

A. ROLL CALL Commissioners Present: Leingang, Huber, Horn, Mayor Froelich, Intveld, McLean Smith, Hammond. Gardner, Renner and Chair Robinson. Absent: Mudder.

B. CONSIDER APPROVAL OF MINUTES

1. *June 23, 2025 Minutes. Commissioner McLean motioned to approve the June 23, 2025 minutes. Commissioner Hammond seconded the motion. Upon vote, the motion passed unanimously.*

C. PUBLIC HEARINGS

1. *Consider Schaff Estates 3rd Addition final plat.* Rachel Laqua, Interim Planner presented.

The Planning & Zoning Commission tabled the preliminary plat and zone change request at the May 28, 2025 meeting and recommended approval of the preliminary plat, zone change request for Lot 2, and Special Use Permit for Lot 2 for the property located at 2392 37th Street, Mandan, North Dakota at the June 23, 2025 meeting. City Commission approved the preliminary plat, zone change request for Lot 2, and Special Use Permit for Lot 2 at the July 15, 2025 meeting. This is now the final plat for the Schaff Estates 3rd Addition, with Lot 1 containing 6.33 acres and zoned CB- Commercial and Lot 2 containing 2.84 acres, with a contingent zoning of R7- Residential and a contingent Special Use Permit for the parking and storage of a personal use commercial vehicle over 2.5 tones on a residential property (Code Section 105-1-3-(1) a.1&2). The residential property on Lot 2 will contain the existing shop and home. Lot 1 is currently vacant. The property is in the ETA. The surrounding properties are undeveloped, except for the farmstead to the east zoned Agricultural. This area is identified in the future land use plan as a commercial intersection. The future beltway corridor connecting the interstate to north Bismarck would go by this property. The plat has not changed since the approval of the preliminary plat.

Final Plat Details

Total Area: 9.17 acres

Configuration: Two lots within one block Lot 1: 6.33 acres (reserved for future use)

Lot 2: 2.84 acres (site of the existing residential home and shop) Easements: One existing access easement in the NE corner of Lot 2; one 30' utility easement running east-west across Lots 1 and 2, as well as a 10' utility easement on the North sides of Lots 1 and 2 and the west side of Lot 1.

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: June 27, 2025

Application Fee: \$400.00

Notifications: Letters sent to six (6) adjacent property owners. There were no comments or objections received.

Findings of Fact

Final Plat

All technical requirements for approval of a final plat have been met; The proposed subdivision generally

demonstrates an ability for the property to align with the Future Land Use Plan and other plans and studies; 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; The proposed subdivision is consistent with the general intent and purpose of the zoning ordinance; The proposed subdivision is generally consistent with the master plan, other adopted plans, policies and accepted planning practice; and the proposed subdivision would not adversely affect the public health, safety, and general welfare.

City staff recommended approval of the Schaff Estates 3rd Addition Final Plat at 2392 37th Street, Mandan, North Dakota.

Chair Robinson inquired if there were any comments or questions.

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 Final Plat. 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 Smith moved to recommend approval of the Final Plat for Schaff Estates 3rd Addition. Commissioner McLean seconded the motion. Chair Robinson called for a roll call vote: Leingang: Yes, Huber: Yes, Horn: Yes, Mayor Froelich: Yes, Intveld: Yes, McLean: Yes, Smith: Yes, Hammond: Yes, Gardner: Yes, Renner: Yes, Chair Robinson: Yes. The motion passed.

2. Consider a special use permit for 2510 40th Avenue SE. Rachel Laqua, Interim Planner presented.

Property History

The property is located at 2510 40th Ave SE and is currently a vacant lot zoned CB - Business Commercial.

The applicants, Steve and Erica Mittleider previously requested a special use permit that was denied as the request included a city-owned lot to the east which bordered residential neighbors with concerns regarding the appearance and impact of the proposed development. This new application restricts the use to the applicant's property along 40th Ave SE and does not utilize the city-owned lot. The property is zoned CB Commercial, as are all surrounding properties.

Special Use Permit Request

The applicant is requesting a special use permit for a shop condo development, which is defined in Mandan City Code as: Multi-use shop means two or more attached units that are designed and constructed as a single structurally dependent building or designed and constructed to allow individual units to be structurally independent from each other sharing a common wall on one or more sides. These are sometimes referred to as "shop-condos". These structures are unique from a twin/row home in that the residential use is accessory in nature. They are unique from a commercial strip mall in that they often include a large garage or RV bay and rarely include the retail of products and visitation by the general public.” The code notes in Section 105-1-5. k. that each multi-use condo development shall be reviewed as follows: Multi-use shops. Each multi-use shop development may be permitted as a special use subject to the following minimum standards:

- (1) Each individual unit within the structure shall have an open space/yard or public way on no more than three sides.
- (2) Each individual unit within the structure shall have its own separate means of egress.
- (3) Such units shall only contain group business, factory, mercantile, or storage occupancy classifications as set forth by Section 3 of the North Dakota State Building Code.
- (4) Uses, whether commercial or accessory to residential, shall be declared at the time of the conditional use permit issuance. No change in use may be conducted unless reevaluated through the special use permitting process and the structure meets all building code requirements for the desired change of use.
- (5) Traditional mixed-use (residential and commercial combined) multi-use shops shall not be permitted. The declaration of either commercial or accessory to residential shall apply to all units within the structure and the structure will be constructed according to the minimum standards of the building code for the declared use.
- (6) Minimum off-street parking requirements shall be planned and provided for based on the declared uses. Any inadequate provision of parking within the development for a combination of uses may result in the revocation of the special use permit.
- (7) Each structure shall be limited to one curb stop accessible by city staff.
- (8) The declaration of commercial or accessory to residential shall in no way affect the way valuation, special assessments, utility rates, and other city fees are determined. These shall remain determined by separate city policy.
- (9) Covenants, conditions, and restrictions (CCRs) or another form of recorded agreement approved by the city attorney shall set out, at a minimum, provisions for access and responsibility for costs of inspections related to the fire suppression system, if any.
- (10) For the city's utility billing purposes, a recorded development association or another form of recorded agreement approved by the city attorney is required if any of the individual units within the development are not owned by the same owner of the development. The recorded development association or recorded agreement shall set out, at a minimum, the allocation of costs and statement of understanding of the collective responsibility of owners for payment of city utilities. If a recorded development association or another form of recorded agreement approved by the city attorney is in place, the city will issue one utility bill per month to one owner or representative of the structure for the entire structure's base charges and consumption or usage. The monthly utility bill will not be sent to each individual owner within the structure. If ownership is divided after a special use permit has been obtained, the property owner shall furnish a copy of said recorded agreement to the city showing it meets this provision.

The applicant provided answers to the required questions below with their special use permit application, which can be found in the packet.

1. Will the proposed use be designed, constructed, operated, and maintained to be compatible in appearance with the existing or intended character of the neighborhood?
2. Will the proposed use involves activities, processes, materials, equipment, or conditions of operation that will be incompatible with the neighborhood due to the production of traffic, noise, smoke, fumes, glare, or odors?
3. Will the hours of operation of the proposed use be different than the adjacent uses?
4. Will the proposed use requires exterior lighting of a type and intensity greater than the adjacent uses?
5. Will the site of the proposed use have sufficient area to provide the parking required for the use?
6. Will the proposed use requires adjustments to the normal lot size, height, and setback requirements of the district?

Staff Review

Staff noted concerns regarding potential future declared uses which have not been declared via any official documentation. Staff have also not seen a detailed landscaping plan which would assist in determining compatibility with surrounding residential and lighter commercial uses. All the surrounding uses are CB but they are currently considered less intense uses.

Staff recommendation is that if approved, the applicant be required to provide a detailed covenant and use agreement to City with their building permit and MARC application, as well as detailed building and landscaping plans at that time.

In the packet, there was an error under the suggested motion that was carried over from a previous version. Presented at this time are all the proposed recommendations for a motion that the Planning Commission should review in order to make a recommendation based on the Findings included in the packet. Also included is a note from the applicant, the Mittleider's, who submitted today, a proposed draft of a Covenant Agreement. The Mittleider's are present to discuss this matter if there are questions.

Adjacent Zoning, Land Use, and Future Land Use

Adjacent Zoning: North/South/East/West – CB- Commercial

Adjacent Land Use: Commercial to North, Residential to East, South and West.

Public Outreach and Application Details

Application Received: June 27, 2025

Application Fee: \$450.00 Notifications:

Letters were sent to ninety-five (95) adjacent property owners. Objections and comments have been received from adjacent landowners.

FINDINGS OF FACT

Special Use Permit

1. Will the proposed use be designed, constructed, operated, and maintained to be compatible in appearance with the existing or intended character of the neighborhood? Staff have not received a full use description and covenants for the property, nor a full landscape plan. Both may affect the compatibility of the use for the neighborhood. If approved, applicant should provide a detailed covenant and use agreement to City with building permit and MARC application, as well as detailed building and landscaping plans at that time.
2. Will the proposed use involve activities, processes, materials, equipment, or conditions of operation

that will be incompatible with the neighborhood due to the production of traffic, noise, smoke, fumes, glare, or odors? All uses must be allowable in the CB zoning district, so may not involve such uses.

3. Will the hours of operation of the proposed use be different than the adjacent uses? All uses must be allowable in the CB zoning district, and should be similar to surrounding commercial uses. However, existing surrounding land uses are low-impact childcare and multifamily residential, and have very limited operational hours.

4. Will the proposed use require exterior lighting of a type and intensity greater than the adjacent uses? All uses must be allowable in the CB zoning district, and they should be similar to surrounding commercial uses. However, existing surrounding land uses are low impact childcare and multifamily residential, and have very limited exterior lighting.

5. Will the site of the proposed use have sufficient area to provide the parking required for the use? Yes, based on the use descriptions provided at this time.

6. Will the proposed use require adjustments to the normal lot size, height, and setback requirements of the district? No.

City staff recommended approval of the application for a special use permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Addition 4th Replat (2510 40th Avenue SE) with conditions, if any, from the Planning and Zoning Commission.

Chair Robinson inquired if there were any comments or questions.

Commissioner Smith inquired of the city lot referenced noting that at the last meeting, the topography of that lot was presented that showed a large portion of that lot was a drainage area. Not knowing the value of this lot to the city, would this development completely restrict access or landlock that city lot? Ms. LaQua replied she believes that yes, it would restrict access to it, however, it does not significantly change the lot access.

If a motion is made, do you want that detailed in covenants use included? Ms. LaQua stated that yes, the note that is found under Staff Review on page 25 of the packet “noting concerns and recommendation if approved that the applicant provide a detailed covenant and use agreement with building permit with MARC application as well as detailed building and landscaping plans”. Those are essential to make sure this development would fit in with the surrounding neighborhood which was a concern with not having that at this stage.

Commissioner Renner inquired if the applicant requested building the shop condos when mostly everything in that area is residential? What was the letter/email that Planner Stromme had sent indicating that it isn't able to be residential? The question is if the applicant requested shop condos or were they forced into it instead of being residential, why is that one area not allowed residential? Ms. LaQua explained that CB is a commercial district, hence, if the Mittleider's were constructing a strip mall in a commercial development, they could do that without going through the Special Use Permit process. She does not know if the area could also be zoned Residential. The remainder of those properties are Residential but she has not looked in detail to that part of the Code. Commissioner Renner inquired if the city's lot will be completely landlocked, what are the city's plans for having access to that lot in the future? Ms. LaQua stated that she will have to involve City Administrator Neubauer to address this because the city currently does not have access to that lot. Administrator Neubauer commented that it was his understanding that the lot came back to the city at one time due to back taxes being owed on it

and the city has had a hand-shake agreement with homeowners to get to it for mowing, etc. There are parties (adjacent landowners) interested in acquiring that lot and as part of that agreement there would be an access agreement with the potential buyers of the city-owned lot.

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 the special use permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Add. 4th Replat at 2510 40th Avenue SE.

Steve Mittleider came forward along with his wife, Erica Mittleider, the owners of the property located at 2510 40th Avenue Southeast. Jason Petryszyn from Swenson-Hagan was also present. Mittleider explained that the reason they purchased this lot, zoned CB, because it is their desire to get into a business of setting up play sets for children. They looked for a CB lot that would allow an office and an area that would provide room for play set displays designed by Rough House, Corp. The plan would be that during the winter months, families would be able to view the play sets in person, rather than deciphering the products via a website or brochure. They have had conversations with a neighbor who runs a daycare and she supports this business idea. There are other similar type of business people that have voiced interest in setting up their business in this location. The Mittleider's are not interested in Residential zoning and purchased the lot as CB as that was relative to their business plan intentions.

Mittleider's have been in contact with city staff in order to hammer out CCRs and landscaping, etc. Tonight, they are requesting approval so they can move forward to the next step of this process.

Commissioner Renner inquired if Mittleider will be looking into the issue with the city owned lot that is land locked? Mittleider replied that he does not want to veer off on that city lot due to the questions that arise when that topic is brought up and there are no answers. He stated that he does not want to address that topic tonight. At this time, the Mittleider's only want to address the lot they currently own and move forward with their business plans. The goal tonight is to take care of the issue at hand and go back to the City Commission with whatever the Planning and Zoning Commission approves tonight.

Commissioner Huber asked for clarification about the sample agreement that is provided that uses the word "tenant" in it, which suggests it is a rental situation as compared to an ownership situation that is typical of many shop condo arrangements. Erica Mittleider explained that she left the word "tenant" in the sample agreement thinking that, whether it would be the owner or the renter, the person occupying it, however, she would be willing to clarify that issue in the sample agreement depending on the situation.

Commissioner Huber explained that she inquired because when something is sold, one would want to make sure it is still subject to the usage agreement. That would be more than just a landlord-tenant agreement, that it would be a covenant to get recorded and be associated with a deed.

Jason Petryszyn with Swensen-Hagan came forward and stated he is representing the developer in this matter. He provided a summary of the events that have taken place wherein in the beginning discussions were getting mixed up including purchasing that city lot and working through that process and possibly in an honest error, too many things were mixed together. This action involves the application for a Special Use Permit. He explained that he has been involved with the creation of hundreds of shop condos over

time and shop condos have been designed for many different types of business scenarios. In the Mittleider situation, there is a group of businesses that do not need to fit into a shop condo model that needs an acre or two. They are searching for a place to open their business that fits in the community. He reviewed all the multitude of steps after this first step is approved. Regarding the city lot that is land locked, a couple points on that are that it is not only an access point issue, there will have to be a discussion about common use and maintenance agreement that would carry through with that. If the property were to be sold to someone other than the Mittleider's then there would be a concern by the owner in regards to the maintenance of that driveway. As you seen in the concept plan, there were two buildings, one on north side, one on the south side, and a kind of driving lane that comes between those two buildings. If an access easement was able to be provided there, there would need to be a common use and if it would be developable if it were to be sold. That would bring up concerns of utilities, such as getting sanitary sewer and water back there so there would be items to be dealt with the sale of that city lot. There is an opportunity to get that site to look presentable.

Chuck Weiland, 2509 Nash Lane, stated that he lives adjacent to the lot that the city owns, east of the Mittleider property came forward. He was present at the meeting held previously before this Commission and he recalls a comment made by one of the Board members that this particular lot really is not suitable for a shop condo. He said that all his neighbors on Nash Lane go along with that. He recalled this was discussed once before wherein putting in shop condos or just shops that is surrounded by residential area property with the exception of the Montessori School. He and the residents on Nash Avenue believe this is not a good idea. And as to the city owned lot, the homeowners on Nash Lane are interested in purchasing the city lot and they will have it plotted to have all the lots there to have a portion extended out as a small addition to their property. He stated he has discussed this with Administrator Neubauer. Constructing this building right in the middle of a residential area is not conducive to that neighborhood. He asked the Commission to vote "No" for the Special Use Permit that is being requested.

Jane Husingua, 2503 Nash Lane came forward and stated that she is in opposition to the proposed shop condo. She stated she has not seen a building construction or landscaping plan for what is proposed. She is concerned about the drainage and how that would affect the lot at 4502 Shoal Loop (the city-owned lot).

Chair Robinson provided a final invitation to come forward to speak for or against the request for the special use permit for Lot 1B, Block 1, Lakewood Commercial Park 3rd Add. 4th Replat (2510 40th Avenue SE). 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 Smith commented that at the previous meeting when this matter was discussed, the application included a substantial portion of the city lot. That resulted in the structure being placed much closer to the residential homes so that is a major distinction in this application. They purchased the property zoned with commercial business. Under Commercial business it's more than strip malls and other things you can put there such as farm equipment, auto repair shop, an endless amount of commercial activity, etc. There could be a lot of less attractive buildings or structures that could be placed

there legally or they would not even have to appear before this Commission. It is his opinion that it should be approved subject to all the conditions that city staff is recommending that the engineer testified to.

Commissioner Intveld inquired as to the drainage concern on the lot, if there was any concrete put in that lot that will create more issues with the drainage situation? Jordan Singer, City Building Official stated that there has been nothing updated as far as storm water is concerned and he is not aware of the concrete concern, however it is a significant draining portion of that property. That will all be part of the storm water plan and addressed at that time.

Commissioner Gardner stated he is struggling with the city owned lot, landlocked issue. This seems to be an opportunity to remedy that situation and resolve it. Other than that, he stated he is in support of the request.

Commissioner McLean commented that it seems there will only be two groups that will be able to purchase this property, either Mittleider's or the condo association owners. It is a city lot, and the possibility of one of the two groups will buy it, he stated he is not as concerned about the landlocked lot.

Commissioner Renner summarized that the lot is landlocked currently and it does not matter if they put a building up or not. He does not believe it is fair to hold (Mittleider's) hostage on what they want to do with their property because of a potential landlock. He believes the Commission should deal strictly on what the applicant's are requesting for their lot and ignore the landlock on the lot behind them.

Commissioner Intveld commented that the Commission needs to address the request from the Mittleider's if they can prove their business plan and that the drainage is going to be acceptable and approved before anything goes up.

Commissioner Smith moved to recommend approval of the request for the special use permit for multi-use shop condos on Lot 1B, Block 1, Lakewood Commercial Park 3rd Add. 4th Replat (2510 40th Avenue SE) based on CCR covenants and restrictions on the condition the applicant provides a detailed covenant and use agreement to the city with a building permit approved by the Mandan Architectural Review Committee application as well as detailed building and landscaping plans at that time which includes storm water drainage and all other issues.

Commissioner Renner seconded the motion. Chair Robinson called for a roll call vote: Leingang: Yes, Huber: No, Horn: Yes, Mayor Froelich: Yes, Intveld: Yes, McLean: Yes, Smith: Yes, Hammond: Yes, Gardner: Yes, Renner: Yes, Chair Robinson: Yes. The motion passed.

3. *Consider Preliminary Plat and Masterplan for Kahl Addition.* Rachel Laqua, Interim Planner presented.

This proposed preliminary plat is located in the SE1/4 of Section 32, T139N R81W, 5th PM, Morton County, ND, within the ETJ. This portion of the SE ¼ of Section 32 has been previous partially platted as Lot "A", and has four existing lots, Lot 1 of Lot "A", Lot 2 of Lot "A", Lot 3 of Lot "A", and the remainder of Lot "A". The applicant proposes to add two additional lots, Lots 1 and 2 of Block 1, both containing 1.5 acres.

Staff requested that a master plan be created for the remainder of Lot “A” in the NE1/4SE1/4, though not the full extent of Lot “A”, in order to have a future understanding of access and development potential. This has been included in the application and shows future roadway access surrounding the property as well as an internal 66’ road right of way, with a potential for eight (8) additional large residential lots.

Preliminary Plat Details Total Area: 3 acres to be platted into Lots 1 and 2 of Block 1
Configuration Two lots within one block.

Access

Access to both lots is via a 40’ wide access easement running west across Lot “A” from existing 22½ Avenue through Lot 1, Block 1 to Lot 2, Block 1. A culvert may be required for this access during the driveway and building permit process however, it has not been identified at this point.

Adjacent Zoning, Land Use, and Future Land Use

Adjacent Zoning: North/South/East/West – Agricultural

The future land use plan designates this area as public land, and is shown outside the 2030 growth boundary. The very low-density residential nature of the development should be in line with this.

Public Outreach and Application Details

Application Received: June 26, 2025

Application Fee: \$450.00

Notifications: Letters sent to three (3) adjacent property owners

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.

City staff recommended approval of the Preliminary Plat and Masterplan for Kahl Addition.

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 a Preliminary Plat and Masterplan for Kahl Addition.

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 moved to recommend approval of the request for a Preliminary Plat and Masterplan for Kahl Addition contingent on final plat approvals. Commissioner Intveld seconded the motion. Chair Robinson called for a roll call vote: Leingang: Yes, Huber: Yes, Horn: Yes, Mayor Froelich: Yes, Intveld: Yes, McLean: Yes, Smith: Yes, Hammond: Yes, Gardner: Yes, Renner: Yes, Chair Robinson: Yes. The motion passed.

4. *Consider Evergreen Heights 5th Addition Preliminary Plat.* Rachel Laqua, Interim Planner presented.

This proposed preliminary plat is located north of 19th St SE and east of 14th Ave SE. This is a request by the applicants to replat the existing Lots 2-6 of Evergreen Heights Second Addition and of Lot 1, Block 1, Evergreen Heights Fourth Addition, in the SQ ¼ of Section 35, T139N R81W, City of Mandan. The existing lot owners are re-platting and purchasing the lots directly behind existing homes, as well as vacating a right of way to the east of the subdivision. All lots are zoned R-7.

Preliminary Plat Details Total Area: 4.43 acres, with new proposed lots ranging from 45,126 sq ft to 24,070 sq feet.

Configuration: Two lots within one block

Access:

Access to existing lots is not changing, as they will maintain access from 14th Ave SE. Properties to the east will maintain access as existing. Proposed Lot 7 will have access from 19th St SE.

Access between existing Lot 1, Block 1, and Lot 1, Block 2, Evergreen Heights 4th Addition and Lot 1, Block 1, Living Water Addition is provided via 16th St SE and Living Water Drive. The proposed plat shows platting the ROW that is currently between Lot 1, Block 1 and Lot 1, Block 2, Evergreen Heights 4th Addition partially into the proposed re-plats of Lots 1-7 and partially creating a Lot 1.

City staff voiced concern over Lot 1's configuration, and would like for it to be assimilated into Lot 1, Block 2, Evergreen Heights 4th Addition. They have not fully reviewed the request.

Utilities and Easements

There is a water line along 16th Street SE from 14th Ave SE to 1806. An easement should be shown for this and for the associated fire hydrant just inside the ROW area proposed to be vacated on 16th.

Easements shown on the plat are extremely unclear and staff has concerns that all needs have been appropriately met.

Preliminary Plat

Plat does not show certificates, boundary descriptions, or legend.

Zone Change Request

No zone change request is being made at this time. The zoning map online does not reflect a recorded zone change – all lots are zoned R-7.

Adjacent Zoning, Land Use, and Future Land Use

Surrounding zoning to the east is shown as R-7, to the north as Neighborhood Commercial, and to the south is shown as R-7. The future land use plan designates this area as commercial. This land remaining as R7 would not be a conflict as the larger lots would allow for easier transition to eventual commercial use along Hwy 1806.

Public Outreach and Application Details

Application Received: June 27, 2025

Application Fee: \$450.00

Notifications: Letters sent to eighty-five (85) adjacent property owners.

Findings of Fact

Preliminary Plat

1. All technical requirements for approval of a preliminary plat have been met; These have not 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.

City staff recommended tabling the request for Evergreen Heights 5th Addition Preliminary Plat to allow for additional time for city staff to review the paperwork received on Friday before this meeting and for the applicant to resolve issues with the preliminary plat. Chair Robinson inquired if there were any comments or questions.

Commissioner Intveld inquired if the recommendation for the replat was from the city or was it the landowner's decision to replat Lot 1? Ms. LaQua inquired if the question is regarding this particular plot that was turned in currently? Commissioner Intveld clarified that yes, the most recent one received last Friday. Ms. LaQua referred to the map that indicated Lot 1 looks like an upside down "L" because it is part of the right of way on 16th Street Southeast at Living Water Drive. City staff had concerns about that since it is not a buildable lot the way it sits. City staff would prefer to see that incorporated into one of the surrounding properties. The plat turned in on Friday shows it being incorporated as Lots 1 and 2 and 3 which is a slightly different configuration. She stated she is hesitant to make a recommendation at this time due to lack of time to fully review it.

Chair Robinson inquired if the request to table is to allow city staff more time to review the request? Ms.

LaQua replied the city wants to assure all conditions for the easements are in place.

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 Evergreen Heights 5th Addition Preliminary Plat.

Greg Feser, the engineer assigned to this request to replat, inquired if there is an updated plat available.

Chair Robinson replied that there is no updated plat in the Agenda Packet.

Chair Robinson clarified that the plat may be presented in the information with the satellite. Ms. LaQua stated that yes, it is the one provided in the packet, is the original one. The (plat) received last Friday was received too late to include in today's packet.

Mr. Feser provided a drawing (of the plat) on the overhead to clarify where the "L" shaped lot was along the north side of 16th and along Living Water Drive. The lot lines were extended out to the plat boundary so the "L" shape was absorbed into Lot 1, Lot 2, Lot 3 so it no longer exists. The lots are renumbered with 1 through 6 so there is no other remaining property. Everything has an owner assigned to it and everyone has access off 14th and 19th for the very south lot. The city will have appropriate easements and a drainage plan is included.

Ben Kappel came forward and stated he is one of the purchasers interested in purchasing one or two of the vacant lots and he stated that he is the agent representing the buyers in this action. He requested this matter move forward tonight stating that it is a very simple process. In summary, the current homeowners are interested in purchasing the property to plant trees. There is a contract in place that will expire next month and he does not want to see this process tabled. He said any final revisions can be made prior to the final plat being presented.

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

Chair Robinson stated that city staff would like to go through the proper vetting of this request.

Ms. LaQua stated that she believes there is still a concern over the way the right of way has been re-subdivided. The previous ownership split out pretty much the same way the vacation process would be required by Century Code.

Commissioner Smith commented that this is a preliminary approval process and inquired if an action could occur prior to the next month's meeting stating that he is not clear of the difference between and

preliminary and final approval. Ms. LaQua explained that typically it would be major changes that would require a preliminary plan to go back through the preliminary process. She suggested it would be possible to make any changes between the two approvals; however, she stated she has not had enough time to evaluate the request. She could review it and make some recommendations for the City Commission and if she had any concerns, she could make opposition to the City Commission and explain why. Ms. LaQua agreed that she could proceed in that fashion, however she made it clear that she has not had sufficient time to review the information that was submitted last Friday. City Administrator Neubauer commented that one of the concerns that is experienced with a street vacation is that typically half goes to each party and in this case, it seems that all of the property is being taken in by the other adjoining property owners and that is a major concern on the city's end to make sure the other properties are aware of that and that is fairly significant in this process.

Commissioner Smith moved to recommend tabling the request for Evergreen Heights 5th Addition Preliminary Plat so the applicant can resolve the issues with the preliminary plat in particular, the timing of when it was submitted. Commissioner Hammond seconded the motion. Chair Robinson called for a roll call vote: Leingang: Yes, Huber: Yes, Horn: Yes, Mayor Froelich: Yes, Intveld: Yes, McLean: Yes, Smith: Yes, Hammond: Yes, Gardner: Yes, Renner: Yes, Chair Robinson: Yes. The motion passed.

D. OTHER BUSINESS

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 Gardner to adjourn the meeting. Upon vote, the motion passed unanimously.*

The meeting adjourned at 6:45 p.m.