

**CITY OF WACONIA**  
**February 16, 2021**

Pursuant to due call and notice thereof, the regular meeting of the City Council of the City of Waconia was called to order by Mayor Bloudek via Zoom as well as in person at 6:00 p.m. The following members were present: Kent Bloudek Nicole Waldron, Randall Sorensen, Pete Leo, Carl Pierson.

Staff Present: Jackie Schulze, Lane Braaten, Craig Eldred, Mike Melchert, Nicole Meyer, Ann Meyerhoff.

Visitors: Due to the Covid-19 local emergency, the City has suspended the practice of having members of the public sign in for meeting.

Pledge of Allegiance was led by Mayor Bloudek,

**ADOPT AGENDA:** Resolution No. 2021-41 was removed from the Consent Agenda and moved to Council Business. Motion by Sorensen, seconded by Waldron to adopt the agenda as amended. All present voted aye.  
**MOTION CARRIED.**

**VISITOR'S PRESENTATION:** None

**ADOPT CONSENT AGENDA**

- 1) February 1, 2021, City Council Meeting Minutes.
- 2) Payment of February 16, 2021 Expenditures.
- 3) Use of Park: Waconia Library – Storywalk.
- 4) Resolution No. 2021-51, Accepting Donation and Pass Through Recommendation.
- 5) Resolution No. 2021-43, Authorize Staff to Apply for Grant Funds.
- 6) Resolution No. 2021-44, Authorize Equipment Acquisitions for L-52 Lift Station.
- 7) Resolution No. 2021-45, Comprehensive Plan Amendment/Boundary Line Adjustment.
- 8) Resolution No. 2021-46, Orchard Park 1<sup>st</sup> Addition Final Plat.

Resolution No. 2021-42 was removed and moved to Council Business. Motion by Waldron, seconded by Pierson to Adopt the Consent Agenda as amended. All present voted aye. **MOTION CARRIED.**

**COUCIL BUSINESS:**

**Town Centre Refunding Bonds 2021B – Carver County CDA**

Nicole Meyer addressed the Council stating that City Staff has been working with Carver County CDA and Baker Tilly Municipal Advisors on the refunding of bonds that were used to pay for the construction of the Carver County CDA Towne Centre apartments and City Hall facility. The bonds were originally issued in 2002 and refunded in 2011. It is estimated that refunding the bonds at this time will produce interest cost savings to the Carver County CDA of about \$873,109.

The joint project between the City and Carver County CDA included financial obligations. As part of the original bonds issued, the City was obligated to pay \$35,000 annually towards repayment. The City has made this contribution out of the General Fund. The refunding being proposed will eliminate this annual obligation.

Paul Steinman from Baker Tilly presented the refinance and the information needed from the City to move the bond closing forward. The request for action includes approval of Resolution 2021-47 that authorized the renewal of the City's general obligation pledge of up to \$3.0 million and authorizes execution of documents including the Second Supplemental Indenture.

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Motion by Leo, seconded by Waldron to Adopt Resolution No. 2021-47, Approving the Pledge by the Carver County Community Development Agency of the Full Faith and Credit of the City of Waconia to Reimburse Carver County for a portion of the Governmental Development Refunding Bonds to be Issued by the CDA for the Town Centre Project. All present voted aye. **MOTION CARRIED.**

### **Variance – 271 Fair Circle**

Ethan Nelson gave a quick refresher indicating that the Planning Commission, at their regular meeting on December 3<sup>rd</sup>, reviewed the pertinent information, held the required public hearing, and recommended denial of the Variance application as presented via a 5-0 vote.

On February 4<sup>th</sup>, the Planning Commission, at the direction of the city Council, reviewed and discussed Exhibit A in relation to the ordinance language regulating decks. The original recommendation of denial was unchanged. The Planning Commission recommended that staff look at clarifying the existing ordinance language regarding decks and the principal structure definition.

Council Member Sorensen asked if there is anything the applicant can do to get a deck on the back of the house without a variance. Are there any other options?

Lane Braaten responded that there would have to be deliberate design to meet the setback requirements. The builder or the applicant have not come back with any such design at this time.

Lori Goldman, 271 Fair Circle, joined the meeting and shared three point from the Planning Commission meeting

- All commissioners agreed that the ordinance language needs clarification.
- Chairman Sherman stated it would be ok with him if the Council approved the variance.
- Chairman Zellman said she was not sure that she would have voted for the denial.

Harold Worrell added that the house is on a very unique lot. The property owners around the lot all wrote letters in favor of the variance.

Mayor Bloudek expressed concern is that this being a new development verses an already established development it is concerning to be at this point to have to be considering a variance. This could have and should have been avoided. Ordinances are in place for a reason and prefer to stay with the Planning Commissions decision.

Council Member Pierson stated that the view of the Planning Commission has to mean something to the Council and it has been denied twice. Supportive of reviewing setback ordinance in a work session to understand why the numbers are where they are and possibly reexamine from time to time.

Council Member Waldron agreed with Council Member Pierson that the language need to be looked at.

Motion by Leo, seconded by Waldron to Adopt Resolution No. 2021-48, denying the Variance application to allow a deck addition at a setback of 22.5 ft. from the rear property line versus the 30 ft. minimum setback distance required in the R-1, Single Family District. All present voted aye. **MOTION CARRIED.**

### **Variance – 1018 Meadow Lane**

Ethan Nelson informed Council that the City has received a Variance application from Ryan and Jessica Kostecka requesting approval of a variance to construct a shed in the rear yard of the property which is proposed to be located 3 ft. from the side yard versus the 10 ft. required and 4 ft from the rear yard versus the 10 ft. required in

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the R-1, Single Family District. The applicants have stated that the variance is necessary because it is the only suitable location to construct a shed within the rear portion of the property.

The applicants are proposing a 14 x 10 shed to be placed on the northern most corner of their property within the existing drainage and utility easements. The proposed location is set in-between a tree and the corner fencing which is generally located on the property lines. The existing drainage and utility include a 5 ft easement along the side lot line and a 10 ft. easement along the rear lot line. The shed as proposed would encroach into both easements.

Nelson went through the Planning Commission considerations:

1. The property exists with a principal structure and patio that currently conform to hardcover and setback requirements.
2. The applicants are proposing to place the shed within the rear and side yard drainage and utility easements. Public Services generally does not recommend any structures to be placed within easements. The Public Services Director has met with the property owners on site to review the proposed location and notes that if the City Council decides the shed meets the variance criteria, the shed cannot be placed any closer than the setbacks as proposed.
3. The City has existing storm sewer infrastructure located along the rear lot line. A concrete slab with re-rod will be necessary to maintain structural integrity of the shed if the City needs to excavate and maintain the storm sewer currently located within the drainage and utility easement.
4. The City Council should review the proposed location and property circumstances and determine if the request meets the variance criteria.

The Planning Commission, at their regular meeting on February 4<sup>th</sup>, reviewed the pertinent information, held the required public hearing and recommended denial of the Variance application as presented via 3-1 vote.

Mayor Bloudek expressed concern with the concrete slab and the utility easement. It may not seem like an issue right now but what happens in the future when property owners change.

Ryan Kostecka, 1018 Meadow Lane, approached the Council and shared his interpretation of the Variance review criteria in regard to the request. He expressed concern about having to move the Linden tree that is in the yard. Neighbors are all in agreement of placing the shed in the yard.

Mike Melchert stated that if the Council was inclined to grant the variance the City would need an encroachment agreement. If it goes into our easement area we will give up our easement rights. When the City takes easements for various purposes. If a building permit is granted in an easement area we can be considered to have abandoned that easement. An encroachment agreement says that we are allowing the building in the easement area but if it is required that the shed be removed, it needs to be done promptly at the property owners expense.

Council Member Leo asked if every house has the same easements or does it differ per lot.

Nelson responded that it isn't always going to be the same but typically it is a minimum of 5 – 10 ft. for most lots. If utilities are involved the easements are larger.

Council Member Leo asked if there is a larger easement on a property are the owners not allowed to build on the easement?

Mike Melchert explained that permanent structures are not allowed in easements.

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Nelson added that 99% of permits that are proposed to be in easements are for fences and staff consults with Public Services as far as utilities are concerned.

Council Member Sorensen expressed concern that if this is granted there may be problems in the future if work needs to be done and there are other options for a shed that would not require a variance.

Motion by Sorensen, seconded by Leo Adopt Resolution No. 2021-49, denying the Variance application to construct a shed in the rear yard of the property, which is proposed to be located 3 ft. from the side yard versus the 10 ft. required and 4 ft. from the rear yard versus the 10 ft. required in the R-1, Single Family District. All present voted aye. **MOTION CARRIED.**

**Conditional Use Permit – Garden Center, 9460 County Road 10 East**

Lane Braaten stated that Brianna Lovett has submitted a Conditional Use Permit application to allow a garden center use on 9460 County Road 10 East. The existing garden center use on the property, currently doing business as Willow Winds Gardens, was allowed per approval of an Interim Use Permit. The existing IUP was specific to the existing property owners, Randy and Avis Hammer, and will expire on April 30, 2025.

Braaten explained the conditional use permit analysis which included:

1. The City Council approved Ordinance No. 735 on December 21<sup>st</sup>, 2020, which approved and identified garden center uses as a conditional use in the R-3, Medium Density Residential District if the ten conditions identified in said ordinance could be met by the applicant and the proposed location. The Conditional Use Permit section of the City Code also identifies six general requirements and findings to consider when reviewing a CUP.
2. The City has zoning authority over the subject parcel, which is currently located outside the City Limits within Laketown Township. Carver County released zoning authority to the City when the southeast area plans for Interlaken were being developed.
3. City Code requires the property to be located within the City Limits. As such, the Planning Commission has recommended a condition of approval requiring the applicant submit a petition for annexation within sixty days of the Conditional Use Permit approval or within sixty days of the acquisition of the property, whichever is greater.
4. The applicant is proposing to install/construct a monument sign at the entrance to the property near County Road 10. The proposed signage area shall be based on the lineal frontage along County Road 10. Additionally, the monument signage is required to be setback a minimum of 10 feet from the property line.
5. It is staff's understanding that the existing Willow Wind Gardens signage on the existing silo was approved when the current property owners received Interim Use Permit approval for the garden center. The applicant is requesting approval to update the existing silo wall signage to reflect the new business name. Any update to the signage will require a permit and the sign dimensions shall not exceed the existing dimensions of the Willow Winds Signage.
6. The City Council should review the requested hours of operation stated in the applicant statement and determine if the hours are appropriate. Per the recommendation of the Planning Commission the proposed hours of operation have been included in the draft resolution for consideration.
7. The County Road 10 corridor is identified in the City's Comprehensive Plan as a regional trail search corridor. Improvement of a trail in this corridor would connect eastern Carver County to the City of Waconia. Specifically, the Comp Plan indicates that the City will cooperate with Carver County and the Metropolitan Council to plan and build a regional trail along the current alignment of County Road 10. Staff has included a condition of approval indicating the applicant will work with City staff to identify a possible future location and easements that may be necessary for future regional trail construction/alignment in this area.
8. The applicant is proposing the installation of equestrian fencing near the entrance drive. The fence shall require a permit through the City and shall be located on private property. Location consideration should

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be made for possible trail location in this area subsequent to the previous comment regarding future trail along County Road 10. Discussions with the City and County prior to placement of a fence may mitigate the need to relocate said fence in the future when trail is constructed in this corridor.

9. Section 900.09, Off Street Parking, Loading and Access Regulations requires all areas intended to be utilized for parking space and driveways to be surfaced with bituminous or concrete to control dust and drainage. As such, the Planning Commission has recommended a condition of approval requiring the parking and driveway areas to be surface within 5 years of approval.
10. The applicant has indicated possible future plans for a barn-like structure to expand retail/office space. This structure/improvement would require further review and approval by the Planning Commission and City Council in the form of a Conditional Use Permit Amendment if, and when, the structure with proposed uses is designed and the plan fully informed.
11. The property currently accesses off County Road 10. The proposed set was forwarded to Carver County Public Works and they had no additional comments regarding the application.

The Planning Commission, on February 4<sup>th</sup>, held the required public hearing and recommended approval of the proposed conditional use permit via a 4-0 vote.

If the City Council chooses to approve the garden center CUP, the Planning Commission and City staff would recommend the approval upon the following conditions:

1. The proposed improvements shall be completed as approved and as conditionally revised by the Planning Commission and City Council.
2. The applicant submit a petition for annexation including all necessary submittal information and applicable fees, within sixty days of Conditional Use Permit approval or within sixty days of acquisition of the property, whichever is greater.
3. The applicant shall connect to City utilities within 3 years of annexation of the subject parcel. The property owner shall be responsible for all costs regarding the necessary infrastructure and the required Metropolitan Council SAC fee and associated City Water Trunk fee and Sewer Trunk fee.
4. All areas intended to be utilized for parking space and driveways shall be surfaced with bituminous or concrete to control dust and drainage. Plans for surfacing and drainage shall be submitted to the City Engineer for review and approval. The surfacing of parking areas and driveways shall be complete within 5 years of Conditional Use Permit approval date.
5. The applicant shall submit a sign permit for the proposed monument signage. The proposed monument signage shall conform to Section 900.10 and be consistent with the standards and allowances associated with the B-1, Highway Business District per the conditional use permit standards.
6. Any update to the silo wall signage will require a permit and the sign dimensions shall not exceed the existing dimensions of the Willow Winds signage.
7. The applicant shall work with the City regarding the possible placement of future trail along the County Road 10 corridor, which may include necessary easements and grading for placement.
8. Any future fence installation shall require a permit from the City prior to installation and shall conform to City Code requirements for placement consistent with the B-1 standards.
9. The CUP shall become void one year after being granted by the City Council if the applicant has not acted upon or made use of the approved use.
10. Any significant future expansion or modifications of the garden center use shall require review and approval by the City in the form of a Conditional Use Permit Amendment application.

Council Member Leo asked if the applicant will only be paying SAC fees for the residence or will the garden center also be included.

Braaten answered that for irrigation purposes we will allow them to keep the well. They will have to hook up for the home any other uses besides irrigation for the garden center.

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Council Member Sorensen wanted to make it clear that applicant is aware that if they decide to put a barn on the property they would have to come back to Council for approval.

Motion by Waldron, seconded by Leo to Adopt Resolution No. 2021-50, Approving the Conditional Use Permit to allow a garden center use at 9460 County Road 10 East. All present voted Aye. **MOTION CARRIED.**

**ITEMS REMOVED FROM CONSENT AGENDA:**

**Assistant Fire Chief Pay Adjustment**

Item was pulled from Consent Agenda for Council Member Sorensen to abstain from the vote.

Motion by Pierson, seconded by Waldron to Adopt Resolution No. 2021-41, Approving Assistant Fire Chief Pay Adjustment. Bloudek, Waldron, Leo, Pierson voted aye. Sorensen abstained. **MOTION CARRIED.**

**Authorize Application of Metropolitan Council I&I Grant**

Council Member Sorensen asked if the City receives this grant is it to be used for a certain project or can it be used at the City's discretion.

Craig Eldred responded that it is not specific for any certain project. With the timeframe for the grant it would be used for downtown main line repair.

Motion by Sorensen, seconded by Leo to Adopt Resolution No. 2021-42, Authorizing Application of Metropolitan Council I&I Grant for Calendar Years 2021 through 2022. All in favor voted aye. **MOTION CARRIED.**

**STAFF REPORTS:** None

**BOARD REPORTS:**

Councilmember Sorensen – As of today Middle School students are back in the classroom with High School back after Spring Break. Attended Transportation Coalition meeting where the discussion was again about the funding for 212.

Councilmember Leo – Virtual Concert with Jen Bostic on February 28<sup>th</sup>. Inclusive Playground Polar Plunge on Lake Waconia, March 20, 2021. Plungemn.org to donate.

Councilmember Pierson – None

Councilmember Waldron –Attended the Chamber monthly meeting last week. Discussion was about Fireworks and what things may look like this year.

Mayor Bloudek –CIP meeting March 9. February 19<sup>th</sup> is the cutoff for the City Administrator application.

**ANNOUNCEMENTS:** None

**ADJOURN:**

Motion by Waldron, seconded by Leo to adjourn the meeting at 7:17 p.m. All present voted aye. **MOTION CARRIED.**

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Kent Bloudek, Mayor

ATTEST: \_\_\_\_\_  
Ann Meyerhoff, Office Assistant