

**BOONE COUNTY PLANNING COMMISSION
BOONE COUNTY ADMINISTRATION BUILDING
BOONE COUNTY FISCAL COURTROOM
PUBLIC HEARINGS
DECEMBER 2, 2015
7:30 P.M.**

COMMISSION MEMBERS PRESENT:

Mr. Randy Bessler
Mr. Kim Bungler, Secretary/Treasurer
Mr. Mike Ford, Vice Chairman
Ms. Lori Heilman
Mrs. Janet Kegley
Mr. Jim Longano
Mr. Don McMillian
Mr. Kim Patton
Ms. Lisa Reeves
Mr. Charlie Reynolds
Mr. Charlie Rolfsen, Chairman
Mr. Bob Schwenke
Mr. Steve Turner, Temporary Presiding Officer

COMMISSION MEMBERS NOT PRESENT:

Mr. Greg Breetz
Mr. Mark Hicks

LEGAL COUNSEL PRESENT:

Mr. Dale T. Wilson

STAFF MEMBERS PRESENT:

Mr. Kevin P. Costello, AICP, Executive Director
Mr. Kevin T. Wall, AICP, Director, Zoning Services

Chairman Rolfsen called the Public Hearing to order at 7:37 P.M. and introduced the first item on the Agenda:

CHANGE IN CONCEPT DEVELOPMENT PLAN AND ZONING MAP AMENDMENTS - Kevin Wall, Staff

1. Request of **Viox & Viox, Inc. (applicant)** for **Answers in Genesis of KY, Inc. (owner)** for a Change in an Approved Concept Development Plan in a Public Facilities (PF) zone for an approximate 47.215 acre site located at 2800 Bullittsburg Church Road, Boone County, Kentucky; the request of **Viox & Viox, Inc. (applicant)** for **Answers in Genesis of KY, Inc. (owner)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Public Facilities (PF) for a 1.17 acre site located at 2754 Deck Lane, Boone County, Kentucky; the request of **Viox & Viox, Inc. (applicant)** for **Answers in Genesis of KY, Inc. (owner)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Public Facilities (PF) for a 2.06 acre site located at 2924 Bullittsburg Church Road, Boone County, Kentucky; and the request of **Viox & Viox, Inc. (applicant)** for **Kenneth A. Bryan and Rita R. Bryan (owners)** for a Zoning Map Amendment from Rural Suburban Estates (RSE) to Public Facilities (PF) for the northern 4.47 acres of the 6.89 total acre site located at 2960 Bullittsburg Church Road, Boone County, Kentucky. All four requests are for an approximate 54.915 acre area to allow expansions of the existing museum use at 2800 Bullittsburg Church Road including additional building areas, additional parking areas, and attractions on the grounds.

Staff Member, Kevin Wall, presented the Staff Report, which included a PowerPoint presentation (see Staff Report). The site is located on the south side of I-275 and just east of Bullittsburg Church Road. The request includes a Change in an Approved Concept Development Plan for the original 47 acre tract. There are 3 other tracts where the applicant is proposing to change the current zoning of Rural Suburban Estates (RSE) to Public Facilities (PF). One parcel is a house lot located at the north end of Deck Lane. The two other tracts are located immediately south of the current facility. The Comprehensive Plan's Future Land Use Map designates the site as Public/Institutional (44%), Rural Lands (43%), Rural Density Residential (4%) and Developmentally Sensitive on the eastern portion of the site (9%). The applicant submitted one overall Concept Development Plan with 4 individual sites. There is a planned new museum building. It is 3 levels in height with a total of 210,000 square feet or 70,000 square feet per floor. There will also be a museum services building comprised of 5,500 square feet. There will be a museum ticketing building and store (25,000 square feet) and a 11,000 square foot maintenance building. Parking will be relocated as a result of the new museum addition and the new sanitary sewer leach lines. The total number of parking spaces is planned to be a little over 1,300 spaces. There are additional attractions planned for the site. The applicant is proposing the 40 foot version of Buffer Yard D with a 6 foot high privacy fence adjoining the RSE zoned properties to the south.

Currently, they have one access point to the existing museum. The applicant is proposing 3 access points - one off Deck Lane, the existing access off Bullittsburg Church Road that will be enter only and another located south of the existing access. A Traffic Impact Study was just submitted so the Staff Report does not reflect any comments yet. The total square footage of the museum with the addition is 388,000 square feet. Mr. Wall referred to the site history section of the Staff Report. The original zoning approval occurred in 1999. The other application was in 2008 which included moving the access point, creating more parking and constructing a new maintenance building. Mr. Wall showed photographs of the site and adjoining properties.

In terms of Staff Comments, Mr. Wall explained that the Staff Report gives the Planning Commission a good overview of how the submitted proposal relates to the previous 1999 and 2008 approvals. He requested more details on the planned uses for the site. The second comment involves lighting, especially for the parking lot area and measuring foot candles at the property line. Mr. Wall asked for more details regarding the privacy fence. The length of the proposed fence is over 1,000 lineal feet. He inquired about retaining as many of the existing trees on the eastern side of the site and along the perimeter as well as enhancing landscaping features along Bullittsburg Church Road. Mr. Wall inquired about providing more detail regarding the building architecture of the museum addition. The proposed maintenance building was required to fade in with the surrounding landscaping. The submitted Traffic Impact Study has been forwarded to the Kentucky Transportation Cabinet and the Boone County Engineer. Mr. Wall also referred to his comments in the Staff Report about internal circulation pattern within the proposed development. He also requested comments from the Boone County Water District, the Hebron Fire District, the State Division of Water and the Health Department. If comments come in, he will forward them to the Zone Change Committee. Mr. Wall concluded that the Planning Commission needs to evaluate the request based upon the 3 statutory criteria in Article 3 of the Boone County Zoning Regulations, the Boone County Comprehensive Plan and the potential impacts. If approved, the Future Land Use Map would need to be amended.

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

Mr. Brock McKay, Viox & Viox, Inc., gave a brief history of Answers in Genesis (AIG). The original Zone Change and Concept Development Plan was approved in 2000. The Creation Museum was opened in May, 2007 in Petersburg. A Change in Concept Development Plan was later submitted to add additional parking, a maintenance building, covered awnings and a new delivery entrance. The Creation Museum offers museum exhibits, state of the art animatronics, a planetarium, botanical gardens, petting zoo, zip line aerial trail system, a theater, café and many other interactive attractions. It employs about 250 people and is funded through ticket sales and private donations. AIG currently owns 4 parcels - 1.17 acres of Deck Lane, 47.22 acres and 2.06 acres off Bullittsburg Church Road and 24.86 acres off Jordan Lane. AIG is under contract to purchase an additional 6.89 acres off Bullittsburg Church Road. Mr. McKay explained the differences between the 2000 (1999) and 2007 Concept Development Plan. He explained that the need for expansion has to do with attendance. The average week day attendance is 1,134 and weekend is 2,828. Based on recent studies, AIG is anticipating an increase in attendance due to the opening of the Ark project nearby. A study shows that guests prefer to pair attractions in the same region and thus there will be increased interest in the museum site at the same time. Mr. McKay showed photographs of the existing gardens. This area is under utilized so it will be a major visiting point with new entrance and parking lot. The submitted Concept Development Plan separates the parking and circulation areas from the pedestrian activities. The existing entrance will be redesigned for traffic entering the site only. All visitation traffic would then turn right to the large parking lot instead of going left towards the museum. All traffic would be funneled to the Gathering Plaza area where ticketing would occur and a retail store would be built. If you are a staff member or delivery person, you would then use Deck Lane for employee parking and deliveries. The campus has a circular road system. The third entrance is mainly an exit but it does allow one lane to enter the site. This access is located at the top of the vertical curve. It is the safest point to exit

the site. The current parking lot is 479 spaces. With the new expansion and buildings, there would be a requirement of 1,036 parking spaces. They are proposing 1,314 parking spaces, of which there are 278 more than what is required. It also includes 30 RV/bus parking spaces. The Gateway Plaza will include museum ticketing, lockers, restrooms, maintenance storage, retail sales of museum items, a vending area and a drop off shuttle center. The expanded gardens will include a children's interactive area, miniature golf, shade shelters and a petting zoo. The Museum Plaza is located between the two museum buildings. It will include outdoor entertainment and seating. A 5,500 square foot museum services building will be built to rent strollers and provide information kiosks. There is also an area for visitors with special needs. A 22,500 square foot maintenance building is also proposed on the east side of the site. Mr. McKay presented a comparison of the two plans. There are a lot of similarities. The obvious difference is the acquisition of additional land. He showed some photos of the site addressing the safety of pedestrians. Conflicts will be reduced with the new plan. The proposed building will "sit" into the landscape. AIG will use naturalistic materials on the building. The quality of the new building will match the quality of the older building. Mr. McKay stated that current traffic counts were performed and future trips were generated based upon museum information for attendance. Two intersection locations were studied - SR 3608 at Bullittsburg Church Road and Bullittsburg Church Road at the museum intersection. Recommendations were suggested to be implemented at the time of the expanded museum building. The first one is to construct an exclusive southbound left turn lane on SR 3608 at the intersection of Bullittsburg Church Road. The second one is to provide signage for inbound vehicles at the Museum Drive in order to prevent hesitation by drivers. The third one is to provide KYTC and Boone County standard pavement marking and signage at the intersections. The Traffic Impact Study also notes that the existing location of the entrance meets sight distance requirements for Bullittsburg Church Road. Also, the new proposed location for the main exit and secondary entrance is at the crest of the vertical curve on Bullittsburg Church Road. The proposed lighting in the parking lot will be directed downward. Lighting will be similar to existing lighting in the guest parking area. The proposed development will meet the landscape buffer requirements in Article 36 of the Boone County Zoning Regulations. Mr. McKay showed photographs of existing landscaping features. Most of these features will remain. He also referred to several slides pertaining to economic data. In the Summer of 2009, an assessment was conducted to determine direct travel related economic activity in the primary market generated by the Creation Museum attendance. The average annual attendance is 350,000 visitors. The data source for the assessment is a customer visitation database, spending pattern information that was shared/submitted by attendees. The direct domestic tourism and travel expenditures generated from the Creation Museum's visitors are estimated to total \$41.4 million, including nearly 60% or \$32.7 million being spent at businesses in the region unrelated to the Creation Museum. The museum has averaged over 350,000 visitors per year in its first few years of operation. Over half of those visitors are overnight stayers. There is over 500,000 visitor days spent in the Greater Cincinnati area as a result of travelers to the museum. The total expenditures annually are estimated to be \$61.3 million. It is estimated that 2,391 tourism related jobs were created as a result of the museum. During construction and first two years of operation, the economic impact was \$212.7 million. It will be similar given the proposed expansion. With the new Ark project, AIG projects museum attendance to expand to 550,000 visitors. Over the last 10 years, the direct spending and industrial output has generated over \$1 billion and 5,341 jobs. Mr. McKay referred to the Land Use text and map from the Boone County Comprehensive Plan. There are Public/Institutional, Commercial and Industrial uses proposed in the general vicinity of the subject property. The Comprehensive Plan

addresses growth in the area and acknowledges the presence of the Creation Museum. The "Idlewild interchange should see slow highway related, commercial growth..." The museum provides its own sanitary sewer system and public safety. The expansion has a minimal impact on public services but substantial impact on tax revenue and economic benefits to the region.

At this time, Chairman Rolfsen asked if there was anyone in the audience who wanted to speak in favor or against the request?

Mr. James Smith, 4096 Petersburg Road, submitted a letter (see Exhibit A) stating that he has lived in his residence for over 28 years. His abuts the property that AIG proposed to purchase a portion of. He and his wife strongly oppose the rezoning of the property and the Concept Development Plan change. It is not based on religious belief differences. He mentioned that they opposed the original Zone Change application in 1999 but now consider them to be good neighbors. Back then, Mr. Thiessen stated that AIG had no intention to build structures on the south side of their property. He emphasized that he doesn't want a 25,000 square foot ticketing building and over a 1,000 space paved parking lot in his backyard. Mr. Smith described his historic house built in 1841. It is known as the Gabriel Gaines House. It has designated as a Kentucky Landmark and is currently listed on Boone County's Historic Sites Map and the Boone County Heritage Tourism Map. When he started restoring the house, he was surrounded by rural estate zoning and never dreamed of being surrounded by an expanding religious theme park. What will be the impact of the expansion with a home like that he has to preserve? What would be the reaction of the Planning Commission if this was proposed next to Dinsmore? Besides potentially damaging an important historical asset, the proposed development is completely at odds with many stated public land use goals and plans. He referenced quotes to the Boone County Comprehensive Plan, which dealt with tax revenues, public sanitary sewer service, transportation, history and the environment. AIG does not pay property taxes. With the planned expansion, it increased the stress put on public services. All sales tax goes to Frankfort. The Kroger on North Bend Road contributes \$112,000 in property taxes each year. The proposed addition of a second treatment plant on the AIG site moves further away from public sewer in the community. Mr. Smith also mentioned the increase in noise and air emissions due to more vehicles and buses. The proposed development is in direct conflict, not just with current planning, but also with future ones. The 2035 Future Land Use Map calls for the preservation of a large rural area that buffers the Rural Residential District in the south, from the Public District in the north adjacent to I-275. The proposed expanded parking lot is located in the "Rural" or "Rural Density" designated areas.

In 2008, the Planning Commission approved a set of changes and conditions to the AIG Concept Development Plan. It is not in the best interest of the citizens of Boone County to abandon these items. The proposed parking lot expansion should be to the east and not to the south. A detention area could serve as a natural buffer from the ticketing building. The number of parking spaces should be limited to 663 spaces. AIG is overestimating the new number of parking spaces. The proposed 11,250 square foot maintenance building should be located in the same area as approved in 2008, close to the treatment plant and further from the residential area. The proposed 2 additional gated access driveway opening to the north side should be denied. The use of the Museum Plaza area as a pedestrian/user gathering space for outdoor entertainment, events and seating should be denied. Further, sound amplification and lighting requirements should be adhered to by AIG. He also suggested not reducing the 80 foot width buffer requirement from a

residential zone. A tall berm is much better than a reduced buffer and a 6 foot high fence given the setting. Finally, realtors representing AIG have approached several property owners in the immediate area for future expansion. He asked the Planning Commission to protect the Open Rural and Rural Residential areas we now have and stop a potentially continuous enlargement of this religious theme park by not approving the proposed changes. This is a serious issue and would like to remind the Board of a Joni Mitchell song, "Big Yellow Taxi."

Ms. Debbie Cummings, 4062 Peterburg Road, stated that she has lived in her house for the past 27 years. She is adjacent to the proposed change site and lives next to Jim Smith. She is opposed to the Zone Change and Change in Concept Development Plan requests and submitted a letter (see Exhibit B). The proposed parking lot is visible from her backyard. Relocating the drain field to Jordan Lane and increasing the treatment plant facility could potentially contaminate Garrison Creek. Currently, this creek is rated pristine. She mentioned that she did her homework before she bought her property in 1988. She was assured by the Planning Commission that the area would remain Residential Suburban Estates and develop slowly based on the future Comprehensive Plan. If she knew a large parking lot would be in backyard, she would have never bought in the area. The proposed changes will affect her property values. She again stated she is opposed to the proposed changes but if it were allowed she offered that several restrictions be placed on the development. Below is what is recommended:

- 1) 80 foot buffer and not the proposed 40 foot.
- 2) 10 foot berm after the 80 foot buffer
- 3) Pine trees planted on the berm using Plant List D
- 4) Parking lot lighting be restricted to 4' high bollard-style fixtures with lighting levels - 1 foot candle or less with no measurable light at property lines.
- 5) Camping and recreation vehicles (over night stays) be prohibited.
- 6) Place a time frame as to when the development would be completed.

If AIG wanted to be a good neighbor, why don't they put lovely their gardens in her backyard instead of a parking lot?

Mr. Joe Dorsey, real estate agent in Boone County for the last 17 years, urged the Planning Commission to deny the proposed zone change to Public Facilities (PF) and the proposed changes in the approved Concept Development Plan. Mr. Dorsey submitted a letter outlining his opposition to the request (see Exhibit C). First, the proposed activities/uses are not even permitted in the PF zone for example, a petting zoo, a store, kitchen which could be a restaurant, a pedestrian plaza for outdoor entertainment and a miniature putt-putt golf course. The Public Facilities District simply does not permit any of these uses as principally permitted uses. They could be considered accessory recreational uses. He stated that he was not aware where a putt-putt golf course was an integral part of a museum use. These uses require a C-3 zoning designation. There are alternate areas for expansion right next door that don't require a Zone Change. There is 50 acres located to the west of the site along Deck Lane that is already zoned C-3. A Zone Change request is not needed. Why should Boone County allow AIG to expand south to rural residential lands when appropriately zoned land already exists? The proposed parking lot privacy fence will not be a fence but rather be a visually jarring wall. If you are going to hide a parking lot, it can't be a fence. Even the short section on the west side of the proposed 1,000 car parking lot nearest Bullittsburg Church Road is going to need to be over 200 feet long and it looks like it's only going to be like 40 feet off

the side of the road. There is no where along Petersburg Road from Kroger to the AIG museum that has a solid fence that tall and that long. It is one beautiful drive of beautiful unobstructed views of fields, landscaped yards and set back homes. You will be driving along and boom, there is a 220 foot long solid wall. It will look completely out of place and be an eyesore that ruins the whole atmosphere of the area. Lastly, the original Concept Development Plan was excellent. It put the parking and museum away from the residences. This new plan however completely undoes this effort and turns it on its head. Now instead of a landscaped garden area as a buffer, the neighbors will get a 6 foot tall wall hiding a 1,000 car parking lot. How will you keep out noise, light and smells with a fence or berm? The proposed change is so radical. It is a complete make over of the Concept Plan that was originally approved. If the proposed Concept Development Plan was submitted at the time of the original plan, would the Planning Commission approve it? He responded that he didn't think so.

Ms. Mary Brady, 2947 Bullittsburg Church Road, stated that she sees the lights from her property since she is located across the street. When the museum opened, she had to contact the Planning Commission to require AIG to change their lighting. AIG never relocated their entrance. Doesn't Boone County want to get rid of sanitary septic systems? Why would you want to add to it? Although AIG has not been a huge problem, they are not listening to Boone County or the Planning Commission. Those are good reasons to turn down the request. The good landscaping is in the middle of the development and she doesn't get to see it, only the parking lot from her kitchen window. She will hear the outdoor activities. We don't need the noise or traffic. If you visit the property this Friday between 5:30 - 6:30 p.m., you will get to know what traffic is like in the area. It is the time of the year for their Christmas show. You cannot get across Bullittsburg Church Road. At certain times of the year, traffic is a problem. She concluded saying that she will be highly disappointed if the project is approved.

Mr. Tim Davies, 1948 Bullittsburg Church Road, stated that he is surrounded by commercial property. He expressed a concern about the view of the parking lot. The traffic circulation of the site will affect him. The second entrance borders his property directly to the north. He mentioned that AIG made an offer on his property starting at \$180,000. His father built the house and wants to die on the property. There is a long family history to the area along with Mr. Moore. Someday, he may come to the Planning Commission for commercial zoning but not until his dad passes away.

Mr. Bill Moore, 2722 Bullittsburg Church Road, stated that he owns the property west of AIG. His biggest objection is bringing trucks in Deck Lane. They can't make the turn unless they go on his property. It becomes a muddy mess. They never relocated the entrance. He feels that the project is getting too big. What happened to the sewer area where the new parking lot will be located.? He stated that when he wants to do something with his property, AIG will stop them. He wants to continue to farm his property. The Planning Commission originally turned down AIG but the Fiscal Court overturned them. If you get the Zone Change, you can then get whatever you want. It isn't a museum, it is an amusement park. It's nice and he doesn't have any big problems with AIG. He built a berm area along Deck Lane but AIG mowed down 250 trees. Maybe he should build a hotel. It will be one of the busiest interchanges in Boone County someday. We need things that support the local community. It is like a cancer - just keeps growing. He would like the opportunity to view the entrances. Deck Lane is not wide enough to let two cars pass. Should there be a left turn lane on Bullittsburg Church Road? I don't want to sell them land to construct a turn lane.

Mr. Ron Dapper, 2966 Bullittsburg Church Road, said he has horses and two miniature donkeys. If you own your own park, it would be his property. His has a lake that he uses for family fishing. It has 15 acres, 3 of which are in pasture. The proposed parking lot will almost be sitting in his backyard. This is not a good thing. He has nothing against the museum but it is not good for the County or the neighbors.

Chairman Rolfsen asked if any of the Planning Commission Members had any questions or comments?

Mr. Costello recommended that Mr. Pflum appear at the Committee Meeting since the Staff just received the Traffic Impact Study only 2 days ago in order to answer specific questions. Did the consultant look at the conditions of Deck Lane and expected improvements to create a new employee parking lot? In addition, how is traffic handled with major events? Does AIG use Sheriff Deputies to direct traffic? In addition, more details need to be given on the proposed buffering of the large parking lot. - views from neighboring properties. What will be the grade of the parking lot relative to the grade of the adjoining properties?

Mr. Wilson stated the people in the audience should be allowed to comment on the Traffic Impact Study submitted by Mr. Pflum. This could be done at the Committee Meeting.

Chairman Rolfsen asked if the recreational vehicle parking area included overnight stays? Mr. McKay responded no. Will there be live concerts at the outdoor Gathering Plaza area? Is it an amphitheater? Mr. Mike Zovath replied that the concept was like Christmas Town - outdoor festivals with food and merchants. He doesn't anticipate concerts. There isn't enough space. It is a narrow space. Chairman Rolfsen asked why the last set of revisions or improvements were not done? Mr. Zovath responded that some things were done some were not. They had restrictions in funds. Some of the parking lot was completed and the maintenance building was built per the current approved plans. Chairman Rolfsen asked what will be going in the 210,000 square foot building? Mr. Zovath stated they need more space for new traveling museum exhibits and storage.

Mrs. Kegley asked about the size of the berm? She stated she doesn't like berms more than 6 feet in height. It should look more natural or like rolling hills. Buffers are very important along with traffic and lighting.

Mr. Bessler asked why put 200-300 more parking spaces when they are not needed and the residents are complaining? Is there room to put a parking lot on the west side? Mr. Zovath replied they would need the spaces for special events. On the west side, they are restricted by Deck Lane and an existing buffer.

Mr. McMillian asked how late will the outdoor events last? Mr. Zovath replied that the museum closed at 6:00 p.m. each night. Christmas Town closes at 8:00 p.m. The museum will stay open later when the Ark project opens in July for the first 40 days.

Mr. Reynolds questioned the plan to expand the existing septic system. Mr. Zovath identified the relocation of the leech field and expanded septic system. The leech field will be relocated to the former Hodge property. A pump station will have to be installed. There is a plan being reviewed by

the Northern Kentucky District Health Department.

Mr. Patton asked the applicant to what extent did AIG pursue the acquisition of the Moore property? Mr. Zovath responded that Mr. Moore didn't want to sell it to them. The adjoining zoning is Industrial and Commercial. Their zoning of PF fits in better with the rural character. All it takes is for sanitary sewer to come into the area and it will explode. Growth will occur around a freeway exit. Mr. Patton stated that those properties have good access, topography and zoning. This land is not available.

Mr. Schwenke asked if any of the parking could be relocated to the former Hodge property or closer to the expressway? It would be a good neighbor idea.

Mr. Bunger again inquired about not completing the last approved plan. Mr. Zovath responded that they did not anticipate the growth of the museum to date and projected impact of the Ark project. That is why they are requesting the proposed changes.

Mr McMillian questioned whether AIG was originally going to install a tertiary sewage treatment plant? Mr. Zovath replied that the State Division of Water stopped it because they were not allowed to discharge into a blue-line stream.

Mr. Reynolds asked how many trees have been mowed down as a result of the existing facility? Mr. Zovath responded very few because retaining trees fits in with the gardens and overall terrain. They have removed dead trees and replaced them. They will keep the trees near the Fischer house and along the southern property line.

There being no further questions or comments, Chairman Rolfsen announced that the Committee Meeting for this item will be on December 16, 2015 at 5:00 P.M. in this room. It may start at about 5:20 p.m. due to another item on the agenda. This item will be on the Agenda for the Business Meeting on January 6, 2016 at 7:00 P.M. Chairman Rolfsen closed the Public Hearing at 9:27 P.M.

APPROVED:

Charlie Rolfsen
Chairman

Attest:

Kevin P. Costello, AICP
Executive Director

Exhibit A - Letter from James Smith dated December 2, 2015
Exhibit B - Letter from Debbie Cummings dated December 2, 2015
Exhibit C - Letter from Joe Dorsey dated December 2, 2015