

# CLAY COUNTY PLANNING AND ZONING COMMISSION MINUTES

**April 5, 2016**

Regular meeting of the Clay County Planning and Zoning Commission, Commission Hearing Room, 3<sup>rd</sup> Floor, County Administration Building, One Courthouse Square, Liberty, MO.

Call to Order at 6:30 pm.

Roll Call

Members Present: Mark Beggs, Jim Carlson, Duane Jackson, Tom Decker, and David Rhodus

Members Absent:

Staff Present: Kipp Jones, Planning and Zoning Manager  
Debbie Viviano, Planner  
Kevin Graham, County Counselor  
Andy Roffman, Assistant County Counselor  
Angie Stokes, Secretary

**Mr. Beggs:** Good evening everyone, I would like to welcome everyone to the April, 5<sup>th</sup> meeting of the Clay County Planning and Zoning Commission, roll call please.

**Mr. Jones:** Duane Jackson?

**Mr. Jackson:** Here.

**Mr. Jones:** David Rhodus?

**Mr. Rhodus:** Here.

**Mr. Jones:** Jim Carlson

**Mr. Carlson:** Here.

**Mr. Jones:** Tom Decker?

**Mr. Decker:** Here.

**Mr. Jones:** Chairman Mark Beggs?

**Mr. Beggs:** Present. A few housekeeping items I want to mention to you this evening we are recording the meeting tonight, anyone who speaks we ask that you step over to the microphone, state your name and address, make your comments and that way we can keep track of who is saying what. With that said we will move on to our regular agenda, the first case tonight is April 16-103RZ which is a request for rezoning from Residential Rural (R-1) District to Agricultural (AG) District approval for a parcel described as 31+ acres located at approximately 7803 NE 160<sup>th</sup> Terrace, the applicants are Rodney and Susan Wilson. Is there representative of the applicants? Okay.

**Mr. Jones:** Did you want to get the minutes, Mark?

**Mr. Beggs:** Oh yes, I am sorry; we'll just go through with this and get the minutes at the end.

**Mr. Jones:** We would like to add the staff reports as part of the record.

**Mr. Beggs:** So be it.

**Mr. Jones:** Summarized the staff report April 16-103RZ dated April 23, 2016. I would like to let the Commissions know that we did receive a letter of opposition on Monday and it is not part of your packet we have it here tonight and I believe Mr. Lanning is here to speak as well. We will be happy to answer any questions you may have. And we do have the property up on the screen if you want to see the relation to that, I believe that property is the Lanning's.

**Mr. Beggs:** It's there, okay.

**Mr. Jones:** And this is the property that Mr. Lanning refers to in his letter and then this is the property that is requesting the rezoning.

**Mr. Rhodus:** Is it all a part of the same parcel?

**Mr. Jones:** They are all different parcels, this parcel here, this is one parcel, this is one parcel, and this is another parcel.

**Mr. Carlson:** Under the same owner?

**Mr. Jones:** No, this is Mr. Lanning that is here tonight, this is owned by a Mr. Chip Brooks and this is the Wilson's here. And when we refer in the staff report to the property that maybe added that is one of the reasons they would like to rezone this piece here. This is the parcel that may be eventually added to the rezoned parcel here or a portion of the acreage I don't know how much of that, but that is not part of this application but it is referred to in the staff report.

**Mr. Beggs:** So the property to the southwest corner what does that say right there?

**Mr. Jones:** R-1.

**Mr. Beggs:** That's R-1.

**Ms. Viviano:** That would not be part of this.

**Mr. Jones:** Yes that is not part of this.

**Mr. Beggs:** Okay, so the surrounding, I am looking at the existing Attachment B just to see what the surrounding zoning is, the property due north of that what is the zoning on that? Those two parcels.

**Mr. Jones:** These are AG, agricultural.

**Mr. Beggs:** Those are AG?

**Mr. Jones:** Yes everything here is agricultural and in the yellow is R-1.

**Mr. Beggs:** Okay.

**Mr. Jones:** We can go out further if you would like?

**Mr. Beggs:** Yes, just pull back a little bit, I just want to see.

**Mr. Jones:** This is Linda's Meadows that is referred to in the staff report.

**Mr. Beggs:** So everything that is in yellow up there is R-1?

**Mr. Jones:** Yes sir.

**Mr. Beggs:** So just like what is on Attachment B? So the tan that is shown on Attachment B is basically AG?

**Mr. Jones:** Agricultural, yes.

**Mr. Beggs:** Commission do you have any questions for Staff?

**Mr. Carlson:** I have one, I don't live too far from there and I know on my plat is recorded; I cannot have hogs, has that been considered?

**Mr. Jones:** These are un-platted pieces at this point.

**Mr. Carlson:** So we can't, so they are wanting to rezone this agricultural.

**Mr. Jones:** They are wanting to rezone to agricultural, yes.

**Mr. Carlson:** Can you put a stipulation on to protect the neighborhood?

**Mr. Jones:** I might reach out to Andy or Kevin on that one. Can they put a...

**Mr. Beggs:** He wants to put a deed restriction on that parcel restricting raising a feedlot type operation on it?

**Mr. Graham:** I would advise against that, the neighborhood has an AG use.

**Mr. Beggs:** I mean everything else around there is AG, it's surrounded it's touched by R-1 to the south and to the west but everything else around it is AG, so there would be nothing from stopping anybody else from coming in and building or doing that kind of operation anywhere else.

**Mr. Carlson:** There are a lot of farms around there, I just think it's a shame to live in a subdivision and have a hog farm pop up next to it.

**Mr. Beggs:** Any other questions for staff? Can I have a representative for the applicant come forward please? State you name and address for the record.

**Mr. Wilson:** Rodney Wilson, 16207 Short Lane, Smithville.

**Mr. Beggs:** Are you familiar with the staff's report?

**Mr. Wilson:** Yes.

**Mr. Beggs:** And any conditions that they attached?

**Mr. Wilson:** Yes

**Mr. Beggs:** Actually there are no conditions on this, so you are in agreement with the staff's report and understand everything, any questions for staff? Okay, does Commission have any questions for the applicant?

**Mr. Decker:** I have one question, does Mr. Wilson do you own any property that adjoins the 30 acres that you are rezoning?

**Mr. Wilson:** No, I can see it out my kitchen window; Jim Carson built the house about 17 years ago.

**Mr. Decker:** Do you presently own the property, this 30 acres?

**Mr. Wilson:** Yes.

**Mr. Decker:** What is your intention? Row crop it?

**Mr. Wilson:** No I have been baling it for about 15 years already, while Freddy's owned it but I want to buy the other 31 acres off the back of Chancellor's because that is where the deer go, so that is the main deal.

**Mr. Beggs:** Any other questions? Okay thank you. I will open up the floor for public comment.

**Mr. Lanning:** Mr. Chairman, members of the Planning and Zoning Commission my name is Richard Lanning and my wife Mary Pat and I reside at 8407 County Road E, Smithville, MO since 1991, I would like to say that I also have an Ag Business degree and most of the lawsuits in the State of Missouri are farmers against farmers for feedlots and so I promise you if the Brooks Feedlot was in your backyard, 650 feet from your house you'd have a problem, I promise you that. And so really what I am up here is to try and prevent that situation from happening again and Clay County does not have any regulation to prevent that in agricultural zoned property, the State of Missouri doesn't have it. You know I would also like to mention that I am president of NT Realty and Northtown Devco, one of the largest commercial and industrial property owners and tax payers in this county. We own over 60 buildings comprised of 3.2 million square feet in North Kansas City occupied by over 250 regional and national businesses. Our industrial properties are more highly regulated than agricultural zoned property. Mr. Wilson was aware that the property was zoned residential rural when he purchased the property, rezoning could not have been a contingency under his purchase contract, he has already closed and owns the property so he knew this going in, until the County make substance changes to its current zoning ordinance I urge you not to approve the rezoning from residential to ag, there is no reason to do that, Clay County is too densely populated around this; this is absolutely ruined my life, I cannot tell you how much this has ruined my life, I have no quality of life, I can't go outside, I haven't opened my windows in three years I have to go up my driveway with the car on recycle, I can't have fresh air coming in I have to go into my garage and can't go out of my house, my wife's in tears every night, my kids have every known allergy known to man there's no reason to do this, that's all I have to say.

**Mr. Beggs:** Thank you, any other comment from the public? Okay I am going to close it to public comment. Any discussion from the Commission?

**Mr. Decker:** I guess I am a little confused as to where the feedlot is?

**Mr. Beggs:** Can you point that out.

**Mr. Jones:** Well, there is not a CAFO, so the State of Missouri has said there's; the State of Missouri decides if there is a CAFO and there is not that, there is an animal feeding operation, they classify it as animal feeding operation which will be that one right there (*pointing to it on the map*).

**Mr. Decker:** Where is Mr. Lanning's property to this?

**Mr. Jones:** Mr. Lanning's property is right there.

**Mr. Carlson:** What are those two roads?

**Mr. ?:** E Road.

**Mr. Decker:** Can I ask one more question for Mr. Wilson?

**Mr. Beggs:** Sure, Mr. Wilson can you come back up to the podium please, just state your name and address one more time.

**Mr. Wilson:** Rodney Wilson, 16207 Short Lane, Smithville.

**Mr. Decker:** Mr. Wilson you indicated you currently own the property and have been haying it for 15 years and that your intentions are to buy the next piece of property to the east where the deer are.

**Mr. Wilson:** Yes, in fact to the south of it, right there, take a piece of the back of James'.

**Mr. Decker:** What is the benefit of rezoning the property AG if you have been haying it for 15 years and that is your intention for it .....

**Mr. Wilson:** Because Debbie told me I have to that to be able to buy the other piece of property.

**Ms. Viviano:** If I could speak to that, if the Commission would allow me.

**Mr. Beggs:** Please.

**Ms. Viviano:** In our zoning Chapter Eight of our rezoning, in reference to exemptions to the subdivision a transaction between owners of adjoining un-platted property which involves only changing the boundary, this is a un-platted piece and the property to the south is an un-platted piece which is over a hundred acres, so if Mr. Wilson has that, okay I am going to read further in the

exemptions it says; if transactions between owners of adjoining un-plated property which involves only the transaction of the boundary between the land owned by such persons provided no additional tracts are created and such tracts comply with the lots size and setback standards of the underline zoning district. What Mr. Wilson had in mind what he wants to do was take a piece and actually the piece that he is wanting is floodplain, and I can go over and turn the floodplain on for you and I can show you, he wants it as hunting and he wants to go and I will show you on the map. What he would like to do is take a line, I believe, Mr. Wilson can confirm this if I am speaking wrongly here. He wants to go about in this area...

**Mr. Wilson:** Yes ma'am.

**Ms. Viviano:** ...and we want him to go from there and this is mostly all floodplain and I can turn that on for you, Commissioners, so you can see that, yes see this is floodplain in here and that floodplain will allow, it's good hunting ground in there as Mr. Wilson has told you and he would like to add that piece and you can see that this parcel here which was at one point was going to be part of Short Lane Acres years and years and years ago, it's about 110 acres so he would be able to take that portion of that acreage and add it to his 30 some acres that he has here now and be able to use it as hunting grounds.

**Mr. Jones:** So basically there is an exemption in the Land Development Code if..

**Ms. Viviano:** Yes, to allow him to do that as..

**Mr. Jones:** If it is rezoned.

**Mr. Beggs:** Exemption for?

**Mr. Jones:** From the Subdivision Regulations.

**Mr. Beggs:** Okay.

**Mr. Carlson:** Mr. Wilson would you entertain an idea of restrictions on the piece of property so that it's just hunting? I can see that it's very difficult to farm that.

**Mr. Wilson:** The ditches are pretty good size on that piece back there.

**Mr. Carlson:** That would solve a lot of problems if we could do that.

**Mr. Wilson:** I do not plan on doing anything back there so.

**Mr. Beggs:** You are talking about putting a deed restrictions for no feedlots, what does Missouri Stated call it? Animal Feeding Operation?

**Mr. Jones:** Confined Animal Feeding Operation, it's determined by the number of animals.

**Mr. Beggs:** So to do that he would also have to confine the number of animals if you are going to go down that path.

**Mr. Carlson:** Well I would say he would just go with the subdivision adjacent to that allows I am sure they allow horses.

**Mr. Jones:** I am sorry what is the question?

**Mr. Beggs:** He is wanting to use the same CCR's that are in effect for the subdivision applied to this tract of ground.

**Mr. Jones:** So animals are allowed on R-1 zoned land.

**Mr. Wilson:** I've got them now or had my horses at one time.

**Mr. Jones:** You have to have three continuous acres but on Agricultural zoned land 20 plus acres we do not limit the number of animals but on residential zoned we do. There are tables in the Land Development Code that limit those numbers.

**Mr. Beggs:** To do that he would have to rezone that chunk that he wants to R-1 instead of rezoning the property he already owns to AG to get to that type of restriction.

**Mr. Jones:** It would have to be rezoned to R-1 to meet those restrictions, yes.

**Mr. Decker:** For Mr. Wilson to hunt how many acres does he need?

**Mr. Jones:** We don't control that.

**Mr. Decker:** So he can purchase the land to the south with the contingency that is it zoned R-1, then there are all the restrictions that Mr. Laning is looking for and Mr. Wilson has no desire to.

**Mr. Beggs:** I would like to interject something here, I know Mr. Laning wants to try to protect what is going on around his house but in essence he is surrounded by AG, so carving out that small chunk, how many acres are we talking on that piece that Mr. Wilson wants to purchase?

**Mr. Wilson:** About 30 or 35.

**Mr. Jones:** Just another 30 acres, so carve out 30 acres out of the thousand acres that is around him and make him jump through hoops to make that R-1, I think is, I don't see the logic there because it's AG everywhere else around him.

**Mr. Carlson:** The property to the left of his property is, I would assume those are lots?

**Mr. Wilson:** They all have houses on them, there are eight houses right there.

**Mr. Carlson:** That's a subdivision.

**Mr. Beggs:** But everything to the...

**Mr. Carlson:** And that is adjacent to the property.

**Mr. Beggs:** Yes but that's one side of the three, he is surrounded more by AG than he is by R-1 in my opinion and if we are talking about trying to protect or get some restriction so Mr. Lanning doesn't have another animal feed operation.

**Mr. Lanning:** It's not just for me it's for everybody.

**Mr. Beggs:** Well, in any case there is Ag, if you are living up there in northeast corner, there is Ag all the way around you and to carve out that small piece and make it be R-1 to me it just seems like an incredible amount of work for very little benefit to everyone around you...

**Mr. Lanning:** Well then let me ask a question...

**Mr. Beggs:** Just a second let me finish, we will ask for comments here in just a minute, so I want to throw that out to the Commission. That is how I see what's going on and I hate to put more restrictions on a landowner, I mean if he is going to own and buy that piece of property he should have the right to do kind of what he wants to do and I don't think we should be putting further restrictions on people. If they are going to buy it, they are going to own it, they are going to control it. They ought to be able to do what they want to do on it, as long as they are living within the Land Development Code, living within the zoning I just have a hard time putting additional restrictions on anybody that wants to buy ground and control it. I will throw that out, I am open to discussion on it but that is kind of my feeling on it.

**Mr. Rhodus:** When you live out in the county you run into that.

**Mr. Carlson:** I agree and I don't say that he has the right to do whatever he wants to, I think just by the topography of the ground I don't think we would have to worry too much about a feedlot and so *(inaudible)*

**Mr. Beggs:** Any other questions for Mr. Wilson?

**Ms. Viviano:** Did Mr. Wilson want to speak to maybe what he might want to be wanting to do for his daughter in the future?

**Mr. Wilson:** I plan on surveying five acres out the northwest corner to give my daughter *(inaudible)*

**Mr. Beggs:** Of the original R-1 tract?

**Mr. Wilson:** The original piece.

**Ms. Viviano:** So that would be coming in the future.

**Mr. Wilson:** And depending upon I plan on building a house over there too so you don't have to worry about a feedlot, I want the other piece because 98% of wanting to *(Inaudible)*

**Mr. Lanning:** If you could personally guarantee that I will take that...

**Mr. Beggs:** We need all the comments ...

**Mr. Wilson:** *(Inaudible)*

**Mr. Beggs:** Gentlemen, we need all the comments to be directed toward the Commission. I will give you a chance to talk, any other comments from the Commission? Okay thank you, I am going to let Mr. Lanning come up and add a question or two.

**Mr. Lanning:** So the question is does Mr. Wilson own that lot right now to the south?

**Mr. Wilson:** No, not yet.

**Mr. Lanning:** Does he have it under contract?

**Mr. Wilson:** No, verbally.

**Mr. Lanning:** He does not have it under contract so there is no reason to approve this, this is all because he wants to buy that property there is already restrictions on the 31 acres that he owns there is no reason to lift those restrictions as there is no reasons to put additional restrictions on Ag property but I can tell you that it brings up a good point if you look at that watershed and that floodplain all the drainage from the feeding operation is going straight into that and straight into Smithville Lake, that's all I've got to say.

- Mr. Beggs:** And I would suggest if you have concerns about that I would get a hold of Missouri DNR because they would be the ones that would be interested in that.
- Mr. Jones:** Staff has done that.
- Mr. Beggs:** Staff?
- Mr. Jones:** Staff contacted DNR.
- Mr. Beggs:** Okay, so somebody is looking at that? Any other discussion? With that said I will entertain a motion.
- Mr. Decker:** I will make a motion to approve the rezoning for 31.33 acres that Mr. Wilson owns from Residential (R-1) District to Agricultural (AG).
- Mr. Carlson:** I'll second.
- Mr. Beggs:** Vote please.
- Mr. Jones:** Duane Jackson?
- Mr. Jackson:** Approve.
- Mr. Jones:** David Rhodus?
- Mr. Rhodus:** Approve.
- Mr. Jones:** Jim Carlson?
- Mr. Carlson:** Approve.
- Mr. Jones:** Tom Decker?
- Mr. Decker:** Approve.
- Mr. Jones:** Chairman Mark Beggs.
- Mr. Beggs:** Approve, motion carries.

**Final Vote: 5/0/0 Approve; April 16-103RZ; Rodney and Susan Wilson– Rezoning With zero (0) Conditions**

- Mr. Beggs:** Something I forgot to mention at the beginning of the meeting this Commission's role is to recommend to the County Commission so they take our recommendation and the County Commission actually votes on it, so the County Commission will be hearing this case on April 18<sup>th</sup> at 10 am in this room. So you can come and there will be public comment as well, so you can come and speak with that. Thank you, good luck on continuing on your case. Let's jump back for just a minute, to the February 2<sup>nd</sup> meeting minutes the Commission has had a chance to review those we need a motion to accept or amend.
- Mr. Carlson:** I would like to make a motion that we accept the minutes of February 2, 2016 Planning and Zoning Commission meeting.
- Mr. Beggs:** Very good, do we have a second?
- Mr. Decker:** I'll second.
- Mr. Beggs:** Vote please.
- Mr. Jones:** Duane Jackson?
- Mr. Jackson:** Approve.
- Mr. Jones:** David Rhodus?
- Mr. Rhodus:** Approve.
- Mr. Jones:** Jim Carlson?
- Mr. Carlson:** Approve.
- Mr. Jones:** Tom Decker?
- Mr. Decker:** Approve.
- Mr. Jones:** Chairman Mark Beggs.
- Mr. Beggs:** Approve, motion carries.

**Final Vote: 5/0/0 Approve February 2<sup>nd</sup>, 2016 Minutes**

- Mr. Beggs:** Moving back into our regular agenda, case number April 16-104RZ/P, this is a request for rezoning from Agricultural (AG) to Residential Rural (R-1) District with an Agricultural Land

Preservation (ALP) overlay district for ONLY Lot 2 and Preliminary Plat approval for the proposed subdivision of Third Day Farms of Rudder-Davis located at approximately 23000 NE 188<sup>th</sup> Street, the applicants are George and Suzanne Rudder. Is there a representative of the applicants here? Okay I will call you up in just a minute, staff have a report?

**Mr. Jones:** Yes, we would like to add the staff reports as part of the record.

**Mr. Beggs:** So be it.

**Mr. Jones:** Summarized the staff report April 16-104RZ/P dated April 23, 2016.

**Mr. Beggs:** Thank you, any comments or questions from the Commission to the staff?

**Ms. Viviano:** I can I make one comment from the back here; it doesn't look like lot 2 got on the aerial for some reason.

**Mr. Jones:** Lot 2 is just this, it's 11 plus acres.

**Ms. Viviano:** It is this area in there.

**Mr. Jones:** That will be divided of east of the lot.

**Ms. Viviano:** So for some reason it did not get on there, I will go pull something else that has it on there, it's not on the aerial for you.

**Mr. Jones:** You can look at attachment C, it shows the ...

**Mr. Beggs:** Is that the drawing that I am looking at, Attachment C?

**Mr. Jones:** Yes Attachment C in the packet will show it and it should show it on the plat.

**Ms. Viviano:** *(Inaudible)*

**Mr. Beggs:** Is a representative of the applicant here? I'll have you step forward and state your name and address for the record.

**Mr. Rudder:** George Rudder, 23000 NE 188<sup>th</sup> Street.

**Mr. Beggs:** Are you familiar with the Staff's report?

**Mr. Rudder:** Yes.

**Mr. Beggs:** Are you familiar with the conditions they put in the report?

**Mr. Rudder:** Yes sir.

**Mr. Beggs:** Okay and you are in agreement with the staff's report and conditions that we are considering?

**Mr. Rudder:** Yes.

**Mr. Beggs:** Okay, any questions from the Commission for the applicant?

**Mr. Carlson:** This is for one lot?

**Mr. Rudder:** The rezoning is for only Lot 2.

**Mr. Carlson:** And that is what we deal with first?

**Mr. Beggs:** Yes rezoning, okay thank you, I am going to open up the floor for public comment. Doesn't look like there is any, I am going to close the public comment, Commission any questions or concerns for staff or the applicant?

**Mr. Carlson:** No I will make a motion that we rezone from Agricultural to Residential Rural (R-1) with an overlay district for only Lot 2. Do I do the preliminary plat too?

**Mr. Jones:** Separate.

**Mr. Beggs:** What about the ALP?

**Mr. Jones:** That is included in the rezoning, yes.

**Mr. Beggs:** Do I have a second?

**Mr. Jackson:** Second.

**Mr. Beggs:** Vote please.

**Mr. Jones:** Duane Jackson?

**Mr. Jackson:** Approve.

**Mr. Jones:** David Rhodus?

**Mr. Rhodus:** Approve.

**Mr. Jones:** Jim Carlson?

**Mr. Carlson:** Approve.

**Mr. Jones:** Tom Decker?

**Mr. Decker:** Approve.

**Mr. Jones:** Chairman Mark Beggs.

**Mr. Beggs:** Approve, motion carries.

**Final Vote: 5/0/0 Approve; April 16-104RZ/P; Third Day Farms of Rudder-Davis–  
Rezoning  
With zero (0) Conditions**

**Mr. Beggs:** Related to that case is, or the Preliminary Plat, sorry, I will accept a motion for the Preliminary Plat.

**Mr. Decker:** I will make a motion that we approve the Preliminary Plat of Third Day Farms Rudder-Davis.

**Mr. Beggs:** Do I have a second?

**Mr. Rhodus:** Second.

**Mr. Beggs:** Vote please.

**Mr. Jones:** Duane Jackson?

**Mr. Jackson:** Approve.

**Mr. Jones:** David Rhodus?

**Mr. Rhodus:** Approve.

**Mr. Jones:** Jim Carlson?

**Mr. Carlson:** Approve.

**Mr. Jones:** Tom Decker?

**Mr. Decker:** Approve.

**Mr. Jones:** Chairman Mark Beggs.

**Mr. Beggs:** Approve, motion carries.

**Final Vote: 5/0/0 Approve; April 16-104RZ/P; Third Day Farms of Rudder-Davis–  
Preliminary Plat  
With one (1) Condition**

**Mr. Beggs:** Now we will move on to the last case which is related to the previous one which is a final plat. This is case number April 16-105F, this is a request for final plat approval of Third Day Farms of Rudder-Davis located at approximately 23000 NE 188<sup>th</sup> Street, applicants are George and Suzanne Rudder, staff do you have a report.

**Mr. Jones:** Yes, we would like to add the staff report as part of the record.

**Mr. Beggs:** So be it.

**Mr. Jones:** Summarized the staff report April 16-105F dated April 24, 2016.

**Mr. Beggs:** Okay any questions from the Commission to staff? Being none I will ask the applicant to step forward one more time, state your name and address.

**Mr. Rudder:** George Rudder, 23000 NE 188<sup>th</sup> Street.

**Mr. Beggs:** So we are considering the final plat which has some conditions attached to it, are you familiar with those conditions that are in the staff's report?

**Mr. Rudder:** Yes sir.

**Mr. Beggs:** Are you in agreement with those conditions?

**Mr. Rudder:** Yes.

**Mr. Beggs:** Okay thank you, any questions from the Commission for the applicant? Okay thank you, I will open the floor for public comment, there being none I will close the public comment period, any questions or discussion amongst the Commission? With that I will entertain a motion for the final plat approval.

**Mr. Decker:** I will make a motion to approve the final plat for Lot 2 for Third Day Farms of Rudder-Davis, with the conditions set forth in Exhibit A.

**Mr. Beggs:** I am going to ask you to amend that the final plat is for the entire tract not just Lot 2.

**Mr. Decker:** Okay for the entire tract.

**Mr. Beggs:** Okay do I have a second?

**Mr. Rhodus:** Second.

**Mr. Beggs:** Vote please.  
**Mr. Jones:** Duane Jackson?  
**Mr. Jackson:** Approve with conditions.  
**Mr. Jones:** David Rhodus?  
**Mr. Rhodus:** Approve with conditions.  
**Mr. Jones:** Jim Carlson?  
**Mr. Carlson:** Approve with conditions.  
**Mr. Jones:** Tom Decker?  
**Mr. Decker:** Approve with conditions.  
**Mr. Jones:** Chairman Mark Beggs.  
**Mr. Beggs:** Approve conditions, motion carries.

**Final Vote: 5/0/0 Approve; April 16-105F; Third Day Farms of Rudder-Davis– Final Plat With one (1) Condition**

**Mr. Beggs:** Again that will be considered by the County Commission on April 18<sup>th</sup> at 10 o'clock here in this room, thank you. I am going to direct the Commission attention to the monthly reports provided by staff see if you guys have any questions regarding those reports. None, any executive session information that we need to go over?

**Mr. Jones:** I was just going to add to the two previous cases MVP Estates from the previous meeting was approved by the County Commission and the Liberty Farm PUD was denied by the County Commission and if I could ask the Commissioners next meeting to bring your Land Development Code we have an update. If you haven't got an update for the floodplain we have some new code for the floodplain so if you could bring that next time that would be great.

**Mr. Beggs:** Sweeping change?

**Mr. Jones:** No not too bad, we got a new map, August 3<sup>rd</sup> of last year Clay County got a new floodplain map so people have been getting letters from their insurance and things like that, better in some places and worse in others.

**Mr. Beggs:** I did have a comment, last meeting I know it was kind of a circus that we had here attorneys showed up, but I would just like to encourage the Commission that because we will have this from time to time where people bring attorneys in I wouldn't get, we should listen to what that say but you should always listen to what they say with a grain of salt. Our staff they always look at these applications from a legal stand point we also have legal counsel as well that they talk to so just because we have a lawyer coming in and reads a bunch of stuff out of the Land Development Code you got to kind take it with a grain of salt. I know last meeting some the stuff the attorney gave a very good presentation but some of the stuff he was talking about really did not apply. I would say probably 80% of what he said did not apply so he was pulling stuff out of the subdivision portion of the code which really wasn't what we were doing last meeting. So just a comment we always listen to everybody but you got to kind of filter that as well.

**Mr. Jones:** And if you have questions about the Land Development Code please call we will be happy to meet individually if Kevin, I am assuming you are good with that?

**Mr. Graham:** Sure.

**Mr. Jones:** Okay.

**Mr. Beggs:** And I might add our job is not to defend either side when they bring it to us, so one side stands up and says quite a bit of stuff it is kind up to the applicant to bring that to the table and counter it with something when they don't it doesn't help us any, and the staff's job is not to defend it either. But if we have questions, if somebody says something and we are not quite sure we can always lean on staff for clarification they are probably more unbiased than, I mean they are unbiased so they would be the ones I would put more weight in, just a comment.

**Mr. Carlson:** I would agree with that, I think though that the applicant was leaning way to heavy on staff.

**Mr. Beggs:** Yes.

**Mr. Carlson:** I hate to say it but I think the attorney did an excellent job of explaining their case and he did not have an attorney so I think that was part of the loss.

**Mr. Beggs:** Yes I agree.

**Mr. Decker:** When does P&Z legal counsel get involved?

**Mr. Jones:** The Land Development Code specifically says that it's the applicant's, burden for them to prove their case, so we don't defend either side, we are here to answer any questions they have and if there is stuff that is not clear please ask we will try and clear it up. A lot of it, it's complicated we learn new stuff in the Land Development Code every day, just because there is so much there.

**Mr. Beggs:** And I think, you can correct me if I am wrong, I think most of the staff's counsel comes on the front end before it even gets to us. If they have a question on legalities whether this fits the code or not I assume you're getting advice from counsel before it even comes to us so I assume all that's been bedded out?

**Mr. Jones:** Yes and especially on a case like that.

**Mr. Beggs:** Sometimes we ask counsel questions but hopefully it's been covered, with that said I don't have anything else to add. I will entertain a motion for adjournment?

**Mr. Carlson:** Motion to adjourn.

**Mr. Beggs:** Second?

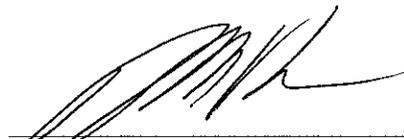
**Mr. Jackson:** Second.

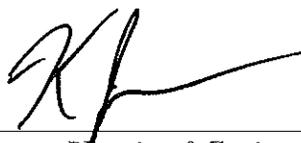
**Mr. Beggs:** All in favor?

**All:** Aye.

**Mr. Beggs:** Meeting is adjourned.

**Meeting Adjourned**

  
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*Chairman, Planning & Zoning Commission*

  
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*Secretary, Planning & Zoning Commission*

  
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*Recording Secretary*