

**BOONE COUNTY PLANNING COMMISSION  
BOONE COUNTY ADMINISTRATION BUILDING  
BOONE COUNTY FISCAL COURTROOM  
PUBLIC HEARINGS  
DECEMBER 21, 2022  
7:00 P.M.**

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Chairman Charlie Rolfsen opened the Public Hearing at 7:04 p.m. and welcomed the audience to the Planning Commission's December 21, 2022 Public Hearings.

**COMMISSION MEMBERS PRESENT:**

Mr. Randy Bessler  
Mrs. Kathy Clark  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mr. David Hincks  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
Mr. Kim Patton, Vice Chairman  
Mr. Charlie Rolfsen, Chairman  
Mr. Bob Schwenke  
Mr. Tom Szurlinski

**COMMISSION MEMBERS NOT PRESENT:**

Mrs. Pamela Goetting  
Mrs. Jackie Steele, Secretary/Treasurer  
Mr. Steve Turner, Temporary Presiding Officer  
Mr. Kenny Vaught

**LEGAL COUNSEL PRESENT:**

Mr. Dale Wilson

**STAFF MEMBERS PRESENT:**

Mr. Kevin P. Costello, AICP, Executive Director  
Mr. Michael D. Schwartz, Director, Zoning Services  
Mr. Todd K. Morgan, AICP, Senior Planner

Chairman Rolfsen introduced the first item on the Agenda.

**CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN & VARIANCE, Todd Morgan,  
Staff**

1. Requests of Viox and Viox, Inc., per Michelle Bollman (applicant) for Domaschko Properties, LLC (owner) for a Change in an Approved Concept Development Plan and Variance in an Industrial One (I-1) district for an approximate 6.7 acre area located at 11061 Dixie Highway, Boone County, Kentucky. The requests are: (1) a Change in an Approved Concept Development Plan to allow the construction of a 5,000 square foot building with outdoor truck/trailer parking and an expansion of the off-street parking lot and (2) a Variance to reduce the 50' front yard fence setback to allow an 8' tall fence approximately 21' from the Dixie Highway right-of-way line.

Staff Member, Todd Morgan, referred to his PowerPoint presentation. The site has frontage on Dixie Highway and the interstate. The submitted Concept Development Plan shows a 5,000 square foot storage building located on the northern portion of the property. A new concrete pad will be constructed to accommodate trailer storage. A future parking lot addition is planned to allow 26 new parking stalls. A new fence is being requested approximately 21 feet from the property line. A variance is being requested since the proposed fence will be 21 feet from the property line versus a 50 foot front yard fence setback requirement. The proposed new building will match the existing building. There is a loading dock on the western side of the building. Mr. Morgan described the site history dating back to 2020 (see Staff Report). He noted that a significant amount of the landscaping proposed in the 2020 plan has not been planted. He also showed photographs of the site and adjoining properties. The Future Land Use Map designates the site for Commercial (C) use dating back to 2019. References to the Comprehensive Plan are noted on Pages 4-6 of the Staff Report.

In terms of Staff Comments, the applicant should address the following items.

- A. Can a picture of the proposed fence be provided?
- B. Can the beginning and end points of the fencing be defined?
- C. Is the fence/gate located far enough away from Dixie Highway that the largest D-Crane vehicle that carries a trailer could park without extending into the road?
- D. Has all the required landscaping from the 2020 Site Plan been installed? If not, when will it be installed?
- E. Staff observed a lot of outside storage when they visited the site. The storage included large cranes, smaller vehicles, trailers, and large metal mechanical equipment. Will all the mechanical equipment will be housed inside the new building once it's constructed?
- F. The Concept Development Plan indicates that the new concrete parking lot between the proposed 5,000 square foot building and Dixie Highway will be for truck and trailer parking. Is any other type of outside storage proposed in this area?

Staff would like to remind the Planning Commission that they will be taking final action on the Variance application and be making a recommendation to the Boone County Fiscal Court on the Change in Approved Concept Development Plan application.

Chairman Rolfsen asked what types of trees were required by the Planning Commission along the interstate? Mr. Morgan replied smaller trees due to the overhead utility easement.

Chairman Rolfsen asked if the applicant was present and wanted to proceed with their presentation?

Mr. Chris Vitelli, Viox & Viox, Inc., referred to his PowerPoint presentation and described D-Crane Rental and its history. The company is growing. Their total site is 6.77 acres in size. He showed the approved September 29, 2020 site plan and the new Concept Development Plan. The proposed fence will be 8 feet high and the existing detention ponds will accommodate the proposed addition and concrete parking area. The addition will be the same color and building materials. He showed a photograph of the proposed fence and a sliding gate.

Chairman Rolfsen asked if anyone in the audience had any comments or questions?

Mr. Michael Larson, 12207 Gaines Way, stated that no development should occur in the area until all the improvements to the I-75/Richwood Road Interchange are completed. We have no idea of when it would be completed. It may not be for the next 2 years. No one knows. If you drive that area daily, it is foolish to do anything until the interchange is reconstructed. It is bad for Boone County and its residents. It seems inconceivable that you all would even consider it.

Chairman Rolfsen asked if the gate was far enough back from Dixie Highway to not block it in case a crane came in after hours? Mr. Vitelli responded that the gate is 81 feet from Dixie Highway. Chairman Rolfsen inquired about the status of the landscaping? Mr. Vitelli replied that he would investigate it and get an answer for the Committee.

Mr. Szurlinski inquired about dock doors on the west side of the building. Is it multiple doors? Mr. Vitelli responded that he would have to find out.

Mr. Lunnemann asked the applicant to clarify the outside storage issue? He thought that everything was going to be stored inside. Mr. Rob Domaschko, owner, replied that there will only be one dock door and the building will be used to store vehicles. The parking will be for trailers. He is waiting for everything in the area to get done before the landscaping is installed.

Mr. Schwenke remarked that he liked the new building. He asked about the large rooftop mechanical equipment? Will it be stored inside the building? Can some of the equipment be put somewhere where it is not noticeable? Mr. Domaschko replied that it will be in the middle of the site temporarily until it goes out and not in front of the building.

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on January 4, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on January 18, 2023 at 7:00 p.m. in the Fiscal Courtroom.** Chairman Rolfsen closed the Public Hearing at 7:24 p.m.

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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**Kevin P. Costello, AICP**  
**Executive Director**

**COMMISSION MEMBERS PRESENT:**

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Mrs. Kathy Clark  
Ms. Corrin Gulick  
Mr. Steve Harper  
Mr. David Hincks  
Mrs. Janet Kegley  
Mr. Rick Lunnemann  
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Mr. Charlie Rolfsen, Chairman  
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Mr. Michael D. Schwartz, Director, Zoning Services  
Mr. Todd K. Morgan, AICP, Senior Planner

Chairman Rolfsen introduced the second item on the Agenda at 7:25 p.m.

**ZONING MAP AMENDMENT, Michael Schwartz, Staff**

2. Request of **Jake's Farm Real Estate Development Company, LLC (applicant)** for **Jake's Farm Real Estate Development Company, LLC and Henry L. Fedders Jr. (owners)** for a Zoning Map Amendment from Agricultural Estate (A-2) to Suburban Residential One/Planned Development (SR-1/PD) for an approximate 36.74 acre area located at the southeast corner of the intersection of Richwood Road with Schmidt Lane, including the properties at 731, 733, and 735 Richwood Road, 11704 Schmidt Lane, and the properties having Parcel Identification Numbers (PIDN) of 065.01-02-001.00 and 065.01-02-007.00. The request is for a zone change to allow 160 multi-family residential units within three (3) buildings, 55 attached single-family residential units within nine (9) buildings, 5 detached single-family residential dwellings, and community amenity areas.

Mr. Tom Breidenstein, attorney for the applicant, introduced his project team including the property owners. He gave a brief history of the site. Last November, the property owners applied for a Conditional Use Permit to allow an agricultural event center at the historic barn. The application was denied by the Boone County Board of Adjustment. At the Public Hearing for that request, neighbors had a preference for residential uses. With this in mind, they put together a plan that is consistent with the Comprehensive Plan, the Planned Development regulations and the aging population of the County. He noted that other options for the property that is zoned A-2 is dairy farming, livestock farming, etc. The site is very accessible which makes it valuable for farm to table cuisine. Those types of uses are permitted by right and could start tomorrow if the current application is denied. Those uses would also apply to the existing single family lots in Richwood Country Estates Subdivision. Mr. Breidenstein noted that his client also considered a standard cookie cutter subdivision like Sutherland Subdivision. The current owners were born and raised in Kentucky and have a special vision for the property.

Mr. Mark Jacobs explained that he could keep the property as a farm but it is costing him over a quarter of a million dollars per year to maintain the property. It is an organic farm. His business serves the restaurant industry. The farm is valuable because of its location – about half a mile off the interstate and near the airport. He would love to offer a 55 and over community to Boone County. The historic barn could be restored and be part of the development and could be open to the neighbors. It costs \$27,000 a month to operate the farm of open fields.

Mr. Brock MacKay, Viox & Viox, Inc., referred to his PowerPoint presentation. The site is 36 acres in size and has an historic barn structure. The owner would like to sustain the building in some way. He showed a few photos of the site. In order to be an independent community, they need a large enough HOA. It has to be sustainable. The proposed development is 6 units per acre. It is what the PD allows since the Future Land Use Map designates the site for Suburban Density Residential (SD). In order to achieve this, more green space and amenities are needed. It allows more flexibility. Mr. MacKay showed a map of existing conditions which includes a horse fence. Two houses are located on the primary parcel. The entire site is zoned A-2. The lots along Schmidt Lane are designated Rural Density (RD) at 1 dwelling unit per acre.

Mr. MacKay presented the Concept Development Plan or Master Plan for the site. It includes 3 different housing types. The west side consists of larger single family residential lots. On the east side, there is a combination of townhomes and condo products. The taller condos are in the center of the development and the townhouses are on exterior or closest to the existing residential subdivision. A 30 foot buffer yard will be installed next to the subdivision. The amenities include a barn, pool, ponds, natural creek areas, green spaces, plazas and gardens. The property is shaped like a bowl. Because of the topography, the residential products are layered. Character images were submitted as part of the application. One represents condos from Mariemont, Ohio. The parking will be benched under each building. He showed examples of residential building designs – Tudor, Georgian and Craftsman styles. Mr. MacKay referred to various sections from the Comprehensive Plan dealing with the growth in elderly population and targeting the development for 55 years and older. They won't have residents living in the proposed development before the interchange improvements are completed. Mr. MacKay showed a map of various residential densities and zoning in the area. It showed the diversity. It will be a 55 and over, gated community. The existing access to Sutherland Subdivision would be gated for emergency access only. There is no planned access to Schmidt Lane from the multi-family area. With a 55 and older development, there are usually less kids and less pressure on traffic and schools. It is important to have green space and emphasis should be placed on the orientation of houses and the environment. Mr. MacKay showed two cross sections of the proposed residential units. Elevation A is seen from the east side. The smaller townhome building is sitting 10 feet lower than the residence in Sutherland Subdivision. There is also going to be a 30 foot buffer yard between the 2 uses. The proposed townhome would have an 80 foot building setback from the existing subdivision. A 50 foot setback is normally required. It would be somewhere between 50-80 feet. Elevation B represents the front of the property along Richwood Road. There is quite a distance and landscaping for this view since the road sits lower than the dwelling units. Elevation C shows the proposed townhome to be 10 feet higher than the property to the south. It also includes a 30 foot buffer. It is only a two story building. Elevation D is on the west side and shows the proposed building to be 10 feet lower than the adjoining properties. Approximately 24.62 acres of the site is green space. It represents 67% of the total development. The applicant has a capacity reservation for sanitary sewer service. Water service is also available. No traffic impact study has been performed. Road improvements near the access point will most likely be required. When the interchange project is completed, the improvements are pretty close to the site. A variety of multi-family housing options ranging in types and price should be encouraged in unincorporated Boone County (Comprehensive Plan). It offers variety but not affordability.

Mr. Breidenstein stated that the reason for approving the zone change is because it is in agreement with the Boone County Comprehensive Plan as noted previously with the Future Land Use Map (SD) and (RD) and text. The Richwood West section of the Land Use Element states that the area should be sensitively designed to minimize the impact of existing low density residential development. They qualify for that reason as they have attempted to minimize the impact of the development on neighboring low density land uses. They are providing a buffer well beyond what is required in an SR-1 zoning district. They are adjusting the heights of the buildings based upon the topography of the property. Many of the Comprehensive Plan's Goals and Objectives are satisfied with the submitted Concept Development Plan. One of them is balancing the diversity and balancing land uses while protecting the natural resources and natural systems. Land use decisions and zoning shall strive to balance the rights of landowners with the rights of

neighbors in the community. The needs of an aging population shall be acknowledged and addressed. The project seeks to achieve a quality of life by repurposing the barn and creating recreational opportunities as well as a range of housing opportunities. The barn is being restored in a park like setting. Mr. Breidenstein noted that all of the Comprehensive Plan's development guidelines have been met. It includes an internal trail system. The project also meets all of the requirements of Section 1514 of the Zoning Regulations or the PD requirements. In addition, the existing zoning of A-2 on the farm property is inappropriate and the proposed zoning of SR-1/PD is appropriate. The project is located in a growing area of the County. It follows the Future Land Use Map. Mr. Breidenstein concluded by asking the Planning Commission to accept their PowerPoint presentation into the official record. It was accepted.

At this time, Staff Member, Michael Schwartz, stated that he was going to summarize some of the requirements that the applicant is seeking to modify. The applicant is requesting the following: increase the height of the buildings from 45 feet to 50 feet; allow accessory structures in the front yards; asking for a reduction in the number of off-street parking spaces; increase in the height of the entrance sign; and possibly an increase in the height of the fencing. In regard to Staff Concerns, there is a concern about the overall density of the development. The overall development is about 6 dwelling units per acre with the single family lots. Without the acreage from the single family lots, the density changes to 9 dwelling units per acre with the multi-family housing. The density of Sutherland Subdivision is 2 dwelling units per acre. Mr. Schwartz noted that he received a letter from the Kentucky Transportation Cabinet indicating that a Traffic Impact Study would be required. Letters and emails received in the Planning Commission's office up to 5:00 today have been copied and provided to the Board members.

Mr. Patton asked if lots 3, 5, 7 and 9 are staying the same? Mr. Schwartz replied that they are the lots proposed to be single family homes. Some of the lots may be reconfigured. Houses exist on lots 3 and 9.

Chairman Rolfsen asked how many of the 220 units will be condos? Mr. MacKay responded 160 units. The townhome total will be 55 units with 5 single family detached homes. The 55 and over concept is targeted towards the condo and townhome concepts.

Mrs. Clark asked if the condos and townhomes would have elevators? Mr. MacKay replied at least with the three story units there will be elevators. Also, the landscaping will be maintained by the HOA for the condo and townhome sections. The property will be gated at least to the Sutherland Subdivision. The rest of the development may be gated at the main entrance.

Mrs. Kegley asked if the existing horse fence is staying on the property? Mr. MacKay replied yes as some of it may have to be replaced.

Mr. Schwenke stated that he drives on Richwood Road a lot since he farms on it. Two large trucks can't pass each other because the road is narrow. The existing bridge is a problem because it turns in the opposite direction. It is very difficult for trucks. He either slows down or stops with large passing vehicles. He has clipped mirrors. He asked for the distance between the applicant's entrance and the roundabout. There is no curb in the road. The road is not suitable for what the applicant wants to do.



Ms. Gulick asked if the 55 and older was a requirement? Is it an HOA thing? Mr. MacKay replied that it can be a hard requirement or one can target a certain percentage and not discriminate from another age group. Mr. Breidenstein stated that is permitted under Kentucky law. It would be a 50 plus HOA requirement. Perhaps one spouse would have to meet the requirement.

Mr. Lunnemann asked for more details on the building elevations. What will they look like? Would the applicant consider a lower density for the project? Is 220 units a hard number?

Mrs. Kegley asked for a better timeline for the project. Will it be the same for the interchange construction completion?

At this time, Chairman Rolfsen explained the rules for public testimony. Mr. Patton invited the public to the Committee Meeting, which is not another time to speak like tonight. When it comes back to the full Planning Commission, there will be an opportunity to speak briefly. The Fiscal Court will take action on the Planning Commission's recommendation. The Planning Commission is required to take action within 60 days.

Chairman Rolfsen asked if anyone in the audience had any comments or questions?

Mr. Adam Hand, 11900 Oxford Hills Drive, stated that he does contest the 2040 Plan since many of the residents in the room didn't comment on the plan. He understands the process now and will be involved in the next update of the Comprehensive Plan. The northwest corner of the site shows a fence is down. The corner of Richwood Road and Hicks Pike is a nightmare. It is narrow and it curves. The fence is down because a truck took it down. It would be irresponsible of the Planning Commission to make a recommendation without a Traffic Study. He recommended keeping the zoning of the property A-2. He doesn't appreciate the threats on other possible uses.

Mr. Bruce Suhr, 12800 Hutton Drive, stated that the Big Bone Lick Watershed is impacted by this development. There will be 440 vehicles from this development. The road is crowded today and it can't be expanded due to the watershed.

Ms. Diana Sipple, 722 Richwood Road, expressed a concern about people drinking in the barn and driving into her front yard. The road is eroding away. The applicant really didn't talk about the activity in the barn. It will be a club for the HOA.

Ms. Sara Holland, 11531 Fringe Tree Drive, expressed a concern about privacy since her lot sits lower when adjoining a 45 foot high building. A buffer strip will not help. She expressed a concern about storm water change since she has a storm water drain that crossed her property. She doesn't want more water since they already have problems. She is worried about the possibility of opening the gate to Sutherland Subdivision in the future. There will be pressure to open it since there is only one way out. There is also a lot of traffic in Steeplechase Subdivision now because of the school.

Mr. Boyd Pugh, 768 Richwood Road, stated that he used to live in a subdivision but it got crowded so he moved to Richwood Road on a couple of acres. People speed on Richwood Road. What is being proposed is too much. Increased noise and lighting will affect the area. Richwood Road floods. He would like to see the property farmed. The infrastructure is not there yet.

Ms. Shelly Dupree, 11798 Schmidt Lane, referred to the Staff Report and the pictures she submitted. It shows flooding and road conditions. She has lived in the area since 1993 and all of the water from the ditches flow onto her property and it affects her driveway and leach lines. She pointed out a couple of fire hydrants that have not been maintained. The development needs the housing density in order to have an HOA. The subdivision to the west has large homes and no HOA. It has the same topography. When the word "basically" is used, she has a concern about what is being proposed. What about the existing bridge on their property? Are they planning to use it or replace it? The improvements to Richwood Road stop at the roundabout.

Ms. Michelle Kelly, 12231 Gaines Way, asked if the units will be for sale or rent? Mr. Jacobs responded that they are "for sale" but if they can't be sold, they will be for rent. It is a difficult time because of the interest rates.

Ms. Linda Fuller, 740 Richwood Road, lives directly across from the farm. She moved to the area because of its beauty. What about the wildlife in the area? Speed is a problem. She is concerned about density and rodents. She lives next to a power station and a future church. It should be kept as agricultural. It should be preserved.

Mr. Dennis Kelly, 12231 Gaines Way, stated he has lived there for 35 years and has 3 acres. What they are proposing is an abomination in the county. It was never stated that the residents were okay with residential versus an agricultural event center. The townhomes and condos are really apartments. How many more apartments do we need in Boone County? They are going in near the racetrack, on Mineola Pike and possibly in Walton. The footprint for this project is 5 times larger than the event center proposal. The footprint and drainage shouldn't happen.

Mr. Ron Dierson, 12807 Hutton Drive, stated that he feels sorry for the applicant who wants to do something with his property but what is proposed isn't it. He is concerned about the height of the buildings. He questioned the density accuracy. Twelve acres of development for 220 units is pretty dense. How tall are the buildings if they are sunk into the ground? There are a lot of restrictions that can be placed in an HOA.

Mr. Henry Fedders, 11704 Schmidt Lane, stated that he was approached by Jake's Farm. They wanted to buy his 1.88 acre parcel. He included it in the development but now cannot come to an agreement so it is not part of the development. He doesn't support changing the zoning of the lots along Schmidt Lane if the project is approved.

Mr. Paul Franks, 11803 Schmidt Lane, stated that there is always a flooding problem at Richwood Road and Hicks Pike. It needs a new pipe. He is opposed to the project as the only 4 story building in the area is a hotel.

Ms. Shelia Scaf, 437 Withers Lane, stated that it is difficult to get out of her subdivision. For appointments, one has to leave an hour and a half early to get there. There are many back ups at the roundabout and at the Frogtown Road Connector. The roads need to be in place before new development occurs. She is over 55 years old and doesn't want to move into a 3 story building.

Ms. Sherri Wright, 11802 Schmidt Lane, stated that she lives at the bottom of the street and everything comes to her. The development may not be for over 55 residents. Things change. She raises her grandkids. Will she be kicked out because she is raising grandkids? The schools are crowded.

Mr. Bruce Brinkman, 11667 Schmidt Lane, expressed a concern about home values with the type of development going on in the neighborhood. He has made a lot of improvements to his house in the last year. The proposed units may not go for what they think because of the market.

Mr. Bob Ries, 11543 Fringe Tree Drive, stated that the project has so many unknowns. Where is the Traffic Study, especially with how busy Richwood Road is these days.

Chairman Rolfsen asked if the Traffic Study would be done before a vote is made on the project? Mr. Schwartz responded that the State Highway Department will require one. If the Fiscal Court approves the project, then the Traffic Study will determine what roadway improvements will be required.

Ms. Gulick asked if the developer will have a preliminary Traffic Study done for the Committee meeting? Mr. Costello also noted that in other projects such as the Union Promenade, a preliminary Traffic Study was conducted and made available. Mr. MacKay stated that they will have trip generation information based on the land use for the Committee meeting. It will give expected peak traffic counts for in and out traffic. Mr. Costello observed that there is a trend for developers to sometimes start a Traffic Impact Study but not finish it during the process because of the slow state review process. He is surprised one was not performed due to the condition of Richwood Road and safety issues. This may be related to the phasing and start date of the project. In addition, what capital road projects are planned for the area?

Ms. Gulick stated that it will be difficult to do a detailed Traffic Study for the Committee meeting unless a waiver of the time limit is offered. It is a repetitive concern. Mr. MacKay replied that the project is different than the Union Promenade as that project had mixed uses and multiple access points. This project only has one access point.

Ms. Gulick wanted to know if the road corridor had a high crash rate? She was going to check it. What are the numbers and how will it affect the current condition of Richwood Road. Does it warrant a traffic signal?

Mr. Schwenke asked if Mr. Fedders' property was figured into the total acreage of 36.74 acres? Mr. MacKay replied yes. Mr. Schwenke thought the applicant may not have been prepared as they have not built anything yet and the design is someone else's design. Mr. Breidenstein stated that he would waive the 60 day time limit to work on the Traffic Study.

Mr. Patton suggested to still have the Committee meeting on January 4, 2023 and maybe have another Committee meeting. Mr. Costello suggested January 18<sup>th</sup>. Mr. Breidenstein responded that his client can't be present on January 18<sup>th</sup>. Mr. Costello suggested that February 1<sup>st</sup> at 5:00 p.m. for the Committee meeting with a possible action date of February 15<sup>th</sup> at 7:00 p.m.

Ms. Connie Honeywell, 12419 Hutton Drive, stated that each unit will have 2 cars due to work. Flooding in the area will cause traffic problems for people who work. If there is a medical emergency and EMS can't get to it because of flooding, there will be a lawsuit.

Chairman Rolfsen asked if any Commissioners had any questions or comments?

Mrs. Clark stated there are a lot of unknowns out there. She asked if the applicant could make a final decision whether the development will really be for 55 and older adults, whether the units will be sold or rented, whether there will be an HOA or not and if there will be elevators or not.

**Seeing no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on February 1, 2023 at 5:00 P.M. This item will be on the Agenda for the Business Meeting on February 15, 2023 at 7:00 p.m. in the Fiscal Courtroom.** Chairman Rolfsen closed the Public Hearing at 9:30 p.m.

**APPROVED:**

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**Charlie Rolfsen**  
**Chairman**

**Attest:**

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**Kevin P. Costello, AICP**  
**Executive Director**