AN ORDINANCE OF THE COUNTY OF ST. CHARLES, MISSOURI, APPROVING A PRELIMINARY PLAT FOR THE HYMAN KAYE TRACT

WHEREAS, the St. Charles County Charter, Article II, Section 2.529 grants to the County Council legislative power pertaining to planning and zoning in the part of the County outside incorporated cities, towns and villages; and

WHEREAS, Terry K. Tenebaum as Trustee of the Hyman H. Kaye Revocable Trust Dated September 23, 2005, property owner, has submitted a twenty-five lot Preliminary Plat for The Hyman Kaye Tract for approval by St. Charles County; and

WHEREAS, the subject property is located at Oak View Farms Drive, on the west side of Busdieker Drive approximately 300 feet south of Foristell Road, and is further described on the attached EXHIBIT A; and

WHEREAS, the Planning and Zoning Commission of the County of St. Charles, Missouri, considered the application and on a vote of 2 ayes to 4 nays recommended that the County Council deny the Preliminary Plat of The Hyman Kaye Tract. A super majority of the County Council is required for passage of this bill pursuant to Section 410.060.A, OSCCMo; and
WHEREAS, if the requested preliminary plat is not approved, the County Council shall request and approve Findings of Facts.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNTY COUNCIL OF ST. CHARLES COUNTY, MISSOURI, AS FOLLOWS:

Section 1. The Preliminary Plat for The Hyman Kaye Tract, is hereby approved.

Section 2. The Council hereby receives the following documents into the record: the St. Charles County Master Plan Year 2030; the Unified Development Ordinance of St. Charles County, Missouri; and the documents attached hereto as EXHIBIT A, which contains the plats and plans and any other documents relied on in reaching this determination of the Council.

Section 3. The Director of the Planning and Zoning Division is hereby authorized to acknowledge the approval upon the preliminary plat document itself.

Section 4. This ordinance shall be in full force and effect from and after the date of its passage and approval.

DATE PASSED

DATE APPROVED BY COUNTY EXECUTIVE

2
Application PRE19-15

PRELIMINARY PLAT FOR THE HYMAN KAYE TRACT - OAK VIEW FARMS DR

Application No: PRE19-15
Property Owner: Hyman H. Kaye Revocable Trust
Property Surveyor: Bax Engineering Company
Existing Zoning: A, Agricultural District (5-acre minimum lot size)
Requested Zoning: RR, Single-Family Residential District (3-acre minimum lot size)
Proposed lots: 25
Parcel Size: 84.20 acres
Location: On the west side of Busdieker Drive, approximately 300 feet south of Foristell Road; near the City of New Melle
Council District: 2
Account No.: 608880A000

CONTENTS:

➢ Synopsis
➢ Staff Recommendation
➢ Photo(s) of Site
➢ Aerial Photo
➢ Surrounding Zoning Map
➢ Future Land Use Map
➢ Topography Map
➢ Preliminary Plat
➢ Letters received
   ♦ Opposition – Elaine Sweeten
   ♦ Opposition – Karen Wilson
   ♦ Opposition – Linda Aldridge and Gary Whalen
   ♦ Opposition – Nancy Aberasturi
➢ Planning and Zoning Commission minutes from November 20, 2019 meeting
This memorandum summarizes the following bill to be introduced at the December 16, 2019 County Council meeting:

**PRELIMINARY PLAT FOR THE HYMAN KAYE TRACT - OAK VIEW FARMS DR**

- **Application No:** PRE19-15
- **Property Owner:** Hyman H. Kaye Revocable Trust
- **Engineer/Surveyor:** Bax Engineering Company
- **Existing Zoning:** A, Agricultural District (5-acre minimum lot size)
- **Requested Zoning:** RR, Single-Family Residential District (3-acre minimum lot size)
- **2030 Master Plan:** Rural Residential (1 acre or greater per dwelling)
- **Proposed lots:** 25
- **Parcel Size:** 84.20 acres
- **Location:** On the west side of Busdieker Drive, approximately 300 feet south of Foristell Road; northwest of the City of New Melle
- **Council District:** 2
- **Account No.:** 608880A000

Approval of this bill would approve a Preliminary Plat for the Hyman Kaye Tract. The developer proposes that this 83.20-acre tract be subdivided in twenty-five (25) single-family residential lots with a minimum lot size of three (3) acres. Twenty (20) of the lots would front on a proposed cul-de-sac street. The remaining 5 lots would front directly upon Busdieker Drive, a substandard private road which would be fully upgraded to the County's private road standards.

Because the proposed lots would be three acres or greater in area, the County's subdivision design standards do not require detention basins as the differential stormwater runoff generally does not warrant requiring such an improvement.

The Planning and Zoning Commission considered this request at its November 20, 2019 meeting where the Commission received the following input:

- **Speakers:** 1 Support 4 Opposed 0 Concerns
- **Letters on file:** 0 Support 4 Opposed 0 Concerns

Neighbors speaking against the application cited concerns about increased stormwater runoff, traffic safety posed by additional vehicles on Foristell Road, and loss of rural character.

Following public input, the Planning and Zoning Commission voted as follows and denied plat approval:

2 Approval 4 Denial 0 Abstain
Recommendation:

The Planning and Zoning Commission voted to deny plat approval. Two Commissioners commented that the applicant’s subdivision design does not adequately address stormwater runoff concerns expressed by neighboring property owners, specifically to the south and southwest.

The Planning and Zoning Division recommends that the County Council approve this plat subject to the approval of the related bill to rezone the property from A, Agricultural District to RR, Single-Family Residential District. In recommending approval, staff finds that the proposed plat conforms with the County’s subdivision regulations (Chapter 410 of the UDO).

County Council approval of this bill would require five affirmative votes. (Section 410.060 of the UDO).

Sincerely,

Robert Myers, AICP
Planning and Zoning Division Director

cc: Steve Ehlmann, County Executive
Joann Leykam, Director of Administration
Keith Hazelwood, County Counselor
STAFF RECOMMENDATION

To: County Planning & Zoning Commission  
Prepared by: Mark Price Jr, AICP, CFM

Application No.: PRE19-15  
Date: November 13, 2019

BACKGROUND INFORMATION

Owner: Hyman H Kay Revocable Trust

Applicant: Bax Engineering Company

Requested Action: A preliminary plat, Hayman Kaye Tract, for twenty-five (25) lots

Location: West side of Busdieker Drive, approximately 300 feet south of Foristell Road near the City of New Melle

Current Zoning: A, Agricultural District (5-acre minimum lot size)

Current Land Use: Vacant

Adjacent Land Use and Zoning:

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<th>Direction</th>
<th>Zoning</th>
<th>Land Use</th>
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<td>North</td>
<td>A, Agricultural District</td>
<td>Single Family Homes (3+ acre lots)</td>
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<tr>
<td>South</td>
<td>A, Agricultural District</td>
<td>Single Family Home, Farm</td>
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<td>East</td>
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<td>Single Family Home, Farm</td>
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<tr>
<td>West</td>
<td>A, Agricultural District</td>
<td>Single Family Homes (3+ acre lots)</td>
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</tbody>
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2030 Master Plan: Recommends Rural Residential (minimum lot size 3 acres) land use

Public Services: County Council District 2 – Joe Brazil  
School District – Francis Howell School District  
Fire District – New Melle Fire District

Utilities: Water – Public Water District 2  
Sewer – Individual Wastewater Treatment System
PRELIMINARY PLAT ANALYSIS

The property (60880A000) is 83.203 acres in size and the owner/developer is proposing twenty-five (25) individual lots with a minimum lot size of three (3) acres. 20 lots access Busdieker Drive from a cul-de-sac street. The remaining 5 lots in the subdivision will take access directly from Busdieker Drive. The applicant will be required to upgrade Busdieker Drive to the County’s private road standard. The new street in the subdivision shall be constructed to the County’s private road standard as well.

RECOMMENDATION:

The Planning and Zoning Division recommends that the Planning and Zoning Commission approve this plat. In recommending approval, staff finds the proposed plat to be in conformance with UDO preliminary platting requirements. Should the Commission recommend approval, it shall be conditioned upon the approval of the Rezoning request to rezone the property from A, Agricultural to RR, Rural Residential.
Looking North along Busdieker Drive with the subject property on the left
PRE19-15 - Aerial
A PRELIMINARY PLAT FOR
HYMAN KAYE TRACT
A TRACT OF LAND BEING PART OF
THE SOUTHEAST 1/4 OF THE NORTHWEST 1/4
AND PART OF THE NORTHEAST 1/4
OF THE SOUTHWEST 1/4 OF SECTION 21
TOWNSHIP 46 NORTH, RANGE 1 EAST
OF THE FIFTH PRINCIPAL MERIDIAN
ST. CHARLES COUNTY, MISSOURI

DEVELOPMENT NOTES:
1. TOTAL ACREAGE OF PROPERTY: 40.00 ACRES
2. EXISTING ZONING: "V" (ST. CHARLES COUNTRY)
3. EXISTING USE: "V" (ST. CHARLES COUNTRY)
4. PROPOSED USE: "V" (ST. CHARLES COUNTRY)
5. PROPOSED ZONING: "V" (ST. CHARLES COUNTRY)
6. CHAINAGE OF Alignment:
Streets
W. 00 FT.
7. SUBDURATION:
8. THE PROPERTY IS LOCATED ON THE FOLLOWING UTLITY/COMMUNICATIONS:
RISKS:
9. WATER: CITY OF NEW MELLA
10. GAS: CITY OF \NEW MELLA
11. TELEPHONE: CITY OF NEW MELLA
12. ELECTRICITY: CITY OF NEW MELLA
13. SEWER: CITY OF NEW MELLA
14. COMPLIANCE WITH STANDARDS
15. REPORT AND MAINTENANCE REQUIREMENTS:
16. MAINTENANCE OF PROPERTY:
17. MAINTENANCE OF PROPERTY:
18. MAINTENANCE OF PROPERTY:
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27. MAINTENANCE OF PROPERTY:
28. MAINTENANCE OF PROPERTY:
29. MAINTENANCE OF PROPERTY:
30. MAINTENANCE OF PROPERTY:

THE PRELIMINARY PLAT IS APPROVED BY THE COUNTY COMMISSIONER.

THIS PLAT IS NOT FOR RECORD.
I am against the rezoning on Foristell Road and surrounding areas. Thank you for prompt attention to this matter. Regards. Elaine Sweeten

960 Foristell Rd.
Good Morning,

My name is Karen Wilson, and I live on Foristell Rd., and am writing you in regards to the application number of RZ19-14, to rezone the Residential District Oak View Farms Drive from 5-acre lots to 3-acre lots. My intention is to make this as brief as possible, and I am going to be honest with you, I am writing this on a very personal level as someone who uses Foristell Rd., and many surrounding roads for my own health; physically, mentally and emotionally. I am a bicyclist, individually, not a group or team, and you will see me on the roads almost every day, all year round.

Lowering the minimum lot size to 3-acres, instead of 5-acres, will obviously increase the number of houses built, and in turn increase the traffic and road usage on all the roads that lead to access to this property area. I would like to ask you to consider my feelings and view of this as not a good idea in the fact that speeding on these roads is already dangerous, drivers don’t pay attention to stop signs, freely pull out in front of people, and honestly, are distracted with other things besides driving and keeping all who use the roads, in whatever capacity, safe. The increased traffic, during construction and beyond, with more homes than originally zoned 5-acre lots in the 2030 Master Plan would allow, is just not a safe idea. It honestly, truly scares me for the reasons I use the roads, besides driving on them, but also for the farmers, walkers, joggers, and wildlife.

I appreciate your time, attention and consideration to my views and feelings. I am a strong believer that this definitely about everyone’s safety, not how many more houses we can fit. Thank you again,

Sincerely,

Karen Wilson
We live at 2120 Oberhelman Road, Foristell, MO which is within 1,000 feet of the above referenced property.

We oppose the rezoning from 5 acres down to 3 for the following reasons:

- This will significantly increase both the night light (affects star gazing) and add significant noise (both from people and dogs affecting sleep)
- Foristell Road is very narrow for additional traffic and lacks any shoulder
- We moved out of the city to be in the country, 3 acre lots are not country living, it is just a subdivision with large lots
- 3 acre lots will reduce the usable habitat for surrounding wildlife
- If someone wants to live on Oak View Farms, they can be equally, if not more happy on 5 acres

Thank you for your consideration,

Linda Aldridge and Gary Whalen
I live at 898 Foristell Road and own six acres. I am writing to express my **disapproval** of the above proposed changes to our rural area.

Thank you.

Nancy Aberasturi
Naberasturi@gmail.com
314 602-0560

Sent from my iPad
MINUTES OF REGULAR MEETING

ST. CHARLES COUNTY PLANNING AND ZONING COMMISSION

DATE: NOVEMBER 20, 2019
TIME: 7:00 P.M.
PLACE: COUNTY EXECUTIVE BUILDING
300 N. THIRD ST.
THIRD FLOOR COUNCIL CHAMBERS
ST. CHARLES, MO 63301

MEMBERS PRESENT: Diane Salle; Kevin Cleary; Tom Kuhn; Roger Ellis; Craig Frahm; and Robert McDonald

MEMBERS ABSENT: Jim Leonhard

STAFF PRESENT: Robert Myers, Director of Planning and Zoning; Megan Murray, Assistant County Counselor; and Jhimae Brock, Recording Secretary

SPEAKERS: PRE19-15: Dale Bax with Bax Engineering Company, owner’s representative, Dave Muehling, 3649 Holt Road, Wentzville MO, Alice Freese-Molitor, 1467 Foristell Road, Foristell MO, Leslie Jones, 898 Foristell Road, Wentzville, MO, and Arnie C. “AC” Dienoff, P.O. Box 1535, O’Fallon, MO

CALL TO ORDER

Chairman Roger Ellis called the meeting to order at 7:00 PM. Following the Pledge of Allegiance, he welcomed the audience; explained the procedures for speakers; and explained the functions of the Planning and Zoning Division, the Planning and Zoning Commission, and the County Council. He explained to the audience that the Planning and Zoning Commission would make a recommendation on rezoning applications heard during this meeting, which will then be submitted to the St. Charles County Council for their final decision.

Applications for preliminary plats heard during tonight's meeting will also be voted on by the Planning and Zoning Commission during the meeting. The vote on preliminary plats is final, unless a variance from St. Charles County Ordinances is being requested or the Commission makes a recommendation for denial of a preliminary plat. In those instances, the plat would be introduced at the Monday, December 2, 2019 County Council meeting for a final decision.

Chairman Ellis introduced the following documents into the record: The Unified Development Ordinance of St. Charles County (UDO), including zoning maps; and the 2030 Master Plan for St. Charles County, which includes the 2030 Future Land Use Plan Map.
PLATS

PRELIMINARY PLAT FOR THE HYMAN KAYE TRACT - OAK VIEW FARMS DR

Application No: PRE19-15
Property Owner: Hyman H. Kaye Revocable Trust
Property Surveyor: Bax Engineering Company
Existing Zoning: A, Agricultural District (5-acre minimum lot size)
Requested Zoning: RR, Single-Family Residential District (3-acre minimum lot size)
Proposed lots: 25
Parcel Size: 84.20 acres
Location: On the west side of Busdieker Drive, approximately 300 feet south of Foristell Road; near the City of New Melle
Council District: 2
Account No.: 608880A000

Robert Myers, Director of Planning & Zoning, stated that the overall concept is to subdivide this 83.20-acre tract into twenty-five (25) single-family residential lots with a minimum lot size of three (3) acres. On the north side of the proposed development, there is a creek. This is where runoff will be inclined to drain to, rather than to the east side of the property where one of the audience speakers voiced a concern about during the public hearing for the rezoning request. There is no detention or retention area shown on the plat because the County's subdivision design standards do not require on-site detention/retention basins for lots three acres in size or greater. The reason the County does not require this is because the differential stormwater runoff generally does not warrant requiring such an improvement. There is also a pond shown on the southwest corner of the property. Twenty (20) of the lots for this development would front on a proposed cul-de-sac street. The remaining 5 lots would front directly upon Busdieker Drive, which is currently a substandard private road. That road would be required to be fully upgraded to meet the County’s private road standards prior to approval of this subdivision plat. The entrance onto Foristell Road will also require some improvements in order to meet the County’s turn radius standard. Mr. Myers stated that County staff recommends approval on this preliminary plat, subject to the approval of the rezoning request by the County Council.

For the record, staff received four written communications in opposition of this preliminary plat.

Chairman Ellis asked if the Commission had any questions for staff.

Kevin Cleary asked Robert Myers to explain how many feet each line on the topographical map for the subject property represents.

Robert Myers responded that the engineer could answer that question.

There being no further questions for staff, Chairman Ellis asked the applicant’s representative to come forward.

Dale Bax, with Bax Engineering was sworn in. He stated that the contour lines on the topographical map represent a two-foot change in elevation. He stated that there is an elevation of 750 at the
intersection of Street A and Busdieker Road, and an elevation of 756 near the intersection of Busdieker Road and Foristell Road.

Kevin Cleary asked if the elevation continues to drop further to the south of the subject property.

Dale Bax responded in the affirmative. He stated that the stormwater runoff at Busdieker Road drains onto the subject property and not away from the property. There is an existing drainage channel on the property that picks up the majority of the stormwater, so it is not being directed offsite. There is a portion to the west of the property where stormwater will be directed offsite, and a small portion to the south of the property where it will be directed offsite as well. With the proposed road and the roadside drainage ditches proposed on the plat, they will actually be reducing the total amount of stormwater runoff that is currently running off of the property to the west and to the south. The proposed pond on the property will also provide a form of water retention on the property. Mr. Bax stated that the increased runoff calculations based upon a 3-acre lot development does not warrant or require the County to require detention. A form of water quality that the United States Government looks at is water absorption, which is dependent upon the type of soil on the property. Each lot on the proposed 3-acre development will supersede the minimum Federally required absorption percentage.

Robert McDonald asked if the developer plans to build the pond shown on the preliminary plat.

Dale Bax responded in the affirmative. He added that there is an existing pond on the property at the southernmost end of the eastern portion of the site, between lots 11 and 12. This new pond that the developer is proposing to build between lots 9 and 10 will be an ideal place to direct some of the runoff from the ditches on the property and it will also retain some of that water for a period of time.

There being no further questions for the applicant’s representative, Chairman Ellis asked if anyone from the audience wished to make public comments on this application.

Dave Muehling was sworn in. Mr. Muehling stated that while rules and restrictions are put into place at the County level, every area is different. Although the engineer stated earlier that he expects that the developer will preserve trees, the previous development cut all of the trees down and installed sprinkler systems which caused all kinds of additional runoff and flooded his driveway and his property. He is very concerned about the development using ditch drainage, and whether or not the developer will choose to actually put in a pond. He stated that there is farmland for sale to the south and to the west of his property and if this development is allowed to be put in with 3-acre lots, he feels that once those properties are sold they will also want to put in 3-acre lots. Mr. Muehling questioned why there are no comments in the packet from the New Melle Fire District or the School District. He also feels that the area roads will also need improvements in order to accommodate the proposed subdivision and not pose a safety issue.

Alice Freese-Molitor was sworn in. She stated that the subject property borders her property to the north and the east, and she is concerned that all the stormwater runoff from the proposed development will drain onto her property. They have a retention pond on their property that is fairly large, and it collects water runoff from Foristell Road and Oberhelman Road and releases it slowly so as not to cause any erosion issues. The stormwater that comes from the recently developed Auburn Meadows Subdivision just drains down onto their property and it is tearing up their road and their culverts. Ms. Freese-Molitor expects that the same thing will happen if this development is approved. She stated that something needs to be done to prevent this ahead of time, instead of waiting until after the development causes an issue and trying to figure out how to correct the problem.

Leslie Jones was sworn in. Mr. Jones stated that the water retention ditches along Foristell Road are narrow and are not very deep, so they overflow onto the road during heavy rain events. He has concerns
that the ditches proposed for this development will not be able to handle heavy rain events either, which will cause them to overflow and force the runoff to run in streams onto the surrounding properties. He stated that he would like to see more development on the potential runoff issue before the Commission approves this preliminary plat.

Arnie "AC" Dienoff was sworn in. Mr. Dienoff asked if County staff has actually visited and inspected the site. He stated that in his opinion, the County should come up with a minimum standard that developers are required to uphold. State law and the County Charter allows the Planning & Zoning Commission to place conditions on developers to protect both the adjoining property owners and the County as a whole. Mr. Dienoff asked that the Commission add the following conditions of approval be added to this preliminary plat:

1. The roadway standards for this development should be met entirely at the developer’s expense.
2. Ditches and catch basins should be required to catch water runoff.
3. A turn lane and deceleration lane should be required to be installed at the entrance to the subdivision at the expense of the developer.
4. A detailed water runoff management plan showing exactly what they plan to do with the water runoff should be required.
5. A detention/retention area and pond should be required to be installed on the property at the expense of the developer.
6. A letter from the New Melle Fire Protection District should be required to ensure they have adequate facilities to service this development.
7. A letter from both the Francis Howell School District and their Transportation Department should be required to ensure they have adequate facilities to accept new students, and that their school busses approve of the turn radius for this development.
8. A letter approval from the Missouri Department of should be required to be submitted within ten days.

There being no further audience comments, Chairman Ellis asked the applicant’s representative to come back up to the podium.

Kevin Cleary asked the applicant’s representative what type of road improvements will be made to the entrance at Foristell Road.

Dale Bax responded that the entrance will be comprised of either concrete or asphalt, and it will be required to be built at a width that can accommodate two different sized trucks to access the property without crossing the center line of the roadway.

Kevin Cleary asked if there will be any blind curves around the entrance to the subdivision site, as some of the neighboring residents have stated there are.

Dale Bax responded that there may be some blind curves along Foristell Road, but there are no blind curves around the entrance to this development. He added that the speed limit is 35 miles-per-hour on Foristell Road, and there will not be any site line encroachments created by this entrance. They have submitted a site line profile to the County which meets all of the County's requirements. Mr. Bax stated that they do have letters that state that this plat meets all of their requirements from both the Fire District and the School District that were submitted through the online portal.
Craig Frahm asked Robert Myers why those letters were not included in the agenda packets.

Robert Myers responded that those types of letters are not included with the agenda packets because they are regarding technical requirements that must be met prior to approval of the plat. Plats differ from rezoning applications in that they must meet all of the County’s Ordinance requirements or they cannot be approved.

Craig Frahm stated that he is concerned about the water runoff. He asked Dale Bax if the plan is to run the stormwater back onto the property.

Dale Bax responded that due to the topography of the property, the only runoff created will be towards the Auburn Meadows Subdivision and a small amount to the south.

Craig Frahm asked Mr. Bax if there is currently water runoff at the south of the property.

Dale Bax responded that there is currently runoff as the property sits today. When they put in the road system in for this development they will be forcing more water to the interior of the property than offsite. They are required to meet the County’s design criteria with regards to the roadside ditch and water runoff from the property, and there are also rules set forth by the State of Missouri they will be required to meet. All developments must be submitted to the Department of Natural Resources along with soil samples, and they determine the minimum size the lots are required to be based on soil absorption within each individual development. For this particular project, the DNR deemed that one-acre lots with individual septic systems would be allowable based on the soil type and the absorption rate. This tells him that the soil absorption rate on this property should be more than adequate for the proposed 3-acre lots in this development.

There being no further questions for the applicant’s representative, Chairman Ellis called for discussion from the Commission.

Kevin Cleary stated that in spite of the fact that he believes the testimony of Dale Bax, he still feels like this property is going to require that additional measures be taken for water retention.

Robert McDonald stated that he agrees with Kevin Cleary.

There being no discussion, Tom Kuhn made a motion to approve the preliminary plat for The Hyman Kaye Tract.

The motion was seconded by Kevin Cleary.

The vote on the motion was as follows:

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<th>- No</th>
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<tr>
<td>Diane Saale</td>
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<td>Kevin Cleary</td>
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<td>Roger Ellis</td>
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<td>Robert McDonald</td>
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Application No. PRE19-15 was recommended for **DENIAL**.

The Vote Count was 2 Yeas, 4 Nays, and 0 Abstentions.