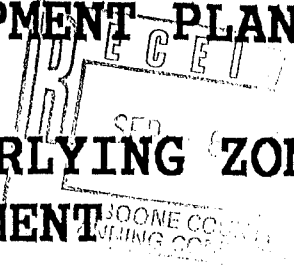


CHANGE IN CONCEPT DEVELOPMENT PLAN OR THE UTILIZATION OF AN UNDERLYING ZONE IN PLANNED DEVELOPMENT



(Concept Development Plan)
BOONE COUNTY PLANNING COMMISSION
(See Boone County Zoning Regulations)

SECTION A (To be completed by applicant)

1. Check One:
 Change in Concept Development Plan
 Utilization of An Underlying Zone in Planned Development
 a) Public Hearing Submittal (Concept Dev. Plan) _____
 b) Long Range Planning Committee Review _____
 (As stated in the Houston-Donaldson Study)
2. Name of Project Limaburg Subdivision
3. Location of Project south side of KY 18 @ Patrick Road
4. Total Acreage of Site 4.0
5. Current Zoning C-2/PD
6. Date of Previous Zoning Map Amendment or Approved Concept Development Plan (if applicable) 10-1-86
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) Wendy's, B.P. gasoline service station with related convenience store, oil change facility, general
9. Proposed Building Intensities (please specify) Wendy's - approximately 3,060 sq. ft. ; B.P. - approx. 4,950 sq. ft. (including Snappy Tomato); car wash / oil & lube - approx. 3,042 sq. ft.
10. Have you submitted a Concept Development Plan? yes
11. Are you also applying for:
 Conditional Use Permit
 Dimensional Variance
12. Name of Applicant(s) Thomas W. Breidenstein
 Phone Number 341-1881 Fax No. 341-1469
13. Address of Applicant(s) 2701 Turkeyfoot Rd.

<u>Covington,</u>	<u>KY</u>	<u>41017</u>
City	State	Zip
14. Name of Property Owner(s) The Deters Co. (owner by contract)
 Phone Number 283-2770 Fax No. 283-2849
15. Address of Property Owner(s) 7230 Turfway Rd.

<u>Florence</u>	<u>KY</u>	<u>41042</u>
City	State	Zip
16. Are there any existing buildings on the site? no
 How many? _____
17. Deed Book (see below) Page No. _____ Group No. _____
18. Have you had a pre-application meeting with BCPC Staff? yes

retail car wash
Snappy Tomato
Pizza

(over)

2031

EXHIBIT "A"

STAFF REPORT

Request of Thomas W. Breidenstein (applicant) for The Deters Company (owner by contract) for a Change in a Previously Approved Concept Development Plan on a 4 acre site located on the south side of KY 18 and west of Jones Circle, Boone County, Kentucky. The site is currently zoned Commercial Two/Planned Development (C-2/PD) and commercial outlots are being proposed.

October 5, 1994

Location

The subject area is located in the Limaburg Subdivision on KY 18, west of Frisch's to a private driveway leading to a single family residence.

Site History (see Map #1)

1986 Zoning Map Amendment approved for 15.7 acres of the north section of Oakbrook to Commercial Two/PD (C-2/PD). The approved Concept Development Plan showed the Oakbrook Marketplace, 4 outlots (Hardee's, Hebron Deposit Bank, and Frisch's), another strip center and a large commercial building use at the west end of the property.

Surrounding Zoning and Land Uses (see Map #2)

North: Flick's, Walgreen's, bank, day care center, zoned Commercial Services (C-3).

South: Apartments zoned Urban Residential One/Planned Development (UR-1/PD).

East: Oakbrook Marketplace and outlots zoned Commercial Two/Planned Development (C-2/PD).

West: Undeveloped land zoned Commercial Four (C-4).

Site Characteristics

The site is an undeveloped field on a higher elevation than the adjacent Frisch's restaurant, KY 18, and The Crossings Of Oakbrook apartments. The property is bound to the west by a gravel driveway leading back to a single family dwelling south of the site.

Relationship to the Comprehensive Plan

The Business Activity element in the Goals and Objectives of the 1995 Comprehensive Plan state that the "mixing of commercial uses adjacent to residential areas shall be carefully assessed and properly placed so as to enhance the neighborhood."

The Land Use element of the 1990 Comprehensive Plan calls for the area of KY 18 and Limaburg Road to develop as locally-oriented commercial uses.

Concept Development Plan (see Map #3)

The revised Concept Plan for the remainder of the Planned Development at Oakbrook shows 3 outlots along Patrick Drive just west of the existing Frisch's restaurant. A 6,000 square foot business is proposed on the lot adjacent to Frisch's. Wendy's is shown on the next lot. The last lot includes 5 different uses; A B.P. Station, Blue Pantry, Snappy Tomato Pizza, a self serve car wash, and a McQuick's Oil Change shop.

This Plan is in contrast to the original Concept Development Plan which showed 2 remaining lots that would include a strip center and a large commercial use such as a grocery store.

The revised lots are shown with 2 curbcuts each on Patrick Drive with the western lot having a third curbcut on the existing gravel driveway. Improvements are shown to the gravel driveway and to the intersection with KY 18 (including deceleration and acceleration lanes).

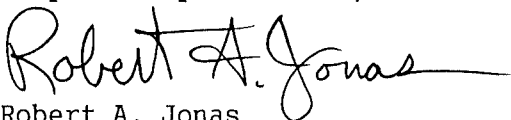
Staff Concerns

1. Staff is concerned about the potential problems with internal traffic-flow on the western lot if it includes 5 different uses.
2. The color schemes of the B.P., Blue Pantry, McQuick's, and Snappy Tomato Pizza may not be aesthetically consistent with each other or the red brick design of the Frisch's and most Wendy's restaurants.
3. The Concept Plan shows landscaping protruding into the Patrick Drive right-of-way.
4. The use of the gravel driveway is a concern since it is part of a flag lot and not a formal road right-of-way. This drive leads to a private residence.
5. The visual and audible impact of the oil change service and self-serve car wash on the adjacent Crossings of Oakbrook apartments is a concern, especially if there are no hour limits to the car wash and constant or loud noise coming from the lube shop.

Conclusion

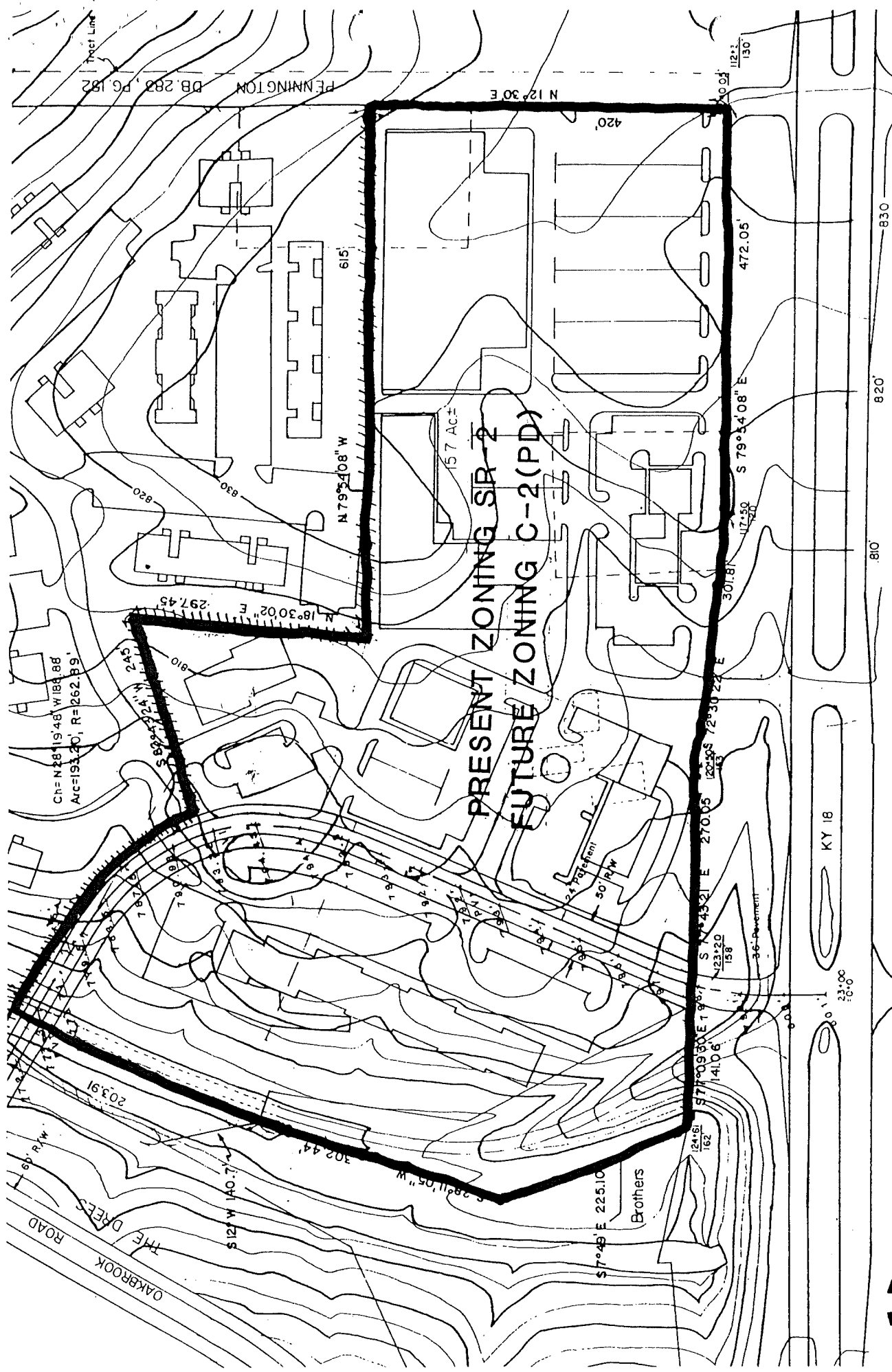
Should the Planning Commission recommend, and the Boone County Fiscal Court approve, this request for a Change In Concept Development, the Future Land Use Map of the Boone County Comprehensive Plan will not need to be revised.

Respectfully submitted,



Robert A. Jonas
Planner

RAJ\par

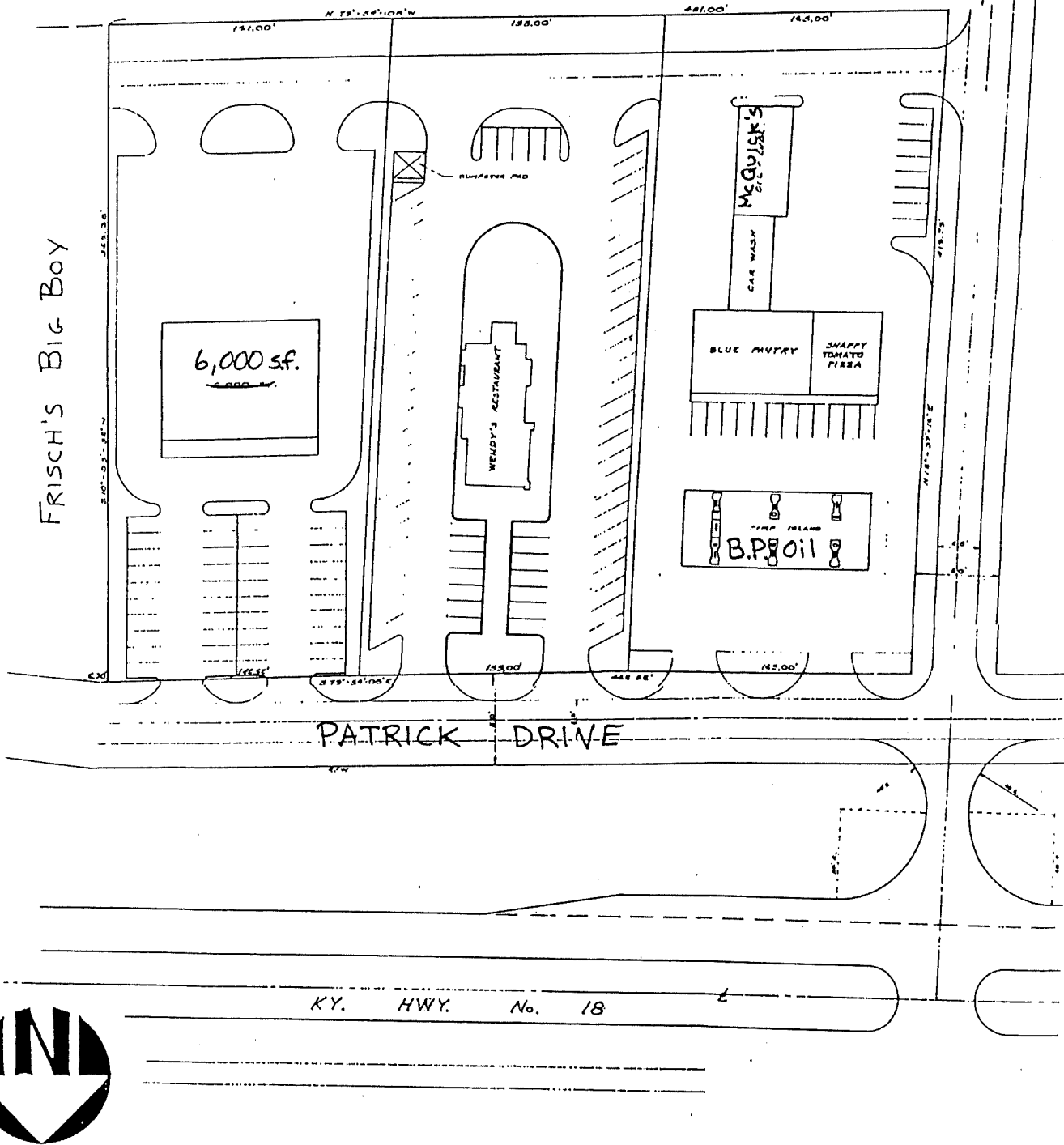


Map #1 - Existing Concept Plan

Breidenstein/Deters

THE CROSSINGS OF OAKBROOK

To single family residence.
↑



Map #3 - Proposed Concept Plan
Breidenstein/Deters

BOONE COUNTY PLANNING COMMISSION

October 5, 1994
7:00 P.M.

PUBLIC HEARINGS

Commission members present: Mrs. Arnett, Mr. Bailey, Mr. Burch - Vice Chairman, Mr. Damstrom, Mr. Kirby, Jr., Mr. McElroy, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Ries, Mr. Rush, Mrs. Schaffer, Mrs. Smith - Secretary/Treasurer, Mr. Viox - Chairman, and Mr. White. (Note: Counselor Wilson was not present for Item #1).

Mr. William Viox, Chairman, called the meeting to order at 7:20 P.M.. Chairman Viox explained the Public Hearing process and advised that the Committee meetings for these items will be on October 24, 1994 at 4 P.M. on the second floor of this building. These items will be on the Agenda for the Business Meeting on November 2, 1994 at 8 P.M..

Chairman Viox introduced the first item on the Agenda:

1. Applicant: Thomas W. Breidenstein for
The Deters Company (owner by contract)

Request: Change in Concept Development Plan

The request of Thomas W. Breidenstein (applicant) for The Deters Company (owner by contract) for a Change in a Previously Approved Concept Development Plan on a 4-acre site located on the south side of KY 28 and west of Jones Circle, Boone County, Kentucky. The site is currently zoned Commercial Two/Planned Development (C-2/PD) and commercial outlots are being proposed.

Staff Member Bob Jonas presented the Staff Report, which included a slide presentation (see Staff Report). Mr. Jonas also presented slides provided by the applicant.

Chairman Viox asked for the applicant's presentation.

Attorney Tom Breidenstein, representing Charles Deters and Brian Fields of the Deters Company, stated that in 1986 this was more than just a commercial area and included 37 acres with the apartments behind it. They are asking for a zone change of only four acres in the corner of the site. They intend to develop three lots for a 3,000 square foot Wendy's (which will be nearly identical to the one just built on Orphanage Road), and a BP service facility including a Blue Pantry convenience store and a self-serve car wash. They initially intended a McQuik's Oil Change, but it may not be included. The concept does include an oil change facility. A

Snappy Tomato Pizza is also included. The development is 8,000 square feet under roof. They intend to build the facility with a uniform look and there would be a green roof consistent with the building in the rear portion. There are no identified users for the 6,000 square foot retail establishment they would like to build. Previously approved for this four-acre site in 1986 was 65,500 square feet of retail, which would have been a strip center and possibly a large Circuit City or grocery store. The proposed change is a tremendous decrease of 75% in the square footage, and there is now 17,000 square feet. The reduction brings this plan into the requirements of the 1990 Comprehensive Plan. Mr. Breidenstein submitted and reviewed the references to the Comprehensive Plan (see Exhibit 1). He noted that the Comprehensive Plan also calls for a frontage road along KY 18 between Florence and Burlington, and that is a concept they will continue with this plan. This concept shows the frontage road from Patrick and the Frisch's site to their property line and the extension of the frontage road to the Pennington driveway, which aligns with Taylor Drive across the street to serve Flick's and other developments. He has talked with Forrest Rankin who indicated that the acceleration lane would not be required, but a decel stacking lane for westbound traffic would be required. They are constructing that stacking lane. He noted that the plan shows the construction of a driveway on the Pennington property. They do not intend to build that driveway at this time. Its primary purpose would be to serve as a secondary access to the car wash facility and the BP site. They intend to have interconnecting driveways to the rear portions of the site to allow for better traffic flow and for the commercial traffic mix.

Mr. Breidenstein referred to the Staff Concerns and stated that he has addressed Concern #1 regarding traffic flow with the interconnecting driveways to the rear. He stated that Brian Fields can give input in regard to the lack of problems that have existed with the Taylor Mill Facility. In regard to Staff Concern #2, he stated that he has addressed the color schemes with BP. There will be consistent gray block with the standard green roof throughout. In regard to Staff Concern #3, he stated that that is an issue that can be addressed at Site Plan and they will work with the Staff. In regard to Staff Concern #4, they have had conversations with Pennington and did not make it a part of the application under review at this time. In regard to Staff Concern #5, he stated that the McQuik's Oil Lube in Florence closes at 6 P.M.. Their oil change facility would be run in a similar fashion so that the neighbors to the rear are not disturbed. They would be willing to plant an appropriate landscaping buffer of berm or pine trees. He noted that in the existing Concept Plan there was no landscape buffer between the large single user, the strip center, and the Drees apartments. He stated that they will commit to working on the landscaping at Site Plan Review. He requested approval of the application.

Chairman Viox asked if there was anyone else present who wished to speak in favor of the request. There was no response. Chairman Viox asked if there was anyone present who wished to speak in opposition or to ask questions.

Mr. A.C. Pennington, 1787 Burlington Pike, stated that it is better to settle the issues before getting to Planning & Zoning. He is very concerned about not using the driveway at this time. He questioned what "at this time" means. He stated that it was his understanding in the 1986 rezoning that one of the conditions was that it was to be developed according to the submitted Concept Development Plan. It was indicated to him that there was to be a road perpendicular to KY 18, but the Concept Development Plan showed a temporary turnaround on Patrick Drive. This plan shows coming across his driveway and he has a problem with that. He stated that it is a 50-foot driveway and he only has 40 feet. He stated that he would assume they would clear these things with people they intend to impose on before they get to this point. He is concerned with the number of fast food restaurants and creating another Dream Street. He questioned how people in the apartments will sleep with people tooting their horns on the proposed back street. He asked how they will keep people out of his driveway. He has problems now with people driving back there and put up "Private Property" signs this summer, but they are torn up now. He feels this could cause him a lot of problems.

Mr. Breidenstein stated that it was his intent that the driveway that was shown on that strip would not be a part of this review and would not be built as part of this review, or after this review. In the future, if the Deters Company or Pennington wants to develop this driveway, they would come back for a change in Concept Development Plan. In regard to Patrick Drive being deadend, he stated that the Concept Plan in the packet shows an access onto KY 18, not a dead end. It was not their intention to deadend Patrick Drive and it is their intention to continue the frontage road concept as far as they can. If it turns out that the driveway cannot be extended, then they would have to make arrangements to make a deadend there for Patrick Drive. He stated that he cannot respond to the number of fast food restaurants and noted that the Deters Company found that there is a market for these types of restaurants. In regard to people sleeping in the apartments, he stated that they would provide adequate and appropriate buffering. He noted that the Drees Concept Plan did not provide a buffer. In regard to people driving on the Pennington driveway, he stated that that is a private matter that needs to be policed in another capacity. He stated that they would work with Mr. Pennington in regard to proper gates or signage to identify the private property.

Mr. Dean Shupe, 10304 Gunpowder Road, stated that the McQuik's sign is gaudy and inappropriate. He questioned control of the signage. He questioned the operating hours of the car wash, and if there would be lighting and noise that would disturb the neighborhood.

Mr. Breidenstein advised that the design of the facility will be similar to the one shown on the slide. There will be a green roof that wraps around the BP, the Blue Pantry, and the oil change facility. The orange and stripes and large signs shown on the slide would not be a part of this project. The use will be identified on the building consistent with the sign regulations. He stated that it would not be economically feasible to put a large amount of signage back there, and they put the facility to the rear to hide it from KY 18. He noted that car washes are typically open 24 hours a day.

Mr. Fields advised that Taylor Mill had a similar concern when they opened there on December 18, 1993 and they started out operating only until midnight. As the volume grew, they asked the city to allow them to try being open 24 hours a day, and there has not been any trouble. It is a well-lit and well-policed area and they have not had any problems. If there is a problem, they are willing to curtail the hours to midnight or 11 P.M.. He stated that some people wash their cars in the middle of the night because of their working schedule.

Chairman Viox asked for comments and questions from the Commission.

Mr. Kirby questioned the BP lot, the private road, and the entrance. He asked how much property is in this tract and where the Pennington property begins. He asked how far the right-of-way line goes. He asked if they will have to cross the Pennington property to get access to Patrick Drive. He noted that it was mentioned that they would not make any access to Mr. Pennington's private road and questioned the rear curb cut shown to that driveway. He questioned the number of parking spaces. He noted that a vacuum facility is not shown around the car wash, and it would add to the congestion on that lot. He asked if the McQuik's will store cars or have people waiting for oil changes. He asked what they used to determine the small amount of parking on the lot.

Mr. Breidenstein stated that the Patrick Road right-of-way is within the KY 18 right-of-way. If it turns out that the property borders are different, they would have to take a closer look at how Patrick Drive will be handled. If it turns out that they cannot cross the Pennington property, they would make provisions to deadend Patrick Drive. They would remove the rear curb cut to the Pennington driveway. In regard to the oil/lube facility, he stated that the drawing is a concept and the fine details of exactly where each parking space would be and the size of the vacuum facility will be worked out at Site Plan Review. He noted that adequate parking and staging areas will be required for approval of the Site Plan.

Mrs. Schaffer questioned stormwater detention as this is a higher elevation than Frisch's. Mr. Breidenstein advised that they will work this out at Site Plan Review. He stated that the Concept Plan was prepared by Berling Engineers, but they did not request that level of detail. They would hire an engineer to make the calculations for the Site Plan.

Mrs. Schaffer questioned the site in Taylor Mill. Mr. Breidenstein advised that it is right across the street from the new Remke's, and behind it is the Farm Apartments and some new single-family homes.

Mr. Ries stated that he is concerned about Lot #3 on the west where there are four businesses on one piece of property, which he believes will set a precedent, and the lot next to it and the lot after that may want four businesses. He is concerned about the parking. He noted that a McQuik's can get busy. He prefers one business on a piece of property so that everyone else does not come in and want the same thing.

Mr. Breidenstein stated that this particular development already has approved over 65,000 square feet, including a strip center which could be built tomorrow. If they want to arrange the uses in a strip center type fashion that could be done, but they decided to come before the Commission with this change and a drastic decrease in the square footage of business. He stated that it is not a cluttered use.

Mr. Ries stated that if they took the whole piece of property and put five businesses on it they could be arranged better. He suggested a rearrangement of the businesses. Mr. Breidenstein agreed to work with the Committee in this regard.

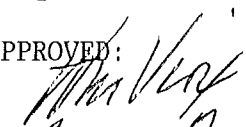
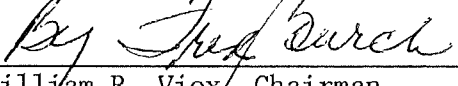
Mr. Neltner questioned if Deters owns the property where the Sunoco and Blue Pantry are on U.S. 42. Mr. Deters advised that they do own it. Mr. Neltner stated that that site is very comparable and questioned the size of it. Mr. Deters advised that it is smaller than this site. Mr. Neltner noted that they have a number of small uses incorporated on that site. Mr. Ries stated that it is a disaster trying to get out of that piece of property and he is concerned about that kind of arrangement occurring on this site.

Mr. Kirby asked if it is their intention that the access across the back will access the Frisch's lot. Mr. Breidenstein stated that provision is made for the connection to the Frisch's lot. He stated that Frisch's did not make that provision and their parking lot ends away from the property line. Mr. Kirby stated that this plan is designed to stop at the property line. Mr. Breidenstein agreed.

There being no further comments, Chairman Viox stated that the Committee Meeting for this item will be on October 24, 1994 at 4 P.M. on the second floor of this building. This item will be on the Agenda for the Business Meeting on November 2, 1994 at 8 P.M..


The Chairman closed this Public Hearing.

APPROVED:

William R. Viox, Chairman

Attest:



Jan Hancock, Recording Secretary

EXHIBIT 1
10/5/94
P.A. # 1

MEMORANDUM

TO: Boone County Planning Commission
FROM: Thomas W. Breidenstein, applicant on behalf of The Deters Company (owner by contract)
DATE: October 5, 1994
RE: Change in Concept Development Plan, Limaburg Subdivision

REMARKS:

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This memorandum is written to demonstrate the compatibility between The Deters Company's Concept Development Plan for the Limaburg Subdivision and the 1990 Boone County Comprehensive Plan, which was adopted by this Commission on June 20, 1990.

Future Land Use Map

The Future Land Use Map for the site indicates the future use of this property to be "Commercial". Likewise, properties to the east, west, and north across Burlington Pike are planned for commercial uses. Frisch's was recently built on the adjacent lot to the east. Hardee's, the Hebron Deposit Bank, and the Oakbrook Market Place strip center have been built on other areas of what has been termed the "Jones Property" to the east. Vacant land to the west beyond the planned commercial areas is planned for "High Suburban Density Residential" and "Public/Institutional." North of the site is Flick's IGA, Liberty National Bank, and other various commercial uses. Property to the south is planned for "Urban Density Residential", and has developed as The Crossings apartment complex. (Map C-3).

Land Use Element

The Land Use element of the Comprehensive Plan explains that "[t]he intersection of KY 18 and Limaburg Road should also develop locally-oriented commercial uses." (p. 213, emphasis added). Also, the Plan makes certain general comments about the "Burlington-KY 18 Area." For example, the Plan calls for a parallel roadway network along KY 18 (p. 212), and specifically calls for a road connection between the Oakbrook Market Place and Camp Ernst Road. (p. 214).

Most importantly, the Comprehensive Plan provides:

West of the Oakbrook Market Place development, limited commercial development should occur. (emphasis added, p. 213)

MEMORANDUM

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and:

The Mall Road area should continue to develop as a regionally-oriented commercial district. However, this regionally-oriented growth should be confined to Mall Road, and should not expand on to U.S. 42, KY 18, or Hopeful Road. (emphasis added, p. 215).

The Deters Company's proposed Concept Development Plan is in complete conformance with these requirements of the Comprehensive Plan. Unless located directly on an interstate exit, a gasoline service station with a car wash and oil change facility typically serves a limited local community. Likewise, the Wendy's restaurant is a natural extension of the development trend of the area west of the Oakbrook Market Place. These uses draw their customers from the existing traffic flow in the area and generate no additional traffic. Finally, the planned general retail building will not be built to such a scale that enterprises which target a regional market will be attracted to it.

This limited commercial development will provide a better transition than the current concept plan to the High Suburban Density Residential and Public/Institutional uses envisioned for properties immediately to the west along Burlington Pike. Regional commercial uses are neither anticipated nor desired by the Comprehensive Plan for this area. However, the concept plan approved by this commission on October 1, 1986, indicated the following general commercial use for the area fronting on Burlington Pike:

...those commercial uses serving an area-wide market and requiring larger sites to provide greater floor space, parking needs, and ancillary services.

This plan noted, however, that

building shapes, sizes, and configurations are conceptual and considered flexible responding to further study, market conditions and detailed engineering and architectural design.

Business Activity Element

The Business Activity Element of the Comprehensive Plan provides significant support for the proposed uses. Examples include the following:

MEMORANDUM

Boone Co. Planning Comm.

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Commercial developments along KY 18 and US 42 west of Mall Road should not be regionally oriented nor should they attract additional traffic. (p. 94)

The commercial developments that occur (along KY 18 and US 42) shall be limited in scale and clustered to serve growing residential neighborhoods. Planned Unit Developments should be encouraged so that commercial construction is incorporated within new residential areas. These commercial clusters should not function as an extension of Florence and Mall Road, but as a distinct unit serving the Burlington and Union areas. ***This principle should apply to the Limaburg and surrounding area as well.*** The commercial development in this area should coordinate closely with the projected high and medium density residential development to form a more coherent community rather than just a strip extending out of Florence. (emphasis added, p. 94)

Neighborhood commercial activities may include small grocery or convenience stores, family restaurants, professional offices or small retail operations of general merchandise. These neighborhood commercial activities should be scaled to serve only their surrounding residential subdivisions. (p. 95)

As mentioned above, the uses proposed are not regional in nature, ie. they draw upon existing traffic for support. In fact, many of customers will come from the rapidly growing residential areas nearby. The development will tie into the Limaburg area with its frontage road, interconnecting driveways, and sidewalks.

Under the existing concept plan, as mentioned above, the site was designed as a regionally oriented, or "area-wide", commercial area. The two (2) proposed buildings are not "limited in scale", but would instead "provide a greater floor space." As such, they are not designed to serve the Burlington-Limaburg neighborhood.

Conclusion

The Concept Development Plan proposed by The Deters Company is in compliance with the 1990 Boone County Comprehensive Plan. The existing concept plan, approved four (4) years prior to the adoption of the Comprehensive Plan, is inconsistent with the envisioned future development of the site. Therefore, the proposed Concept Development Plan should be approved.

BOONE COUNTY PLANNING COMMISSION
BUSINESS MEETING
November 2, 1994
8:00 P.M.

Mr. William Viox, Chairman, called the meeting to order at 8:10 P.M..

COMMISSION MEMBERS PRESENT:

Mrs. Judy Arnett
Mr. William Bailey
Mr. Fred Burch, Vice Chairman
Mr. Phil Damstrom
Mr. Robert Kirby, Jr.
Mr. Gayle McElroy
Mr. Don McMillian
Mr. Barry Neltner
Mr. Thurman Owens
Mr. Robert Ries
Mr. Ralph Rush
Mrs. Linda Schaffer
Mrs. Carol Smith, Secretary/Treasurer
Mr. William Viox, Chairman
Mr. Earl White

All members were present.

LEGAL COUNSEL PRESENT:

Mr. Dale Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin Costello, AICP, Executive Director
Mr. Jeff Hayes
Ms. Jan Hancock, Secretary
Mr. Robert Jonas
Mr. Kevin Wall

2. Zoning Map Amendment

The request of Butler and Partner, Inc. (applicant) for Jim Houston (owner) for a Zoning Map Amendment for a 24.6-acre site located on the west side of Dixie Highway and north of Stephenson Mill Road, Walton and unincorporated Boone County, Kentucky. The two parcels are currently zoned Suburban Residential One (SR-1) and Agricultural Estate (A-2). The request is to rezone both parcels to Commercial Two (C-2) and Suburban Residential One (SR-1).

Staff Member Jeff Hayes read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The applicant has signed the letter agreeing to the conditions.

Mr. McElroy moved by resolution to the City of Walton and the Boone County Fiscal Court that the application be approved based on the Committee Report. Mr. Burch seconded the motion and it carried unanimously.

4. Change in Concept Development Plan

The request of Thomas W. Breidenstein (applicant) for The Deters Company (owner by contract) for a Change in a Previously Approved Concept Development Plan on a 4-acre site located on the south side of KY 18 and west of Jones Circle, Boone County, Kentucky. The site is currently zoned Commercial Two/Planned Development (C-2/PD) and commercial outlots are being proposed.

Staff Member Bob Jonas read the Committee Report which recommended approval of the request based on the findings of fact, but subject to conditions (see Committee Report). The applicant has signed the letter agreeing to the conditions.

Mr. Owens moved by resolution to the Boone County Fiscal Court that the request be approved based on the Staff and Committee Reports. Mrs. Smith seconded the motion.

Mr. Burch stated that he signed the Committee Report. He noted a change to the Committee Report and questioned the movement of the Wendy's lot.

Mr. Charles Deters stated that they listened to the Commission. He stated that the Commission was concerned about the buildings conforming to each other. The Wendy's has a set style, so they put it by the Frisch's, and the remaining buildings will be more alike. He stated that whatever goes on the middle lot can conform.

Mr. Burch stated that he is assuming the Wendy's will go on that lot similar to the way it was on the other lot. Mr. Deters replied "exactly".

Mr. Rise stated that he is concerned with the one lot and the density because the lot is so narrow and long. He believes a precedent will be set for other developers to put 3, 4, or 5 businesses on such a narrow lot. He is concerned about a precedent being set. He stated that high density development is not wanted on KY 18.

Mr. Owens stated that they wrestled with the buffering of the apartments in Oakbrook, but they are three stories high. He noted that the applicant agreed to the berming and landscaping, but there is not much they can do.

Mr. Burch noted that there were discussions at the Committee in regard to the islands and the landscaping and moving the islands back so that they would not be blocking. He asked that the record reflect that agreement. Mrs. Schaffer asked for further explanation. Mr. Jonas stated that the islands were shown protruding into the right-of-way on the submitted Concept Development Plan, which would not be permitted. This was an oversight on the plan. Mr. Burch stated that they would keep the landscaping islands, but move them back onto their property.

Mrs. Schaffer asked if there will be landscaping between the lots. Mr. Tom Breidenstein advised that there will be and this will be addressed at Site Plan Review.

There being no further discussion, Chairman Viox asked for a roll call vote on the motion made by Mr. Owens, which found Mrs. Arnett, Mr. Bailey, Mr. Burch, Mr. Damstrom, Mr. Kirby, Mr. McElroy, Mr. McMillian, Mr. Neltner, Mr. Owens, Mr. Rush, Mrs. Schaffer, Mrs. Smith, Mr. White, and Chairman Viox in favor. Mr. Ries was opposed. The motion carried by a vote of 14 to 1.

9. Design Review - Tire Discounters

Staff Member Kevin Wall presented the Design Review request. He stated that this site was before the Commission a few months ago in regard to a Change in Concept Development Plan for Merchants Square. They have followed the conditions of the Concept Development Plan. They received conditional approval of their Site Plan two weeks ago. He stated that the finding of the Technical Committee is that the proposal is consistent with the Houston-Donaldson Study.

Using an exhibit, Mr. Wall explained that they are proposing a brick building facing the local streets and the back side of SuperAmerica immediately to the west. They propose a reddish brown brick. The store front unit facing KY 18 will have an anodized bronze finish that will fade to flat black. The rooftop equipment will be screened by a parapet wall. The roof line of the building will be 6' to 8' higher than a driver's eyes and the equipment will be hidden. They propose two building-mounted signs in conformance with the Houston-Donaldson Study and a monument style sign. They have three frontages and could have three building-mounted signs, but are trading one of them for a monument style sign which could be up to 60 square feet. The monument sign will have a brick face matching the

EXHIBIT "B"

COMMITTEE REPORT

TO: Boone County Planning Commission

FROM: Thurman Owens, Chairman

DATE: November 2, 1994

RE: Request of Thomas W. Breidenstein (applicant) for The Deters Company (owner by contract) for a Change in a Previously Approved Concept Development Plan on a 4 acre site located on the south side of KY 18 and west of Jones Circle, Boone County, Kentucky. The site is currently zoned Commercial Two/Planned Development (C-2/PD) and commercial outlots are being proposed.

Remarks

We, the Committee, recommend approval based upon the following findings of fact and conditions:

Findings of Fact

1. This request is in conformance with the Future Land Use Map of the 1990 Boone County Comprehensive Plan.
2. The submitted Concept Development Plan shows a reduction of commercial density for the 4 acre site from about 75,000 to 17,000 square feet.
3. The Land Use element of the 1990 Comprehensive Plan calls for the KY 18 and Limaburg Road area to develop as locally oriented commercial uses.
4. The request and conditions address the **Business Activity Goals and Objectives** of the 1995 Comprehensive Plan which state that the "mixing of commercial uses adjacent to residential areas shall be...properly placed so as to enhance the neighborhood."

Conditions


These items are being included to help clarify the submitted Concept Development Plan and address concerns heard at the October 5, 1994 Public Hearing:


1. The building on the western lot containing the BP, Blue Pantry, and other uses is to be constructed with the same grey/beige brick color for all elevations. Furthermore, the color of the fuel pump canopy is to be consistent with architectural details of the building such as slanted roofs and detail striping.

2. A 25 foot landscaping buffer consisting of a berm and double staggered row of 6 foot tall pine trees is required along the southern property line separating the businesses from The Crossings of Oakbrook apartments.
3. The location of the Wendy's restaurant will be moved from the center lot to the east lot (next to Frisch's). This leaves the center lot for the 6,000 square foot unknown commercial use.
4. Lighting on the site is to be directed inward so as to not create glare on the adjacent apartments to the south.
5. Access to the lots will be limited to curbcuts from Patrick Drive. The western curbcut from KY 18, as previously approved, is to avoid the private property currently used as a driveway to a single family dwelling.

The applicant has signed a letter of agreement with the above conditions.

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.

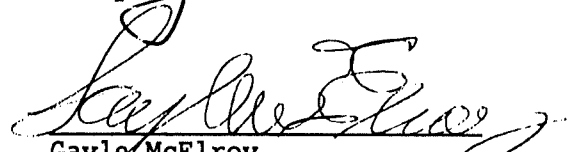

Thurman Owens, Chairman


Fred Burch


Phil Damstrom


Barry Neltner


William Bailey


Gayle McElroy

BOONE COUNTY PLANNING COMMISSION



2995 Washington Street, Burlington, KY 41005
606-334-2196 FAX 606-334-2264

November 2, 1994

Mr. Thomas W. Breidenstein
Attorney At Law
2701 Turkeyfoot Road
Covington, KY 41017

RE: Conditions Of Approval For The Change In Concept Development
Plan For The Daters Request At Limaburg Subdivision

Dear Mr. Breidenstein:

The following represents the conditions of approval as decided upon by the Zone Change Committee. If you, as applicant, and the owner will agree to the following conditions, please indicate so by signing at the space provided at the end of this letter and fax it to our office by 3:00 P.M., Wednesday, November 2, 1994.

Conditions of approval

1. The building on the western lot containing the BP, Blue Pantry, and other uses is to be constructed with the same gray/beige brick color for all elevations. Furthermore, the color of the fuel pump canopy is to be consistent with architectural details of the building such as slanted roofs and detail striping.
2. A 25 foot landscaping buffer consisting of a berm and double staggered row of 6 foot tall pine trees is required along the southern property line separating the businesses from The Crossings of Oakbrook apartments.
3. The location of the Wendy's restaurant will be moved from the center lot to the east lot (next to Frisch's). This leaves the center lot for the 6,000 square foot unknown commercial use.
4. Lighting on the site is to be directed inward so as to not create glare on the adjacent apartments to the south.

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Mr. Thomas W. Breidenstein
November 2, 1994
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- 5. Access to the lots will be limited to curbcuts from Patrick Drive. The western curbcut from KY 18, as previously approved, is to avoid the private property currently used as a driveway to a single family dwelling.

Sincerely,

Robert A. Jones
Robert A. Jones
Planner

RAJ\par

Agreement

We, the applicant and owner, agree to the above listed conditions for approval of the requested Change In Concept Development Plan for the Deters request at Limaburg Subdivision.

x *Thomas W. Breidenstein* 11-2-94
Thomas W. Breidenstein, applicant date

x _____ date
Owner (or representative of owner)

MINUTES
BOONE COUNTY FISCAL COURT
January 24, 1995
5:30 P.M.

unincorporated portion of the property. Judge Lucas then called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "B"

ORDINANCE NO. 920,298 - BREIDENSTEIN/DETERS COMPANY

Judge Lucas read a summary of Ordinance No. 920,298, and declared a Public Hearing open at 6:00 p.m.

Mr. Tom Breidenstein, attorney for the applicant, gave a brief overview of the requested change in the Concept Development Plan.

Mr. E. C. Pennington, adjacent property owner, expressed concerns about the potential for a traffic hazard, the general nuisance created by people trespassing on his property and whether he will be able to get in and out of his driveway.

Mr. Breidenstein said his client has been in negotiation with Mr. Pennington and he will encourage his client to continue that negotiation. However, if the negotiations fail, his client will use an alternate access through the frontage in front of Frisch's Restaurant, which was approved at the time of the original Concept Development Plan.

Judge Lucas closed the Public Hearing at 6:12 p.m.

Commissioner Meihaus moved, seconded by Commissioner Campbell, to approve on Second Reading Ordinance No. 920,298, an ordinance of the Boone County Fiscal Court recommending approval of the request of Thomas W. Breidenstein (Applicant) for the Deters Company (Owner by Contract) for a change in an approved Concept Development Plan, with conditions, in a Commercial Two/Planned Development (C-2/PD) zone on a 4 acre site generally located on the south side of KY 18 and west of Jones Circle, Boone County, Kentucky, as recommended by the Boone County Planning Commission (14-1) via Resolution No. R-94-046-A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "C"

ORDINANCE NO. 920,299/RICHARD AND MARY HARMS

Judge Lucas read a summary of Ordinance No. 920,299, and declared a Public Hearing open at 6:20 p.m. Judge Lucas declared the Public Hearing closed at 6:22 p.m.

Commissioner Campbell moved, seconded by Commissioner Meihaus, to approve on Second Reading Ordinance No. 920,299, an ordinance of the Boone County Fiscal Court recommending approval of the request of Richard and Mary Harms (Owners) for a Zoning Map Amendment, such Zoning Map Amendment being a zone change from Agricultural Estate (A-2) to Industrial One (I-1) for a 44 acre site located at 3773 Hossman Road, Boone County, Kentucky, as recommended unanimously by the Boone County Planning Commission via Resolution No. R-94-047-A. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "D"

ITEM VIII.

FISCAL MATTERS

Commissioner Campbell moved, seconded by Commissioner Meihaus, to approve the FY95-96 Budget Calendar as submitted, and to approve the appointment of Jim Collins, Robin Curry, Vaughn Rogers and Lisa Buerkley to the Budget Committee. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE.

Commissioner Meihaus moved, seconded by Commissioner Campbell, to approve Fiscal Court Order #11. Judge Lucas called for a vote of the motion, ALL PRESENT VOTING AYE. Exhibit "E"

Commissioner Meihaus moved, seconded by Commissioner Campbell, to approve the Invoice Report dated 1/20/95, as well as the Prepaid Invoices dated 12/30/94 and 1/13/95, and the Additional Invoices per the memo to the Fiscal Court dated 1/24/95. Judge Lucas called for a vote of the motion, Commission Meihaus voted AYE, Commissioner Campbell voted AYE, with the exception of ABSTAINING on all Liberty National Bank Invoices, and Judge Lucas voted AYE. Exhibits "F", "G", "H" & "I"