

# BUCHANAN COUNTY PLANNING AND ZONING

St. Joseph, Missouri

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**James Whitson, Chairman**  
Steve Reardon, Vice - Chairman  
Johnaphine Fenton, Secretary

## MINUTES OF THE BUCHANAN COUNTY PLANNING AND ZONING COMMISSION

**July 10, 2019**

The Chairman, Jim Whitson, called the Buchanan County Planning and Zoning Commission meeting to order at 7:00 p.m. in the Thomas J. Mann III Room # 223. This room is located on the 2<sup>nd</sup> floor of the Buchanan County Courthouse, 411 Jules Street, Saint Joseph, Missouri, 64501.

Wayne Dale Barnett, Fred Corkins, Scotty Paul Sharp, Glen Frakes, Shirley Day, Rodney Fry, Pat McLear, Alfred Purcell, Steve Reardon, Johnaphine Fenton, Rosan Bowers, and Chairman, Jim Whitson, were the Board Members present for roll call.

Also present were Chad Gaddie, Legal Counsel, Scott Burnham, Eastern District Commissioner and Denise Embrey, Planning and Zoning Director.

The minutes from the June 12, 2019 meeting were not presented at this time. They will be presented at the August 14, 2019 meeting.

### AGENDA

**ITEM # 1 – A Conditional Use Permit request by Tower Bend to place one (1) Single Family Dwelling on a five (5) acre m/l parcel located at 11710 SE Castile Drive, Edgerton, MO, 64444 in Section 19, Township 55, Range 33.**

### REPRESENTATION OF REQUEST

**Brooks Brown, 1321 Burlington RD, Suite 100, Kansas City, MO 64116:** Mr. Brown expressed his desire to sell this five (5) acre parcel since it is the last remaining tract on SE Castile Drive, even though the required acreage is ten (10) acres.

**Jim Connors, 1007 E. St. Maartens Drive, St. Joseph, MO 64506: 321 Burlington RD, Suite 100, Kansas City, MO 64116:** “I am with Berkshire Hathaway Home Services in St. Joseph. I am the realtor that is representing the Pflugradts. The plan is a 2,926 square foot, 4 bedroom house, 2 bath house that they are planning on putting up here.” He then passed out several copies of the house plan and explained Lindsey was a

teacher right now in the Smithville School District and Jason worked for the railroad and is a voluntary fire fighter. "This will be for their use. It will be their forever home."

Mr. Whitson, Chairman, then asked for any questions from Mr. Connors about the house from the Commission. With none presented, he then called for any opposition to this request.

## **OPPOSITION**

**Craig Hiatt, 11845 SE Castile Drive, Edgerton, MO 64444:** "I am here to represent a group of folks regarding this request. We don't have a problem with the people or what they do or anything. The bottom line is when we bought these lots some fifteen years ago, we were all under the understanding that you folks had zoned and given special permission for ten acre parcels at Castile Estates. It's rural, it never was developed completely. I don't know if it has even been an official subdivision."

Denise Embrey, Director, interjected that it is not a subdivision.

**Craig Hiatt:** "It was presented originally with that in mind. That is my understanding. This particular lot is, like you said, half of (tract) 9. Our question is, why is five acres available when you guys gave permission to sell ten acre parcels to build houses on and that was a requirement for a building permit. Now, all of a sudden, that five acres, we've known about this for a while, as far as (tract) 9 was divided after you guys gave them permission to build a house which I don't think is the spirit of what the Zoning Board had in their mind when they went from 20 acres down to 10 acre parcels."

Mr. Hiatt was then asked to point out his parcel on the map by Jim Whitson, Chairman.

**Mr. Whitson, Chairman:** "Just for a little clarification, back when this was done, it did not get approved for a subdivision and at that time 10 acres was what you needed to build a house on without having to come before the Zoning Board. Now that is 20 acres. You can build a house on anything down to 2 acres, but you have to come before the Planning and Zoning Board. That's what this is. That's why it has come to us because it is under the requirement."

**Craig Hiatt:** "I was here approximately 5 or 6 years ago when the Pace requested a leniency because theirs was right at 9 acres. At that time, this Board assured me that this would not be an issue, because we bought enough at that time, because they were actually listing these as 2 to 5 acre parcels for the whole time I have been there. I was assured at that time that we would not have to deal with this, that we would hold onto the integrity of what we were told originally and that was that these were 10 acre parcels."

**Pat McLear: Board Member:** "Who told you that?"

**Craig Hiatt:** "This Board. It's in the minutes."

**Jim Whitson, Chairman:** "It's in the minutes. We have the minutes of the April 10, 2013. There in the last two paragraphs all of this was addressed."

**Craig Hiatt:** "We are a little confused on several adjustments. We are not experts on how those lines are drawn. One of the issues with this from the get go, the lots were marked off in front. No sides were indicated as far as physical indicators, where the back of the lots were, none of that was made available. We were kind of trusting in what we were looking at. But, the one thing we were told from the get go was that this was 10 acre parcels, and for one reason or another that's changed over time by a little bit. Five acres creates another problem. I would anticipate if you guys approve this, there are two other pieces of property and they are about 3 acres, or something of that nature that were originally indicated as 'green space' as you know is required in a

subdivision. Since this is not an official subdivision, you will be addressing that issue shortly too. That would be my guess. That's speculation on my part."

Jim Whitson, Chairman, then asked for any questions from the Board.

**Pat McLear: Board Member:** "You said you represented a group. I want to know how many different lot holders there are over there?"

It was determined there were 4 different lot holders in attendance.

**Craig Hiatt:** "We met last Friday and everybody that we had names for were at that meeting. Everybody that was at that meeting and were in agreement with what I share."

Jim Whitson, Chairman, then asked again for any more questions for Craig Hiatt.

Kevin Pace, 11705 SE Castile Drive, Edgerton, MO 64444 talked about the incorrect acreage amounts in this area and the taxes. "I was told, because I was the last one that got the last lot of 9.7 acres that was part of this. No one with less than nine (9) acres was going to be allowed. Unfortunately, the gentleman back here was told he had to buy ten (10) acres, no ifs ands or buts. That was from the realtor. Otherwise, you are going to be going up against the Board here and there will be a lot of grievances. Our problem is you guys indicated one thing and now Brown is trying to sell this five (5) acres plus the other two (2) acres. Where do we stand? The last thing I am going to comment on, based on the permit, it could not be less than ten (10) acres. So, I hate for these people that are trying to buy this, they are going to get burned."

Johnaphine Fenton, Board Member, inquired if there had ever been any surveys done for all this property. Several homeowners from the audience said they had. Jim Whitson, Chairman, replied that he was sure everybody got a survey if they had borrowed money to build a house or buy a lot.

Kevin Pace, homeowner, commented that before we signed on the dotted line they got a survey. The realtor and everything, they say one thing and then they do something else.

**Shirley Day: Board Member:** "I need a clarification. Jim, the Zoning Board doesn't have anything to do with identifying how many acres are actually in the tract?" Jim Whitson, Chairman, responded 'no.' He went on to say the Board had nothing to do with the taxes. That comes from the Assessor's Office. Shirley Day, Board Member, commented she wanted to make sure as well, the Board had any say in what a person could sell off of their tract.

Jim Whitson, Chairman, then asked if anyone else wanted to speak in opposition and for any further comments from the Commission.

## REBUTTAL

**Brooks Brown:** "I would just like to address a couple of things about the two (2) and three (3) acres that they were talking about. They adjourn another ten (10) acre tract, so that won't be back before you guys. They are not land locked. Basically, the first tract that was sold with a house was five (5) acres. Gene Buzzard did all the surveying and he filed that plat with Buchanan County. So everything has been surveyed. I have been paying taxes on five (5) acres, so I think that is more of a GIS issue rather than the tax. I just wanted to clarify this."

Jim Whitson, Chairman, then asked for any comments from the Commission. Hearing no comment, the hearing was called closed and roll was called to vote on Item # 1.

## DECISION OF THE PLANNING & ZONING COMMISSION

**Wayne Dale Barnett:** “No – Prior Zoning.”

**Fred Corkins:** “Yes – I don’t think the ground is good for anything else.”

**Scotty Paul Sharp:** “Yes – (Inaudible).”

**Glen Frakes:** “No – Prior Zoning Issues.”

**Shirley Day:** “No – Prior Zoning.”

**Rodney Fry:** “No – Prior Zoning.”

**Pat McLear:** “No – Same Reason.”

**Alfred Purcell:** “No – Same Reason.”

**Steve Reardon:** “No – Prior Zoning.”

**Johnaphine Fenton:** “No – Prior Zoning.”

**Rosan Bowers:** “No – Prior Zoning.”

**Jim Whitson:** “Yes – Best Use.”

Jim Whitson, Chairman, announced Item # 1 did not pass and an appeal could be filed with the Zoning Adjustment Board. You would need to contact Denise regarding the process.

Jim Whitson, Chairman, asked the Director for any other discussion. She responded there was an Item but it was not on the Agenda.

Scott Burnham, Eastern District Commissioner, gave an update on the Wind Turbines. He believed the item would be ready for the August 14, 2019 meeting.

Jim Whitson, Chairman, then asked for anything further from the Commission. A motion was made and seconded to adjourn the meeting. This motion was recalled since the Director announced there was a gentleman who would like to speak.

**Lowell Hartell, 11115 Buena Vista, Dearborn, MO 64439:** “I am a businessman in St. Joseph. I have some businesses here. I represent a group that has applied for licenses for Medical Marijuana in Buchanan County for cultivation, processing and dispensing. I have spoken to Denise a few times regarding the zoning and we kind of wanted to inform you guys of what is going on. I assume you all know what is going on in the Medical

Marijuana world these days. There are applications being submitted and we just wanted to get in front of you guys and speak to you and get your thoughts.”

**Chad Gaddie, Buchanan County Attorney:** “I think it is okay for you to discuss this, but we cannot have a discussion about this or counter act because it is not on the Agenda and there hasn’t been any notice of a Public Hearing. All we can do is just listen.”

**Bryant Lamer, Attorney:** “We feel like we are zoned properly. This will be a cultivation facility for Medical Marijuana that will be legal January 1, 2020. We are seeking licenses with the State. Part of our diligence is figuring out if we are in compliance with local laws. I think we are.”

A rendering of the cultivation facility was displayed. Mr. Lamer explained it was a highly secure facility with a big fence, 24 hours a day with redundancy. A super safe place for a reason because it’s expensive property in there.

**Bryant Lamer, Attorney:** “The real thing that we wanted to do is make you all aware of it, not have to meet individually and be available to answer any questions you might have. We feel real strongly about this. It’s not a typical business but, they have passed the law and times have changed a little bit. We think that it will be a good product. The revenue on this is substantial and job creation is also substantial. We look to create around 30 full time jobs here. The revenue will be about ten million dollars a year. Those are good things. We have infrastructure improvements on that parcel of land that is owned by Lowell. That’s going to be about six and a half or seven million dollars worth of construction and have some other utility improvements go along with that. Those are the high points. We are safe, we are secure, we are going to be compliant. We’ve got to follow State laws. If we don’t all the money that we have invested and our investors lose their money if they pull our ticket. I think it will be good for the community. It’s going to create jobs, there’s not going to be a lot of traffic out there. It’s a quiet place and we chose it for a reason. It’s going to be super secure.”

**Chad Gaddie, Buchanan County Attorney:** “To offer some background on this, it is my understanding that the State has a website and applications are open from August 3rd through August 17<sup>th</sup>. After that, the State has to rule on all those applications within 150 days. If you have any desire, you can go online or get a digital copy from Denise, but the State has published a set of regulations for all of the facilities. There’s a set of regulations for cultivation facilities, dispensing facilities and testing facilities. I believe you can vote to amend our regulations that are more lenient than this, but I don’t think you can have regulations that are stricter.”

A motion was made to adjourn again. It was seconded and the meeting was adjourned at 7:30 p.m.

*Denise K. Embrey*  
*Director of Planning + Zoning*