

A. ROLL CALL Chair Robinson called the meeting to order.

Commissioners Present: Mayor Froelich, Gardner, Hammond, Huber, McLean, Mudder, Smith and Robinson. Absent: Horn, Leingang, Intveld.

B. CONSIDER APPROVAL OF MINUTES

1. *April 28, 2025 Minutes. Commissioner McLean motioned to approve the April 28, 2025 minutes. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.*

C. PUBLIC HEARINGS

1. *Consider Schaff Estates 3rd Addition Preliminary Plat and Zone Change.*
City Administrator Neubauer presented.

City staff and the applicant recommended this item to be postponed at the April 28, 2025 meeting to allow additional time to resolve issues. Subsequently, the request was re-advertised as needed for clarity with intended zoning. The applicants are seeking to rezone the existing home and shop from CB – Commercial to R7 - Residential. The property location is 2392 37th Street. The property is currently zoned commercial with the exception of the farmstead to the east being zoned Agricultural and the house on the property is zoned residential. This area is identified as a commercial intersection. The future beltway corridor connecting the interstate to north Bismarck would go right by this property.

Preliminary Plat Details

Total Area: 9.17 acres

Configuration: Two lots within one block

- Lot 1: 7.38 acres (reserved for future use)
- Lot 2: 1.79 acres (site of the existing residential home)

Zone Change Request

Current Zoning: CB – Commercial

- Requested Zoning: Residential

Adjacent Zoning, Land Use, and Future Land Use

Adjacent Zoning: North/South/East/West – Mix of Ag (Agriculture) and CB (Commercial)

Public Outreach and Application Details

- Application Received: May 9, 2025
- Application Fee: \$1,000.00
- Notification letters were sent to five (5) adjacent property owners. No comments or opposition has been received.

Findings of Fact

Preliminary Plat

1. All technical requirements for approval of a preliminary plat have been met;
2. The proposed subdivision generally demonstrates an ability for the property to align with the Future

Land Use Plan and other plans and studies;

3. The proposed subdivision is not located in the Special Flood Hazard Area or an area where the proposed development would adversely impact water quality and/or environmentally sensitive lands, or areas that are topographically unsuited for development;
4. The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance;
5. The proposed subdivision is generally consistent with the master plan, other adopted plans, policies and accepted planning practice; and
6. The proposed subdivision would not adversely affect the public health, safety, and general welfare.

Zone Change

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this zone change;
2. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

City staff recommended approval of the request for approval of Schaff Estates 3rd Addition Preliminary Plat and Zone Change request from CB - Commercial to R7 – Residential.

Chair Robinson inquired if there were any comments or questions for City Administrator Neubauer or the project team. Chair Robinson inquired if there were any further comments or questions. Hearing none, the public hearing was opened.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request for Schaff Estates 3rd Addition Preliminary Plat and Zone Change from CB - Commercial to R7 – Residential. Chair Robinson provided a second and third invitation to come forward. Chair Robinson inquired if there were any comments or questions.

Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commission Action

Building Official Singer reported that the applicants have received their occupancy for this request and they moved in.

Commissioner Huber inquired if the zone change applies to the whole property or only the piece where the residence is located? City Engineer replied that it only applies to the area where the house is located. Commissioner Mudder stated that his initial concern had to do with the corridor going out to preserve the commercial aspect to the rest of the property for a future corridor.

The applicant Alex Weinreis came forward and stated that it applies to the area of the house and the shop. An updated document has been submitted that indicates the line it covers; in particular, where the trees rows are located that indicate the area to be zoned as Residential. The applicants requested the area to be zoned Residential with a special use permit that would allow for parking semi's on the property in the

shop. Administrator Neubauer stated that the map included in the agenda packet does not include a provision for a special use permit for this property. Based on that, he requested this matter be postponed in order to allow time to clarify the request from the applicants to include a Special Use Permit.

Commissioner McLean moved to recommend postponing the request for the Schaff Estates 3rd Addition Preliminary Plat and Zone Change request from CB - Commercial to R7 – Residential to allow time to clarify the additional request to include a Special Use Permit for this property.

Commissioner Huber stated she recalls this matter initiated from a Residential zoning to Commercial because the truck shop was located on the property and so now taking it back to Residential and a Special Use Permit, otherwise you would have a non-compliant use within Residential. It was her understanding that at the last meeting the plan was to see if the request for the one piece to go Residential and the rest to remain Commercial. Administrator Neubauer concurred that is what the city was expecting also and that is why the map just received was just one piece, which is the reason why there is now a request to postpone this matter in order to clarify the intent before proceeding at this time.

Commissioner Mudder seconded the motion to postpone this matter. Chair Robinson called for a roll call vote: Smith: Yes; Huber: Yes; Mayor Froelich: Yes; Hammond: Yes; Gardner: Yes; McLean: Yes; Mudder: Yes; Robinson: Yes. The motion passed. The motion passed.

2. Consider a Special Use Permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Addition 4th Replat.. Jarek Wigness, City Engineer, presented.

Steven and Erica Mittleider submitted an application for a Special Use Permit for shop condos on a pair of parcels south of the New Discovery Montessori Preschool. The proposed project combines a tax-forfeited lot and a commercial lot. The applicant owns the west lot and the east lot is a low lying city-owned lot.

Property History

The property is located at 2510 40th Ave SE and is currently a vacant lot zoned CB - Business Commercial. The adjacent city-owned lot would be included in this plan and is also vacant and is currently a low-lying area.

Adjacent Properties

The surrounding properties are zoned CB - Business Commercial. The Future Land Use Plan designates this property as high-density residential. The surrounding area is generally Residential zoned.

Additional Info & Public Outreach

An application and fee of \$450 were submitted on April 25, 2025. Ninety-five (95) letters were sent to adjacent property owners on May 8, 2025.

The sale of the city owned east lot was brought to the March 4, 2025, City Commission meeting and at that meeting the City Commission denied the sale of the lot on the basis that staff would recommend denial of any future applications for multi-use development on this property.

Staff Comments

Several neighbors voiced concerns over where the water will be directed to and the density of the area.

City Engineer Wigness stated that the applicant presented an offer to purchase the lot from the City. The City Commission denied the purchase based upon the intended use of the property due to land use conflicts and lack of alignment with the city's plan. For those reasons, city staff recommended denial of the special use permit in that the proposed plan includes the city lot and the city is not interested in selling property to build shop condos at this time.

Based on the above, city staff recommended denial of the request for a Special Use Permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Addition 4th Replat.

Chair Robinson inquired if there were any comments or questions for the project team.

Commissioner Smith inquired about drainage. There is a low area that is a city lot and there are elevations. If looking to the south, that drainage channel to the end of McKenzie Drive, the elevation is @ 1,627 and the water basically forms a dam in that area. Is there drainage or a culvert that goes from McKenzie to the south side? Engineer Wigness stated he does not know and offered to research that. The south side is designated Corp lands and the city cannot touch that so the question is pertinent to the north side. Shawn Froseth (a resident living in that area) provided comments about the problems with water back up in that area.

Chair Robinson inquired if there were any further comments or questions for Engineer Wigness. Hearing none, the public hearing was opened.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request a Special Use Permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Addition 4th Replat.

Steve and Erica Mittleider came forward and stated they are the residents who own the lot at 2510 40th Avenue Southeast having resided at Lakewood since 2007. The lot is currently zoned Commercial Business and they applied for a Special Use Permit to build multi use shops. They have previously presented before the Commission and requested permission to purchase the land locked city owned lot behind their property. The Commission requested that the Mittleider's present to the Planning and Zoning Committee first to get approval for the Special Use Permit. The focus today is to get approval to build multi-use shops on the lot they currently own. The goal with the shops is to provide an aesthetically pleasing development that will blend with the surrounding area. Home builders have reached out to them about relocating their offices to the unit right off 40th Avenue; a chiropractic office has also expressed interest in moving their Bismarck office to this area. They will follow Mandan City Ordinances and polices required to gain site approval along with a building permit. With their lot currently being zoned for their project along with businesses expressing interest in locating in this area and the neighbors to this property in agreement with the project plans, the applicants requested the city grant approval for the Special Use permit. The Mittleider's own the lot #2610, located next to the Montessori pre-school. The lot behind them is the low spot. They are waiting for a response from the

Corp to address the low spot wetlands area. The area south of McKenzie Drive, years ago when this area was developed, Swensen-Hagan took soil samples of the entire Lakewood project and it was determined at that time that the wetlands had characteristics however, the city's lot at that time did not. KLJ came out and did their study and have submitted it to the Corp. There is a request for KLJ (Derek) to submit a status update as soon as it is available. The applicants are working with Nyhus Law firm to draft Bylaws and to put the plans into effect that certain things do not occur (such as trailers being parked there overnight or unwelcome noise is at a minimum); and they plan to develop an HOA that assures a nice community area. The snow would be pushed to the north end.

Commissioner Huber inquired about the shop condos being sold to individual businesses or owners in comparison to a multi-tenant building that would generally be leased. What is the plan for control of that? Mr. Mittleider explained that their goal is to sell the individual shop condos, however if that doesn't happen, they will consider options to rent. Commissioner Huber stated that she is not comfortable with approving this request until there is a specific plan as to how the control of units would be handled until specific plans are in place as to who would be controlling the uses and/or contents of what could go in the units. The applicants stated they are currently working with an attorney to draft an HOA document.

Jane Huizenga, a resident since 2010 of the Koch Villas 2503 Ash Lane, came forward and requested that the Special Use Permit be denied for the shop buildings that would be located in her backyard which is the area that they would be putting the snow located about 10 feet from her fence. When she purchased her lot, it was her understanding that nothing could go back there. She has no objections to the buildings on the other lot and her reason for objecting for what will be directly behind her property is an objection she has about any building going in that location of 4205 Shoal Loop. She does not have a problem with the 40th Avenue lot. She commented there is nothing else like that down in Lakewood that is a business that backs up to residences. She requested the request be denied.

Chuck Weiland, 2509 Ash Lane, came forward and commented that the shops would also be located in his backyard. He purchased his property 13 years ago from Koch Construction and was told that the lot back there was for watershed. All the water that comes through his lot will go out under the fence and go down into that watershed. His concern is the watershed along with the concerns brought up by Ms. Huizenga. He requested this Board to leave the watershed area as designed.

Dean Morast, 2507 Ash Lane, came forward and stated that he agrees with the comments made by Huizenga and Weiland. He stressed there is a significant amount of water that runs back there and the drainage was designed for that reason. He requested this Commission leave the watershed area as designed. Shawn Froseth commented that the water would end up in the river. His understanding is the city has to approve, then the Corp has to approve. That area acts as a substantial drainage area and should be left alone.

Richard Long, 2504 Ash Lane, came forward and inquired about the design of the condo shops and if the living quarters are on top, those buildings are built extremely high. He stated he is in opposition to having condo shops allowed in this area citing various reasons.

Mr. Mittleider commented on the possibility of changing Bylaws that as an owner of apartments he has had to deal with evictions under the rules that are in place. The future land use plan for this to be high

density residential, 30 units per acre, and there is concern about a 17 ft. sidewall? There could be a 4-story apartment complex with decks and all the problems that come with renters.

Chair Robinson will request the City Planning Department to clarify the exact footage of the setback from the fences of the residents who live in the condos.

Chair Robinson inquired if there were any comments or questions. He stated that the Commission has received written comments from the individuals who came forward to speak.

Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commission Action

Chair Robinson stated that the request today is for a Special Use Permit for the Mittleider's lot only at Lot 1B, Block 1, at 2510 40th Avenue Southeast, Lakewood Commercial Park 3rd Addition 4th Replat.

City Engineer Wigness stated that the plan submitted included both lots. The lot which is a .92 acre parcel on the west owned by the Mittleider's is the one to be voted on (not the city lot).

Commissioner Mudder inquired if that area will affect the watershed in that area? City Engineer Wigness stated that the applicant's would be held to development standards wherein they would have to meet pre-development standards for the watershed wherein the developers would be developing to the right of way.

Commissioner Huber commented that the request tonight is about the use of the land and so the concerns would remain the same whether its one or both plots in terms of shop condos and the lack of ability to control the types or intensities of the commercial nature use of those properties. There are some alternatives or some median of something different between shop condos and the suggestion that high density apartments have to be at 30 units on each of those lots. It does not seem to be appropriate to lock in the interior of the lot. This is part of a due diligence process and the exploration of what could potentially be approved for that lot. Ultimately it is the decision of the City Commission to approve what goes on the lot and who to sell it to. Commission Huber inquired of Commissioner Wigness if the situation with this lot and the thought that it is needed for watershed. Engineer Wigness replied that he does not believe the city would be interested in retaining a lot and keeping it out of production if it can contribute to the betterment to the city. If this lot were a storm pond it would have had an undivided interest among the contributing parcels. Commissioner McLean commented it could hand-tie the city lot and if this Commission gives him what he wants on his lot the city lot is either going to have to go that direction and there would not be access. Engineer Wigness commented that the lots do tie together and it would make sense for the lots to go the same way, however with the high density residential future land use it was the city's position not to go through with the Purchase Agreement for a multi-use shop condo.

Commissioner Gardner stated his concern is that when someone has an idea to develop and build and do something productive, he does not want to see property rendered as useless. To deny an opportunity the

question comes up of what else do we build if an applicant returns with another request, will that be denied also because it will not fit the property. Chair Robinson pointed out that the property has options. It is zoned currently and they have potential buyers that fit with various constructions and the city is aware the property is land locked or at they should have when they denied the offer. The master plan must have addressed the drainage in the master plan when it was developed thirty years ago hence development occurred and things changed which is what is now occurring.

Commissioner Huber summarized the issues are (1) The future of the city lot that may or may not be the Mittleider's direct interest today rather their interest lies in what can be done with the property adjacent to 40th Avenue of which there does need to be a plan for that lot; (2) Focus on the property on 40th Avenue, there should be some type of layout that provides access to the lot behind it so that it does not become permanently landlocked. She would be interested in some different approach, in particular, if the businesses mentioned could they be accommodated with more of a multi-tenant commercial rather than a shop condo approach?

Chair Robinson concurred with Commissioner Huber's comments and that the plan should include access to that back lot whoever owns it in the future. Commissioner Mudder inquired if the city can sell part of that lot because the watershed is of concern. Engineer Wigness commented that it is not his determination to sell a portion, rather he believes the city would most likely sell the whole lot because it would still end up with a land locked parcel. Commissioner Smith commented it could be possible to sell the whole lot and have a drainage easement restricting development. Commissioner McLean voiced concern about the apartment complex to the north that sheds a lot of water from its parking lot. A suggestion would be for the HOA to purchase that lot and leave the watershed in place. Commissioner Huber commented there appears to be more work to be done on this matter.

Commissioner Huber moved to recommend denial of a Special Use Permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Addition 4th Replat.

Commissioner Gardner commented that if this matter comes back in whatever fashion, that the watershed be part of the plan

Commissioner Smith seconded the motion to deny the request of a Special Use Permit for Lot 1B, Block 1, Lakewood Commercial. Chair Robinson called for a roll call vote: Huber: Yes; Mayor Froelich: Yes; Smith: Yes; Hammond: Yes; Gardner: Yes; McLean: Yes; Mudder: Yes; Robinson: Yes. The motion passed. The motion passed.

3. *Consider a zone change from RM (Multi Family) to a PUD (Planned Unit Development) for Clover Grove.. Jordan Singer, Building Official presented.*

Evolution Planning & Design has submitted an application for a zone change from RM (Multi-Family) to a PUD (Planned Unit Development) for Macedonia Hills Gov't Lot 2, less out lot A in the NW 1/4 of NE 1/4 of Section 3, Township 138N, Range 81W.

Property History

The property is 14.82 acres located at 151 19th Street SE.

Zone Change

The intent of the PUD (Planned Unit Development) is for 57 entry-level single-family detached and duplex-type home lots. The R3.2 Zoning District serves as the basis for this PUD Narrative.

Adjacent Properties Zoning, Land Use, and Future Land Use

Adjacent properties to the west and north are zoned R7 - Residential Single Family. Property to the east is zoned R3.2 - Residential Single & Two Family. The property to the south is zoned Ag - Agriculture. The future land use plan recommends low-density residential land use on this property.

Additional Information and Public Outreach

- The application and fee of \$700.00 was received on April 25, 2025.
- This item was published in the Mandan News as required. Forty-six (46) letters were sent to adjacent property owners on May 9, 2025.
- There have been no comments or opposition to this request have been received.

Staff Comments

There are concerns about density and access management and emergency access. Future connectivity and number of proposed lots exceed International Fire Code Appendix D 107.1 related to number of units allowed with only one access point constructed or planned.

In this site plan there is a public street coming off 19th and a public park and development. This is a roadway that is showing a 40 ft. along with private streets that are 31 ft. and that is a major concern. The other one would be the private and public utilities. The city is not interested in doing a private street with public utilities at this time. The other piece is the density, however in the fire and building codes there are sections noting anything above 30 units would need two access points. The public street counts as one access point and any of the street connections are still part of that connection point. There is a temporary one next to the park but it is not far enough away to be considered a secondary access. The development team has expressed interest in doing part of it a number of units and then a second phase. That would be okay in the master plan addressed how that second road would be for the city and that piece is not available yet. For those and a few other reasons such as snow storage and in general the roads and streets, city staff recommended denial of this PUD request for Clover Grove.

Findings of Fact

Zone Change

1. The City of Mandan and other agencies would be able to provide necessary public services, facilities and programs to serve the development allowed by this zone change;
2. The proposed zoning change is consistent with the general intent and purpose of the zoning ordinance;
3. The proposed zoning change is consistent with the Future Land Use Plan/Map, other adopted plans and policies, and accepted planning practice;
4. The proposed zoning change would not adversely affect public health, safety and general welfare.

City Staff recommended denial of the request for a zone change from RM (Multi Family) to a PUD

(Planned Unit Development) for Clover Grove.

Chair Robinson inquired if the one access point there, would that involve volume of housing? If coming from the west to east on 19th Street there would not be a visual of that intersection because it drops off below the hill. Commissioner McLean inquired if the city has a recommendation for a second access point? Singer replied that is the difficult part about future development. In the past, developments have been reviewed with a plan showing the access points and that is the struggle now to get a second road in at that point. This concern has come up with other developments that are in the second phase of construction that no longer want to construct the road that they showed in a master plan that annexed to the city connectivity. Commissioner McLean inquired about two access points development to the east of this and that only has one visible access point as well as off of Macedonia. How did that one get through?

Singer replied that the development to the west connection point that was supposed to be was off Mario Court up to 23rd and now has been deemed as not viable to work. The city needs to work on future connectivity to assure that missing connection points do not happen. He stated that is one of the reasons city staff is recommending denial because of things that have occurred in the past. He explained that when there are street improvements to be made and there are private utilities or public street and vice versa, it's difficult to get under the road surface when there is something that's not in your control. Commissioner Huber inquired if the developer were to come back with a proposal for 30-units and would address the other issues outlined with the streets, would that be something that the Building Official's and Engineer offices and the Planning Department could support? Singer stated that discussion has occurred and stated that it would be helpful to have more specs included. Commissioner Gardner inquired if the Fire Department and others approve of 30 units? Singer replied that the city is looking at development plans to include future connectivity. Commissioner Gardner stated that he will recuse himself on this should it go to a vote because he is helping the school with a development to the south and west. Commissioner Smith inquired if the developer is asking this Commission to approve Phase 2 at this point? He stated that he agrees with city staff that there is not enough information available to vote on this request because the project is not far enough along to consider granting approval.

Chair Robinson inquired if there were any further comments or questions. Hearing none, the public hearing was opened.

Open Public Hearing

Chair Robinson opened the public hearing and invited anyone calling in or present, to come forward to speak for or against the request a zone change from RM (Multi Family) to a PUD (Planned Unit Development) for Clover Grove.

Lucas Mayer came forward to speak and stated this project commenced in January 2025. He provided a background of his experience in creating developments and building homes in Arizona and now wishes to build in Mandan. The goal of this project is to bring attainable and achievable housing to the community. They want to create flexible floor plans that can bring in young professionals and families. They do have a verbal approval from the Park Board in agreement that this is a great location being centrally located around other neighborhoods as well as Clover Grove.

Commissioner McLean commented that Mr. Higlin and Commissioner Froehlich both called and said they like the two-acre area for the park. He inquired if the roads could be made wider in that area so they

are at least at the minimum width? Mr. Mayer replied that it will make it more challenging. There are concerns with the grading in this area and widening the roads would push the lots closer to the drainage easement which is a tradeoff. There is a 100 ft. township easement on the west side of the property that runs north and south and they are adding a drainage easement to the property on the east side of the property. The roadway on the east side is only 40 ft. and it will be publicly dedicated noting that is the solution for future. There are private streets with public utility with privately managed right of ways and those can be worked out in a development agreement.

Chair Robinson provided a second and third invitation to come forward. Chair Robinson inquired if there were any comments or questions.

Close Public Hearing

Chair Robinson inquired if there were any comments or questions. Hearing none, this portion of the public hearing was closed.

Commission Action

Commissioner McLean stated he believes there is a path forward for this request. The city will need to work with the applicants to fix what needs to be fixed via a compromise that will work for both parties. Building Official Singer commented that some of the details sought in a PUD would be helpful. Commissioner McLean inquired if this matter should be postponed to allow for time to address the questions. Singer stated that city staff would recommend denial of the request and the applicant will have to resubmit their request with specific details for the PUD; the application fees would be paid by the city. Commissioner Huber inquired if the matter was tabled, perhaps the application fees would not be required again. Singer stated that another option would be to get the fixes needed and take to the City Commission level contingent on those items that have not yet been determined. If tabled, it will have to be re-advertised. The fees are applied towards advertising and such other applicable fees. Commissioner Gardner commented that the request should not be denied rather the intent is to work with the developer to come up with a viable plan for both parties. Lucas Mayer stated he would prefer to table the matter rather than have it denied and come back to a future meeting with a solution that works for both parties.

Missy Moritz came forward and commented that when she did a project in Bismarck she did not have city staff approval, however, there was discussion at the Planning and Zoning and it was passed conditionally but she is not aware of how the process works. Commissioner Mudder stated he would prefer the matter be tabled to make sure everyone is in agreement and to assure the city's questions are answered before moving forward.

Commissioner Mudder moved to recommend tabling this matter for a zone change from RM (Multi Family) to a PUD (Planned Unit Development) for Clover Grove.

*Commissioner McLean seconded the motion. Chair Robinson called for a roll call vote:
Huber: Yes; Mayor Froelich: Yes; Smith: Yes; Hammond: Yes; Gardner: Abstain; McLean: Yes;
Mudder: Yes; Robinson: Yes. The motion passed. The motion passed.*

D. OTHER BUSINESS

City Administrator Neubauer reported that Rachel LaQua and Kay Atkinson from Interstate Engineering will be assisting city staff in the Planning Department due to the City Planner position vacated by Andrew Stromme.

E. ADJOURN

There being no further business to discuss or come before the Board, a motion was made by Commissioner McLean and seconded by Commissioner Hammond to adjourn the meeting. Upon vote, the motion passed unanimously.

The meeting adjourned at 7:11 p.m.