

CITY OF MITCHELL  
CITY PLANNING COMMISSION MINUTES  
March 14, 2022

APPROVED

1. Chairperson Larson called the March 14, 2022 City Planning Commission Meeting to order at 12:00 P.M. noon in the Council Chambers, City Hall, 612 N Main Street.
2. Roll Call-quorum is met, simple majority vote required for all items.  
Present: Larson, Molumby, Osterloo, Sonne, Genzlinger, Jirsa (telephonically), Doescher.  
Absent: Penney.  
Staff Present: Jenniges, Schroeder, J Johnson, T Johnson, Sandoval, Hegg.
3. Declare conflicts of interest-Sonne item #7 and Genzlinger item #9.
4. Approval of proposed agenda: Motion by Genzlinger, seconded by Sonne, to approve the proposed agenda. Roll call vote: Roll call vote: Larson – aye, Molumby – aye, Jirsa –aye, Osterloo – aye, Genzlinger – aye, Sonne –aye, Penney– absent. 6 aye, 0 nay, 1 absent, motion carried.
5. Approval of proposed minutes: Motion by Molumby, seconded by Osterloo, to approve the minutes of the February 28, 2022 Planning Commission meeting. Roll call vote: Roll call vote: Larson – aye, Molumby – aye, Jirsa –aye, Osterloo – aye, Genzlinger – aye, Sonne –aye, Penney– absent. 6 aye, 0 nay, 1 absent, motion carried.
6. Schedule next meeting: Motion by Genzlinger, seconded by Osterloo, to schedule the next meeting for March 28, 2022. Roll call vote: Roll call vote: Larson – aye, Molumby – aye, Jirsa –aye, Osterloo – aye, Genzlinger – aye, Sonne –aye, Penney– absent. 6 aye, 0 nay, 1 absent, motion carried.
7. Plat: Plat of Lots 1 thru 15 and 22 thru 28 of Airport Addition, a subdivision of previously platted Lots 2 and 3 of Fiala's Addition in the E ½ of the SW ¼ of Section 4, T 103 N, R 60 West of the 5<sup>th</sup> P.M., City of Mitchell, Davison County, South Dakota; as requested by PSG Properties LLC. The applicant was not present to answer questions.

Jenniges explained a master plan was done previously in this area. City will require a new master plan including drainage for the area. The city will also require a Developers Agreement and the applicant may do a PUD at a later date as well.

Motion by Molumby, seconded by Jirsa, to approve the Plat. Roll call vote: Larson – aye, Molumby – aye, Jirsa –aye, Osterloo – aye, Genzlinger – aye, Sonne –abstain, Penney– absent. 5 aye, 0 nay, 1 abstain, 1 absent, motion carried.

8. Plat: Plat of Tract 1 in the West 626.84 feet of Lot 5 of Crane's Addition, in the SE ¼ of Section 34, T 103 N, R 60 W of the 5<sup>th</sup> P.M., City of Mitchell, Davison County, South Dakota; as requested by Ronald and Melisa Riggs. The applicant was not present to answer questions.

Jenniges explained this is outside of city limits but within the ETJ so it is the cities zoning jurisdiction. It is within 3 miles of the city so the county will also hear this plat. The applicants purchased the west 626.84' a few months ago and built a house on it and the location being plated is the location of the house that was built.

Motion by Genzlinger, seconded by Sonne, to approve the Plat subject to county approval. Roll call vote: Larson – aye, Molumby – aye, Jirsa – aye, Osterloo – aye, Genzlinger – aye, Sonne – aye, Penney – absent. 6 aye, 0 nay, 1 absent, motion carried.

9. Variance: Carey & Darlene Buhler have applied for a Variance Permit for an attached garage and accessory building combination of 2,160 square feet vs 2,000 square feet and maximum height for an accessory building of 30' vs 22'; located at 600 Greenridge Lane, legally described as Lot 3, Block 2, Greenridge Addition, City of Mitchell, Davison County, South Dakota. The said real property is zoned R1 Single Family Residential District. The applicant was not present to answer questions. Notices were sent out to the neighbors and it was published in the official newspaper with no responses in favor and two letters opposed and one verbal opposed. There were 7 letters sent out.

Ryan Huber spoke against the variance. He said the height is too tall and will sneak out above the trees. He stated there are also covenants on the 8 lots in that development which he knows the city does not enforce. Concerned of living quarters being put in the second floor.

Jenniges stated R1 only allows for one dwelling unit per parcel and the building permit portion would restrict this.

Molumby said he received several calls against the variance. He has issues with the tin roof and height of the garage.

Osterloo questioned if it was in the front yard and public works decided it was not do to the lot configuration. Neighbor to the west has the same layout of a garage on the side yard. Osterloo questioned if the applicants could parcel off the garage if any variances would be needed to which was answered no.

Motion by Sonne, seconded by Jirsa, to table the variance for more information from the property owner. Roll call vote: Larson – aye, Molumby – aye, Jirsa – aye, Osterloo – aye, Genzlinger – abstain, Sonne – aye, Penney – absent. 5 aye, 0 nay, 1 abstain, 1 absent, motion carried.

10. Variance: DLJ LLC has applied for a variance of approximately 867 feet vs 1,000 feet as required to be from another medical cannabis dispensary, located at 501 E Juniper Ave,

legally described as Lot S-3A Ex E 63' in the Replat of Lot S in the NW ¼ of Section 27, T 103 N, R 60 W of the 5th P.M., City of Mitchell, Davison County, South Dakota. The said real property is zoned HB, Highway Business District. The applicant was not present to answer questions. Notices were sent out to the neighbors and it was published in the official newspaper with no new responses in favor and two new opposed.

Jenniges explained there is approximately 867' from an approved medical cannabis dispensary to the property line of DLJ LLC's location. The ordinance was amended and calls for 1,000' from an existing medical cannabis dispensary including rights-of-way.

Nickolas Kummer spoke in opposition of the variance. He is a owner of a neighboring property. He believes the variance should stay from property lines to property lines and not door to door like expressed at a council meeting. The distance between the two dispensaries is only 30 seconds driving and is either a right or a left turn off Burr St. There are already a high concentration of dispensaries within ¾ of a mile on the south side of town. He feels this will be a negative impact on the neighborhood.

Doug Daily representing Lori K Kummer Trust and Phil Lee spoke in opposition of the variance request and asks the commission to uphold the intent of the zoning ordinance. He stated when the City Council amended the ordinance they could have changed the distance or location of measuring at that time and they did not even knowing there was another application on the table. He stated there are three other dispensaries on the same corridor and no hardship has been shown to grant the variance. He believes there are other options and locations in town.

Osterloo stated he liked the new property line to property line amended ordinance and not in favor of potential door to door. He would like to keep the distance at 1,000' and Genzlinger agreed.

Motion by Genzlinger, seconded by Osterloo, to deny the Variance. Roll call vote: Larson – aye, Molumby – aye, Jirsa – aye, Osterloo – aye, Genzlinger – aye, Sonne – aye, Penney – aye. 6 aye, 0 nay, 1 absent, motion carried.

11. Conditional Use Permit: Genesis Farms LLC has applied for a Conditional Use Permit for a medical cannabis dispensary at 106 W 5<sup>th</sup> Ave, legally described as Lots 11 and 12, Block 12, Rowley's 1st Addition, City of Mitchell, South Dakota. The said real property is zoned CB Central Business District. The applicant was present to answer questions. Notices were sent out to the neighbors and it was published in the official newspaper with two new responses in favor and the two new responses against.

Jenniges explained GIS and site layout. Per ordinance medical cannabis dispensaries are a Conditional Use Permit in Central Business.

Emmet Reistroffer representing Genesis Farms LLC gave a background of their company and plan. This is 1.6 miles away from the nearest dispensary. The south end of town is already saturated in his opinion. They are looking at other locations but those would be

closer to residential than the current application. Remodeling an existing location is \$100,000 to \$200,000 whereas building from the ground up would be two to three times as much. This will not be a blighted area and will work with the landlord to keep up the property. Installing of 24/7 cameras on the exterior of the building will actually deter crime. They have rules to follow so they don't lose their license so they make sure cardholders follow the rules. The business people associated with this LLC have a 100% track record with the state for cannabis and with their liquor licenses have never had issues before either. He stated Central Business District is to support retail and integrate new businesses in the area. He stated Sioux Falls just removed places of worship within commercial districts from their distance requirements because they are popping up all over and not just in residential areas anymore, even at Shenanigans a church meets.

Brenda Weisser, an owner of a business next door, stated her opposition to the conditional use permit. She believes there are churches to close. She also already has issues with parking in front of her business.

Motion by Osterloo, seconded by Genzlinger, to approve the Conditional Use Permit. Roll call vote: Larson – nay, Molumby – aye, Jirsa – aye, Osterloo – aye, Genzlinger – aye, Sonne – aye, Penney – aye. 5 aye, 1 nay, 1 absent, motion carried.

12. Variance: Genesis Farms LLC has applied for a variance of 101 feet vs 300 feet as required to be from religious institution, located at 106 W 5<sup>th</sup> Ave, legally described as Lots 11 and 12, Block 12, Rowley's 1st Addition, City of Mitchell, South Dakota. The said real property is zoned CB, Central Business District. The applicant was present to answer questions. Notices were sent out to the neighbors and it was published in the official newspaper with two new responses in favor and one new response against.

Nathan Weber asked the commission to deny the application. He stated the council had time to change the ordinance when they took out rights-of-way and they did not take out churches from the 300' restriction. Word of Life Church is a place for 7<sup>th</sup>-12<sup>th</sup> grade kids to hang out. He also stated Big Friend/Little Friend is right next door to the proposed location.

Motion by Larson, seconded by Osterloo, to deny the Variance. Roll call vote: Larson – aye, Molumby – aye, Jirsa – aye, Osterloo – aye, Genzlinger – aye, Sonne – aye, Penney – absent. 6 aye, 0 nay, 1 absent, motion carried.

13. Other Business-None.

14. Public Comment-None.

15. Chairperson Larson adjourned the meeting at 12:49 P.M.

  
Jay Larson

Planning Commission Chairperson

03-28-2022