

APPLICATION FORM

MAY 5 1992

CHANGE IN CONCEPT DEVELOPMENT PLAN
OR
THE UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT
BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check one:
 Change in Concept Dev. Plan
 Utilization of an Underlying Zone in Planned Development
2. Name of Development MT ZION DEVELOPEMENT
3. Location of Development MT ZION RD # 1-75 (SOUTHEAST QUADRANT)
4. Total Acreage of Site 1.1 ACRE (+) (PORTION OF 10.03 ACRE C-3 SITE)
5. Current Zoning C-3
6. Date of Zone Change or Approved Concept Development Plan (if applicable) JUNE 7, 1988
7. Is the site subject to a specialized Land Use Study approved by the Boone County Planning Commission? (If so, indicate the name of the Study) NO
8. Proposed Uses (please specify each use)
RETAIL GAS SALES AND CONVICIENCE STORE: (SEE ATTACHED)
9. Name of Applicant(s) DON CONRAD/WACO OIL CO.
 Phone Number(s) 606-581-9226
10. Address of Applicant(s) 219 GARRARD ST
Couington Ky 41011
 City State zip
11. Name of Property Owner(s) MT Zion Developement
 Phone Number(s) 606-371-3600
12. Address of Property Owner(s) C/O Michael A. Duncan 525-7797
Florence Ky 41042
 City State zip
13. Proposed Building Intensities (please specify)
APPROX. 3500 SF.
14. Are there any existing buildings on the site? Yes
 How many? 1 (AN OLD BARN WHICH WILL BE DESTROYED.)
15. Deed Book 387 Page No. 83 Group No. 2058
16. Have you had a pre-application meeting with BCPC staff? NO

(COMPLETE OTHER SIDE OF APPLICATION)

EXHIBIT "A"

STAFF REPORT

#1

CHANGE IN CONCEPT DEVELOPMENT PLAN BY
DON CONRAD/WACO OIL (APPLICANT) FOR A
1.1 ACRE SITE LOCATED ON MT. ZION ROAD
AND RELOCATED BILTMORE BOULEVARD,
BOONE COUNTY, KENTUCKY

JUNE 24, 1992

REQUEST

The request is for a change in a previously approved Concept Development Plan by Don Conrad on a 1.1 acre site located at the intersection of Mt. Zion Road and Biltmore Boulevard, Boone County, Kentucky. The entire site, part of a larger 58.27 acre tract is located in unincorporated Boone County. The subject site was rezoned in 1988 from Suburban Residential One (SR-1) to Commercial Services (C-3) and Urban Residential One (UR-1).

HISTORY OF SITE

On March 30, 1988, the Boone County Planning Commission approved a zoning map amendment request for the property as outlined above. The request for Change in Concept Development Plan involves only 1.1 acres of the 10.03 acres which was rezoned from SR-1 to C-3, and which is adjacent to Mt. Zion Road.

Attached as Exhibit 1 is the Staff Report submitted at the March 30, 1988 Public Hearing as information concerning the original zone change. Committee Report dated 4-6-88 is also included as part of Exhibit 1. Narrative on surrounding land uses, existing features of the site, information on public facilities (at that time), relationship to the Comprehensive Plan, a submission of the original Concept Development Plan, with narrative and staff concerns at that time are all included.

REQUEST CHANGES TO CONCEPT DEVELOPMENT PLAN

The applicant would like to amend the original Concept Development Plan for a 1.1 acre portion of the 10.03 acres zoned C-3 as follows:

1. The original and existing Concept Development Plan shows the gas pumps separate from the 25,000 square foot retail building to the south. The submitted Concept Development Plan proposes to develop on a 1.1 acre tract of real estate laying immediately adjacent to Mt. Zion, gas pumps and an approximately 3,000 square foot C-store with car wash (see Mr. Conrad's Site Plan for this 1.1 acre tract, as Exhibit 2). The gas pumps and C-store would be very similar in design and architecture to that of the Shell station owned by Mr. Conrad at the corner of Ridge Road and Kentucky 18 in Florence, Kentucky.
2. Mr. Conrad is requesting that an access be provided to his gas sales/C-store as shown on the Site Plan submitted with Mr. Conrad's application. This access would provide both ingress and egress to his C-store and retail gas sales on a temporary basis (see #3 below).

3. The fifty (50) foot access to Mt. Zion Road as shown on the original Concept Development Plan (see Exhibit 1) would not be built initially (see condition #1 of Committee Report 4-6-88). At such time as Mt. Zion Development Corporation (the current owner of the remaining fifty-eight (58) acres) would develop that property and construct that fifty foot access then that fifty foot access would become permanent and serve as the primary ingress and egress to the entire 58 acre site. At that time, the access to Mr. Conrad's C-store and retail gas sales shown on his Site Plan would be restricted to "in-only". Egress from the C-store and retail gas sales location to Mt. Zion Road would be through side entrances accessing Mr. Conrad's site to the fifty foot boulevard on the east and Biltmore Place on the west as shown on Mr. Conrad's Site Plan.

The above represent the changes requested by the Applicant. An Access Agreement is attached to the Applicant's Site Plan submitted with his Application signed by both Mr. Conrad/Waco Oil and the property owner, Mt. Zion Development Corporation, Inc.

STAFF CONCERNS

1. The Transportation Cabinet has given preliminary approval to construct the 50 foot maximum width single access on relocated Mt. Zion Road. The location of this access point was approved by the Planning Commission but agreed upon by the property owners that it would be temporary only in the case that the first phase of this development occurs before the construction of the Mt. Zion interchange and Biltmore improvements. The Planning Commission could close this access point at anytime upon the availability of alternate access. Biltmore Drive is now a viable access and the Mt. Zion interchange is in the final phases of construction.

In addition, the Planning Commission Staff stated in its report to the Commission on December 18, 1991 in consideration of a Site Plan for the site that the owner of the site shall participate in future frontage road or drive connections to properties to the east in order to achieve future access to Mt. Zion Road at the location of the proposed Mt. Zion Connector Road. The Committee Report to the Commission indorsed the Staff Report.

2. Although the Staff has no problem with the change in the design of the convenience store, gas pumps and car wash, the original objections of the Committee at that time are not addressed. They are as follows:
 - . The proposed development does not meet the requirements of Article 17a, Access Management Regulations, of the Boone County Zoning Regulations. Applicable portions of the regulations include the following sections;
 - . Sections 1710A: Mt Zion Road is classified as a Class II Collector. The regulations state that "generally

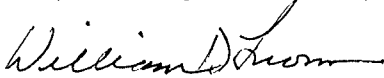
only one private access point shall be provided to an individual parcel unless it can be shown that additional access points would not be detrimental to the safety and operation of the roadway and are necessary for the approved use of the property."

- . Section 1725A: This section requires spacing between driveways be a minimum of 185 feet. The driveway proposed on Mt. Zion Road is estimated to be less than 100 feet distance from the access driveway approved on the Concept Development Plan. (AND IS STILL PLANNED)
 - . Section 1730A: The minimum distance of a driveway to an intersection is 175 feet, whereas the distance proposed is approximately 135 feet.
 - . Section 1740A: Allows the Planning Commission to restrict access to roadways that would reduce the capacity of the roadway.
 - . Section 1750A: Limits the number of access points to a tract of land to only one. The text continues in stating "Where an undeveloped parcel adjoins another undeveloped parcel, access points shall be encouraged to be located along common property lines..."
 - . Section 1752A: Coordination of access points is detailed in this section. The text states "...in order to maximize the efficient utilization of access points, access drives shall be designed, located and constructed in a manner to provide and make possible the coordination of access with and between adjacent properties developed (present or future) for similar or compatible uses."
 - . Section 1765A: Details requirements for frontage roads and states that "access to the roadway via an intersecting street or a common driveway may be required if the use of a frontage road is not feasible."
3. When the 50 foot access drive to Mt. Zion Road as shown on the original Concept Development Plan (to the east) is ultimately built, Mr. Conrad states that he would then limit the access to his C-Store and gas sales from Mt. Zion Road to "in only". Staff feels that would be impossible to control. The net effect would be that there would be then three access points to the property. It would be, in effect, like the Conrad station on Kentucky 18 and Ridge having another access, that from the east side of the property.

CONCLUSION

The re-design of the location and size of the uses is of no concern especially when it is clear to see what it might look like from the tangible sample on Kentucky 18 and Ridge. The Commission must still evaluate this site, however, on the problems that ingress and egress may present as presently designed and proposed.

Respectfully submitted,



William D. Fromm, AICP
Director

WDF:kat

BOONE COUNTY PLANNING COMMISSION

June 24, 1992
7:00 P.M.

PUBLIC HEARINGS

Mr. Barry Neltner, Temporary Presiding Officer, called the meeting to order at 7:05 P.M..

Mr. Neltner summarized the Public Hearing process and advised that Public Hearing Item #3, the request of Maxwell Oxford Associates for Corporex Parks of Kentucky for a Change in Concept Development Plan for a site near Turfway Road and Houston Road in Florence, has been cancelled.

Mr. Neltner introduced the first item on the Agenda:

1. Applicant: Don Conrad/Waco Oil Co. for Mt. Zion Development (owner)
Request: Change in Concept Development Plan

The request of Don Conrad/Waco Oil Co. (applicants) for Mt. Zion Development (owner) for a change in a previously approved Concept Development Plan for an 1.1-acre (approx.) site on the south side of Mt. Zion Road and adjacent to relocated Biltmore Boulevard, Boone County, Kentucky. The 1.1-acre parcel is part of a larger 10.03-acre tract and is currently zoned Commercial Services (C-3).

Mr. William Fromm, Director, read a letter from Mr. Tom Nienaber, attorney, outlining the proposed changes to the previous plan (see REVISED letter dated June 3, 1992 which is on file).

Mr. Fromm presented the Staff Report which included a slide presentation (see Staff Report). Mr. Fromm made a correction to the Staff Report under Staff Concerns, Item 2, references to Article 17 of the Zoning Regulations. He stated that the Transportation Management Regulations are Article 32 under the new Zoning Regulations and the sections pertaining to this particular development are basically the same.

Mr. Neltner asked for comments from the applicant.

Mr. Mike Duncan, attorney for the owner of the property, stated that a member of his firm is representing the applicant and he would, therefore, be representing the applicant and the owner in his presentation. Mr. Duncan stated that Mr. Fromm had adequately set forth one of their main points -- that this is not a zone change request or a request to change uses. They have no new accesses that have not yet been deemed appropriate by the Commission or the Fiscal Court. They are asking for a change in

the previously approved Concept Plan to make this a safer project with a better layout. Using a copy of the plan for clarification, he stated that originally the commercial part of the property was designed to have one large building (a convenience store) for retail type uses with gas pumps in the front. They are now separating out about 1.1 acres and designating it for the C-store (convenience store), gas station, and car wash. They have a buyer for that property in Mr. Conrad/Waco Oil. He stated that the station at Ridge and KY 18 is a fine store and Tom Nienaber, one of the owners, says you can "eat off the floor". This will be a similar type store.

Mr. Duncan stated that the location of the car wash and the traffic pattern as related to the car wash was indicated in error. It would make sense for the cars exiting the car wash to go on out Biltmore Drive and back onto Mt. Zion Road, but that is not the intention of the Concept Plan. He stated that Biltmore Drive is now constructed. They intended the access off Biltmore as a convenience to the people living in the subdivision. He stated that he is very familiar with that neighborhood and has members of his family living there. He stated that he would not be involved in a project that would do something negative to that neighborhood. Mr. Duncan stated that as you approach the gas station from either direction, the main entrance is intended to be through the curb cut which he indicated on the plan. Once the boulevard is built, they want to encourage their customers to go out that way. The main change is that the car wash will be moved as it would encourage people to use the side road. That move will change the directional flow and he indicated the proposed stacking pattern on the plan.

Mr. Duncan introduced Mr. Don Conrad, owner of Waco Oil; Mr. Marty Horwitz, a member of the ownership of the property; and Mr. Jack Gehrum, their traffic engineer.

Mr. Don Conrad stated that Waco Oil Company has been in business since 1955 in Northern Kentucky. They have four units in Boone County. The unit they are proposing on this property would be identical to the one on U.S. 42 and KY 18. There will be a large canopy. He stated that they have well lit service stations and do not shine lights on any of their neighbors. They do not do any repair work. They run a clean and good operation and need good accessibility to get in and out. They think the best ingress and egress is off Mt. Zion Road so that customers can drive straight into the pumps. He indicated on the plan how the traffic would flow with 97% of the traffic coming in off Mt. Zion Road, which will have a turning lane. The customers can get their gas and go back out of the site, which he indicated on the plan. Once the boulevard is built, the main entrance would be "IN" only. He advised that their company has been recognized as one of the 50 fastest growing privately owned companies in the greater Cincinnati area. They are locally owned and hire local people.

Marty Horwitz, representing the property ownership group, stated that they want a clean and good operation as their front door and believe this is it. He noted that Mr. Conrad does not have things sold in his yard and there are no products stacked up.

Mr. Jack Gehrum reviewed the plan and indicated the proposed changes in consideration of the new road to be built. He reviewed the traffic study that had been submitted to the Commission. He stated that they looked at the site in terms of safety and considered the sight distances. Sight distance is adequate in both directions. On Mt. Zion Road there will be a center turning lane. The service station will serve a large part of the existing traffic and is not really there to generate a lot of new traffic. They would expect 77% of the patrons to be traffic already there. The patrons would go into and out of the station and, with the exception of those from the subdivision, would continue on in the direction they were going. The only major traffic moves they are making go with the stream of traffic. The present volume is about 3,500 vehicles per day, which will increase in time, but there should be no safety or capacity problems in making the turns. There will be no need even when the area begins to develop for any signalization or controls other than stop signs. He stated that he could find nothing that would indicate there would be a safety problem with the proposed traffic flow through the site.

Mr. Duncan stated that they have a letter from Forrest Rankin of the Highway Department. He stated that this is a state highway and they have primary jurisdiction over the road. He stated that the letter basically gives preliminary approval. Mr. Duncan noted that the BP Oil Station at KY 18 and Mall Road is very similar and has access from two different directions -- two access points from KY 18 and one from the side street. The service station at KY 18 and Ridge is a top flight setup and there are two or three curb cuts coming out on KY 18 and one on the side street. The Shell station in Burlington has a curb cut on KY 18 and two curb cuts onto the side road. He stated that the purpose of the traffic patterns is to get people in and out and not conflict with each other. They believe that the people would conflict with each other if they go with the original plan.

Mr. Don Davis, County Commissioner, stated that he has received a lot of phone calls this past week from people in the subdivision and the general area. Those calls were concerning the approved plan with the main access off of Biltmore. There were concerns about the overwhelming amount of traffic generated on a subdivision street. He stated that his concern is that a traveling person getting off I-75 would be past the entrance by the time they realize what the property is and will back up, or their business will be lost. He stated that this would be a much better plan and would alleviate a lot of the concerns that the residents have raised to him. He stated that it could be years until the adjoining road is built. The entrance off Mt. Zion Road is a safer access and a better plan.

Mr. Neltner asked if there was anyone else present who wished to speak in behalf of the request. There being no response, he asked if there was anyone present in opposition to the request.

Mr. Don Verex, a resident of the subdivision, stated that the subdivision road makes a bad curve and "you will be on top of the entrance before you know what hit you". He stated that it is an "S" curve and if anyone was trying to make a turn out of the entrance, you would run into the side of them. He is against the exit on the subdivision street. It is not 50 feet from the entrance to the "S" curve and you cannot see the entrance

until you get around the corner. He stated that people miss the road because the curve is so sharp.

Mr. Jim Cheek, an adjoining property owner, stated that they cannot light the station without lighting the residential property, particularly if they take out the trees. The residential property in the front will be worthless as residential property. He indicated an old pond on the site with large trees.

Mr. Bill DeMoss, a resident of the subdivision, stated that Biltmore is a two-lane road with bad curves replacing a four-lane road, and this will add more traffic to it. He stated that there will be a road on the east side of the service station eventually and questioned why they cannot go out on that road to eliminate some of the problems.

Carolyn Oblinger, West Shell Realtors, stated that she has three parcels of property and the people are concerned that they will not be able to get at least two access points for their properties if this development gets these access points.

Staff Member, Dave Geohegan, explained that the road immediately to the east was approved in 1988 as a temporary curb cut. Further to the east there is a planned connector road from Mt. Zion Road to the Industrial Park which would be a future major intersection serving all of the properties to the south of Mt. Zion Road through frontage connections. Counselor Wilson questioned if the approval was temporary on the condition that the permanent arrangement would eventually happen. Mr. Geohegan advised that it was. Counselor Wilson commented that if that never happens, then this would be the access.

Ms. Oblinger stated that her concern is with the allowable distances between access points. Mr. Geohegan advised that Mt. Zion Road was classified in 1986 as a collector road, but in the 1991 Zoning Regulations it is classified as an arterial. Mr. Fromm stated that the required distance was 185 feet between driveways and it is now 275 feet. Counselor Wilson stated that this requirement is not cast in stone and can be evaluated.

Mr. Richard Cox, who lives just east of the property, questioned the feasibility of the access points and road connections. Mr. Geohegan explained the long-term planning goals in regard to connecting the roads, which would probably only happen with the development of a lot of properties in the area.

Ms. Oblinger questioned how they would control the Mt. Zion Road access to be "IN" only.

Mr. Cheek questioned what would be done with the sewage from the car wash. He asked that if they run the sewer system up, they run it up between the property lines and let them tap into it.

Mr. McMillian questioned what was planned that the Boulevard would be going back to. Mr. Geohegan advised that the original development included 576 apartments and a commercial center in the front.

Mr. McMillian questioned the required buffer between the commercial area and the residential property. Mr. Fromm advised that it is 50 feet.

Mr. Damstrom asked if a highrise sign that would be visible from the interstate is planned.

Ms. Oblinger stated that the parcels she is concerned about are in the names of Cox, Noble, and Ginn. Mr. Duncan indicated these parcels on the previously approved Concept Plan.

Mr. Sharp questioned the distance from the centerline of the driveway to the center of the three parcels. Mr. Duncan, using the scale and a pen, stated that it appeared to be about 400 feet but he is not an engineer and this may not be correct. Mr. Geohegan reviewed the drawing in the packet in regard to the distances which indicated that from centerline to centerline it is approximate 340 feet from the proposed boulevard to Mt. Zion Drive.

Ms. Oblinger stated that one of the parcels is directly across the street from the proposed boulevard and the others are back behind the interchange.

Mr. Collins stated that this is a federal highway and you are supposed to have 185 feet between access points. The driveway at Mt Zion is less than 100 feet from the access approved on the Concept Development Plan. The proposed distance is 135 feet and this is a safety consideration. He stated that the entrance is a deathtrap.

Mr. Neltner asked Mr. Duncan to respond to the questions raised.

Mr. Duncan stated that there is a 15-foot buffer area between the residential properties. This development will take out the old pond. They will comply with all landscaping and buffer requirements. The drainage from the car wash and the food mart, as well as any sanitary sewage, will be taken care of by a collector system on the site. There is currently a sewer line across the lake which goes through their property. They will tap into that line.

Mr. Duncan asked that the Commission focus on this part of the development as the rest is already approved.

Mr. Conrad stated that there is a highrise sign proposed, but they do not know at this point if it can be installed. He does not know the proposed height of the sign. They may not put it up because it may not be able to be seen from the expressway because of the trees.

Mr. Duncan stated that they would defer to the traffic engineer and the Staff in regard to controlling the access. They may have a sign that says "NO EXIT", and the way the traffic is controlled internally, it will make sense for them to go out of the site as they plan. There may be other egress prevention type measures. This would be subject to further review by the Staff.

Mr. Verex questioned how far it is from the entrance on Mt. Zion Road to the Biltmore entrance. Mr. Duncan stated that it is less than what the regulations say, but they do not feel that it is a deathtrap. Mr. Gehrum stated that the speeds are very slow. He drove it several times and did not see any problem considering the speed you would be traveling in order to negotiate the curve.

Mr. Verex stated that all of the traffic from the industrial park comes off Richwood and there is a steady stream. You cannot get out onto Mt. Zion and the traffic will come down to their area to get to the interchange. They will not be able to get out of their street.

Mr. Neltner suggested that a representative of the neighborhood meet with the Committee to discuss the access point. He stated that they will be contacted in regard to the time of the meeting.

Mr. Duncan stated that, according to Jim Berling's scale, from the center of Biltmore to the center of the proposed curb cut is 175 feet.


Mr. Conrad stated that on the approaches and wherever possible they do low level lighting. Any other lighting would be up 12 feet and shine straight down. They are definitely not going to light any of the neighbors' properties. The pole would be towards the residential side and they would light in towards this property. He guarantees that they will not light any of the neighbors' properties.

Mrs. Doan questioned when the construction would start and how it would affect the roads.

Mr. Conrad stated that they will only tear up their own property for building and would not bother the road. They will start building whenever they get the proper permits and approvals.

There being no further comments, Mr. Neltner stated that this item will be on the Agenda for the Business Meeting on July 15, 1992 at 8 P.M. and closed this Public Hearing.

APPROVED:



Barry Neltner
Temporary Presiding Officer

ATTEST:



Jan Hancock, Recording Secretary

BOONE COUNTY PLANNING COMMISSION

BUSINESS MEETING

August 5, 1992 8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:05 P.M.

COMMISSION MEMBERS PRESENT:

Mr. Fred Burch, Vice Chairman
Mr. Lawrence Collins
Mr. Phil Damstrom
Mr. Melvin DeLong
Mr. R. N. Greene
Mr. Don McMillian
Mr. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mr. Floyd Sharp
Mrs. Carol Smith
Mr. William Viox, Chairman

COMMISSION MEMBERS NOT PRESENT:

Mr. Rector Jones
Mr. Robert Kirby, Jr.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

Chairman Viox stated that each member had received a copy of the Minutes of the Business Meeting of July 15, 1992 and the Public Hearing of July 22, 1992. He asked if there were any comments or corrections.

There being no changes to the Minutes, Mr. McMillian moved that they be approved as mailed. Mr. Damstrom seconded the motion and it carried unanimously.

UNFINISHED BUSINESS:

1. Concept Development Plan

The request of Don Conrad/Waco Oil Co. (applicants) for Mt. Zion Development (owner) for a change in a previously approved Concept Development Plan for an approximate 1.1-acre site on the south side of Mt. Zion Road and adjacent to relocated Biltmore Boulevard, Boone County, Kentucky. The 1.1-acre parcel is part of a larger 10.03-acre tract and is currently zoned Commercial Services (C-3).

Mr. Sharp read the Committee Report which recommended denial of the request based on the findings of fact (see Committee Report).

Mr. Green disagreed with the Committee Report. He stated that from U.S. 42 to Weaver Road there are five such oil stations. U.S. 42 is a road that carries industrial, commercial, mall, school, and residential traffic. Going from U.S. 42 over to KY 18 and from Burns Truck Stop to Ridge Avenue there are five such oil stations. KY 18 handles all traffic that needs to go to Burlington including industrial, commercial, business, and residential traffic. Going over to Turfway Road, there are two such oil stations between Houston Road and Dixie Highway. Turfway Road handles the race track, the airport, industrial, commercial, restaurant, hotel, residential, and other traffic. There is no such traffic impact at Mt. Zion Road to keep this project from going forward. The traffic there is more or less strictly residential. He cannot see this development creating any problem or devaluing the homes or subdivisions to the south and believes it would enhance their value over time.

Attorney Mike Duncan asked to address the Commission. Counselor Wilson cautioned that the Commission cannot allow this to become another Public Hearing.

Mr. Duncan agreed with Mr. Greene's comments. He referred to the Committee Report. He stated that the findings of fact indicate that the curb cut renders the project incompatible with the Comprehensive Plan. He stated that every shopping center that is developed now has outlots. They see this as an outlot and it does not destroy the integrated shopping center. He stated that the primary jurisdiction over Mt. Zion Road is by the state. The state has approved this curb cut and they submitted a letter in this regard. There was a curb cut there for many years. He noted that finding of fact #2 indicates that this proposal is inappropriate for the site, but the only evidence introduced at the Public Hearing indicates otherwise. It is more appropriate based on everyday concerns of traffic patterns and guiding traffic in the right direction. Also, the Committee Report undercuts their traffic expert's analysis. This expert is well aware of everything going on in the county and it can be assumed that all of the points were taken into consideration in his report which indicates that "implementation of this project will have no adverse affects on the safety and capacity of the public road system", which they believe is the key to this project. In regard to the 44-foot wide curb cut, they offered at the Public Hearing and at the Committee level to work with the Staff, the Commission, and the state to make

improvements or changes to satisfy the concern -- including cutting it down if it does not work. He asked that the Committee Report be rejected.

Mr. Sharp stated that they have had two Committee meetings and all of the points brought up by the applicant were considered.

Mr. Owens moved by resolution to the Fiscal Court that the Committee Report to deny the request be adopted as the request does not conform with the Comprehensive Plan. Mr. Collins seconded the motion.

A roll call vote on the motion found Mr. Burch, Mr. Collins, Mr. Damstrom, Mr. DeLong, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Ries, Mr. Rush, Mr. Sharp, Mrs. Smith, and Chairman Viox in favor. Mr. Greene was opposed. The motion carried by a vote of 12 to 1.

Chairman Viox advised that Agenda Items #8 and #10 are recommended for deferral until the next Business Meeting:

8. Site Plan Review

The request of Joseph P. Dillon (applicant) for TRP & Associates (owner) for Site Plan Review to build an entrance to Furniture Fair off Spiral Drive, Florence, Kentucky. The 0.10-acre site is zoned Commercial Two/Planned Development (C-2/PD).

10. Preliminary Plat Review

The request of George Finke (applicant) for Woodrum Borders (owner) for Preliminary plat Review to develop 492 lots in Pebble Creek Subdivision, Boone County, Kentucky. The 175-acre site at 7402 Camp Ernst Road is zoned Suburban Residential One/Planned Development (SR-1/PD).

Mr. Burch moved that Agenda Items #8 and #10 be deferred until the August 19, 1992 Business Meeting. Mr. DeLong seconded the motion and it carried unanimously.

2. Utilization of an Underlying Zone in Planned Development

The request of Darrell Harper, Marathon Oil (applicants) for Marathon Oil (owner) for the Utilization of an Underlying Zone in Planned Development on a 2.64-acre site in Florence Business Park located off Commerce Drive, Florence, Kentucky. The proposed use is a roller skating rink. The site is zoned Commercial Services/Planned Development (C-3/PD).

Mr. Sharp read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). Staff Member Laura Pramuk advised that the letter agreeing to the conditions has been signed by the applicant and the owner.

Mr. Collins moved that the request be approved based on the Staff and Committee Reports. Mr. Ries seconded the motion.

EXHIBIT "B"

COMMITTEE REPORT

#1

TO: Boone County Planning Commission

FROM: Floyd Sharp, Chairman

DATE: August 5, 1992

RE: Request of Don Conrad/Waco Oil Co. (applicants) for Mt. Zion Development (owner) for a change in a previously approved Concept Development Plan for an approximately 1.1 acre site located on the south side of Mt. Zion Road and adjacent to relocated Biltmore Boulevard, Boone County, Kentucky. The 1.1 acre parcel is part of a larger 10.03 acre tract and is currently zoned Commercial Services (C-3).

REMARKS:

Although the Committee recognizes that the 1.1 acre site is suitable for commercial land use, the application as presented is not suitable for the site. The Committee believes that the approved uses and plan for the site, as a part of the overall Mt. Zion Development, are appropriate for the site. The Committee recommends denial of the request based upon the following findings of fact:

FINDINGS OF FACT:

1. The request is not in conformance with the 1990 Boone County Comprehensive Plan.

A Business Activity Objective under the Goals and Objectives section indicates that future commercial development should occur in the form of shopping centers or other compact aggregations having an integrated design. The Committee believes that the requested changes to the Concept Development Plan do not make the proposed use an integral part of the overall Mt. Zion Development design. It is the Committee's opinion is that the proposed use should contain a portion of the main development road as opposed to creating its own access from Mt. Zion Road. It would then be an integral part of the overall development design.


The Future Land Use Development Guidelines section of the Land Use Element (pages 201 & 202) strongly states the need for adequate corner clearance and spacing for access points. The Committee believes that with future travel demands in this interchange area, the spacing of access points shown on the submitted Concept Development Plan will create unsafe turning movements at this location. This point is supported by the fact that the recently approved 1991 Boone County Zoning Regulations changed the status of Mt. Zion Road from a Class I Collector Road to an Arterial Road, thereby increasing the access management dimensional requirements. As shown at the Public Hearing, the proposed access point on Mt. Zion Road does not meet Section 3211 of the Transportation Management Regulations (minimum spacing of adjacent driveways on arterial roadways). A Transportation Objective under the Goals and Objectives section states:

"Roadway capacity shall be preserved by enforcement of the access management policies and guidelines."

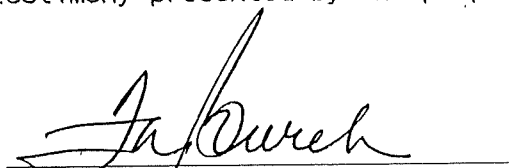
2. The 1988 approved Mt. Zion Development Concept the Development Plan is appropriate for the site, and the requested Changes in the Concept Development Plan are inappropriate for the site. The Committee believes that the submitted Traffic Impact Analysis (TIA) fails to examine the future impact of multiple access points on the traffic capacity and safety of Mt. Zion Road when the area is substantially developed. The TIA merely projects traffic impact on existing levels of use of Mt. Zion Road, and does not include factors such as the significant truck traffic impact that is anticipated when the Mt. Zion Connector Road is constructed and the area is developed under its industrial and commercial zoning.

In addition, the Committee believes that the design of the proposed access point on Mt. Zion Road is unsuitable for a future ingress-only driveway. The access is proposed to be forty-four (44) feet wide. It is apparent to the Committee that even with the pavement markings and signage suggested by the applicant at the Public Hearing and in the TIA, such an access point that is wider than the reconstructed Mt. Zion Road would continue to accommodate egress from the site.

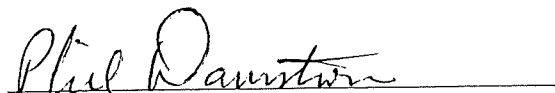
A copy of the Public Hearing minutes accompanies the findings and recommendation serving as a summary of the evidence and testimony presented by the proponents and opponents of this request.



Floyd Sharp, Chairman




Fred Burch



Phil Damstrom



Barry Nettner



Thurman Owens



Carol Smith

BOONE COUNTY FISCAL COURT
ORDINANCE NO. 920.241
CONRAD/WACO OIL/MT. ZION DEVELOPMENT

A ORDINANCE OF THE BOONE COUNTY FISCAL COURT RECOMMENDING APPROVAL FOR A REQUEST OF DON CONRAD/WACO OIL COMPANY (APPLICANTS) FOR MT. ZION DEVELOPMENT (OWNER) FOR A CHANGE IN AN APPROVED CONCEPT DEVELOPMENT PLAN IN A COMMERCIAL SERVICES (C-3) ZONE ON AN APPROXIMATELY 1.1 ACRE SITE GENERALLY LOCATED ON THE SOUTH SIDE OF MT. ZION ROAD AND ADJACENT TO RELOCATED BILTMORE BOULEVARD, BOONE COUNTY, KENTUCKY. SAID ORDINANCE BEING AGAINST THE RECOMMENDATION BY THE BOONE COUNTY PLANNING COMMISSION BY VIRTUE OF A 12-1 VOTE RECOMMENDING DENIAL OF SUCH REQUEST VIA RESOLUTION NO. R-92-016-D.

WHEREAS, the Boone County Fiscal Court received a request for a change in an approved Concept Development Plan in a Commercial Services (C-3) zone for an approximately 1.1 acre site generally located on the south side of Mt. Zion Road and adjacent to relocated Biltmore Boulevard, Boone County, Kentucky, which is more particularly described in the Application of the Applicants; and

WHEREAS, the Boone County Planning Commission as the planning unit for the unincorporated areas of Boone County, Kentucky, was requested to and has conducted a Public Hearing serving as a due process trial-type hearing and has made findings recommending denial of the change in such approved Concept Development Plan in a Commercial Services (C-3) zone for an approximately 1.1 acre site; and

WHEREAS, the Applicant and owner appeared before the Boone County Fiscal Court requesting that this Body override the recommendations of the Boone County Planning Commission and that a Public Hearing be held before this Fiscal Court; and

WHEREAS, this matter having been brought before this Fiscal Court for Public Hearing on Tuesday, September 29, 1992, and the Applicant and Owner having presented its Application and having introduced testimony relative thereto.

NOW, THEREFORE, BASED UPON THE PROOF PRESENTED AT THE AFORESAID PUBLIC HEARING BY THE APPLICANT AND OWNER, THE BOONE COUNTY FISCAL COURT MAKES THE FOLLOWING FINDINGS OF FACT:

1. The Fiscal Court does not believe that the spacing of access points shown on the submitted Concept Development Plan by the Applicant will create any unsafe turning movements at this location in light of the present and projected future traffic in the Mt. Zion interchange area. Specifically, the Fiscal Court has reviewed the Traffic Impact Analysis submitted by the Applicant through its traffic engineer, Mr. John E. Gehrum. This Fiscal Court concurs with the final conclusions contained by that Traffic Impact Analysis in that "implementation of this project will have no adverse affects on the safety and capacity of the area public roadway system.

2. The Fiscal Court acknowledges that the proposed access points on the Mt. Zion Road do not meet §3211 of the transportation Management Regulations concerning minimum spacing of the adjacent driveways on arterial roadways, however, based upon safety records and traffic flow patterns of similar commercial outlets in Boone County that are

BOONE COUNTY FISCAL COURT
ORDINANCE NO. 920.241
CONRAD/WACO OIL/MT. ZION DEVELOPMENT

located on commercial arterial roadways this Body does not believe that the Applicants request would present traffic or safety problems. This Fiscal Court has further reviewed the January 14, 1992, letter from the Transportation Cabinet, Commonwealth of Kentucky, Mr. Forest M. Rankin, indicating that the Kentucky Department of Transportation has given its preliminary approval to construct a 50' maximum width access point to the proposed station.

SECTION I

That the request for a change in an approved concept Development Plan for the real estate located in a Commercial Services (C-3) zone consisting of approximately 1.1 acre and site generally located on the south side of Mt. Zion Road and adjacent to relocated Biltmore Boulevard, Boone County, Kentucky, is hereby recommended for approval and that the Recommendation of the Boone County Planning Commission recommending denial of said Application is hereby set aside and overruled. The real estate which is the subject of this request for a change in an approved Concept Development Plan in a Commercial Services (C-3) zone is part of a larger tract of real estate described in DEED BOOK 387, PAGE NO. 83, GROUP NO. 2058, (as supplied by the applicant) as recorded in the Boone County Clerk's office, Burlington, Kentucky. The Application of the Applicant is approved and that the Plan submitted by the Applicant is hereby approved in all respects including, but not limited to the following:

- A. That the 44' curb cut identified on the Applicants Site Plan on Mt. Zion Road to the Conrad Site shall provide both ingress and egress to the Conrad site.
- B. At such time as Mt. Zion Development Corporation, Inc. should elect to construct its 50' access to its Mt. Zion site (consisting of approximately 58 acres) as identified on the attached Site Plan (said 50' passway being contiguous to the east property line of the Conrad Site) then in such event the curb-cut to the Conrad Site on Mt. Zion Road shall be used for purposes of ingress only to the Conrad Site. At such time as the Mt. Zion Development Corporation, Inc. shall construct its 50' access road to this 58 acres site then, the 44' access to the Conrad Site shall be restricted to ingress only with a suitable curb-cut being made on the 50' access way of Mt. Zion Development Corporation, Inc. to the east property line of the contract site. Upon construction of the 50' access road to the Owners site, it shall serve as a permanent access to the Owners site.

SECTION II

That as a basis for the recommendation of denial for a change in an approved Concept Development Plan in a Commercial Services (C-3) zone on an approximately 1.1 acre site the findings of fact set forth above are incorporated herein by reference.

SECTION III

Introduced, seconded and given First Reading on the 8th day of September, 1992, and on the same occasion denied in open session by the Boone County Fiscal Court.

BOONE COUNTY FISCAL COURT
ORDINANCE NO. 920.241
CONRAD/WACO OIL/MT. ZION DEVELOPMENT

Commissioner Patrick voted AYE, Commissioner Davis voted AYE, Commissioner Meihaus voted AYE and Judge Lucas voted AYE.

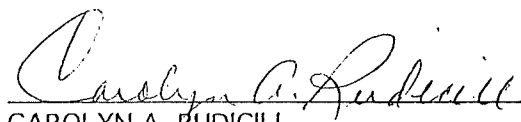
SECTION IV

Introduced, seconded and given Second Reading after Public hearing on the 29th day of September 29, 1992. Commissioner Patrick voted AYE, Commissioner Meihaus voted AYE, Commissioner Davis voted AYE, and Judge Lucas voted AYE.



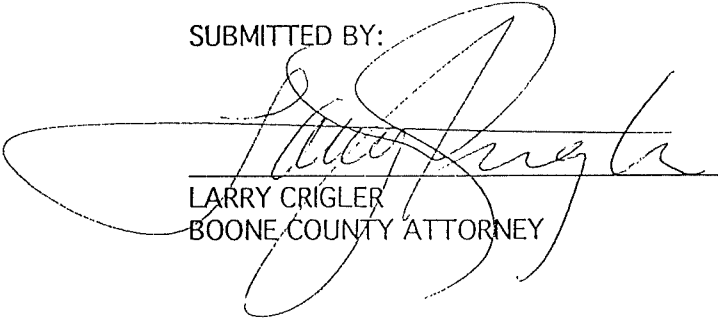
KENNETH R. LUCAS
BOONE COUNTY JUDGE/EXECUTIVE

ATTEST



CAROLYN A. RUDICILL
FISCAL COURT CLERK

SUBMITTED BY:



LARRY CRIGLER
BOONE COUNTY ATTORNEY

October 7, 1992
Date Published