suggestion for the 10:00 p.m. timeframe and if they would like to amend this to state no operations from 10:00 p.m. to 6:00 a.m. they would agree. Councilmember Bartholomew thanked him and commented it was helpful for residents in the area.

City Planner Hunting displayed renderings of the building from different sides. The materials have changed a little since Planning Commission, a different color scheme was provided. Mr. French stated they added brick and changed the colors.

City Attorney Kuntz stated a comment was made about customers and tenants not being on site after hours. He asked if the Developer had thought about how they can prevent anyone from going to the garage doors during prohibited hours. Mr. French responded there is an access gate to the north and south ends that will be closed to limit access.

Mayor Tourville stated he noticed correspondence that was not mentioned previously from Al Eiden and the Carlson's and wanted to make sure those were added. City Clerk Rebecca Kiernan commented she did not receive those emails.

Motion by Piekarski Krech second by Bartholomew to add the two additional names to the correspondence received to the record.

Ayes: 5

Nays: 0 Motion carried.

Motion by Bartholomew second by Tourville to approve CAHILL STORAGE:

1.) Consider Resolution Rescinding the Council Actions of January 13, 2020 And January 27, 2020 Relating To Denial Of A Conditional Use Permit For A Mini-Storage Facility At 7855 Cahill Avenue And Relating To Denial Of The Conditional Use Permit For Impervious Surface To Exceed 25% Within The Shoreland Overlay District For Property At 7855 Cahill Avenue. Resolution 2020-94.

2.) Consider Resolution Approving A Conditional Use Permit for a Mini-Storage Facility and to Exceed 25% Impervious Surface Within the Shoreland Overlay District of Simley Lake. Resolution 2020-95.

Councilmember Piekarski Krech stated she was discouraged they had not considered the B3 affect on Cahill before. Its been around for a long time, zoned, it was not taken into account that a storage facility could go there. She stated it is allowed in the B3 area, the land use is legal, and now Legal Advisors state the need to go through with this. She stated she was afraid Community standards and the fact that Cahill was supposed to be the jewel and main street are not legal reasons for denying the proposal. She commented it was a sad evening.

Mayor Tourville stated the City Council is sending information to the Planning Commission to take a look at mini storage not be allowed further. It cannot be done on this application.

Councilmember Perry stated she agreed with Councilmember Piekarski Krech and does not like this project or support it. There is no legitimate reason to not go forward with it.

Ayes: 4

Nays: 1 (Dietrich) Motion carried.

8. EXECUTIVE SESSION:

A. Closed Session Pursuant to Minn. Stat. § 13D.05, Subd. 3(c) to develop or consider offers for the potential purchase of real property for park purposes in the Northwest Area.

City Attorney McCauley Nason stated the Council is being asked to move into a closed session pursuant to Minn. Stat. § 13D.05, Subd. 3(c) to develop or consider offers for the potential purchase of real property for park purposes in the northwest area. The Council must identify that the property that is the subject of this closed meeting is identified as follows:

Real property located at:

- 6351 Argenta Trail West, Inver Grove Heights, MN, Dakota County. Property Identification Number 20-0060-30-010 and 20-00600-53-013.
- 1285 70th Street, 20-00600-78-012.
- 6815 Robert Trail South, 20-28500-01-012.
- 1466 70th Street, 20-00700-05-018.
- No specific street. 20-00700-06-011 and 20-00700-33-020.
- 7250 Argenta Trail, 20-00700-06-012.
- 8150 Barbara Avenue, 20-12054-00-040.

City Attorney McCauley Nason stated the closed meeting will be held by telephone or other electronic means only on a separate Zoom Teleconference number and will commence. Once the closed meeting is completed there are no further items on the Agenda. The Council will adjourn the meeting.

She stated the Statute requires that those in attendance at the closed session must be identified. The following individuals will be present at the closed session:

Mayor Tourville

Council Members Bartholomew, Piekarski Krech, Perry, and Dietrich

City Attorney’s Tim Kuntz and Bridget Nason

City Administrator Joe Lynch

Parks and Recreation Director Eric Carlson

City Clerk Rebecca Kiernan

City Attorney McCauley Nason stated she would look for a Motion as follows: “I move to close the meeting pursuant to Minn. Stat. § 13D.05, Subd. 3(c) to develop or consider offers for the potential purchase of real property previously identified on the record for park purposes in the Northwest Area”.

Motion by Piekarski Krech second by Perry to close the meeting pursuant to Minn. Stat. § 13D.05, Subd. 3(c) to develop or consider offers for the potential purchase of real property previously identified on the record for park purposes in the Northwest Area.

City Administrator Lynch stated before closing this meeting, the EDA Executive Director would like consideration for an EDA Meeting on May 26th, at 6:00 p.m. before the next regularly scheduled City Council meeting to discuss business of the EDA that was planned for this evening, but was postponed.

Mayor Tourville stated with all of the openings and closings, the City will be doing announcements and updates and following State guidelines.

Ayes: 5

Nays: 0 Motion carried.

Motion by Piekarski Krech second by Perry to meet at 6:00 p.m. on Tuesday, May 26th, 2020 for the EDA meeting via Zoom.

Ayes: 5

Nays: 0 Motion carried.

9. MAYOR AND COUNCIL COMMENTS:

10. ADJOURN:

The regular City Council meeting ended at 9:42 p.m.