

Item 23-0934: Request to approve Rezoning #5-23 to rezone the vacant land generally located along the extension of E. Sweetwater Way, south of E. Spartan Drive and east of N. Haymeadow Avenue, for the Fourth Addition to Clearwater Creek

Item 23-0935: Request to approve the Fourth Addition to Clearwater Creek

Preliminary Plat

City Plan Commission

Thu, Sep 13, 2023 3:30PM

Mayor Jake Woodford 18:00

All right. We have two items before us related to Clearwater Creek. And before we get into those items, I do want to provide an opportunity for public comment. We've already had a public—the required public hearing on these items so we're not required to have public comment, and customarily we don't during committee meetings. But I do want to provide an opportunity for members of the public who are here to discuss this item the opportunity to speak.

Mayor Jake Woodford 18:35

We'll handle public comment and the way we do at Council meetings. So, we'll ask when the time comes. The members of the public approached the podium, state your name and address for the record. The comments will be limited to the items that appear on the agenda. We'll have one round of public comment before the planning commission takes up the two items that appear on our agenda related to the subject. We'll keep time. Each speaker will have five minutes to speak. You—ask that you please address your comments to the chair and also your questions. We will not have a dialogue during public comment. We will take your question. Staff will be making note of questions. And we'll make sure that we get as many of those answered in real time as we can and any questions that come up that we don't have already answer for now we will provide the next time this item appears before the body; that will be the Common Council assuming it moves forward from plan commission today.

Mayor Jake Woodford 19:40

So, with that, I'll open the floor for public comment. And we don't have a sign in sheet because we're at a committee meeting. So, I'll just ask is there anyone who'd like to speak on this item? Just raise your hand or approached the podium. Okay, come on up. Again, your name and address and affiliation for the record.

Jill Hendricks (Clearwater Creek Developer) 20:01

Good afternoon. Thank you, Mayor and Plan Commission for allowing me to speak. My name is Jill Hendricks, and I have been involved with Clearwater Creek Development LLC since 2005 when we purchased the property. In 2005 we purchased the property, and in 2007, we started developing it. We have added phases adhering to the comprehensive plan for which for which the city has formed many years ago. We are currently moving forward with Phase Four, and which has caused a disgruntled neighboring comm—all the neighbors are apparently disgruntled that we're adding the phase four. But this is the comprehensive plan. As you can see, it's been this way since two thousand—excuse me—seven, where it's JJ up here and it goes all the way to Broadway. So, at some point in time, this is all put in place to be to be filled up with single family residential.

Jill Hendricks (Clearwater Creek Developer) 20:01

As you can see, in the attachment that I had sent yesterday, I addressed the key concerns with—key concerns which were stated in one through five, all of which have been satisfied by the city planners with the city's

recommendations in moving forward prior to the neighborhood complaints. Adding briefly to some of their concerns, I know they're concerned about emergency access. There is an emergency access, west on Spartan Drive that was created during the third phase of Clearwater Creek, which is Spartan road. This was required by police and fire to be used as such, an emergency access. The access was temporarily blocked, I'm assuming, as use of single family and construction vehicles were being used in that and that owner did not want that as an added access. So, it is a temporary access for emergency only.

Jill Hendricks (Clearwater Creek Developer) 22:02

As for blocking that access, it's not any different from the emergency access that was located on lot five in the first addition, the original phase. There's a yellow gate that was placed on lot five and we couldn't sell that lot for many years because of the second emergency access. So having temporary barriers doesn't impede fire and police from getting in there or having emergency access. It's just so that regular construction vehicles and or single-family use vehicle vehicles aren't using that access.

Jill Hendricks (Clearwater Creek Developer) 22:43

As for the parks—oh, I'm sorry. We'll go to the dead-end roads that was a problem. Apparently Spartan road does not have a turnaround and neighbors were complaining that they were using their vehic—their driveways for turnaround. That was not required when we put that section in. However, in the fourth addition, there is an turnaround access. So, snowplows, buses, everybody can use that access for a turnaround.

Jill Hendricks (Clearwater Creek Developer) 23:15

The park—Clearwater Creek as development has paid \$300 per lot for the 150 to develop lots out there, which total \$45,600 in park fees. So, we are not—we consistently refer to the city for their expertise in developing parks. I did however make—however, we did make a mistake on the website stating that Plamann Park was across the street from Clearwater. That was a website error. It clearly is down the road from Clearwater Creek, but as for parks I know there is negotiation for a park adjacent to Clearwater Creek right now. And maybe that would appease some of the homeowners in looking for a park. Hopefully, that will get taken care of with the park fees that we as the developer has paid for.

Jill Hendricks (Clearwater Creek Developer) 24:15

In 1853, the city was actually incorporated as a village. If we allowed 152 home—homeowners to change the trajectory of every development that happened within its municipal limits, it would still be a village and not a city.

Mayor Jake Woodford 24:29

About 30 seconds remaining.

Jill Hendricks (Clearwater Creek Developer) 24:32

Basically, in closing, I just want to say that, you know, the developers—if a precedent is set today that because the neighboring developer—or homeowners don't want us there, it's going to set a precedent that nobody's going to want to develop in the city of Appleton, and we're just trying to do what we plan to do with our property. And the property is for sale. If in fact somebody doesn't want single family houses in there, we'd sell it. Thank you.

Mayor Jake Woodford 25:01

Thank you. All right. Anybody else for public participation? Come on up. Your name and address for the record, please.

Kara H. (Resident) 25:15

My name is [Kara H.]. My address is [XXXXX]. Thank you, Mayor for allowing this to happen. I realized this is not what you normally would do. And I was not prepared to talk. I was actually told we weren't going to be able to. So, I'm going to try to be concise and straightforward with my remarks.

Kara H. (Resident) 25:35

I have lived in Clearwater Creek since 2009. My husband and I loved the neighborhood so much that we purchased a second home in the neighborhood and want to stay, but we've watched it grow from a very small community, to a large one with more than 130 homes. So, the fact that the issues that we've brought up are not significant enough, it disturbs me, especially the single entrance and exit. I know that it was just stated that there was another similar situation where when the neighborhood was smaller. The emergent—the second emergency exit was a lot that was not able to be sold and was blocked off. And you know, that's fine when you've got 20 homes in a neighborhood. But we've got 130 now.

Kara H. (Resident) 26:30

The access that was just spoken of, the second emergency access on Spartan drive, you can't get through it. I have a picture of it on my phone, I was just walking the dog a few days ago, there is a chain across it, that is bolted. It—there's no lock. There's no way—it can't come off. There is no way a fire truck or an ambulance or anything can get through. So that second emergency access, it's not accessible. It's just not. And you can't go around it either. So, it would be an issue.

Kara H. (Resident) 27:05

My other concern with the one entrance and exit having now was three-year-old when we moved in. He's now 17. He has to drive to school along with a whole bunch of other teenagers who are new drivers, and trying to get out of this neighborhood in the morning in a whole line of cars. You know, they're sitting there; now they're going to be late to school, and they're trying to turn left onto JJ, which has a continuous stream of traffic in the morning, because there's FVL down the road and Appleton North. And so, these kids are taking chances turning, you know, left into the stream of traffic. And they've been waiting through five or six or eight or 10 cars to try and get to that point. My concern is it's just a matter of time before somebody gets hurt. And who's responsible for that, if it happens? There are many things that can be said about the single entrance. But I again, I want to be mindful of my time—of your time and my five minutes.

Kara H. (Resident) 28:06

The second issue, the wetland area. I have seen this. I—the wet—the part of the several of these lots encompasses Apple Creek. Apple Creek—I believe it's the beginning of Apple Creek. It's dry most of the year, but in the spring, it floods. It is wet and it's flooded. It says if there's—I mean, it's a stream. And it's in the—the proposed lot. So, I just don't understand how when you've got all of this drainage—and I can't speak—I'm not, you know, an expert on wetlands and whatnot. But there was a very nice presentation given I believe, last Wednesday by one of my neighbors. The fact that that's not being taken into account is also concerning to me.

Kara H. (Resident) 28:56

Also, who is going to be responsible when those lots flood? Because they're going to. And how much of the lots are even going to be buildable? I'm not a builder. I don't know. But I can tell you, I have watched it; I live there. It floods, and it floods for several months of the year.

Kara H. (Resident) 29:19

As stated earlier in this meeting, all of our assessed assessments have gone up and we're all paying more taxes, and you know what? We love this city. We do. I love living in Appleton. I'm so happy to raise my child here. You

know, we are all doing our fair share in trying to support the neighborhood and the city, and it bothers me when I hear someone say "If you just listen to only 133 houses, what do they matter?" I feel like we should matter.

Kara H. (Resident) 29:53

Again, I wasn't prepared to talk, but I just really appreciate all of you listening to these concerns and maybe giving a real reason why we can allow 135 or 40 homes to have a single access other than there's no statute in Appleton that says you can't. I just don't know that that's a good enough answer for me.

Mayor Jake Woodford 30:19

Okay.

Kara H. (Resident) 30:19

Thank you so much.

Mayor Jake Woodford 30:20

Thank you. Alright, anyone else? Public Participation. Come on up. Your name and address for the record, please.

Susan D. (Resident) 30:37

Yes. My name is [Susan D. at XXXXX] My home faces the area that's planned to be developed. But first of all, I wanted to thank Jill for coming. Appreciate that she's heard some of our comments. And I too was not prepared to speak because I understood we were not going to be allowed to make comments. So, I'll do the best I can.

Susan D. (Resident) 30:58

I want to start with that Spartan road. And I know my neighbors already—Kara's done a great job. But that Spartan road is blocked as Kara's already was already mentioned. You guys are aware of that.

Susan D. (Resident) 31:10

So first of all, phase three is still under construction. There's going to be more homes. We already have 130, 140 homes. Phase three is still underway. So, you're already—there's more stress on the neighborhood with the one entrance and exit. I just want to remind the Council that that Phase Three is still underway. So those homes are already going to be there regardless. More homes will be built, exacerbating the problem.

Susan D. (Resident) 31:32

And that emergency—I understood from one of the other meetings that that emergency blockage on Spartan road, that the emergency vehicles would be allowed to get through that. But when you have an emergency, your home is on fire, you know, God forbid, you're shot or something, every second matters. And if those police and fire have—men have to wait and cut that chain, or whatever they have to do to get through. First of all, I don't know if they're equipped to do it. But every second matters. And I don't think—I would just hope that you would please take that into consideration that that is a problem already. And I don't know why that road's not—where they can't go through or there's a contract their—contractor there using that road. I don't know why it's blocked. But I think before anything else is done, that needs to be addressed for this community, regardless of phase four.

Susan D. (Resident) 32:26

The other thing I want to mention is—okay, so and Jill told us, Clearwater Creek was purchased—the developers had it since 2005. I think developing starting in 2007. Okay, I got that right. Okay, that's 16 years ago. This—these people here—I moved in 2021, but I've heard also, there was a park promised when this development

started, and 16 years—there's not even a plan right now. I understand, Jill, thank you for saying there's—money's been collected. Where is the plan and the land is—this is—there's not much land left. And where is the plan for that park for this community?

Susan D. (Resident) 33:03

You know, a developer has an obligation to make a community a better place, to make the neighborhood someplace that's desirable for others to purchase. And without having nature trail, a park, something more, that developer is not doing this neighborhood of service. And so, I appreciate they want to have revenue for the land they have, but they also have an obligation to make that an attractive neighborhood, and this phase without having something else and the land almost gone, there's nothing that's—and that's 16 years. When does it happen? So, I would ask this Council—I'm going to ask you to please not to move forward with Phase Four until there's at least a plan for Spartan Road, and for a park or a development of some sort that this money's been earmarked for apparently.

Susan D. (Resident) 33:51

So, and the last thing is the wetlands. I cannot stress to you enough there's wildlife there—the wetlands. I have not heard a good reason or that—I've not heard how this water is going to be addressed. The wetlands. Whether or not with phase four, there is going to be enough land for some of those lots because of the wetlands to have to meet the deed restrictions. And we certainly don't want smaller homes in this area because there's of the wetlands. So, I really am making a plea that you pause for these issues to be addressed and before this Council votes for that, for that phase to be approved. So, I thank you for listening.

Mayor Jake Woodford 34:38

Anyone else for public comment? Name and address for affiliation for the record.

Abby Maslanka (Martenson & Eisele Engineering) 34:45

I'm Abby Maslanka with Martenson and Eisele Engineering on 1377 Midway Road Menasha. I just wanted to clarify some issues regarding—or confusion, excuse me, regarding the wetland areas. So as part of our development plan, we have a Wisconsin DNR assured wetland delineator dig borings on site to determine which areas are wetlands and which areas are uplands. He has also gone through and done wetland plant identification to determine exactly where that boundary is. These plants have been in place since June I believe.

Abby Maslanka (Martenson & Eisele Engineering) 35:21

And as part of the development requirements per the municipal code, we have to be 30 feet away from the edge of the wetlands. So just to clarify, the buildings and the roads will not be constructed within the wetlands. And any runoff draining to the wetlands directly will be clear water sources such as roofs and yards, so nothing from driveways, nothing from streets, nothing that's considered grey water or brown water. As far as where the other runoff goes, it'll drain to the west towards the existing city's stormwater pond where it will receive quality and quantity control treatment prior to discharging to those wetlands. So just wanted to clarify that for the board. And if you have any questions, feel free to call on me or Jeff and we can provide technical answers. Thank you.

Mayor Jake Woodford 36:16

Is there anyone who hasn't spoken who would like to? Welcome. Your name and address for the record.

Michelle M. (Resident) 36:25

Hi, nice to see y'all. [Michelle M. at XXXXX]. Just echoing what we have already addressed. Again, we were not prepared to speak. We were under the impression that this was a listening only meeting. There are far more

concerned people who plan to be at the next meeting regarding this, however due to work commitments, they are not allowed—available today. We're not against the growth of this community. Let me clarify that. We love the neighborhood. We love the country feel that it provided at one time. However, as we continue booking up that isn't quite so country feel anymore.

Michelle M. (Resident) 37:12

We're not against the growth, but it's growth that should make sense for all. For one, there's 140 homes. You've heard that many times already. There is one in and out of this street. 140 homes coming up and down the same street that goes in and out. We have many kids that can be seen along there. They deserve a safe place to be. We deserve a safe place to access our homes that are already there before we're adding more.

Michelle M. (Resident) 37:41

Where does this money go? It goes into a fun for a future park. Well, if we keep developing this land that future park is gone. There is no land left for it. And Jill stated that it's going to be heading out towards Broadway. This leaves this section right in the middle of the entire development. Phase one, phase two, phase three, phase four, and eventually Phase Five. Also, phase three does currently sit lower than both phase one and two, as well as phase three. Phase four would be right in the middle of that. Everything drains to phase four. I know people that live there currently have had water issues. There is no way there won't be water issues.

Michelle M. (Resident) 38:23

You're saying that you're not developing on the wetlands. Yes, there's a 30-foot setback, all true points. However, you can't tell me that you're not going to have to disturb somewhat of those wetlands I filling or something further that's going to create—I mean they're wetlands for a reason. They stay wet. They are natural drainage system. I can't imagine that people that would buy those lots that are a third covered in wetlands would not have future water issues.

Michelle M. (Resident) 38:57

Again, safety is our number one concern. 140 homes should be enough to concern the city. It breaks my heart that their safety is not part of this concern. As I believe Sue already told you seconds matter—excuse me—as you know in an emergency. And currently our emergency access will slowly be—will surely be impeded on those times.

Michelle M. (Resident) 39:29

Again, I just want to say, once this vote passes through, that land is gone. We can't get it back. There's no park, there's no green space. There's there's—all of that is gone for the country feel of this development. Thank you for your time.

Mayor Jake Woodford 39:52

Anyone else like to speak who hasn't spoken? Who has not spoken? Okay, yep. Are you event spoken? Come on up. Yup, your name and address for the record, please.

Lori V. (Resident) 40:02

[Lori V.] I'm at [XXXXXX]. Thank you for inviting comments. I will be very brief. I just want to re-emphasize the emergency access because what you've heard today would probably let you conclude that you could just tell the owner of the business to unlock the barricade and make it available for emergency access. I walk every day. You can ask our neighbors; they all know me as a crazy lady who walks around all the time. I go—I've been going back there—But in that crazy, I've been going back to the developing area of development three since it started. And I have seen the apparent battle between the owner of the business and trying to provide emergency access

safely. What happens is anything that is not permanent, the there and I have to assume I have never observed it. But it has to be construction workers moving the barricades and driving through creating a very unsafe area for the for that drive out on Spartan to Richmond. So, if I'm my hopefully I'm being clear here, if actually put boulders in there three boulders at one point, those have since been removed. And now this permanent chain link fence chain link chain is now barricading and cannot be removed without cutting it or doing something permanent. So, I think my point here is, versus assuming that it's an easy fix, to just remove that barricade that there is a very thoughtful discussion with the business owner to understand the safety issues for them, as well as the struggles that they've had in trying to make it in comply with the having it be an emergency access. In balancing, locking off and keeping the roads safe for their workers. Thank you.

Mayor Jake Woodford 42:29

Anybody else? Alright, hearing none we'll now close public participation. And we'll get to the items. This is item 23- 0934 request to approve rezoning number 5-23 to rezone the vacant land generally located along the extension of East Sweetwater way south of east Spartan drive and East North Haymeadow—east of North Haymeadow Avenue for the fourth addition to Clearwater Creek. Is there a motion? A motion. Is there a second? We have a motion and a second to approve. We'll open the floor for discussion from the Commission, and, Alder Hayden, if you'd like yeah, go ahead.

Alderson Patrick Hayden (District 7) 43:18

Thank you, Chair, and thank you for allowing public comment. It was my understanding that since this had already had a public hearing that there wouldn't be public comments allowed. I appreciate it, and I apologize to those that showed up for telling you that comments wouldn't be allowed. I also want to thank the committee for taking up this Clearwater Creek development again. I appreciate the community participating in our last Council meeting where they voiced their concerns around the environmental impact of this project, the lack of the park in the vicinity, and concerns around public safety.

Alderson Patrick Hayden (District 7) 43:49

I myself have some concerns with WDNR's approach to wetlands that have changed over the last decades. When developments like this came up, the focus was primarily on the preservation of the wetlands. But legislation has changed that to look at the economic impact as well as no longer just looking at developments plot by plot but holistically. This is particularly concerning when you look at plots 159 through 162 on the attachment, where nearly 1/3 of these plots is listed as wetlands.

Alderson Patrick Hayden (District 7) 44:19

The impact of stormwater can be seen from memos from the public works department where storm—a stormwater contract was approved to create six retention ponds due to the development. Also concerning are plans to remove the temporary berm behind existing houses. These are significant environmental changes to this neighborhood.

Alderson Patrick Hayden (District 7) 44:40

Another concern around approving this, it seems that there are already plans for Phase Five in the works as we are discussing Phase Four. The area lacks green spaces and parks, and from the way things are being developed this neighborhood will be developed into an area of urban—suburban sprawl. In a city—in the city of Appleton we have 29 parks currently with two more at different stages of development. With this development and the upcoming Thrivent development, it's safe to say district seven is the fastest growing district where we have one of the 31 parks in the city. Nowhere is this more apparent than in this neighborhood.

Alderman Patrick Hayden (District 7) 45:18

Lastly, there's a concern around public safety with this development. After the last committee meeting, the community passed along information around concrete blocks that were preventing a secondary entrance to the neighborhood that could be used by emergency vehicles. Since then, Chief Hansen has had these removed, but it's the second time this year that this entrance has been obstructed.

Alderman Patrick Hayden (District 7) 45:37

Still a number of these households in the area—still, as the number of the households in this area approaches 158, having a single outlet is concerning. The town of Greenville faced a similar situation with Country Meadows to add 35 homes to an existing community of 45. The town Council prevented this from moving forward even though this development is less than half of what the neighborhood already has. From Council notes around the second and third addition to this community. There were concerns around proper response time emergency vehicles and asking developers to install early warning smoke detectors and automatic fire sprinklers. As you look over this, I'd like to take all this into consideration.

Mayor Jake Woodford 46:17

Further discussion? Alder Hartzheim.

Alderman Sheri Hartzheim (District 13) 46:25

Thank you, Chair. I am concerned as well about a second access point, and I used to live just south of this particular intersection off of hay meadow just south of county trunk JJ so I know how busy that particular intersection could be. I am wondering whether there's anything that the city can offer commissioners and also Council people regarding who owns the right of way for the extension of Spartan drive that is apparently being regularly blocked, unblocked, etc., etc.? And what can be done to make that a clear access point, even though it is not a developed Street? I have I have a fear that there are some people who are trying to sneak through there, and that's why it had to be blocked, and now we're facing this this opposite side of the coin.

Alderman Sheri Hartzheim (District 13) 47:21

I also am concerned and interested to know whether the city has a plan for traffic control at Haymeadow and County trunk JJ, because I believe that that might assuage some of the fears of the neighborhood and help to address some of the problem that has to do with a second access point.

Alderman Sheri Hartzheim (District 13) 47:41

I looked also at the Appleton Parks and Rec department's future parks plan, and I see that there is a very large circle that says—and it's just in that corner of this particular subdivision that says "this is slated for future parks acquisition". Do—can we assuage some of the fears of the neighborhood with some more firm plans about what that means? There's a big dot on the map that could mean anything. When would that be? What would it entail, etc.? That's actually it. Thank you very much, Chair.

Mayor Jake Woodford 48:26

All right. At this time, we've had a number of comments and concerns about emergency access. And we have Chief Hansen here from the fire department. So, I'd like to ask Chief Hansen to speak to the issue of emergency access, the issue of primary emergency access and secondary emergency access, response times related to those two access points, and also any other concerns that you've observed from the fire department perspective, and any reasons why you feel the access points are sufficient at this point. District seven, all right, go ahead.

Fire Chief Jeremy Hansen 49:04

Thank you, chair. There's always a question on how fast is fast enough, right? When it's your loved one, it's never fast enough. So, it's really important for us to realize the capabilities of a fire department. In this case, we're talking about access. The primary access is that—the primary access. And the only reason you need an emergency access or a second access is because the primary access is blocked or obstructed in some method that our fire trucks can't get through. In this case, when there were the big bollards or the big concrete blocks, those should not have been there, and they were removed once we are made aware of that.

Fire Chief Jeremy Hansen 49:49

The lock and the chain—again, that is put there so that the general public doesn't make a emergency access a primary access to the subdivision. We do have what's called a Knox lock on that chain, where every emergency vehicle in the city has the key that unlocks that unlocks that lock. So might take a second or two to do that. With that emergency access, it is also the developer that can—the owner of that access responsibility to keep that plowed in the winter. So, it will be drivable for our emergency vehicles; it will sustain a 60,000-pound vehicle that we drive.

Fire Chief Jeremy Hansen 50:33

So as far as response times to the area, the primary access road is the fastest access road to that subdivision based off of where our fire station is off of Lightning Drive. If we had to go to the secondary access, that would be a longer access or a longer response time to get there. You know, back at Council last week, and a little bit it was alluded to today is the response times. So unfortunately, there was an incident up there that one of our community members spoke about. So, I'd like to talk about that one very gingerly, because you know, they lost a family friend during the holidays, which is never good. So, my heart goes out to that family.

Fire Chief Jeremy Hansen 51:23

When you look at response times, there are national standards, and when you call 911 the dispatchers have 90 seconds to dispatch that incident. In the one we're looking at, from the time they called 911 to the time it was dispatched was 34 seconds, a minute less than the national benchmark. The next benchmark we look at is from the time it is dispatched to the time that we turn our wheels. And in this case, it was one minute and 45 seconds, and I think that that's a little higher than what we want, but you also have to look at it this was at almost midnight. So, there's a high likelihood that our people might have been taking a short nap, as well as everybody else probably in this room at that point. Response times—we're looking for about a four minute response inside the city and this one was right at five minutes. But for District Six, that's the North Side everything north of Highway 41, that is a typical response based off of the one fire station that we have.

Fire Chief Jeremy Hansen 52:27

The other aspect that we have to look at is what the call was for. And that was for a medical emergency where you were you call it a basic life support or advanced life support. In this case, it was advanced life support, and the national benchmark is to have an ambulance on scene within eight minutes, 90% of the time. The ambulance arrived at the same time the fire truck did at about five minutes. So, when you start coupling all those numbers together, it may seem like an eternity if you're the loved one calling, but it was really only about seven minutes from the time the call came to when we arrived, and that's not bad. It's not perfect, but it's pretty good.

Fire Chief Jeremy Hansen 53:10

The other aspect that we've talked about is fire response. And you know, there's been some discussion regarding the early warning smoke and fire detection systems in the homes that were in Phase One. Now that was part of the development agreement back in, I'll call it, 2004-2005 when that was developed. The city of

Appleton cannot require those systems in homes unless it is part of a development agreement. The reason we feel strongly that that was needed in that area was because our second fire station is near the intersection of Mead and Double O, and that is a long response time from them to get up there. You know, it's one thing to have a medical emergency when you have one fire truck respond and provide care, but when we have a structure fire, we're getting four engines and a battalion chief, and sometimes a fifth engine if it's an active fire. But when you're—when you're dealing with a structure fire, there are best practices and rules out there that don't allow us to make entry into that building until we have a backup in case the firefighters get in trouble. The only exception to that is life safety. So, if we go to a structural fire and they say "Somebody's in there," we're going in; we're not going to hesitate. But if they say "No everybody's out," well, then we have to wait for that second unit to get there in order for us to go in and actively fight that fire.

Fire Chief Jeremy Hansen 54:32

Because of that we wanted to reduce the potential loss in the area. And that's why we asked for early detection systems because if it's 30 seconds, a minute or even several minutes, that makes a big difference when a fire doubles every 30 to 60 seconds. So, I hope that shed some light on those concerns and questions.

Mayor Jake Woodford 54:52

It does. Thank you. Before we go any further in discussion, I want to make sure that the Commission is firmly grounded in what's before us. Because there have been a number of concerns raised that we do need to, we do need to discuss, but I also want to make sure that we're focused as a planning commission on the item that's before us. The item that's before us is item 23-0934, and this is a request to approve a rezoning, number 5-23, to rezone the vacant land that will serve as the fourth addition to Clearwater Creek. So, as we're evaluating what's before us, what we're evaluating is, is a change from Agricultural District AG zoning to R1B single family district, and that forms the basis of the staff analysis that was provided the report that was provided to the planning commission into the Council.

Mayor Jake Woodford 55:48

So as we go further into this discussion, I want to make sure that as a plan commission we stay, we stay grounded in what's before us, which is our request to rezone. That is not to say that the other issues that have been brought up aren't important. They certainly are, and we need to talk about them. But I want to make sure as a plan Commission, we stay grounded in in what's in front of us.

Mayor Jake Woodford 56:10

There, there are issues that were raised that it sounds like are concerns with the current condition. So, prior to any further development in the neighborhood, there are concerns related to traffic control that we can certainly talk with staff about, and I know staff has been following up on questions that have been raised, and we can get into those as we go. But those are the kinds of conversations that we routinely have as a city, and we'll continue to have. Our alders can attest to this, that we are routinely talking about traffic control issues, especially as the city grows and changes and needs emerge in neighborhoods.

Mayor Jake Woodford 56:48

My sense is that this concern about traffic control at JJ is a concern with the existing condition, exists irrespective of further development in the neighborhood, and it's something that as a city we need to take a look at and make sure we have a clear sense of regardless of what would be happening with a rezone. So, for purposes of this discussion, we can we can certainly talk about anything that the commission wants to talk about, but I would like us to stay grounded in what's before us, which is a rezoning request from Agricultural District to R1B Single Family. So is there further discussion, questions from the Commission? Commissioner Robins. Okay.

Aldersperson Denise Fenton (District 6) 57:29

Just wanted to thank the Fire Chief and representative from DNR. The information you presented was very helpful in understanding some of the more technical pieces regarding wetlands and the access points. Thank you for giving us a sense of response times as it relates to national standards. So, I just wanted to say thank you for providing that information.

Mayor Jake Woodford 58:00

All right. Alder Del Toro what—okay, go ahead.

Aldersperson Israel Del Toro (District 4) 58:06

Just to clarify. The person who's previously spoke, where they a representative of the DNR?

Mayor Jake Woodford 58:11

No, they were representative of Martinsen and Eisele which is an engineering firm.

Aldersperson Israel Del Toro (District 4) 58:16

An engineering firm. Okay. Thank you. Appreciate it. So, my actual question here is what consideration aside from simply delineating the wetland area has the developer considered and shared with this committee? And a follow up to that is what implications or repercussions can fall to the city of Appleton if the loss of critical wetland habitat is permitted as requested due to the rezoning request?

Mayor Jake Woodford 58:43

Staff? Would somebody address the question related to wetlands? Which mic? Jessica Titel, go ahead.

Principal Planner Jessica Titel 58:55

So, with this development—this is a little— **[The microphone was not working well, so she switched to a different microphone.]**

Mayor Jake Woodford 59:06

Director One? Okay, go ahead.

Principal Planner Jessica Titel 59:08

With this development, the proposal is not proposing to impact or fill the wetlands. They are observing the wetland setbacks and protective areas as required in the DNR and the city's municipal code. So just want to make that clear. There's been a lot of information about the wetlands being filled, graded, impacted. That is not being proposed with this development.

Mayor Jake Woodford 59:31

Go ahead, Director Homan.

Director Kara Homan (Community And Economic Development) 59:34

So, I was at the Council meeting where I heard these questions come up. And there's kind of like two phases to how we make sure as a city that the wetlands are protected. There's the phase where we're actually developing the infrastructure in the subdivision. There's permits issued by our public works department and DNR to oversee that process of land disturbance and make sure the wetlands are mapped out and not filled. But then there's another permit that comes through when the actual house is being constructed on the lot.

Director Kara Homan (Community And Economic Development) 1:00:02

I did review our policies and procedures with Dan Faust our erosion control inspector. And when the new home permit is submitted, there's a corresponding erosion control plan, we make sure where the house is sited and where the grading and filling is going is not filling the wetland, and that the site, after the vegetation starts to grow, is done per plans. Let's say somebody moves in and 5-10 years later, a neighbor becomes aware of them filling in that wetland—those complaints can either be sent to the city or sent directly to DNR. When the city fields them in our inspections department, we refer them to DNR who is the enforcing entity for wetland fill and violation. So, there's multiple steps along the way that the city takes to make sure that, in developments like this, they're not there's not like illegal fill of wetlands. But as Jess alluded to, for this subdivision proposal, there is no proposal to fill wetlands, and there is a 30-foot setback off the wetland as well.

Mayor Jake Woodford 1:01:06

Alder Del Toro.

Aldersperson Israel Del Toro (District 4) 1:01:08

Just my concluding thought on this is given that half of the proposed slots to be developed have significant areas designated as wetland, I asked that the committee consider holding approval of the pending appropriate clear—pending appropriate clearance from the Wisconsin DNR, not an independent private engineering firm to assess whether any threatened or endangered species resided in the habitat. It's also important that the devel—the developer adhere to the rules and regulations of the federal Clean Water Act, as major disturbance will occur at the headwater to Apple Creek which is a tribu—tributary to the Fox River watershed.

Aldersperson Israel Del Toro (District 4) 1:01:41

As a city we should protect our wetland as director Homan mentioned that every opportunity and not push off until the homebuilding permit is required. I asked that the committee consider annual variability in flowage that might negatively affect homeowner property and safety as flowage varies seasonally. And as a committee, I asked you to explore holding the rez of—the rezoning of this property until due diligence and review of environmental concerns are thoroughly addressed to avoid any liability to the city if any environmental issues should arise.

Mayor Jake Woodford 1:02:11

Thank you alder Del Toro. I'll refer this comment to staff, but it's my understanding that due diligence has been completed on this project and that everything that Alder Del Toro has outlined has been completed as a part of the staff review and recommendation. Is that correct? Or am I missing a connection here?

Director Kara Homan (Community And Economic Development) 1:02:36

So, I think it's really important to talk through what the rezoning approval is, and then there's various other permits and approvals and development agreements that come along with this. So, the rezoning is really the Council saying that we approve of this bundle of uses that are allowed in this zoning district to occur on this site. There's also corresponding permits—stormwater permit and erosion control permit—for the subdivision that get issued. And those are primarily led by Public Works Engineering.

Director Kara Homan (Community And Economic Development) 1:03:09

So, you had alluded to making sure that DNR permits are in place and not rushing it. They're separate permits, and I'm looking at Deputy Director Neuberger—I always want to say Newburger—who oversees that process with [indecipherable]. So, if there's anything you'd want to add, Pete, I, I'd certainly defer to you. But the rezoning is not the final piece of city approvals. That is tied to all of the questions you have. There's all these other checks and balances, and this is approving the use.

Alderson Israel Del Toro (District 4) 1:03:45

So, question then for the Director, if I may. If the city chose to maintain—retain this as agricultural use, that would be a viable option for Council to vote on? Or are we just, so it says—are we just are we just saying "yes" to whatever the developer wants to do with this property given that area is their property?

Mayor Jake Woodford 1:04:12

I'll take this question. What is before us is a request to rezone from AG to R1B—

Alderson Israel Del Toro (District 4) 1:04:22

Correct.

Mayor Jake Woodford 1:04:22

—from the owner of the property. So, the if the question is, "Can the Council decide to approve or not approve?" Yes, that is the prerogative of the Council to approve or not approve. In terms of determining what happens with the land, this this land is privately owned, and the request that's before us, is a rezone from AG to R1B. So, we as a body, as the plan commission don't decide the what the property owner does with the property, and we don't decide with the vote today what the landlord or does with the property. What we're what we're being asked to review is a rezoning from AG to R1B. So

Alderson Israel Del Toro (District 4) 1:05:10

Totally understand.

Mayor Jake Woodford 1:05:11

Yep.

Alderson Israel Del Toro (District 4) 1:05:11

I know it sounds like I don't understand, but I do understand the purpose here. And then so I go back to my recommendation for you guys would be to just hold this until due diligence is made on the environmental impact. Thank you.

Mayor Jake Woodford 1:05:27

Thank you. Further discussion from the Commission? Commissioner Fenton.

Alderson Denise Fenton (District 6) 1:05:38

Thank you, Your Honor. If I may direct a question to Director Homan.

Mayor Jake Woodford 1:05:43

Please.

Alderson Denise Fenton (District 6) 1:05:45

There's been a lot of discussion about payment in lieu of parkland allocation. Could you just refresh our collective memories on how that process works? I mean, we have the comprehensive outdoor recreation plan that talks about the city's plans for a park. But as the mayor reminded us, all of this property is privately owned now. The city doesn't own it, so we can't just make a park. So can you talk about that process payment in lieu of parkland, etc. And then how planning for parks is done?

Mayor Jake Woodford 1:06:27

Director Homan.

Director Kara Homan (Community And Economic Development) 1:06:28

So, I believe was in January of this year, the city Council approved an update to the subdivision regulations that that established a new payment in lieu of parkland fee schedule of about \$1,000 per dwelling unit; I'm off by a couple dollars there. And what that change did is, it ensured that, one, we were monetizing the true cost per dwelling unit of providing or acquiring that parkland, and it also made sure that how we administered the collection of that fee complied with new Wisconsin statutes. So that impact fee gets collected on a per dwelling unit basis at the time of construction. Previously, previously, communities were able to collect it at the time of planning. So, for new developments moving forward, we'll follow the new process that's established in the new code that we've received.

Director Kara Homan (Community And Economic Development) 1:07:20

With that said, comprehensive outdoor recreation planning is kind of the hallmark of parks planning that most communities in the state of Wisconsin use. It's typically a plan that's updated around every five years, otherwise known as a corp, but those plans typically identify park standards for a unit of government. And in this case, the city of Appleton's plan does call for there being a need of neighborhood parks in the Clearwater Creek neighborhood area.

Director Kara Homan (Community And Economic Development) 1:07:52

There's a specific reason why we don't spell out exactly where that Park may be, because we'll need to enter into negotiations with a private landowner. So, you don't want to tip your hand as to specifically where you're looking or not looking or the options that you're weighing for parkland, because it can sometimes inflate the price when you're trying to negotiate in the best interest of the public. What I can say is our parks department is very aware of a need for park land in this area, and it is something that's on their radar. It is not something that has come to fruition yet, but it is definitely a recommendation that's included in our comprehensive outdoor recreation plan.

Director Kara Homan (Community And Economic Development) 1:08:39

When we do have subdivision proposal proposals, we have a preliminary meeting as staff and a preliminary consultation with developers, and we have discussions with our parks department, where we determine is this particular plat that, instead of the fee in lieu, would we rather directly acquire land as part of the platting process? It's my understanding that for this particular plat, the Parks Department did not determine that a need for park land in this situation was the preferred option. That we would take the fee and then pursue acquisition in a different location.

Mayor Jake Woodford 1:09:15

Thank you. Discussion from the Commission? Please.

Alderspersion Denise Fenton (District 6) 1:09:22

Thank you, Your Honor. If I may direct this one to Chief Hansen?

Mayor Jake Woodford 1:09:26

Yes.

Alderson Denise Fenton (District 6) 1:09:27

Chief Hansen, thank you so much for the very good explanation of response times, et cetera. My question is simpler. In terms of the department remove the bollards that were blocking and the fire department has a key to this lot, has the department and also police actually or either or been in discussions with the property owner or that developer and relayed the importance of you know, keeping that accessible?

Mayor Jake Woodford 1:10:07

Your mic number?

Fire Chief Jeremy Hansen 1:10:10

Thank you. Yes, our battalion chief of prevention and public education, Derek Hanson, once he was made aware of the blockage, addressed it immediately.

Alderson Denise Fenton (District 6) 1:10:20

Thank you.

Mayor Jake Woodford 1:10:24

Further discussion? Director Block your mic number, please. Okay.

Director Danielle Block (Department Of Public Works) 1:10:34

Thank you, Mayor. I think it would be important to point out right now that the Spartan Dr. Emergency Access Point is city right of way. So that portion, perhaps it's 60 feet wide, is owned by the city, is plowed by the city.

Mayor Jake Woodford 1:10:54

Thank you. Mr. Dane.

Andrew Dane (City Plan Commissioner) 1:11:03

I just have a question. Or is there a motion on the table to approve rezoning number 5-23?

Mayor Jake Woodford 1:11:08

Yes.

Andrew Dane (City Plan Commissioner) 1:11:09

[Indecipherable] I guess I'll just make a comment, and then I guess you'll be calling a vote when you think it's appropriate. It seems like we've had a lot of discussion on this for the where we are in the process, feels like we've vetted out a lot of the issues and concerns. And I think from the planning commission standpoint, as you mentioned before, just looking at the broad future land use up there, I think we're all in general agreement that it makes sense to transition this from AG into a city residential as is shown on the future land use map. Seems like a lot of the issues here kind of boil down to things that aren't necessarily related to that. So, I'm, I think, comfortable. I'm pleased that there was an opportunity for people to come out and share their concerns.

Andrew Dane (City Plan Commissioner) 1:12:01

I do think—one other little comment. I do think in an area like this—I'm a little biased being a planner myself—but you know, sometimes having a sub area plan, a district plan, a neighborhood plan, something that sort of bridge the gap between a comprehensive plan and what's going on at the local level might be useful at some point in time just to drill down into these issues in in a more kind of nuanced sense. But so that's my comment.

Mayor Jake Woodford 1:12:32

Thank you. Further discussion of the commission? Okay, I'll just say that I also appreciate the comments and feedback that we've received from members of this neighborhood, residents in this neighborhood. And there are a couple of issues that we will be sure to follow up on, and one of those is traffic control at that JJ intersection. Learning that that's a concern for the neighborhood right now, that's certainly something that we'll take a look at and assess whether additional traffic control measures are appropriate at this time at that intersection. So, I appreciate the input that we've received.

Mayor Jake Woodford 1:13:17

Also recognize that changes in neighborhoods are contentious, and that there are many different perspectives, and that this is one of the more complicated things we do as a community. And so, I just want to acknowledge that these are complicated discussions, and for the people who live in these neighborhoods and feel these issues very strongly, these are these are serious issues that relate to quality of life and their experience in their neighborhoods. And one of the challenges that we have in our roles is to weigh the future development of the city and the needs of our existing residents and also the needs of our future residents. This is one of the reasons that we've made changes in our policies related to fee in lieu of park land, and it's one of the reasons we'll continue to be diligent in our planning of future parkland in the community given the concerns that are being raised by folks in this neighborhood.

Mayor Jake Woodford 1:14:21

That being said, staff has completed their review of this proposed rezoning and has recommended approval. And I do want to note that when staff conducts a review of a request, it is it is thorough, and it is professional, and it is in accordance with the municipal code of the city and the comprehensive plan of the city. And it ensures that the plans are compliant with those plans and with those codes, and also that it sets forth a process moving forward to ensure compliance at every step of a development project. And I just want to make note of that, because our staff is dedicated to the work that they do, and they care deeply about the community and not only the people in the community but also the environment that our community exists in. And so, I appreciate that our staff is so dedicated and that they brought forward recommendation.

Mayor Jake Woodford 1:15:22

I, as a member of this plan commission, take the recommendation for approval seriously, because I know the work that goes in to review the request. This request is in alignment with not only the plans that have been established—long established—for future development in this subdivision. It is a subdivision of the city of Appleton. It has been planned for future development since the property was acquired and preliminary plats were laid out. So, this goes back many, many years. And it is in alignment with the city's comprehensive plan to rezone. So, for those reasons, I will be voting to approve this rezoning and send it to the Council with a recommendation, and I would encourage my fellow commissioners to seriously consider the balance of what's before us in making your own decisions on how to vote.

Mayor Jake Woodford 1:16:20

Is there any further discussion from the Commission? Hearing none, we have a motion and a second to approve. All those in favor, please signify by saying aye. Aye. Any opposed? Hearing none, the item has been approved unanimously. This will go on to the next meeting of the Common Council.

Mayor Jake Woodford 1:16:42

We have one more item, one more action item on our agenda. This is item 23-0935 request to approve the fourth addition to Clearwater Creek preliminary plat as shown on the attached maps and subject to the conditions in the attached staff report. Do we have—a motion. Is there a second? We have a motion and a

second to approve. And just to remind us, if you will, when we review a preliminary plat what are we doing? Just for the benefit of those who joined us? Jess, your number? Okay, go ahead.

Principal Planner Jessica Titel 1:17:20

We get an application for a preliminary plat. The review process actually starts much before that. We review it with a number of our departments in the city and talk about access roads, parks, stormwater, drainage, all of the things we've been hearing about tonight. Once the preliminary plat is submitted with the city, staff reviews it to ensure that the lots and the layouts comply with city regulations and standards. So, the preliminary plat reviews all those details. It goes through the engineering plans for the roads, the drainage, the grading, storm sewers, stormwater. That's all done during this preliminary plat process. Then the developer will apply for a final plat. That will be the next phase where those lots will be approved, and then that is recorded to create those actual lots. So, the preliminary—preliminary plat establishes the layout for the subdivision with all of those technical details being reviewed throughout the process.

Mayor Jake Woodford 1:18:18

Thank you. We have a motion and a second to approve. Discussion from the Commission? Commissioner Fenton.

Aldersperson Denise Fenton (District 6) 1:18:25

Thank you, Your Honor. I just wanted to point out that maybe some of what people were looking for in the staff report on the rezoning request is addressed in the preliminary plat, and that that staff recommended approval. Principal Planner Titel talked about a whole lot of the things that go through the process, but the recommendation for approval—and I'm counting—it's subject to 13 conditions, which includes the drainage easements, showing the water level and the 100-year water level, the overland flow paths. I'm not going to read every single one of them. But—so just pointing out that approving this preliminary plat, there's still a lot of responsibility on the developer before they—the final plat is approved, before they can start construction, if conditions change between then. So just as the mayor mentioned in terms of the diligent work that that staff goes through on this, I think that these conditions for the recommendations are really an example of that. And many of them, I will confess, are a little bit more complicated than I can understand without sending questions to staff. So, things that we might have been looking for in that first action item I think are addressed here. Thank you.

Mayor Jake Woodford 1:19:54

Thank you. discussion from the commission. Commissioner Neuberger. All right.

Andrew Dane (City Plan Commissioner) 1:20:03

Thank you. I'd like to follow up on comments that Director Homan had made in regard to due diligence on the on the wetlands. So, the development plan as indicated in the developer's stormwater management plan and stormwater permit application. As we've said, previously, a staff had said previously did identified delineate [indecipherable] delineator the limits of the wetlands on the plan. The city's opportunity to review for compliance with the applicable wetland regulations has been has been addressed to the city satisfaction, was addressed through this—through the stormwater management plan and the city staff review and subsequent permit issuance.

Pete Neuberger (Commissioner) 1:20:55

As Director Homan mentioned there, there are really—there's really two steps in this process. The first one is where public works, reviews the stormwater permit application and the stormwater plan. That work has been

completed against the city's stormwater management ordinance, and DPW staff have determined that the plan is in compliance with that ordinance as it relates to wetlands.

Mayor Jake Woodford 1:21:25

Further discussion from the Commission? Alright, we have a motion and a second to approve. All those in favor please signify by saying aye. Aye. Any opposed? Hearing none, the motion passes unanimously. The item has been approved.

Mayor Jake Woodford 1:21:42

These will move on to the next Council meeting. And just to be clear about how public participation will be handled on these items, last time we had a public hearing on this item where time is not limited. But just for folks planning purposes, if you do plan to participate at the Council meeting, under Council rules, public participation is limited to five minutes per speaker similar to the way we handled public participation today. There's also a 30-minute time limit for public participation which can be extended by the Council, and I have yet to see a Council cut off public participation if there were more speakers in the queue. So just so for folks can plan for that, there will be public participation on these items at the next Council meeting when they appear. That will be limited to five minutes per speaker.