

Thank you Chairman, Board of Adjustment members.

My name is Knox van Nagell, and I am here on behalf of The Fayette Alliance. As you know, The Fayette Alliance is dedicated to planning a world-class city and preserving a world-class landscape in Lexington-Fayette County. We believe this sustainable growth strategy will create a quality of life crucial to Lexington's economic and environmental success today and beyond.

In furtherance of this mission, we respectfully request that Boone Creek Adventures withdraw its conditional use application until a fundamental legal issue is resolved.

After reviewing KY statutes and case law, it's apparent that the proposal is an **amusement park**—which is expressly prohibited in the A-R Zone under Section 8-1 (e) 6 of our ordinance. While our local ordinance fails to define amusement parks or outdoor recreational facilities—state law does, and it governs this case.

The proposed canopy tour facility— complete with catwalks, suspension bridges, zip lines, tree platforms, ropes courses, and other elevated structures through which people may move for amusement, pleasure, or excitement— **is deemed an “amusement ride” under KRS 247.232(1), and KAR 16:091**. A memo from Nicole Liberto, Deputy General Counsel for the KY Department of Agriculture also confirms this conclusion.

And, the canopy tour industry itself promotes the experience for public pleasure, excitement, and adventure—affirming its definition as an amusement ride for purposes of KY law.

It's important to note that the canopy tour is not an just amusement ride within an “outdoor recreational facility”, but rather constitutes an amusement park under KY case law—as its public facilities are permanent in nature, cover a large tract of land, and its users must pay a fee.

Therefore, to grant a conditional use permit for the proposed “amusement park” would allow an otherwise prohibited use in the A-R zone, and the Board of Adjustment does not have the legal authority to take such legislative action under KRS 100.247 or Article 7-6(b) of the Zoning Ordinance.

Please review our submitted materials for additional details.

We ask that Mr. Carey withdraw his application until this fundamental matter is resolved—in furtherance of our community's health, welfare, and safety.

If the canopy tour is allowed without first amending our local laws, it will set a dangerous countywide precedent by violating several key provisions of our Zoning Ordinance, Rural Land Management Plan, and Comprehensive Plan. In theory, the canopy tour may be a good idea that creates public appreciation for the Bluegrass and its remarkable natural resources—however, the development is premature in light of our current land-use requirements, and the Board of Adjustment’s jurisdiction.

More time and thought is needed on how to establish this facility on a countywide level, without jeopardizing our signature farmland, sensitive environmental areas and watersheds, and acclaimed signature industries.

Just as we have demonstrated over the last two months, The Fayette Alliance remains committed, in good faith, to work with leaders in the ag-community, Mr. Carey, and staff to have this discussion. We appreciate Mr. Carey’s earnest efforts and understand that eco-tourism could be a great thing for Lexington-Fayette County and the Bluegrass Region—but it must be done carefully and in concert with the land-use traditions and planning requirements that have served our community so well for so long.

We thank Mr. Carey for his proposal, and look forward to working with him in the future.

