

**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**

**Common Council**

Wed, Sep 20, 2023 7:00PM

**Mayor Jake Woodford 1:08:37**

We're going to move to the City Plan Commission. The item—first item will be 23-0934, request to approve rezoning number 5-23 to rezone the vacant land generally located along the extension of E Sweetwater Way south of Spartan drive and east of north Haymeadow drive. We have a motion and a second to approve. Alder Hayden.

**Aldersperson Patrick Hayden (District 7) 1:09:07**

Thank you, Chair. I'd like to start out by thanking the residents who showed up tonight. Your participation is critical to our democratic process. Thank you for making your voices heard. Thank you to the mayor for the last committee meeting where I feel like a lot of progress was made in finding solutions to the problems that have been brought forward by the residents. It does feel like the city can help the progress move forward in this area, I believe.

**Aldersperson Patrick Hayden (District 7) 1:09:32**

I also want to thank directors Homan, Block, and Gazza, and Chief Hansen for answering all the questions that have come your way. I know we've sent a lot of questions your way, and you guys worked diligently on getting answers to us. And thank you to Alders Fenton and Hartzheim for your advice in taking on these concerns.

**Aldersperson Patrick Hayden (District 7) 1:09:48**

When it comes to this development project. I share the residents' concerns around the impacts to the environment and public safety. When it comes to wetland protections, the city is heavily dependent on the DNR which was weakened by Assembly bills 463 and Senate Bill 368. When the state passed these bills, wetlands were no longer viewed plot by plot and were looked at holistically as a project. This allows plots like you see on the map, where nearly a third of some of the plots are wetlands. These bills also instruct the DNR not only to take into account the environmental impact but also the economic impact of the development. The current standards the DNR do not adequately protect wetlands, and looking at the attachment you can see this development impacts wetlands without a question.

**Aldersperson Patrick Hayden (District 7) 1:10:31**

On the other end of environmental concerns is the amount of suburban sprawl that we're creating with developments like these. In the city of Appleton today, we have 29 parks. Three Council sessions ago, we voted to add a park in district five which is great because of the sprawl that we see on—see around KK today. Two sessions ago, we voted fun Lundgaard Park, which is a great plan because the pace of the development in that area of matches that of this neighborhood. This will bring the number of parks in the city to 31, or a little over two per district.

**Alderson Patrick Hayden (District 7) 1:11:01**

Despite being one of the fastest growing districts district seven only has one park. Nowhere is this more noticeable than the neighborhood in question. For most of the—for most in the neighborhood, the closest park, Plamann Park, is—which isn't the city park—is almost two miles away. Compare this with neighboring District 13 Where Lundgaard Park will be less than a mile walk from Providence Park, which is connected by green space. That park is then less than a mile walk from Vosters Park which is also connected by green space. I don't think it's unreasonable for the people in district seven, in this neighborhood in particular, to be looking for equitable access to green spaces and parks.

**Alderson Patrick Hayden (District 7) 1:11:39**

Lastly, and probably most importantly, I'm concerned about for the safety of the residents with the way development continues to pack more households into the same space without adding additional ways to access the neighborhood. As mentioned before, the neighborhood consists of roughly 170 households. The only way to access the neighborhood is through a single outlet off JJ. When accidents occur here, the neighborhood is inaccessible to all residents, and if you want to see how frequent This is check out the intersection on a weekday morning. Talking with constituents I heard stories of slow ambulance response times and seeing fire trucks driving back and forth while responding to a house fire. Continuing to add more units to this areas that is already challenging for emergency response, is only exacerbating the situation.

**Alderson Patrick Hayden (District 7) 1:12:21**

The development isn't happening in a vacuum either. The thriving development is coming up and with this traffic on JJ will only increase making the situation worse. Until the city puts together a plan that adequately protects the wetlands in the area, provides equitable access to green spaces and parks, and increases the safety by providing more outlets for residents, I believe the risk to the residents outweigh the benefits to the city.

**Alderson Patrick Hayden (District 7) 1:12:43**

I was also wondering—I know Chief Hansen has done a great job in taking care of the secondary access twice already this year. What—how do we enforce that lot going forward because I am kind of concerned with the pictures that I saw today.

**Mayor Jake Woodford 1:13:00**

Chief Hansen. Which mic? Thank you.

**Fire Chief Jeremy Hansen 1:13:14**

Well, it's always difficult to enforce what you don't have direct control over, but I can assure you that we have access to that emergency road. If for some reason—well let me back up and say I've been assured by the battalion chief of fire prevention that there is a Knox lock on there. If for some reason that lock has been removed for some reason, we do have a bolt cutters that can easily cut through that lock and is probably faster than using a lock and key. And if that bolt cutter isn't sufficient, we have a gas-powered circular saw that will cut through it like butter and that is guaranteed.

**Fire Chief Jeremy Hansen 1:13:52**

I can have our fire inspectors routinely patrol that area to make sure that no concrete blocks get placed in areas that shouldn't be placed in. So that's I guess the best assurance I can give, but it's like when we go inspecting you tell them to move boxes from their exit and an hour later they can be back. Thank you.

**Mayor Jake Woodford 1:14:19**

Alder Hayden, you still have the floor.

**Alderson Patrick Hayden (District 7) 1:14:22**

Thank you chair.

**Mayor Jake Woodford 1:14:22**

Okay. Alder Wolff.

**Alderson Nate Wolff (District 12) 1:14:27**

Thank you, chair. So, based on what my constituents wants—or want and need in this community is more housing being built. In my district, we have 38 apartment complexes, so a lot of renters. And one thing that they have pushed me on over and over and over again, is housing availability in the city because they want to be homeowners.

**Alderson Nate Wolff (District 12) 1:14:59**

So, I hear your concerns. But as I represent my constituents, I am going to vote in support of this because my constituents demand that I push for our housing. I'm not afraid to take on the math overall, as I've done in the past—I've pushed the envelope on car washes, and some other things. But in this instance, it's my job to support building more housing. Thank you.

**Mayor Jake Woodford 1:15:34**

Alder Firkus.

**Alderson Brad Firkus (District 3) 1:15:35**

Thank you, Mayor. I think that the action items we have before us tonight and the concerns that have been shared—neither of these action items will prevent the ability to create a second entryway. Neither of these items create—will prevent the ability to create a park in the future. And with the wetlands—we've already seen the southern boundary of these wetlands have developments built along them without disturbing, as the images we've been—that have been shared with us show, that this wetland has been able to thrive while also having houses along the southern edge. I have a hard time feeling that—potentially what this would result in is adding 14 homes—that being what pushes us over as far as sprawl or as far as traffic or as far as all these other concerns. I believe that we can move forward with this. And I think we do have to take into consideration when we have conversations like this, that there is a broader audience watching and it does affect what happens going forward. Thank you.

**Mayor Jake Woodford 1:16:41**

Alder Van Zeeland.

**Alderson Katie Van Zeeland (District 5) 1:16:44**

Thank you, Chair. I just wanted to remind my colleagues that, you know, per legal services we actually have a requirement here to follow as set forth within the report and within section 23-65(d)3 of our municipal code, "All recommendations for zoning amendments shall be consistent with the adopted plans, goals, and policies of the city with the intent of the zoning ordinance." Of note the rezoning request is in conformance with the Comprehensive Plan goals and objectives and the future land use map which specifically identifies this area for future one- and two-family residential land uses. Finally, a reminder that the decision to rezone is based upon the proposed land use as single family residential, not the development details.

**Aldersperson Katie Van Zeeland (District 5) 1:17:32**

And that's not to say that the residents don't have concerns that cannot be addressed. Alder Hayden can bring forth any resolution to try to, you know, get a park passed or to deal with these safety issues with staff. None of those things have to hinge on us following the law and in handling our requirements as a representative. Thank you.

**Mayor Jake Woodford 1:17:57**

Alder Del Toro.

**Aldersperson Israel Del Toro (District 4) 1:18:00**

Thank you, Mayor. I also want to take a minute to recognize the community that has reached out and expressed sincere and deep concern regarding this rezoning zone. The residents of the area have expressed a thorough and well-prepared series of concerns that should give us pause and reconsider the recommendation of the committee. I don't wish to diminish their concerns, as they are valid and strong objections to the proposed recommendation, but I do want to focus on the environmental effects of granting this rezoning request.

**Aldersperson Israel Del Toro (District 4) 1:18:28**

While I appreciate that the bar has been met by the developer, I suggest that this bar is very minim—a very minimal requirement, in particular when it comes to actual protection of wetland habitat. As stated by community members, half of the proposed lots are well within delineated wetland boundaries. From an ecological perspective, wetlands, regardless of their quality, perform key ecosystem services. Key amongst them are the protection and preservation of biodiversity, stormwater management, and carbon sequestration. Loss of habitat has the potential to be home—has the potential to be home to vulnerable and threatened vegetation, and animal biodiversity is irreversible, irreversible in this case. Once the wetland is developed, we as a community lose the benefits of biodiversity conservation, period.

**Aldersperson Israel Del Toro (District 4) 1:19:13**

It has been clearly stated that the intent for these parcels has always been to transition to residential. However, as a Council, we find ourselves with a unique opportunity to use one of the tools in our tool toolkit to amend the short-sighted visions of the past and the recommendations of poorly informed—of a poorly informed master plan in this case. Members of this Council have pointed out that we have multiple tools at our disposal to protect our natural habitats. But I ask my colleagues, why don't we use this opportunity to vote down the request to rezone?

**Aldersperson Israel Del Toro (District 4) 1:19:44**

While the Master Plan recommends transition to residential, the report from the task force on resiliency, climate mitigation and adaptation clearly outlines the city must find ways—new ways—to offset the area's carbon footprint and create new carbon sinks. Wetland habitats are a key part of that solution. If we vote to approve the rezoning of this land from agricultural to residential, we will in effect—will in effect, be voting to support antiquated recommendations made nearly two decades ago and ignore environmental recommendations made just two years ago.

**Aldersperson Israel Del Toro (District 4) 1:20:17**

These two recommendations one amending—one stemming from 2007 Master Plan and the other one from a 2020 Climate Resiliency Task Force are at odds with each other. Why ignore the most recent recommendations to the city and instead support the outdated historical plan to re-zone this neighborhood? Let's use this tool in our toolkit to protect our habitats and send a message that Appleton listens to its constituents and will

adamantly protect our natural resources. I sincerely hope that the voices of the community are heard by my colleagues here tonight and we vote to deny the rezoning of this. Thank you.

**Mayor Jake Woodford 1:20:51**  
Alder Alfheim.

**Aldersperson Kristin Alfheim (District 11) 1:20:52**

Thank you, Mayor. I think the most important thing—when we did hear you. We are listening. I think the reality is that our hands are tied to do only with what is within our grasp. And Alder Van Zeeland's statement on the law really brings us back to where we're at. The laws are there. Patrick—I'm sorry, Alder Hayden referred to the changes in the DNR from the state of Wisconsin. It's true. They have absolutely changed the lines; they have made it easier to develop more buildings in places that we used to not touch. But it's the law. We may not like it. And when you're affected by it, I can understand why you don't like it. But these are laws that have to be addressed in Madison.

**Aldersperson Kristin Alfheim (District 11) 1:21:40**

We must follow the rules that we're given, and our rules say that we are legally allowed to and technically bound to allow something that has gone through the proper process to proceed. So as much as we hear (and I do hope that Chief Hansen in the back finds lots of tickets, fines, or anything else for the business who continues to do that, because safety does matter. It truly does.), we just can't give you what you want. We can only follow the rules that were given. If we don't like that we're building on top of wetlands, that's a Madison issue that has to be addressed there. We are bound by it at this point.

**Mayor Jake Woodford 1:22:17**

Thank you. Just a general reminder to please direct your comments to the Chair. Thank you. Alder Van Zeeland.

**Aldersperson Katie Van Zeeland (District 5) 1:22:26**

Thank you chair. I did just want to clarify; I keep hearing that the Comprehensive Plan was done in 2008. And I just wanted to remind the body that the last time the Comprehensive Plan was redone was actually in March 15, 2017. Thank you.

**Mayor Jake Woodford 1:22:45**

Two speakers. Alder Wolff.

**Aldersperson Nate Wolff (District 12) 1:22:48**

Call the question.

**Mayor Jake Woodford 1:22:51**

Motion's been made to call the question. Is there a second? We have a second. Any discussion calling the question? It's not debatable, is it? We have to vote. All right. All those in favor of calling the question please signify by saying aye. Those opposed? Unclear. I'd like to see a show of hands. All those in favor? Aye.

**Mayor Jake Woodford 1:23:22**

You got seven? Yeah. I got eight. **[Note: Mayor Woodford and the City Attorney were counting the number of raised hands and confirming with each other the numbers that they counted.]**

**Mayor Jake Woodford 1:23:33**

Alright motion passes. Question has been called. We have a motion and a second to approve. There were two in the queue. There was one in the queue after the call the question. All right, we have motion and a second to approve. All those in favor—or please cast your votes. Excuse me. Motion passes. 12 to 3.

**Mayor Jake Woodford 1:24:15**

All right, we'll move on to the next item also from Planning Commission. This is item 23-0935. Request to approve the fourth addition to Clearwater Creek preliminary plat. We have a motion and a second to approve. We'll open the floor for discussion. Alder Hayden.

**Aldersperson Patrick Hayden (District 7) 1:24:38**

Yes, thank you Chair. And I appreciate everything that the Council has said, and I understand your—the position's everybody's in, and I understand the position of this Council. I do look forward to working with the Director Block on seeing what we can do for the community on the intersection of Haymeadow and JJ because I do believe that there is a solution there. And I look forward to introducing a resolution for the city to start looking for a park in that space to acquire the land because I think it's well overdue in that part of town since it is the fastest developing part of Appleton Thank you, chair.

**Mayor Jake Woodford 1:25:13**

Any further discussion? Have a motion and a second to approve. Please cast your votes. Motion passes 11 to 4. The item has been approved.

**Mayor Jake Woodford 1:25:36**

Now that these items have been handled, I would just like to make a clearer statement about the secondary access. We will ensure routine inspection of that secondary access, and we will maintain a Knox box on that access as was noted at the previous meeting. So, we will ensure that that is done, and I will personally make inspection of it.