

- (a) petitioner's comments (5 minute maximum)
- (b) citizen objectors (5 minute maximum)
- (c) staff comments (5 minute maximum)
- Hearing closed and Commission votes on zone change petition and related plan(s)

Note: Requests for additional time, stating the basis for the request, must be submitted to the staff no later than two days prior to the hearing. The Chair will announce its decision at the outset of the hearing.

1. URBAN COUNTY PLANNING COMMISSION ZONE MAP AMENDMENT

- a. MAR 2012-14: URBAN COUNTY PLANNING COMMISSION - petition for a zone map amendment to a Historic District (H-1) overlay zone for 37.85± net (51.14± gross) acres, for properties located at 106-346 Desha Road; 977-1024 Fincastle Road; 1003-1058 Fontaine Road; 100-314 South Hanover Avenue; 807, 853 & 859 East High Street; 908, 912 & 1000 Richmond Road; and 1003-1015 Slashes Road.

LAND USE PLAN AND PROPOSED USE

The 2007 Comprehensive Plan (Sector 3) recommends a mix of residential land uses. Properties recommended for Low Density Residential land use, defined as 0–5 units per net acre, are generally located along South Hanover Avenue and Desha Road. Properties located along Fontaine Road and Slashes Road, and one parcel on Fincastle Road, are recommended for Medium Density Residential land use, defined as 5–10 dwelling units per net acre. Additional properties along Desha Road (nearer Richmond Road), along Fincastle Road, and properties along Richmond Road are all recommended for High Density Residential land use, defined as 10–25 dwelling units per net acre. Lastly, two properties are recommended for Very High Density Residential land use – one being the Hanover Towers property at the intersection of South Hanover Avenue and E. Main Street; and the other, which is located at the southwestern edge of the subject area, at the intersection of E. High Street and Chevy Chase Terrace (an alley). The area proposed for the H-1 overlay zone is residential in nature, except for the parcel at the intersection of E. High Street and Chevy Chase Terrace (859 E. High Street).

The Zoning Committee Recommended: **Disapproval.**

The Staff Recommended: **Approval**, for the following reasons:

1. The proposed Historic District Overlay (H-1) zoning for this area is consistent with the following Themes, Goals and Objectives of the 2012 Comprehensive Plan, as well as the text of the 2007 Comprehensive Plan as it relates to Historic Preservation:
 - a. Growing a successful community through well-designed neighborhoods, by encouraging existing neighborhoods to flourish through the use of neighborhood character preservation (Theme A.3.a).
 - b. Improving a desirable community through protection and enhancement of the cultural landscapes that give our community its unique identity and image. This can be accomplished through protection of historic resources (obj. a); encouraging renovation, restoration and maintenance of historic structures (obj. b); and developing incentives to retain, restore, preserve, and continue use of historic sites and structures (Theme D.3.a-c).
2. Historic District Overlay (H-1) zoning for this area would be consistent with the recommendation of the Board of Architectural Review for an H-1 overlay district, with the recommendations found in the *Ashland Park Historic District (H-1) Designation Report*, and with the provisions of Article 13-3(g) of the Zoning Ordinance. Specifically, the following findings are applicable to the Ashland Park neighborhood:
 - a. The study area is a cohesive concentration of significant domestic architecture, mainly dating from 1919 until 1934 during the area's greatest period of development. It includes numerous examples of small, medium, and some large-scale dwellings, primarily of one, one-and-one-half and two stories.
 - b. The structures within the study area are representative of several popular architectural styles from its development period, including Colonial Revival, Craftsman, Bungalow, and American Foursquare, among others.
 - c. The level of architectural integrity is high throughout the study area. There are very few incidents of adverse character-altering alterations to structures or sites within the boundary.
 - d. The study area includes a significant series of streetscapes, medians and landscapes that provide a true sense of place, illustrative still today of the signature Olmsted development plan of the early twentieth century.
 - e. The study area was listed in 1986 in the National Register of Historic Places as part of the Ashland Park Historic District under National Register Criterion C, which notes that the properties embody "the distinctive characteristics of a type, period or method of construction ..." and through that designation establishes that the study area meets the federal criteria for such designation.
 - f. The study area meets five of the nine criteria necessary to Local Historic (H-1) Overlay zoning established by Article 13-3(g) of the Zoning Ordinance. The study area's connection to both Henry Clay and the Olmsted Brothers, all of whom had national influence and contributed to the development of the nation, as well as the common plan developed for the Ashland Park Addition and the character and quality of the housing in the area all contribute to the neighborhood meeting the requirements of the Zoning Ordinance. According to the *Designation Report*, the criteria met are:

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- i. Criteria 13-3(g)(3): It is identified with a person or persons or famous entity who significantly contributed to the development of the country, state or nation.
- ii. Criteria 13-3(g)(4): It is identified as the work of a master builder, designer or architect whose individual work has influenced the development of the country, state or nation.
- iii. Criteria 13-3(g)(6): It has distinguishing characteristics of an architectural style valuable for the study of a period, method of construction or use of indigenous materials.
- iv. Criteria 13-3(g)(7): It has character as a geographically definable area possessing a significant concentration of buildings or structures united by past events or by its plan or physical development.
- v. Criteria 13-3(g)(8): It has character as an established and geographically definable residential neighborhood, agricultural area or business district united by culture, architectural style or physical plan and development.

Staff Presentation: Ms. Wade began the staff's presentation by entering into the record of the meeting: 1) the recommendation of the Board of Architectural review, including the minutes of the meeting at which this request was discussed; 2) the National Register of Historic Places nomination form and acceptance document for most of the properties in the proposed historic district, dated 1986; 3) eight letters of support for the proposed rezoning, seven letters in opposition, and three new letters received just a few moments prior to this hearing, which the staff had not had time to review. She distributed all of those items to the Commission members for their review. At this time, a citizen came forward from the audience to submit another letter, which Ms. Wade also circulated to the Commission members.

Ms. Wade stated that, at the time of the initiation of this request by the Commission, the staff presented a post-card response summary at the Commission meeting. Since the initiation, the staff has continued to receive postcards, which were also circulated to the Commission members.

Ms. Wade stated that the Planning Commission had agreed to become the applicant for the Ashland Park Neighborhood Association's request to add an H-1 overlay to the 38 acres that comprise their neighborhood. The area is located approximately one mile southeast of downtown, between East High Street to the west, and East Main Street/Richmond Road to the northeast. The subject area includes properties along South Hanover Avenue; a few parcels along Richmond Road; properties along Desha Road; properties along Fontaine Road; five properties along Slashes Road; and a few properties along Fincastle Road, for a total of 175 parcels. All but one of the properties are residential in nature, and are zoned either R-2, R-3, or R-4, which provides for a mixture of residential uses and densities. Ms. Wade said that the subject area is surrounded by a mixture of other land uses and zones, including: residential along South Ashland Avenue and Irvine Road toward the Henry Clay estate, and commercial along the two arterials, East High Street and East Main Street/Richmond Road. She displayed a map of other local historic districts in the vicinity of the subject area, including the South Ashland/Central Avenue district just to the northwest; the Aylesford Historic District, further to the southwest; and the Bell Place Historic District, to the north along East Main Street.

Ms. Wade stated that the boundaries of the proposed historic district were studied by the Division of Historic Preservation, and were summarized in their designation report to the Board of Architectural Review earlier in 2012. The study area is part of a larger National Historic District, which was listed in March of 1986. That Historic District includes properties between the Ashland Park neighborhood and the Henry Clay estate on Irvine, McDowell, Sycamore, Woodspoint, and Catalpa Roads, as well properties on the northeast side of Richmond Road, and the Ashland estate itself. Ms. Wade noted that the National Register Historic District does not include Hanover Towers, and she displayed a graphic depicting the boundaries of the District.

Ms. Wade said that the Ashland Park neighborhood was originally part of Henry Clay's Ashland estate. Upon his death, it passed to his son. After the Civil War, the estate was sold the Kentucky Agricultural and Mechanical College, which eventually became the University of Kentucky. The College held the property until 1880, at which time Major Henry Clay McDowell, who was married to Henry Clay's granddaughter, purchased the property in order to bring it back into the Clay family. Upon Major McDowell's passing in 1899, plans were laid out to divide the estate. The first portion that was proposed for subdivision is now known as the Ashland Park neighborhood, which included 95 acres of the farm. The McDowell and Clay families hired the Olmsted brothers of Brookline, Massachusetts, to prepare the subdivision plans for the area. Their firm was founded by their father, Frederick Law Olmsted, whose work was internationally known. In 1908, the first plan for the neighborhood was developed, followed by the first subdivision plan between 1919 and 1922. By 1934, construction had occurred on approximately 94% of the lots in the Ashland Park area.

Ms. Wade stated that the designation report for the subject area notes that the Ashland Park neighborhood is comprised of a mixture of architectural styles, which were popular during the development of the area in the 1920s and 1930s. The designation report also stated that most of the residential structures in the neighborhood are faced with brick, with a few examples of other materials, and are remarkably historically intact.

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Ms. Wade said that the 2007 Comprehensive Plan land use map depicts most of the subject area as Low Density Residential, which typically refers to single-family residential development. Portions of the area along Fontaine Road; at the intersection of South Hanover Avenue and East High Street; along Slashes Road; and on Fincastle Road are recommended for Medium Density Residential use. Some of the parcels on Desha and Richmond Roads are recommended for High Density Residential use, and Hanover Towers and a B-1 parcel on High Street are recommended for Very High Density Residential use. Ms. Wade explained that several of the 2007 Comprehensive Plan's Goals and Objectives support H-1 designation, including: Goal 3, which discusses promoting land uses that are sensitive to the natural and built environment; Goal 5, which refers to protecting and preserving Lexington-Fayette County's unique historical and cultural heritage; and Goal 15, which refers to protecting and enhancing the character and quality of neighborhoods. She added that all of those Goals have additional Objectives that also support the proposed H-1 designation. With regard to the adopted 2012 Comprehensive Plan Goals and Objectives, Ms. Wade said that the Themes also support local historic district designation, particularly in the interest of growing successful neighborhoods and improving a desirable community.

Ms. Wade stated that the Board of Architectural Review recommended approval of this request in whole. The staff reviewed the information from the BOAR, the designation report, the Comprehensive Plan, and the Zoning Ordinance, and they are recommending approval as well, for the reasons as listed in the staff report and on the agenda. The Zoning Committee reviewed this request at their meeting three weeks ago, and they recommended disapproval of this request.

Ms. Wade concluded the staff's presentation by displaying an updated map depicting the results of the post-card survey, since some postcards were received after the Commission initiated this request. She added that the response rate improved, and the percentage of those in support improved by approximately three or four percent, up to approximately 72% of the respondents.

Historic Preservation Presentation: Randy Shipp, Division of Historic Preservation, stated that the Planning Commission had, at their May 24th meeting, initiated a request for H-1 overlay zoning for the area bordered by South Hanover Avenue and Desha Road on the north and south, and Richmond and Fontaine Roads on the east and west. He entered into the record of the meeting the designation report; the BOAR Design Guidelines; and Article 13 of the Zoning Ordinance.

Mr. Shipp stated that the area proposed for H-1 zoning was designated the Ashland Park Historic District, part of the National Register of Historic Places, in 1986. He explained that historic zoning is designed to protect and preserve sites of historic, cultural and architectural importance. The design review process includes design review requirements for projects that affect the exterior of the structure and the site. Ordinary maintenance and repairs are not subject to the review process, nor are projects that do not affect the exterior of the building. Mr. Shipp noted that owning a structure in an historic district does not require that any work be done to the property. For projects that do require a Certificate of Appropriateness, plans must be submitted for review and approval. The Design Guidelines form the basis for the review of each application, and ensure that exterior changes are compatible with the character of the structure, the site, and the district as a whole. The BOAR has mandated to the Division of Historic Preservation staff the review and issuance of permits for routine items, while some proposed projects must be reviewed by the full BOAR. Annually, approximately 65% of all applications submitted are reviewed and permitted by the Historic Preservation staff, with the remaining 35% going before the BOAR.

Mr. Shipp said that the boundaries of an historic district establish an area where all exterior changes must be reviewed prior to their implementation. In defining boundaries, careful consideration is given to all properties within the area as initiated. Historic districts should include whole properties, in an uninterrupted sequence, with a logical, well-defined perimeter boundary. Mr. Shipp noted that, if properties are omitted from the middle or along the edges of a proposed district, the character of the area will be only partially protected, and the area will not be as visually cohesive. In addition, the positive effects of protection could be greatly decreased. Historic district boundaries are determined by several factors: the architectural and character-defining resources of the area, as well as the overall history and development pattern. Article 13 of the Zoning Ordinance requires that an area being considered for historic zoning meet at least one of nine criteria. Mr. Shipp agreed with Ms. Wade's assessment that both the 2007 Comprehensive Plan and the adopted Goals and Objectives of the 2012 Comprehensive Plan encourage the protection and enhancement of existing neighborhoods. He noted that two goals in particular support this request: 1) "to protect and preserve Fayette County's significant historic and cultural heritage;" and 2) "implement neighborhood overlay zoning provisions as a tool for establishing stability and protection in existing, and, especially, older neighborhoods."

Mr. Shipp stated that the Ashland Park neighborhood was developed on a farm rich in history. Famous statesman Henry Clay loved his Ashland estate, and made improvements to it until the time of his death in 1852. The farm remained in the family until after the Civil War, when it was purchased by the Kentucky Agricultural and Mechanical College for use as their campus. Sometime in the 1880s, the estate was brought back into the Clay

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family via its purchase by Major McDowell. At the turn of the century, Judge Henry McDowell (son of Major McDowell) began making plans for the subdivision of approximately 95 acres of the farm. In 1908, Judge McDowell hired the Olmsted brothers to prepare for the development of the property. The firm was internationally known for its landscape work, having designed Central Park, the Biltmore estate, and the grounds of the Kentucky state capital, among other projects in Lexington. The Olmsted archives indicate that they generated approximately 28 drawings relating to the subdivision and development of Ashland Park. The firm laid out the streets of Ashland Park using gentle, curving patterns, with significant landscaping features such as planted medians and green spaces, for which they were well known. Their plan for the neighborhood was implemented very closely to how they had envisioned it, with medians, green spaces, trees, and housing lots that included unified setbacks. In 1919, the McDowells sold the 95 acres to a syndicate of Lexington businessmen, who began the development of the property in earnest. Two plats were filed for the property: one in 1919, and the second in 1922, which defined the development pattern evident in the subdivision today. By 1923, all of the streets in the historic overlay study area had been constructed, and residences were in place on many of the lots. By 1934, houses had been built on 94% of the available lots; the remaining lots were developed by the mid-1950s. Mr. Shipp stated that the historic houses in the study area are remarkably intact, retaining their rich architectural character that reflects almost a "pattern-book sample" of the styles of that era. As time has passed, some changes have been made to the residences, but the overall character and integrity of the area is intact and significant. Several prominent Lexington architects have designed houses found throughout the study area, including William H. Churchill, Franklin Curtis, and John B. Moore. Mr. Shipp displayed photographs of the different types of homes in the subdivision, noting that the study area is a blend of architectural styles that were popular during the period during which it was developed, including: Colonial Revival; Craftsman; Bungalow; American Foursquare; Tudor Revival; Dutch Colonial Revival; Italian Renaissance; French Eclectic; and International, as well as some new construction.

With regard to the designation report prepared by the Historic Preservation (HP) staff, Mr. Shipp said that it reflects the area of development, its relationship to Lexington as a whole, and its cultural, architectural, and economic history. Based on that report, the HP staff prepared six findings; the first five addressed the development and architectural history of the study area. The sixth finding relates to the criteria to be considered for this type of designation, as contained in Article 13-3(g) of the Zoning Ordinance. Of the nine criteria listed, the proposed H-1 overlay zone meets five of them, which are listed in the staff report and on the agenda. Mr. Shipp said that, under the provisions of Article 13-3(g), and in accordance with the designation report and background information, the Division of Historic Preservation recommends that the proposed local historic district, requested by the Ashland Park Neighborhood Association and initiated by the Planning Commission, be approved as submitted, and forwarded in its entirety to the Urban County Council. Mr. Shipp added that, at the initiation hearing for this request, the Planning Commission had requested data pertaining to the economic impact of H-1 designation, which would be presented by Amelia Armstrong, Division of Historic Preservation.

Ms. Armstrong said that the Historic Preservation staff examined a range of literature, from economic studies to various articles, regarding property values in local historic overlays over the last 25 years. The research was conducted and the reports prepared by economists, urbanists, geographers, sociologists, and historic preservationists from all over the country. A wide variety of methods were used for analysis, including the Hedonic Price evaluation; sales price analysis; market value ratio; back-to-back sales; appraisal value data; and property value data using actual records or tax records. Ms. Armstrong noted that the Hedonic Price evaluation and property valuation data were most commonly used. She said that the results of those studies indicated that properties protected by local historic overlay districts have higher property values than properties not in such districts. The studies also found that the responsibility of complying with regulations for local historic overlay districts is outweighed by the higher property values and appreciation. None of the studies examined indicated that local historic districts reduced property values, and no studies found any negative impacts on neighborhoods following application of historic zoning. Proportionally, there was a lesser increase in property values for multi-family or commercial structures, but all housing categories experienced increases in value. The study authors also postulated that private investment in historic districts can have a catalytic effect on an entire area.

Ms. Armstrong stated that the Historic Preservation staff specifically examined the 2008 research thesis written by Maria Gissendanner entitled, "The Economic Value of Historic Preservation: The Effect of Local Historic Designation of Property Values in Lexington, Kentucky." She said that the author conducted an evaluation of local historic overlay neighborhoods, and focused her research on four areas: all of Woodward Heights, and parts of the Bell Court, South Hill, and Western Suburbs historic districts. The author examined back-to-back sales records from 1997 to 2007 to obtain her results. Ms. Armstrong stated that Ms. Gissendanner concluded that, as a whole, the sample areas increased 67%, in comparison to values of Lexington houses not located in a local historic district, which increased by 6%.

Ms. Armstrong said that the most recent study regarding the impact of historic overlays on property values was conducted by Donovan Rypkema. In 2011, he examined four cities in Connecticut, with a total of 25,000 properties, in different regions of the state. He found that property values in historic districts saw an increase rang-

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ing from 4% to 19% per year. In head-to-head, square-foot comparisons based on age and style, properties within local historic districts were worth more than properties not included in those districts. That research also indicated that, overall, there appears to be a 2-4% value increase resulting from location of a home within a historic district.

Ms. Armstrong stated, in conclusion, that values of properties located in historic districts are greater than properties not protected by a local overlay designation.

Commission questions: Mr. Berkley asked if there have been any studies done to determine the cost of compliance with historic district regulations, such as the cost of building materials, and the like. Ms. Armstrong answered that the studies she reviewed did not break down such costs separately.

Ms. Roche-Phillips asked Ms. Armstrong to explain the process of statistical sampling and the ways in which averages can reflect bigger-picture issues, since none of the studies referred to Ashland Park. Ms. Armstrong answered that, in studies such as the ones to which she referred, there are different ways to collect data. Properties can be compared according to different categories such as square footage and number of bathrooms. In the Gissendanner report, properties were broken down that way, and sales within a two-year period were considered. Ms. Roche-Phillips asked, with reference to the Connecticut study, if there was statistical significance in the analysis. Ms. Armstrong answered that the analysis showed that there was an increase of 4% to 19% on average. That study reviewed back-to-back sales for four communities. In one community, there was no change in sales. Ms. Armstrong added that that study also compared properties located within and outside of historic districts.

Ms. Mundy asked, since the most recent study referenced was from 2007, if Ms. Armstrong had any data collected after the drop in the housing market. Ms. Armstrong answered that she did not have any more current data for the Lexington housing market.

Mr. Berkley asked, with reference to the studies that were done in Lexington, if they were based on assessed values or sales. Ms. Armstrong responded that they considered back-to-back sales for a 10-year time period, as well as market values and tax records.

Chairman Comments: Mr. Owens stated that any citizens who wished to speak on this request would be expected to adhere to the Commission's time limits, since there appeared to be a large number of speakers. He said that he had received three requests for additional time, including the attorney representing the Ashland Park Neighborhood Association, who would be granted a few extra minutes for his presentation.

Neighborhood Presentation: Bo Fugazzi, attorney, was present representing the Ashland Park Neighborhood Association. He said that he is very familiar with the Ashland Park area; when he was five years old, his parents bought a house at the corner of South Hanover Avenue and Ghent Road, where he lived until he was married. Mr. Fugazzi and his wife made their first home in a four-plex on Catalpa Road until the birth of their first child, when they moved to a duplex on Catalpa. Upon the birth of their second child, they purchased a house on Irvine Road, where they lived until 1988. Mr. Fugazzi said that he and his children had grown up in the neighborhood, and he knows that everyone present at this meeting is proud of their home and the entire Ashland area.

Mr. Fugazzi stated that, when he describes Lexington to people who have never visited the city, he mentions Keeneland; the scenery along Old Frankfort Pike; the stone walls along Paris Pike; Gratz Park; Transylvania University; and Henry Clay's home. He said that the Ashland estate is beautiful, residents are proud of it, and it was a perfect candidate for preservation as a national historic landmark. The Ashland Park Neighborhood Association mission statement includes the following statements, which speak to that goal:

"Preserve the best qualities of the distinct and historic neighborhood."

"Successful neighborhoods offer a sense of community, mutual responsibility, friendliness; visual pleasantness, ease of movement, and safety from crime."

"The neighborhood association will take an active role in preserving and enhancing this vision. We will continue to maintain and improve the young and mature trees, as well as the landscaping of the medians and the open spaces."

Mr. Fugazzi said that the APNA is not concerned about the existing residents "wreaking havoc on the neighborhood," but they believe that the proposed H-1 overlay could be a safeguard for the preservation of the character of the area.

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Mr. Fugazzi noted that the Division of Historic Preservation staff, the Board of Architectural Review, and the Planning staff have all recommended approval of this request; it is in agreement with the recommendations of the Comprehensive Plan; and 75% of the Ashland Park residents are in support of it. The APNA is aware that there are some residents who are concerned about "the government telling them what to do or what not to do." However, normal property maintenance, including repainting a house that is already painted, does not require BOAR approval. Structural changes to the exterior of homes, including the addition of new wall openings, are subject to the design review process, which does not involve an unreasonable amount of effort. Mr. Fugazzi noted that any resident who is unhappy with a decision made by the BOAR has the opportunity to appeal to the Planning Commission. Such a request would be considered at a *de novo* hearing, in which all of the information would be presented as if it were new. Mr. Fugazzi entered into the record of the hearing a list from the BOAR Design Guidelines of all of the changes that would require their review. He said that, over the last four or five years, 98% of all of the proposals presented to the BOAR were approved.

Mr. Fugazzi stated that he had reviewed the minutes of the BOAR meeting where this proposed rezoning was presented, and one of the major concerns was the cost for replacing an existing tile roof. He said that, in the last year, the BOAR had approved conventional roofs at 629 East High Street and 438 North Broadway. He read the following excerpt from the BOAR Design Guidelines:

"If replacement in kind is not feasible or practical, the BOAR will consider the use of substitute materials under certain circumstances."

With regard to the concerns about replacement windows expressed at the BOAR meeting, Mr. Fugazzi said that he had discussed the issue at length with Ms. Armstrong, and had found that, if a homeowner lets the window casings deteriorate to the point where they are no longer functional, then the BOAR would allow the use of metal replacement windows. He added that the Design Guidelines also allow the use of any storm windows that fit within the aperture of the window itself.

Mr. Fugazzi said, with regard to the Commission members' questions about home values, that he purchased his home on Irvine Road for \$41,000 in 1975. The same home sold for \$342,000 in 2011.

Commission Questions: Ms. Blanton stated, with regard to Mr. Fugazzi's remark that 75% of the property owners in Ashland Park support this request, that only 72% of the owners responded. Mr. Fugazzi responded that another speaker would address that issue. Ms. Blanton said that, according to the information provided by APNA as of October 12th, the total number of respondents was 72% of all property owners.

Ms. Blanton asked if Mr. Fugazzi's assertion that any homeowner who was dissatisfied with a decision made by the BOAR could appeal to the Planning Commission was accurate. Mr. Fugazzi responded that it was correct. Ms. Blanton stated that, in the time that she has served on the Commission, there have been several BOAR appeals that were troubling to her, including some concerning replacement windows. She added, with regard to the excerpt Mr. Fugazzi read from the Design Guidelines, that a recent BOAR appeal to the Planning Commission resulted in a property owner being required to remove new, energy-efficient windows, and replace them with single-pane wood windows that were not as efficient. Ms. Blanton said that she does not believe that the Planning Commission truly has the flexibility to overturn a decision made by the BOAR.

Staff Comment: Ms. Wade stated that the Commission does hold a *de novo* hearing on all BOAR appeals, but they are also charged with reviewing the decisions made by the BOAR. In those cases, the Commission is also required to adhere to the same Design Guidelines as are used by the BOAR. Ms. Wade explained that the Design Guidelines could be written in a manner that would not permit a Commission member's preferred option for the resolution of an appeal.

Chairman Comment: Mr. Owens stated that, at this time, the Commission would hear citizen comments on this request, beginning with those who are in favor. He asked that each speaker respect the time limits and not be repetitive in their comments.

Citizen support: Tony Chamblin, president of the APNA for the past two years, stated that his term had ended two days ago, but he continues to serve on the H-1 advisory committee. He said that the APNA Board of Directors voted 13-0 in favor of the requested H-1 overlay zoning, and three of every four property owners who responded to the postcard survey indicated their support, because they believe that the history, culture, and architectural significance of the Ashland Park neighborhood needs to be preserved for future generations.

Mr. Chamblin said that, because there had been some factual misstatements about how many property owners are actually in favor of this request, APNA secretary Wanda Jaquith spent several hours in the Planning office reviewing every survey postcard that was mailed as part of this request. She confirmed that the Planning staff has received 38 cards since the time of the original initiation. The current count is 150 in favor; 50 opposed;

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and four with no opinion. Mr. Chamblin stated that it is true that 72% of the property owners responded to the postcard mailing. Of all of the postcards returned, 73.5% voted in favor; 24.5 % voted in opposition; and 2% had no opinion. Out of a possible 283 property owners, 204 postcards were returned, which Mr. Chamblin said represents a "phenomenal" response rate, and qualifies as a mandate. He added that 27.5% of the property owners who voted against the proposed H-1 overlay do not live in the neighborhood, but rent their properties.

Mr. Chamblin said, with regard to the earlier questions and comments about property values in H-1 areas, that he did have current data for the Ashland Park neighborhood. He said that, using Property Valuation Administrator data, APNA performed an analysis of property values on South Ashland Avenue. That analysis indicated that, between 1996 and 2012, property values on that street increased by 21% more than values on non-H-1 streets in the neighborhood.

In conclusion, Mr. Chamblin displayed a photograph of a home that formerly stood at the corner of South Ashland Avenue and East Main Street, as well as a photograph of the current occupant of the property, which is a produce market.

Wanda Jaquith, 250 South Hanover Avenue, stated that she is a 40-year resident of that street, and that she and her husband also own a four-plex on Desha Road. She said that she is a past president of APNA, and she was secretary of the association until two days prior to this hearing.

Ms. Jaquith stated that, beginning in January 2011, the APNA Board began an active and transparent pursuit of H-1 overlay zoning. APNA conducted six H-1 meetings, from June through October of 2011. Two meetings, in June and July, were held with Hanover Towers residents. Three public meetings were held, in August, September, and October. These meetings were led by Historic Preservation staff and attended by Planning staff. A total of approximately 150 people attended these informational meetings. Ms. Jaquith stated that the H-1 overlay proposal was presented at the APNA general membership meeting in September, with Historic Preservation staff in attendance to answer property owners' questions. Notification of the three public meetings was posted on the APNA website, and notice of the September and October meetings appeared in the September 2011 issue of *Chevy Chaser* magazine, along with a map of the proposed overlay area. In addition, print notices were left at each property prior to the August, September, and October public meetings. Articles discussing the H-1 overlay effort appeared in the summer and winter issues of the APNA newsletter. Ms. Jaquith said that, between September 2011 and March 2012, APNA Board members and other residents made one-on-one education visits to property owners and circulated a petition supporting the overlay effort. In January 2012, Mr. Chamblin sent a letter explaining the H-1 overlay to non-resident property owners in the proposed district.

Ms. Jaquith stated, in conclusion, that APNA made every possible attempt to educate and inform as many affected residents and property owners as possible through a completely public and transparent process.

Bob Sessum, Vice-chair of the Board of Directors of Hanover Towers, stated that the Board had held three meetings to discuss the proposed H-1 overlay zone, and the vast majority of residents were in support. He said that most of the residents believe that the character of the Ashland Park neighborhood is responsible for their condominium market value increasing even during the recent recession. Mr. Sessum noted that the total market value for the Hanover Towers condominiums is over \$12 million.

Mr. Sessum said that new residents indicate that they love the location of Hanover Towers, but they also appreciate that the character of the surrounding neighborhood is still very similar to what it must have been in the 1920s or 1930s. He stated that he believes that the proposed H-1 overlay zone provides residents the opportunity to preserve the character of a neighborhood that is "a historically significant example of integrated subdivisions and landscape design." The majority of the neighborhood wants to preserve the character of the neighborhood, and they believe that the proposed H-1 overlay zone can provide guidance and structure for modifications to existing buildings. Mr. Sessum read into the record the following quote from Iris Gestram, Executive Director of the National Association for Olmsted Parks:

"Thanks to the architectural integrity of the residences and the preservation of the landscaping, Ashland Park has been a designated historical district on the National Register of Historic Places since 1986. The National Association for Olmsted Parks urges the city to approve the H-1 zoning overlay to preserve this remarkable historical legacy and the design relationship between homes and landscape in Ashland Park. We strongly believe that the city of Lexington has the responsibility to preserve this historical situation."

Bill Loggins, 241 Desha Road, stated that he and his partner, Tony Burgett, have resided at that address since 1985. He said that the postcard mailing was used to ensure that no property owners were disenfranchised by the H-1 zoning process, and that no one could contend that they weren't contacted or allowed to express their opinion. At the Zoning Committee meeting two weeks ago, concerns were raised that only 41% of the total properties had returned postcards. Mr. Loggins noted that, since that time, the postcard response has in-

creased to 53% of the total number of properties. He said that he believes that the Zoning Committee based their disapproval recommendation on the belief that the 41% figure represented the true feelings of the neighborhood, rather than the percentage of the postcards returned. Using the same statistics, only 17% of all owners of property in the affected area were opposed to the H-1 designation which, Mr. Loggins opined, is a low percentage for such an important issue.

Mr. Loggins stated that he believes that those opposed to the proposed H-1 overlay have been able to offer only one true point of opposition: they do not believe that government should be able to tell them how they can use their property. He said that LFUCG and the Planning Commission have already proven that they do have the right to do that under certain circumstances, through the H-1 designation of 14 neighborhoods. He believes that Ashland Park meets any and all of the standards that those other neighborhoods have met, and he noted that no other neighborhood in Lexington-Fayette County can boast that it was designed by one of America's most famous landscape architects. Other cities around the country have gone to great lengths to protect their Olmsted-designed projects, and Mr. Loggins asked that the Planning Commission follow the recommendations of the Planning and Historic Preservation staff, and recommend approval of the proposed H-1 overlay for Ashland Park.

John Hackworth, 220 Market Street, stated that he is currently a member of the Board of Trustees of the Bluegrass Trust for Historic Preservation, and a former president of the Board of that organization. He said that he is also president of the Gratz Park Neighborhood Association.

Mr. Hackworth said that, in 1955, the house on the southwest corner of Second and Mill Streets was demolished overnight, which distressed many of the concerned citizens in Lexington. It was the Hart-Bradford House, one of the city's most historic houses. Across the street from that structure, the Hunt-Morgan House was for sale. The group of concerned citizens joined together at that time to form the Bluegrass Trust, and their first action was to purchase the Hunt-Morgan House. At the time, those citizens were concerned that, if the Hunt-Morgan House was purchased by an "irresponsible buyer," the domino effect could completely change the Gratz Park neighborhood. Mr. Hackworth said that all of the current residents of Gratz Park agree that the neighborhood is what it is today because of the H-1 overlay zone—the first such designation in Lexington—that the Bluegrass Trust played a large part in designating in 1958.

Mr. Hackworth stated, with regard to some of the opponents' concerns about the proposed H-1 overlay zone, that a casual observer of his home would see a structure that looks much as it did when it was constructed in 1816. However, a mid-1980s addition to the rear of the house allowed for a great deal of modernization, and it was approved by the BOAR, with some negotiation. Mr. Hackworth said, as a representative of the Bluegrass Trust, that that organization is in favor of the proposed H-1 overlay zone for the Ashland Park neighborhood as proposed.

Jane Graham, 336 Desha Road, stated that she and her husband bought their home in 1970, and raised their children there. She said that, since that time, she has seen more than one generation of young parents moving into the area and raising their own children there. Ms. Graham believes that Ashland Park residents value the "well-ripened age" of the neighborhood, with historically significant homes, ancient trees, and "sidewalks that actually go somewhere." She said that maintaining the safety, livability, and character of the neighborhood has required constant vigilance, as many of the homes have become vulnerable to development pressure from non-resident property owners. In addition, student property rentals have also become an issue, with some rental properties currently in disrepair and dangerous to passersby due to deteriorated sidewalks. Ms. Graham stated that one single-family residence, located four parcels away from her property, has been empty for 15 years and is deteriorating; she believes that the owner "has other ideas for the property."

Ms. Graham concluded by emphasizing that, although some of the residents opposed to H-1 zoning believe that the elderly will "flee the neighborhood" rather than maintain their properties according to the Design Guidelines, she believes that that is a malicious rumor that was propagated through some materials that were distributed to residents. She said that she believes that H-1 protection for the neighborhood will help to ensure that current and future owners of the properties will share a commitment to treat the area with respect and affection.

Wilson Eastland, 224 South Hanover Avenue, stated that he has lived at that address since 1974. He displayed a photograph of a structure his neighbor constructed adjoining his back yard, which blocks his view of greenery and the sky. He said that the structure is a two-story garage/office/apartment, located very near the edge of his back yard. Mr. Eastland opined that he does not like the idea of the government telling him what he can and cannot do with his property, but he would be in favor of the government regulating structures such as that.

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Jim Dickinson, 368 Transylvania Park, displayed two photographs depicting the “dangers of compromise.” He said that, when the Aylesford neighborhood was being considered for H-1 overlay zoning, the Urban County Council made a decision that “left a donut in the business district of Aylesford.” It excluded the area where the Ramsey’s restaurant is located, as well as the shops along High Street and Woodland Avenue. Mr. Dickinson said that the commercial uses were excluded because the business owners were concerned that the H-1 requirements would be too onerous. Referring to his photograph, he stated that it depicts the former Faith Covenant Church, which represented a classic example of a church of its era.” The church was demolished, and was replaced by a condominium project, which was under construction for at least five years. The condominiums are nearly empty, and, Mr. Dickinson opined, the building is not consistent with the scale or proportion of the neighborhood.

Mr. Dickinson emphasized that, although some Ashland Park residents might encourage the Commission to exempt properties from the area proposed for H-1 overlay zoning, the Commission members should resist, because removing even one parcel could have a negative impact on the values of the properties around it. He said that he has lived in the Aylesford neighborhood since 1985, and he has seen a fourfold increase in the value of his home since the H-1 overlay was approved.

Abbie Jones, 1022 Fontaine Road, stated that she is concerned about the lack of protection from tear-downs that most neighborhoods have. She said that the “hyper-modern” structure that is under construction on Richmond Road is one example of the type of structure that she believes would be inappropriate in the Ashland Park neighborhood. Ms. Jones noted that she and her husband purchased their property with the intent of making it their permanent, long-term home, and that want to ensure that it is protected.

Ms. Jones said, with regard to some of the concerns about the costs of maintaining a property with an H-1 overlay, that many of the poorly maintained properties on her street also have “No H-1” signs in the yards. She asked that the Planning Commission support the proposed H-1 overlay, because she believes that it’s the most important tool to protect the Ashland Park neighborhood, which does not have subdivision regulations.

Kate Savage, 619 Columbia Avenue, stated that she lives in a neighborhood that abuts the University of Kentucky campus, and she has seen what can happen without the protection of H-1 zoning. She said that, about five years ago, some of the residents of her neighborhood were “desperate to protect their neighborhood from developers who had invaded and taken advantage of the open window of lack of student accommodations.” Property developers were buying affordable small homes, building on large additions, paving the back yards, and renting them to as many as 12 students. The neighborhood residents lost green space, and gained noise, trash, and overflow parking. Ms. Savage said that some of the residents joined together to pursue H-1 overlay zoning, but it proved to be an acrimonious battle that resulted in some neighbors still not speaking to one another. She added that a lot of misinformation was spread during the process; and, in the end, the Council did not impose the H-1 overlay. Since the neighborhood was left vulnerable, Councilmember Diane Lawless worked with the residents to develop a Zoning Ordinance text amendment to redefine the number of residents who could share a single-family structure. Ms. Savage said that, in spite of the protection afforded by that text amendment, the neighborhood is still vulnerable, as small, affordable homes are being purchased, demolished, and replaced with “vinyl boxes.” She said that the H-1 overlay zone would have offered demolition protection and helped the residents to maintain the green space in their neighborhood.

Nancy Rawlings, 246 South Hanover Avenue, stated that she has lived in her residence since 1975. At that time, some of the properties on South Hanover, including her property, were beginning to depreciate in value. Ms. Rawlings said that she and her husband, as well as many of their neighbors, have done a lot of work on their properties, and the neighborhood is currently in very good shape. She walks every day, and enjoys seeing children playing on the islands along Slashes Road. Ms. Rawlings emphasized that she is in favor of the proposed H-1 overlay, because she would like to see the Ashland Park neighborhood maintained as it is today.

Phil Points, 424 West Sixth Street, stated that he has lived at his residence since 1964. He said that there was a strong neighborhood association when they arrived, and within 10 years, the neighborhood had received an H-1 zoning designation. The neighborhood association did a great deal of hard work to save a beautiful part of the city that, the residents believed, was deteriorating and being abused. Mr. Points said that, because his children were raised in an historic neighborhood, they learned to appreciate the value of historic structures. He asked his daughter, who resides in an historic neighborhood in New York, if she had an opinion on the proposed H-1 overlay for the Ashland Park. It was her opinion that citizens have a responsibility to “save what is good” in order to pass on its history and the strong sense of place that historic neighborhoods provide. Mr. Points said that he was appreciative of the Planning Commission’s consideration in attempting to “preserve the jewel” that is the Ashland Park neighborhood.

David Burg, member of the APNA Board, stated he is also the neighborhood’s delegate to the Fayette County Neighborhood Council. The FCNC submitted a letter of support for the proposed H-1 overlay, signed by Emma Tibbs and six former FCNC presidents. He said that he has owned and lived at 291 South Ashland Avenue for

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44 years. When Mr. Burg and his family moved onto the street in 1968, many of the houses, including his own, were in a state of serious disrepair; and several houses had been divided into apartments. Shortly after their arrival on the street, a beautiful Victorian house was removed and replaced by a "shoddily constructed" apartment building. Mr. Burg stated that, at about the same time, a developer approached him and his two immediately adjacent neighbors with offers to purchase their homes. Had they not rejected his offer, the neighborhood would have lost three more historic homes, to have them replaced by an eight-story apartment building at the northwestern corner of South Ashland Avenue and High Street. Mr. Burg opined that the long-term future of an entire neighborhood should not depend upon the choices of two or three residents, who are only stewards of their property and "caretakers for future generations." He said that he and his neighbors, recognizing the threat to their neighborhood, joined together in 1970 to create the APNA, of which he was a founding Board member. While they were able to successfully fight several battles over zoning issues and stabilize the neighborhood, South Ashland Avenue residents realized that they needed stronger protection. After a year of hard work by the residents, an H-1 overlay was designated in 1989 for South Ashland Avenue and the first block of Central Avenue, which acts as an important connector to downtown. Mr. Burg emphasized that it is vitally important to include the border properties along Richmond Road, East High Street, and Fontaine Road in this request, since those are often the areas that are most vulnerable to undesirable changes.

Mr. Burg stated that, following the H-1 designation for South Ashland and Central Avenues, nearly all of the properties in the area have been renovated and upgraded; most have been returned to single-family use; and landscaping has been added and upgraded. He concluded, with regard to some of the concerns voiced about the costs of maintaining a home in a historic district, that he has never felt that he was in "economic peril" because of the costs of maintaining his property.

Sanford Pollack, 282 South Ashland Avenue, stated that boundaries of the proposed H-1 overlay area are based on historic significance of the area; the physical, residential character of the buildings; and the levels of activity along East High Street and East Main Street. He opined that, just as it would be inappropriate to single out one residence and declare it a historic district, it would also be inappropriate to exclude properties that are visually and historically similar to the rest of the neighborhood. Mr. Pollack quoted one of his neighbors, who said, "you cannot have a viable H-1 district that looks like a Swiss cheese." He said that he supports the boundaries proposed for this H-1 district, as recommended by the Division of Historic Preservation, the BOAR, and the Planning staff.

Vicky Birenberg, State Certified Local Government and Planning Coordinator for the Kentucky Heritage Council, stated that she was present to voice that organization's support for the proposed H-1 overlay for Ashland Park. She said that the Certified Local Government (CLG) program is a partnership between local governments and the State Historic Preservation office, enabled by federal legislation to promote and expand historic preservation activities. The Lexington-Fayette Urban County Government has been a CLG since 1988, and has been a leader in historic preservation throughout the state. Ms. Birenberg said that the Kentucky Heritage Council commends LFUCG for enhancing the community's value by integrating historic preservation into the local planning and decision-making processes.

Ms. Birenberg said that historic districts, in Lexington and around the nation, have proven to be a successful tool for economic prosperity. Historic buildings are an asset, and they are desirable for their beauty, quality, and character. In local historic districts, property values appreciate at a rate, which is overwhelmingly supported by the available research on the topic. Ms. Birenberg stated that local historic districts increase investor certainty in a neighborhood, and insulate against decreases in value. Rehabilitation work on historic buildings is also of economic benefit, as it relies upon skilled labor, which keeps dollars in the local economy.

Ms. Birenberg stated that local historic districts can also enhance business recruitment potential. She said that attractive neighborhoods can help to attract businesses and quality industry to an area. Communities with successful preservation programs and historic neighborhoods receive high marks for quality of life indicators, which can influence companies' decisions to relocate to an area.

Ms. Birenberg said that there is no question that the Ashland Park neighborhood meets the criteria for preservation, with its ties to Henry Clay and Frederick Law Olmsted, and its high level of architectural integrity. She believes that the proposed H-1 overlay is a positive move for Lexington, and that the Kentucky Heritage Council encourages the Planning Commission to recognize its value by recommending approval of this request.

Dave Atkisson, 1000 Richmond Road, stated that he and his wife returned to Kentucky seven years ago after living in Birmingham, where they owned a home that was designed by the Olmsted firm. They sought out the Ashland Park neighborhood and its ambience, and they were impressed that it had existed for so many years without being significantly compromised by encroachments that were inconsistent with the character of "Olmsted vision."

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Mr. Atkisson said that he was originally from Owensboro, which has a Comprehensive Plan that was modeled after that of Lexington-Fayette County. He added that he believes that Lexington-Fayette County has helped to set a model for livable communities throughout the state. Mr. Atkisson served for eight years as Mayor of Owensboro; and, after reviewing hundreds of planning and zoning items, he developed a deep respect for the Planning staff, Planning and Zoning Commissioners, and the Comprehensive Plan process. He said that Planning Commissioners there had great respect for the Planning staff as well, so that, when the staff prepared a report, it was respected. As Mayor, he believed that the planning process was responsible and well thought-out, and that he would bear the burden if he chose to make decisions against the opinions of those professionals. Mr. Atkisson stated that the proposed H-1 overlay has a clear majority of the neighborhood that is in support; a unanimous decision of support from the APNA Board; a Comprehensive Plan recommendation that endorses it; the thorough research of the staff that recommends it; and the recommendation of approval from the BOAR. He urged the Planning Commission members to respect the process that they have been sworn to oversee, because it protects the community and makes it a special place to live.

John Rhorer, Chairman of the Historic Preservation Commission, stated that, by Ordinance, the HPC is directed to provide guidance to LFUCG on matters relating to the establishment and maintenance of historic districts, areas, landmarks, and sites. He said that, on behalf of the HPC, he was requesting that the Planning Commission approve the proposed H-1 overlay for the Ashland Park neighborhood as proposed.

Mr. Rhorer said that, in preparing his remarks, he reviewed various publications and articles regarding historic districts and their positive impact. He stated that the purpose of this hearing, however, is not to debate the merits of historic designation, but to determine whether the area identified in the proposal meets one or more of the criteria set forth in the Zoning Ordinance. The Urban County Council, through its approval of the Zoning Ordinance, has already established its support for historic zoning. Mr. Rhorer read the following excerpt from Article 13:

“The Lexington-Fayette Urban County Council hereby declares, as a matter of public policy, that the preservation, protection, perpetuation, and use of historic districts are public necessities. The protection of these is required in the interest of the economic well-being, prosperity, health, safety, and general welfare of the people.”

Mr. Rhorer stated that he respects the beliefs of the opponents of the proposed H-1 overlay zone, but he believes that they want to debate the appropriateness of H-1 zoning as a public policy, not the merits of this particular request. He asked the Planning Commission to consider the requirement, also established by the Council, that an area proposed for H-1 zoning meet at least one of nine criteria. As the staff indicated, the Ashland Park proposal meets five of those criteria. Mr. Rhorer encouraged the Planning Commission, on behalf of the Historic Preservation Commission, to recommend approval of this request to the Council.

Amy Clark, 628 Kastle Road, stated that she lives near Ms. Savage, who spoke earlier at this hearing, and she agreed with Ms. Savage's assessment that her neighborhood had been “ravaged” by student encroachment. She said that, although her home is located further from the UK campus than Ms. Savage's, the area immediately surrounding it has been ravaged as well.

Ms. Clark said that she does not believe that Ashland Park is in danger of being used for student rentals, but she is concerned that the outer edges of the neighborhood are vulnerable to commercial interests. She referred to a Victorian structure that was recently razed at the corner of Main Street and Kentucky Avenue, noting that a contest is being fought all over Lexington between owners who love their properties, make their homes there, and want to protect them, and absentee owners who are “chiefly concerned with taking value out, and earning a profit from the area.” When the Hollywood Terrace neighborhood requested H-1 zoning years ago, those were the types of uses from which they sought protection.

Ms. Clark asked that the Planning Commission respect the hard work that the APNA members have put into the H-1 process, and recommend approval of the protection of their properties from interests that want to take value from their neighborhood.

Chairman Owens declared a brief recess at 3:30 p.m. The meeting reconvened at 3:38 p.m.

Bill Johnston, president of the Historic Western Suburb Neighborhood Association, stated that he is on the Board of the Bluegrass Trust for Historic Preservation. He said that he and his wife live at 645 West Short Street, in one of the oldest neighborhoods in Lexington, which is one of the oldest cities west of the Allegheny Mountains. By the mid-1970s, this neighborhood was falling apart, and in danger of disappearing entirely. Being designated as a local historic district saved it.

Mr. Johnston said that he and his wife have lived in an historic district for decades, and are often asked if they are able to modify their house at all. He stated that they are able to make any type of modification to the interior

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of their home, and many changes to the exterior as well. The H-1 review process simply ensures that the changes that are made are done correctly, and that the result will add to, and not detract from, the area. Mr. Johnston also opined that the H-1 Design Guidelines are much less onerous than the deed restrictions in many newer neighborhoods.

Mr. Johnston stated that the older neighborhoods in Lexington make people want to relocate here, which is a major economic asset for the city. He said that Ashland Park is a treasure, and it needs to be protected.

Win Meeker, 417 Fayette Park, former Chair of the Historic Preservation Commission, said that Fayette Park is one of Lexington's 14 local historic districts, out of 2,300 in the United States. She stated that the Design Guidelines recently underwent a major review, and were adopted two years ago. She explained that there are provisions in the Guidelines that allow for the use of new materials, such as Hardi Plank, and new technologies like geothermal heating, solar panels, and aluminum-clad windows. The review process is forced to be dynamic, since many of the materials original to historic homes are no longer available.

With regard to Fayette Park, Ms. Meeker said that it became a historic district at the same time as the Northside neighborhood, and that both areas are part of the Northside Neighborhood Association. Fayette Park, which is a circle of 16 houses, was fairly stable in the 1970s, but the residents were aware that nearby homes were being turned into boarding houses or razed for parking lots. Twenty-five years later, after receiving historic designation, the neighborhood is stable and, Ms. Meeker opined, a wonderful place to live.

Ms. Meeker stated that consultants studying downtown Lexington are always impressed by the number of strong, intact neighborhoods surrounding the downtown area. She said that, without H-1 protection, those areas would not have remained stable. She added that H-1 zoning also produces friendly, neighborly communities where all of the residents know one another. Ms. Meeker said that Ashland Park is a lovely area with strong neighborhood connections, and she asked the Planning Commission to recommend approval of the requested H-1 overlay zone.

Citizen Opposition: Glenn Brown, 307 Desha Road, stated that he has lived at that address since 1995. He said that, two years ago, he replaced his tile roof, which cost \$25,000.

Mr. Brown said that he does not believe that it is right for people to be forced into something they do not want to do, and there are many Ashland Park residents who do not want their properties to be zoned H-1. He stated that he is also concerned that this issue could divide the neighborhood, and create animosity between residents.

With regard to the information presented about property value increases in H-1 districts, Mr. Brown stated that he does not believe that the data provided proves that values increased more quickly after H-1 zoning has been applied. Commenting on how the Ashland Park neighborhood was so well maintained after nearly 90 years, he asked if H-1 zoning could actually improve it. Mr. Brown also opined that, if H-1 zoning had been applied to the properties in 1950, most of the homes would not be suitable for modern needs.

Mr. Brown also noted that he does not believe that Hanover Towers is similar to the other properties in Ashland Park, and it should not have been included in this request.

Ben Kaufman, 125 Sycamore Road, stated that his office is located in a building which was built in 1836. He said that he owns 41 properties in H-1 areas, and he does not agree with the assertion that property values in Ashland Park will increase if the H-1 overlay is applied. He added that he believes that prospective homeowners will be less likely to buy in an H-1 area.

Mr. Kaufman stated that he does not understand the impetus behind this proposal, since the area has not changed in the 35 years that he has lived in his home and there does not seem to be an influx of UK students in the neighborhood.

With regard to the Design Guidelines, Mr. Kaufman said that he believes that they are too restrictive, and that the additional rules and regulations are unnecessary. He noted that he recently replaced the roof of his 1836 office building at 352 South Ashland Avenue, at a cost of over \$100,000. In addition, the BOAR recently rejected his application to install a metal safety door at one of his properties on South Broadway. Mr. Kaufman stated that there must be a better way to use existing laws to restrict proposed changes to properties, other than the proposed H-1 zoning.

James Tucker, 321 Desha Road, stated that he opposes the proposed H-1 overlay zone. He said that he believes that counting the postcards received after the initiation of this request is a "back door" action, and he does not agree with it.

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Mr. Tucker said that Samuel Adams is credited with saying, "It doesn't take a majority to prevail; but rather, an irate, tireless minority keen on setting brushfires in people's minds." He does not believe that there is a true neighborhood majority in support of the proposed H-1 zoning. In addition, it is his understanding that over 40% of the neighborhood residents did not return the survey postcards; he does not believe that the remaining 60% of the property owners should be allowed to "decide for the entire 100%." Mr. Tucker stated that approximately 30% of the votes in favor of this request came from Hanover Towers, which was built in 1964.

Mr. Tucker said that he is also concerned that many of the H-1 supporters are unaware of the extent to which they would be "giving away the right to determine what they can do to their property." At a recent BOAR meeting, approvals were given to property owners to allow regrading of a yard and installing sod, and changing a window design. It is also necessary to obtain a Certificate of Appropriateness in order to tuckpoint a foundation.

Mr. Tucker said that Desha Road, South Hanover Avenue, Slashes Road, Fincastle Road, and Fontaine Road are truly special. He read the following into the record from the Historic Preservation Designation Report:

"The historic homes in the study area were remarkably intact, retaining their architectural character that reflects almost a pattern-book sample of successful architectural styles for the area. As time has gone by, they have certainly had additions built, porches altered, and other changes made. The overall character and integrity of the area is intact and quite significant, with the changes over time being part of its evolutionary history."

"The neighborhood area of this proposal has changed with the times, while overall maintaining the character that defines it."

Mr. Tucker stated that over 75% of the homes in Ashland Park already have additions, which were constructed without the encumbrances of H-1 overlay zoning. He does not believe that the proposed overlay will be able to improve on what the neighborhood has already accomplished. Mr. Tucker asked that the Planning Commission members follow the recommendation of their Zoning Committee, and vote to disapprove this request.

Dean Cranfill, 271 South Hanover Avenue, said that he is concerned about the "cost question" inherent in the proposed H-1 overlay. He said that, when this process started, he attended the first informational meeting with the staff in order to get the answers to questions he has had for some time. As a CPA, Mr. Cranfill has devoted his entire practice to asset valuation, investment return, and the analysis of economic realities. He was disappointed that, at that meeting, he was told that there was no definitive cost estimation available for H-1 zoning. After that meeting, Mr. Cranfill said that he was told that he should "get on board with this idea and let all of the professionals make the decisions."

Mr. Cranfill said that he replaced his tile roof with dimensional shingles; contrary to the assertions of the Historic Preservation staff and some of the H-1 supporters, he does not believe that he would have been able to obtain BOAR approval to do so. Under the H-1 overlay zone, the cost of replacement windows would also have been more than \$30,000 above the cost of what he spent. Mr. Cranfill stated that he respectfully disagrees with the contentions that the BOAR routinely allows remodeling or replacement on historic homes with modern materials. He said that he has attended BOAR meetings, and heard the members "spend more than 45 minutes arguing about a doorknob."

With regard to the supporters' assertion that the majority of property owners in Ashland Park are in support of this request, Mr. Cranfill stated that most of the property owners at his end of South Hanover are opposed. He urged the Commission members to disapprove this request, because he does not believe it is appropriate for neighbors to impose these types of hardships and restrictions on one another. He said that, if the Commission cannot agree to disapprove this request, he would ask that at least his property be exempted from H-1 zoning, if not the entire end of South Hanover.

Gail Wilkes, 205 South Hanover Avenue, read the following from Tom Eblen's recent article in the *Lexington Herald-Leader*:

"Historic district zoning has been an effective way to improve property values and the quality of life in old Lexington neighborhoods that were subjected to years of abuse and neglect."

Ms. Wilkes stated that she believes that H-1 zoning does have a positive effect on neighborhoods that are in decline. She read further, from the same article:

"Thanks to its beauty and location, Ashland Park has suffered little of the abuse experienced by some neighborhoods."

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Ms. Wilkes agreed with that statement, noting that the property that she and her husband own on South Hanover has been in his family for more than 60 years. She also agreed that Ashland Park is one of the most beautiful and desirable neighborhoods in Lexington. The property owners in the neighborhood appreciate its value and are willing to spend more for homes there because of it. Ms. Wilkes stated that she does not believe that the proposed H-1 overlay zone should be approved, because there is no need for it. She added that the additional cost of maintaining a home under the Design Guidelines could be a burden to some property owners, and a deterrent to selling their properties.

Ms. Wilkes stated that the objective of protecting the character of Ashland Park is a worthy goal. However, she does not believe that it is appropriate to “usurp the rights” of homeowners, and allow one group of people to “take away the rights of others when there is no measurable benefit to the thriving neighborhood.”

Ms. Wilkes said that she believes that the data presented from the postcard survey does not represent the number of people who would be affected by the proposed H-1 overlay, but do not support it. She quoted the following, from the aforementioned *Herald-Leader* article:

“The leaders of the Ashland Park Neighborhood Association want to try a new approach. To protect their gem before any significant damage can occur.”

Ms. Wilkes contends that “fear of what may never happen” is not a sufficient reason to approve this proposal.

Bill Farmer, 549 Culpepper Road, began by thanking the Commission members for their service. He said that he was present in two capacities: firstly, to request that the Commission vote to exclude a property he owns at 311 South Hanover Avenue from the H-1 overlay boundary; and, secondly, to opine that there is a viable H-1 district in Ashland Park, but the “Commission’s deliberations may better define it.”

Mr. Farmer stated that, when the H-1 overlay proposal was presented for the Aylesford area years ago, the Council worked to exclude the Woodland Triangle commercial area. In this instance, Mr. Farmer urged the Commission to consider the exemption of all of the properties that have frontage on High Street, since they face the nearby commercial area. He said that the Chevy Chase area is currently thriving; he wants it to continue to be successful, and is asking that the Commission not remove the opportunity to expand the commercial area across High Street at some time in the future.

Mr. Farmer displayed the original Olmsted plan of the Ashland Park area, noting that the neighborhood was not built as it was originally drawn on that plan. He opined that, similarly, the boundary that was drawn in this request does not necessarily represent the outcome that would best serve the entire community. Mr. Farmer stated that he serves as Councilmember for many of the citizens present at this hearing, and he appreciates their participation; but he believes that the work of the Commission and the Council should determine whether or not the proposed boundaries are appropriate for the Ashland Park historic district. He said that the staff report includes two terms that he believes are somewhat fuzzy: “partially protected” and “visually cohesive.” Mr. Farmer stated that he believes that complete protection and cohesion could be achieved for this neighborhood, while still allowing the exemption of properties whose owners are requesting relief, including his own property at 311 South Hanover Avenue.

Shirley Wiseman, owner of 857 High Street, stated that she was “not privy to the new numbers that have been recalculated.” It was her understanding that, of the 283 votes that were originally received, 117 were in support. Of those 117, over 70 came from Hanover Towers. Ms. Wiseman said that she does not believe that it is fair to include Hanover Towers in this request, since the Olmsteds did not design the building that is International Style and “not anything special” in its time.

Ms. Wiseman stated that property owners should be afforded the opportunity to retain their properties as they are today. Her property is located at the corner of East High Street and Fontaine Road, across from the bars, restaurants, and apartment uses in the Chevy Chase commercial area. She said that she has difficulty keeping her property rented because it is in such an active location.

Ms. Wiseman stated that 32% of the property in the proposed Ashland Park H-1 overlay area is owned by people who do not live there. In Hanover Towers, 37% of the owners do not live on the property. Ms. Wiseman said that she does not believe that 41% of the residents should be able to dictate what she is allowed to do with her property, after 25 years of ownership.

With regard to previously mentioned concerns about the strictness of the Design Guidelines, Ms. Wiseman said that, as a professional homebuilder, she does not believe that aluminum windows are still in production, noting that most modern replacement windows are made of vinyl. She added that the BOAR recently consid-

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ered the color of mulch on a property in an H-1 district. She submitted a list of all of the absentee owners in the proposed overlay area for the record of the meeting.

Tanya White, 1015 Slashes Road, stated that she and her husband have lived in their home for 38 years. She said that, during that time, she has been a member of the Ashland Neighborhood Association, not the Ashland Park Neighborhood Association. She is a former officer and current member of the Board of the Ashland Neighborhood Association.

Ms. White said that, in reviewing the boundaries for the proposed H-1 overlay, the Ashland Neighborhood Association Board determined that there are 35 properties included that are members of their association, rather than the APNA. She noted that Tom Stanwix-Hay, president of the Ashland Neighborhood Association, had submitted a letter to the Commission requesting that those 35 properties be excluded from this request. Ms. White said that she believes that there may have been some mistakes made in determining the boundaries for this request, because many of the properties have been part of the Ashland Neighborhood Association since the 1970s. She added that she had also submitted a personal letter requesting the exemption of her property from this request, since she is not part of the APNA.

Steve Wilcox, 1013 Slashes Road, said that Ms. White is his next-door neighbor. He said that he would also like to contest the proposed boundaries, since it is his understanding, after speaking with several members of the APNA, that they did not intend to "cross borders and trespass" into the properties that are part of the Ashland Neighborhood Association.

Mr. Wilcox read the following letter from one of the most senior members of the Ashland Neighborhood Association:

"We think, as a matter of policy, H-1 proposals should adhere to neighborhood association lines. We have worked with the city for many decades, and feel that this is simply a matter of poaching."

Mr. Wilcox stated that he agreed that "poaching" is an adequate representation of this situation. He asked that the Commission members consider the "human factor" of this request, including the contention between neighbors that could be caused by crossing neighborhood association boundaries. Mr. Wilcox requested that the Commission choose to maintain visual cohesiveness for the Ashland Neighborhood Association by establishing a linear boundary down Desha Road, from Fincastle Road to Fontaine Road, in order to allow his and Ms. White's properties to remain within their longstanding neighborhood association.

Mark Wright, 122 South Hanover Avenue, stated that, although the structure on his property is a four-plex, he is not an absentee landlord. He purchased the property in June with the intention of turning it into a single-family dwelling. He has spent \$75,000 on environmentally-conscious improvements to the property, which he would not have been able to do under H-1 overlay zoning. Mr. Wright added that his property is located across the street from Hanover Towers, which he does not believe is historic. He said that he opposes this request, and asked the Commission to recommend disapproval.

Erin Rouse, 320 Desha Road, stated that she is a 27-year resident of the Ashland Park neighborhood, having lived on South Hanover Avenue as well. She said, with due respect to the citizens who support this request but do not live on one of those two streets, that she does not believe that they thoroughly understand the concerns of those who do live on South Hanover and Desha. Ms. Rouse added that she also does not believe that the residents of Hanover Towers should be included in this request, since they have no stake in what happens to the outside of their homes.

Ms. Rouse stated that her postcard was not counted, because she turned it in late, but she wanted to note her opposition for the record.

Ms. Rouse said that she is a minister, and community is very important to her. She is concerned about the effect of this contentious process on her neighborhood. She is also concerned that the proposed H-1 overlay could be seen as exclusionary and elitist, in that it is trying to "impose a socioeconomic structure" on a neighborhood that has maintained a good balance on its own for many years. Ms. Rouse stated that she will abide by the decision of the majority, but she is fundamentally opposed to the proposed H-1 overlay.

Bill Rouse, 320 Desha Road, said that he and his wife have lived in Ashland Park since they were married 27 years ago. He stated that he has been a real estate professional for over 35 years, and he does not agree with the contention that the proposed H-1 overlay will increase property values in the neighborhood. He said that the appraisers with whom he works do not agree with that theory, and the evidence he has reviewed is inconclusive at best. Mr. Rouse believes that much of that appreciation of property values would have occurred on its own, and some of the neighborhoods that were included in the comparisons "are apples and oranges." He

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stated that, like many of his neighbors, he is concerned about the potential cost of maintaining a home in an H-1 area, since no data has been presented to the contrary.

Mr. Rouse stated that his primary concern is that, as a taxpayer, two things must be considered before expanding any government services: first, the need and/or benefits, and second, the cost. He said that from a need/benefit perspective, he does not understand the impetus for this request, since the neighborhood has existed and been well-maintained for nearly 100 years. Mr. Rouse believes that, as more neighborhoods are zoned H-1, the costs associated with running the Division of Historic Preservation and the BOAR will increase; and, at a time when cities and states are searching for ways to balance their budgets, this is not a good time to increase government services.

Keith White, 1015 Slashes Road, stated that he has lived in his residence for 38 years, during which time he has belonged to the Ashland Neighborhood Association, rather than the APNA.

Mr. White stated that he has been self-employed in the construction business since 1973, and he has not seen any kinds of additions or changes in the Ashland Park neighborhood that would detract from the value of the homes there. He said that most property owners recognize that it would be foolish to make changes that would detract from the value of their homes. Many of the property owners in support of this request, however, have made changes to their homes that would not have been allowed in an H-1 overlay. Mr. Rouse said that there are already regulatory agencies in place to oversee alterations to properties, even though some residents might not like the appearance of some of the changes that were made according to the regulations at that time. He noted that he believes that some of his neighbors do not like his garage, which is made of concrete block, but he is a masonry contractor, so he built what he knew how to do. He emphasized that the garage, and all of the other changes he had made to his home over the years, were in accordance with all of the applicable laws and permitting requirements.

Mr. White said that he is also concerned about the numbers presented for the postcard responses, and he does not believe that Hanover Towers residents should have been included in the survey. He believes that the numbers would be much more fairly represented if the Hanover Towers residents were removed from the count. Mr. White said that approving a "monumental restriction" on private property owners with only 43% of the residents in agreement would be inconceivable to him, and he asked that the Commission members disapprove this request.

Dell Kelly, 230 South Hanover Avenue, stated that she is a former Board member of the Bluegrass Trust for Historic Preservation, and is currently a member of the National Trust for Historic Preservation. She said that her mother served on the Board of the National Trust, and she was "raised to be a historic preservationist."

Ms. Kelly said that she is opposed to the H-1 overlay as proposed. She noted that she received a copy of the map detailing the postcard survey response one day prior to this hearing, and immediately noticed at least three properties that were depicted as being in support of this request, but she knew to be opposed. Based on that observation, she questions the accuracy of the map.

Ms. Kelly stated that she does not believe that behavior or taste can be legislated. She said that, over the years, many historic homes undergo changes that completely change their architectural style. Ms. Kelly explained that she grew up on Rose Hill Plantation in Fayetteville, North Carolina. Her mother built a mid-century modern house there which was featured in magazines and on television. The home was sold to a builder, who promised not to tear it down, but demolished it anyway.

Ms. Kelly said that she does not agree with other speakers who contend that Hanover Towers should not be part of this request because it is not historic. She believes that the International Style should be an accepted form for local historic areas.

Ms. Kelly stated that society and its needs change, but she believes that the BOAR is not willing to go along with those changes. She said that her landscaper worked on a project on South Ashland Avenue wherein the homeowner requested to install the type of granite cobblestones with which the streets were originally paved. The BOAR denied that request, stating that they could not alter history, and requested that the homeowner instead install brick pavers. During the installation process for the brick pavers, the contractor discovered granite cobblestones. Ms. Kelly stated that she offered that anecdote as an example that the BOAR cannot be familiar with every historic house in Lexington, or know what types of changes had been made over the centuries. She said that she believes in keeping with tradition, but she does not believe that one group of citizens should be able to impose their tastes on another group.

David Minko, 306 South Hanover Avenue, stated that, contrary to some of the information presented at this hearing, "the sky is not falling and Ashland Park still looks great." He noted Mr. Fugazzi did not give any indica-

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tion in his presentation that the neighborhood has significantly degraded, because it has not. Mr. Minko said that he does not understand, therefore, the urgency behind this H-1 overlay request at this time. He added that he also does not understand why the Ashland Park Neighborhood Association is pursuing this request, since he believes that it is contentious and does not build community. He said that, when he looked up "neighborhood" in the dictionary, the definitions he found included, "neighborly relationships;" "the quality and state of being neighbors;" "proximity;" and "place, region, vicinity or buildings."

Mr. Minko stated that he believes that the APNA has been misguided in their efforts to promote H-1 zoning. He said that he does not agree with the contention that H-1 zoning increases property values; if that were the case, he said, all neighborhoods would seek historic zoning.

Mr. Minko said that, as some of the other opponents have expressed, he is concerned about the results of the postcard survey. He believes that "someone is playing fast and loose with the numbers" in that some ballots were returned and counted after the deadline. Given the number of responses received prior to the deadline, Mr. Minko contends, only 41% of the owners of the 283 affected properties are in favor of this proposal. He added that he does not believe that Hanover Towers should receive even one vote, and that it is inappropriate to allow 41% of the owners to impose their desire on the other 59%.

Mr. Minko stated that he does not trust the reasoning behind this request, as the original concern was for a property at the corner of Ghent and Desha Roads where the home was demolished due to termite infestation. Many APNA residents were concerned about what could possibly be built there, but the new property owner has constructed an attractive, two-story bungalow that, in Mr. Minko's opinion, fits in perfectly with the rest of the neighborhood. He said that the implication of this proposal is that someone believes that the residents of Ashland Park cannot be trusted to properly maintain their homes. He added that the proposed H-1 zone has created a divide between residents, which seems to be directly in opposition to the stated goal of maintaining the character of the neighborhood.

Mr. Minko said that the prior assertions that the BOAR approves most of the requests that it receives did not mention that those approvals came only after a long, involved process that requires the use of architects and contractors, and many meetings. He stated that he is strongly opposed to this request, and asked that, if the Commission does choose to approve it, they exempt his property, and the area near the end of South Hanover Avenue where most residents are also in opposition, from the H-1 overlay.

Lenora Rather, 269 South Hanover Avenue, requested that her property be excluded from the proposed H-1 overlay as well.

Chairman Comments: Mr. Owens thanked all of the citizens for participating, and announced that the Commission would now hear rebuttal comments. He reminded the participants that each party would be allowed five minutes to provide rebuttal comments only.

Neighborhood Rebuttal: Mr. Fugazzi stated, with regard to the comments from members of the Ashland Neighborhood Association, that it was his understanding that most of those property owners voted in favor of this request.

With regard to concerns expressed about the possibility of increased repair costs in an H-1 district, Mr. Fugazzi said that he had addressed those issues in the statistics he provided from the BOAR. He said that he does not believe those concerns are warranted.

Mr. Fugazzi stated that it was "telling" that Mr. Farmer made a comment about wanting the opportunity to expand the Chevy Chase commercial area across High Street.

Mr. Fugazzi said, with regard to the many comments made about the postcard survey results, that there were 133 responses from Hanover Towers: 89 were in favor, or 66.5%; 42 were opposed, or 31.57%; and two had no opinion, or 1.5%.

Objector Rebuttal: Mr. Minko said, with regard to the postcard survey numbers, that many of the residents were not privy to all of the results. He said he believes that the numbers "seem to be all over the place."

Mr. Minko stated, with regard to BOAR approval of proposed changes in H-1 districts, that a member of that body told him directly that, prior to permitting him to replace his windows, his current windows would be inspected to see if they are still usable. If they are, then the BOAR would allow him to repaint them and possibly install storm windows.

Mr. Minko said that he had heard at least three or four requests to change the H-1 boundary as proposed by the APNA. Therefore, he believes that more time needs to be spent considering the boundaries and deciding if another configuration might better suit the residents' needs.

Planning Staff Rebuttal: Ms. Wade stated that the Division of Planning staff did not have any rebuttal comments, but would be available to answer questions.

Historic Preservation Staff Rebuttal: Mr. Shipp stated, with regard to the concerns about repair costs, that the Design Guidelines take into account the economic feasibility of the various materials.

Mr. Shipp stated that there seemed to be some confusion with regard to what types of modifications would require BOAR approval. He said that it is true that tuckpointing requires a Certificate of Appropriateness, because the use of improper mortar mix can cause additional damage. Mr. Shipp added that the Historic Preservation staff can also serve as a resource for information about proposed exterior changes.

With regard to the citizens' concerns about the proposed boundaries, Mr. Shipp said that the Historic Preservation staff is mandated to look for logical, well-defined perimeter boundaries. He explained that following neighborhood association boundaries does not always create the best district; rather, it is more important to consider the historic development pattern of the area.

Commission Questions: Ms. Blanton said that it had been stated that landscaping did not fall within the purview of the BOAR, but the Planning Commission had heard an appeal about mulch. She asked Mr. Shipp to clarify that inconsistency. She also asked, with regard to Mr. Shipp's comments about economic feasibility, how that is determined. Mr. Shipp answered, with regard to the landscaping question, that general landscaping does not require a Certificate of Appropriateness. Major landscaping that involves moving large areas of turf, creating new landscape areas or paving new areas, and the removal of a tree greater than 10" in diameter all require a COA. Ms. Blanton asked why the Commission had been required to hear an appeal concerning pea gravel in the Gratz Park area in the past. Ms. Armstrong responded that the applicant in that case had paved his entire front yard with pea gravel. One of the considerations of the BOAR is retaining greenspace; that concern, plus the lack of cohesiveness of that property with the overall development pattern, led the BOAR to disapprove that request. In addition, the applicant had already done the work prior to seeking a COA.

Mr. Penn asked if Hanover Towers was proposed to be included in this request at the time of the mailing of the postcard survey. Ms. Wade answered affirmatively. Mr. Penn said that the discussion of whether or not Hanover Towers should be included is, therefore, moot.

Ms. Roche-Phillips asked, with regard to the economic impact study, if the Historic Preservation staff could provide specifics about how the cost of maintenance in an H-1 district can be recouped at the time of sale. Ms. Armstrong answered that that study was done by the Hobby Center in Houston in 2010. They considered different communities in Texas, particularly with regard to the costs associated with H-1 districts and property values. Ms. Armstrong explained that the study found that, while maintenance costs in H-1 areas are sometimes increased, they are countered by the appreciation in property values. Ms. Roche-Phillips asked if any specifics were provided in that study. Ms. Armstrong responded that it was primarily an overview.

Ms. Blanton asked for the answer to the second part of her question, with regard to economic feasibility. Mr. Shipp answered that the Historic Preservation staff considers the Design Guidelines for each application and prepares a staff report for the BOAR, who then makes the determination. He added that there is no set formula, but the BOAR hears testimony and decides on a case-by-case basis at their meetings if the costs associated with a particular project are feasible.

Mr. Wilson stated that one of the citizens' statements had indicated that 27.5% of the property owners who oppose H-1 zoning do not live in the neighborhood, and he asked if that figure could be verified. Ms. Wade responded that it could be verified, based on the PVA information used to notify property owners; but it would take some time to determine which owners reside there, then match that information with the postcard survey responses. She added that the staff does not typically track that information, and that number was provided by APNA. Mr. Chamblin noted that Ms. Jaquith had checked the numbers, determined that 27.5% of the property owners who are opposed to H-1 zoning do not reside in the neighborhood, and confirmed that via the PVA records.

Mr. Berkley stated that this is his first H-1 hearing as a Planning Commission member, and noted that the issue of economic feasibility is of major concern to him. He said that, for future H-1 hearings, further study needs to be devoted to determining whether increased maintenance costs are actually outweighed by increases in property values. He added that more hard information needs to be provided.

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Ms. Beatty asked what triggered this request, since Ashland Park is a beautiful neighborhood, and added that she appreciates the number of citizens in attendance to voice their opinions. Mr. Chamblin responded that residents along South Ashland Avenue made the decision to seek H-1 overlay zoning in 1989 because they believed that their neighborhood was distinct and that it needed protection. He said that the areas included in this request are part of the same neighborhood, but they did not participate in that process. The APNA leaders decided to proceed with this application based on a great deal of input from their neighbors. Mr. Chamblin stated that the process was very democratic, and the vast majority of the residents are in support.

Mr. Penn said that he did not believe that Mr. Chamblin had answered the question. He asked what the Ashland Park neighborhood is trying to protect itself against. Mr. Chamblin answered that they are trying to restore and preserve a historic area for future generations. He said that there are some recent examples of changes that are not in keeping with the historic character of the neighborhood.

Citizen Comments: Mr. Rouse stated that there was a house near him that had to be demolished due to a termite infestation. He said that there was a great deal of concern at the time about what would be built on that lot, but it is not being mentioned now because the new structure is very well done and perfectly in keeping with the character of the neighborhood.

Ms. Graham stated that she is concerned that the neighborhood needs to be protected from encroachment by rental properties and commercial uses.

Chairman Comment: Mr. Owens stated that the public portion of this hearing was now closed, and he opened the floor for discussion or further questions from the Commission members.

Commission Discussion: Ms. Plumlee thanked the citizens for their attendance and participation. She said that, from their comments, she has garnered that the Ashland Park neighborhood has character of the highest distinction; that it is a gem, "a jewel, a treasure," and a "poster child" of development that deserves protection.

Ms. Plumlee stated that everyone is aware of at least one older neighborhood that has fallen into disrepair due to a lack of deed restrictions or some other type of protection. She said that, although some of the opponents to this request might question the need for this level of protection, since the neighborhood has existed in its current condition for nearly 100 years, "there comes a time when you can no longer trust to luck." One hundred years ago, UK was not as large and there was no commercial development immediately adjacent to the neighborhood. Ms. Plumlee opined that, by supporting this request, the Commission members would be planning ahead, which is why she was willing to vote in favor of it.

Ms. Mundy stated that, as a new Commission member, this has been her first H-1 hearing. She thanked all of the speakers for feeling comfortable enough to voice their opinions to the Commission. She noted, however, that she has some concerns about the proposed H-1 overlay, including: the ambiguity in the numbers that were presented; the lack of clarity about the proposed boundary lines; and the residents' concerns about the potential cost of maintenance. Ms. Mundy said that she has been a realtor in four states since 1985, and she does not trust the economic study data that was presented, since it was out of date and, in some cases, came from other states. She added that she is aware that the Commission has reviewed BOAR appeals related to replacement windows, and that some of the appellants had to later remove windows that were deemed inappropriate. Ms. Mundy concluded by noting that all of those concerns will prevent her from voting in support of this request, as she believes that it is ambiguous on too many levels. She added that the residents' concerns about deterioration in the neighborhood could be addressed by the Division of Code Enforcement.

Ms. Roche-Phillips opined that no one in the room would argue that Ashland Park is the most desirable neighborhood in Lexington. She said that, when her family moved here 13 years ago, they were advised to look for a home there, but they were not able to afford it. She stated that the homes in the neighborhood are probably some of the most valuable in the city, and the residents are likely some of the most affluent and educated individuals in the community. Ms. Roche-Phillips opined that it is "an embarrassment to the community" that, although the National Register declared Ashland Park a historic district in the 1980s, nothing has been done to recognize it locally. She said that it is "shameful" that no one has taken action proactively, since that is the responsibility of planning. With regard to the concerns about exempting some of the properties, Ms. Roche-Phillips said that removing any of the properties would erode the integrity of the historic district, and that neighborhood association boundaries are not important in this request because the entire tract was developed *in toto*. She stated that the Planning Commission should be doing whatever they can to help protect areas that make this city special, and that she "absolutely, vociferously" supported this request.

Mr. Cravens stated that, although he also has some doubts about the postcard survey data, his primary objection to this request is that he "cannot vote to take somebody's property rights away, to have it rezoned if they don't want it." He said that he believed that personal property rights are a sacred privilege, and they have

eroded over the years. He also opined that it is “almost a regulatory taking” to rezone a piece of property against the owner’s will.

With regard to the Design Guidelines, Mr. Cravens stated that the Planning Commission has requested that they be updated to include recent energy efficiency regulations, but that has not yet happened. He said that the homes in Ashland Park are large, with many windows, and have the potential to use a great deal of energy. Mr. Cravens conceded that the Design Guidelines have been updated somewhat, and now permit the use of aluminum windows if the original materials are beyond repair. He said that new energy regulations will take effect in November, and he believes that there will be conflicts between those requirements and the Design Guidelines.

Mr. Cravens said that some comments had been made about a lack of deed restrictions in the neighborhood. He noted that it takes 100% agreement between the property owners in a neighborhood in order to change deed restrictions, which are in existence prior to purchase, providing all prospective buyers with the opportunity to be aware of them before they commit to buying a property. Mr. Cravens stated that he would support removing all of the properties whose owners oppose this request, and he does not believe that removing those properties would affect the overall district very much.

Mr. Penn stated that he does not see this request as a zone change, so much as an overlay requested by the community to protect their properties. He said that he believes that, if Hanover Towers was included in the original proposal, he is not comfortable with removing those property owners’ votes “because their building is not architecturally significant.” He added that he is also not going to question the postcard survey results.

Mr. Penn stated that he finds it encouraging that so many citizens are in attendance, but he did not believe that it would be appropriate to remove the properties that have been requested for exemption. He opined that what would remain would be confusing to the residents and the Division of Code Enforcement. Mr. Penn said that majority rules in this country; and he will support this request, because of the other H-1 districts that have been approved and are successful, and because he heard an acceptable reason why the requested protection is necessary.

Ms. Blanton stated that she believes that it is important to consider the survey numbers without the Hanover Towers information because those property owners “will not bear the economic burden for what will be forced upon them.” She said that, when the numbers are considered, less than 50% of the property owners appear to be in support of this request, and she does not want to force them to take on this economic burden.

Ms. Roche-Phillips opined that this issue is not about individual cost to property owners; it is about the long-term cost of the historical integrity of the city, because neighborhoods define the city and give it character.

With regard to the comments about the Design Guidelines, Ms. Roche-Phillips stated that there had been many objections to the restrictions. She said that all of the residents must appreciate the value of a historic neighborhood, or they would not live there, but she believes that the Design Guidelines are not as modern and flexible as they need to be. She added that she recognizes the delicate balance of maintaining the historic purity of a property, but the city “is doing itself an injustice by being as rigorous as it has been.” Ms. Roche-Phillips said she believes that, if the Commission had not had negative experiences with BOAR appeals, some of the members might feel differently about this request. She noted that she also believes that the BOAR “did not go far enough” in their recent revisions of the Design Guidelines.

Mr. Brewer said that he came into this hearing believing that the Ashland Park neighborhood was definitely historic, with no questions asked. He explained that he agreed that the “numbers were questionable,” but he believes that, even if Hanover Towers was excluded, there would still be sufficient support for this request. Mr. Brewer stated that the National Register of Historic Places, the Division of Historic Preservation staff, and the Planning staff have all recommended approval of this request; and he will support it, because he believes it is the right thing to do for the city and for the neighborhood.

Mr. Wilson stated that there is an age-old philosophical question about how the rights of the minority can be protected in a society where the majority rules. He said, however, that he would be willing to support the proposed H-1 overlay zone.

Motion: A motion was made by Mr. Wilson and seconded by Mr. Penn to approve MAR 2012-14.

Discussion of Motion: Mr. Cravens asked if the Commission intended to ignore the requests for exemption of properties, or if Mr. Wilson would be willing to amend his motion to that effect. Mr. Wilson responded that he had considered that option, but he had decided that it is different when someone resides in a neighborhood, as opposed to being a landlord. He said that he has a greater stake in his community because he lives there,

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rather than simply owning the property and renting it out to someone else. So, after consideration, he decided that, rather than "gerrymandering the district," he would move approval for the entire request, and he would not be willing to withdraw his motion.

Ms. Beatty stated that the proposed historic overlay is for the whole area, and she believes that exempting properties would take away from that. Mr. Owens said he agreed with Ms. Beatty's comment.

Amendment of Motion: Mr. Wilson stated that he had been advised by legal counsel to note that his motion of approval is for the reasons provided by staff. Mr. Penn concurred

Action: The amended motion carried, 7-4 (Berkley, Blanton, Cravens, and Mundy opposed.)

C. PUBLIC HEARINGS ON ZONING ORDINANCE TEXT AMENDMENT REQUESTS

1. **ZOTA 2012-16: COMMERCIAL WOODLOTS IN THE I-1 & I-2 ZONES** – petition for a Zoning Ordinance text amendment to allow commercial woodlots, with restrictions, in the Light Industrial (I-1) and Heavy Industrial (I-2) zones.

INITIATED BY: Urban County Planning Commission

PROPOSED TEXT: Underlined text below indicates an addition, ~~dashed through~~ text indicates a deletion to the current Zoning Ordinance.

ARTICLE 8: SCHEDULE OF ZONES

8-22 LIGHT INDUSTRIAL (I-1) ZONE

8-22(a) Intent - This zone is intended for manufacturing, industrial and related uses not involving a potential nuisance in terms of smoke, noise, odor, vibration, heat, light or industrial waste. In addition, the Comprehensive Plan recognizes that it is important to promote adaptive reuse of older industrial areas and to allow Industrial Mixed-Use projects and Adaptive Re-use Projects. The Comprehensive Plan should be used to determine appropriate locations for this zone and for Industrial Mixed-Use Projects. Consideration should be given to the relationship of this zone to the surrounding land uses and to the adequacy of the street system to serve the anticipated traffic needs.

8-22(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. The principal permitted uses in the B-4 zone.

...

8. Commercial woodlots, provided that

(a) all wood storage and processing activities are located at least three hundred (300) feet from the nearest residential zone;

(b) wood piles are no greater than fifteen (15) feet in height, no greater than twenty (20) feet in width, no greater than 100 feet in length, and are spaced no less than twenty (20) feet apart and at least twenty (20) feet from any property line; and

(c) cutting and splitting of timber takes place only between the hours of 8:00 AM and 5:00 PM on weekdays.

8-23 HEAVY INDUSTRIAL (I-2) ZONE

8-22(b) Principal Uses (Other uses substantially similar to those listed herein shall also be deemed permitted.)

1. Any principal permitted use in the I-1 zone, provided that all provisions outlined therein shall apply for said uses in this zone.

The Zoning Committee Recommended: **Approval**, for the reason provided by staff.

The Staff Recommends: **Approval**, for the following reason:

1. The proposed text amendment to Article 8-22 of the Zoning Ordinance will clarify that commercial woodlots are a principal permitted use in the Light Industrial (I-1) and Heavy Industrial (I-2) zones. Appropriate restrictions have also been drafted to minimize the noise, dust and other public hazards that may be associated with the use, especially when located within 300 feet of a residential zone.

Staff Presentation: Ms. Wade stated that the proposed text amendment was initiated by the Planning Commission to change current regulations in the Zoning Ordinance for commercial woodlots. She said that this item was requested by the staff due to some recent zoning enforcement issues.