

AN ORDINANCE ADDING A NEIGHBORHOOD DESIGN CHARACTER OVERLAY (ND-1) ZONE FOR 23.33 NET (29.81 GROSS) ACRES, TO PRESERVE EXISTING NEIGHBORHOOD CHARACTER FOR PROPERTIES LOCATED AT 201-540 CLINTON ROAD (URBAN COUNTY PLANNING COMMISSION; COUNCIL DISTRICT 5).

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WHEREAS, at a Public Hearing held on June 23, 2016, a petition for a zoning ordinance map amendment to add a Neighborhood Design Character Overlay (ND-1) zone for 23.33 net (29.81 gross) acres for property located at 201-540 Clinton Road, was presented to the Urban County Planning Commission; said Commission recommending conditional approval of the zone change having voted 10-0; and

WHEREAS, this Council agrees with the recommendation of the Planning Commission; and

WHEREAS, the recommendation form of the Planning Commission is attached hereto and incorporated herein by reference.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE LEXINGTON-FAYETTE URBAN COUNTY GOVERNMENT:

Section 1 - That the Zoning Ordinance of the Lexington-Fayette Urban County Government be amended to show a change in zone, to add a Neighborhood Design Character Overlay (ND-1) zone for 23.33 net (29.81 gross) acres for property located at 201-540 Clinton Road; being more fully described in Exhibit "A" which is attached hereto and incorporated herein by reference.

Section 2 - That the granting of this zone change is made subject to the following use restrictions as conditions of granting the zone change:

Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

Alternative Design Standards

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

Front yard fences and free-standing walls shall be limited to a maximum of 36" in height. Allowable materials for front yard fences and walls are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

**7. Rear Yard Setbacks**

Rear yard setback shall be a minimum of 40 feet, as measured from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

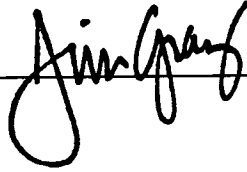
These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the neighbors of Clinton Road, and are necessary to maintain that existing character in the future.

Section 3 - That the Lexington-Fayette Urban County Planning Commission is directed to show the amendment on the official zone map atlas and to make reference to the number of this Ordinance.

Section 4 - That this Ordinance shall become effective on the date of passage.

PASSED URBAN COUNTY COUNCIL: August 30, 2016

MAYOR



ATTEST:



CLERK OF URBAN COUNTY COUNCIL

PUBLISHED: September 8, 2016-1t

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**RECOMMENDATION OF THE**  
**URBAN COUNTY PLANNING COMMISSION**  
**OF LEXINGTON AND FAYETTE COUNTY, KENTUCKY**

**IN RE:** **MAR 2016-17: URBAN COUNTY PLANNING COMMISSION** – petition for a zone map amendment to a Neighborhood Design Overlay (ND-1) zone, for 23.33 net (29.81 gross) acres, for properties located at 201-540 Clinton Road. (Council District 5)

Having considered the above matter on **June 23, 2016**, at a Public Hearing, and having voted **10-0** that this Recommendation be submitted to the Lexington-Fayette Urban County Council, the Urban County Planning Commission does hereby recommend **CONDITIONAL APPROVAL** of this matter for the following reasons:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Goals & Objectives of the Plan recommend “providing well-designed neighborhoods and communities” (Theme A, Goal #3) and “protecting and enhancing the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image” (Theme D, Goal #3). Theme A, Goal #3.a. more specifically recommends enabling existing neighborhoods to flourish through expanded opportunities for neighborhood character preservation. This will be enhanced with this zoning overlay for Clinton Road.
  - b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan’s Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
  - c. The Clinton Road residents have completed a design character study, defined the existing character of their neighborhood area, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

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**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective

frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

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**7. Rear Yard Setbacks**

Rear yard setback shall be a minimum of 40 feet, as measured from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

ATTEST: This 1<sup>st</sup> day of August, 2016.

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Secretary, Jim Duncan

MIKE CRAVENS  
CHAIR

K.R.S. 100.211(7) requires that the Council take action on this request by September 22, 2016.

At the Public Hearing before the Urban County Planning Commission, this petitioner was represented by **Traci Wade, Senior Planner.**

**OBJECTORS**

- Christopher Clendenden, Attorney

**OBJECTIONS**

- The ND-1 Overlay zone is not appropriate for the subject property, and that homes on one street doesn't constitute a neighborhood.

VOTES WERE AS FOLLOWS:

AYES: (10) Berkley, Brewer, Cravens, Drake, Mundy, Penn, Plumlee, Richardson, Smith Wilson

NAYS: (0)

ABSENT: (1) Owens

ABSTAINED: (0)

DISQUALIFIED: (0)

Motion for APPROVAL of MAR 2016-17 carried.

Enclosures: Applicable excerpts of minutes initiating this application  
Application  
Plat  
Staff Report  
Applicable excerpts of minutes of above meeting

## GENERAL INFORMATION: MAP AMENDMENT REQUEST (MAR) APPLICATION

**1. ADDRESS INFORMATION (Name, Address, City/State/Zip & PHONE NO.)**

APPLICANT:	Urban County Planning Commission, 200 E. Main Street, Lexington, KY 40507 859-258-3160
OWNER:	See Attached
ATTORNEY:	LFUCG Department of Law, 200 E. Main Street, Lexington, KY 40507 859-258-3500

**2. ADDRESS OF APPLICANT'S PROPERTY (Please attach Legal Description)**

201 - 540 Clinton Road
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**3. ZONING, USE & ACREAGE OF APPLICANT'S PROPERTY (Use attachment, if needed--same format.)**

Existing		Requested		Acreage	
Zoning	Use	Zoning	Use	Net	Gross
R-1B & R-1C	Single-Family Residential	ND-1	Same	23.33 ±	29.81 ±

**4. SURROUNDING PROPERTY, ZONING & USE**

Property	Use	Zoning
North	Single-Family Residential	R-1B
East	Single-Family Residential, Public Park, Shriner's Hospital	R-1C, R-2 & P-1
South	Single-Family Residential	R-1B
West	Single-Family Residential	R-1C

**5. EXISTING CONDITIONS**

a. Are there any existing dwelling units on this property that will be removed if this application is approved?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
b. Have any such dwelling units been present on the subject property in the past 12 months?	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO
c. Are these units currently occupied by households earning under 40 % of the median income? If yes, how many units? If yes, please provide a written statement outlining any efforts to be undertaken to assist those residents in obtaining alternative housing.	<input type="checkbox"/> YES <input type="checkbox"/> NO _____ Units

**6. URBAN SERVICES STATUS (Indicate whether existing, or how to be provided.)**

Roads	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Storm Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Sanitary Sewers	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Curb/Gutter/Sidewalks	<input checked="" type="checkbox"/> Existing	<input type="checkbox"/> To be constructed by	<input type="checkbox"/> Developer	<input type="checkbox"/> Other
Refuse Collection	<input checked="" type="checkbox"/> LFUCG	<input type="checkbox"/> Other		
Utilities	<input checked="" type="checkbox"/> Electric	<input checked="" type="checkbox"/> Gas	<input checked="" type="checkbox"/> Water	<input checked="" type="checkbox"/> Phone <input checked="" type="checkbox"/> Cable

**7. DESCRIBE YOUR JUSTIFICATION FOR REQUESTED CHANGE (Please provide attachment.)**

This is in...	<input checked="" type="checkbox"/> in agreement with the Comp. Plan	<input type="checkbox"/> more appropriate than the existing zoning	<input type="checkbox"/> due to unanticipated changes.
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**8. APPLICANT/OWNER SIGNS THIS CERTIFICATION**

I do hereby certify that to the best of my knowledge and belief, all application materials are herewith submitted, and the information they contain is true and accurate.	
APPLICANT <u>Jim Duncan, Sec</u>	DATE <u>5-2-16</u>
OWNER _____	DATE _____
LFUCG EMPLOYEE/OFFICER, if applicable _____	DATE _____

The Clinton Road residents have proposed the following ND-1 design standards:

1. **Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

2. **Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

3. **Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

4. **Building Heights**

Maximum of 30 feet to highest ridge line, (excludes new additions which may exceed 30 feet in order to match existing ridge lines).

5. **Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

6. **Landscaping**

Front yard fences shall be limited to 36" in height. Allowable materials for front yard fences are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

7. **Rear Yard Setbacks**

Rear yard setback shall be measured 40 feet from the rear property line, excluding accessory structures.

8. **Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

9. **Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

Development Plan Action: A motion was made by Mr. Cravens, seconded by Mr. Wilson, and carried 6-1 (Plumlee opposed; Berkley, Drake, Penn, and Richardson absent) to approve ZDP 2016-6, subject to the 13 conditions as listed, changing #12 and #13 to read: "Resolve...at the time of the Final Development Plan."

## VI. COMMISSION ITEMS

- A. **CHANGE TO THE OFFICIAL 2016 MEETING & FILING SCHEDULE** – Mr. Duncan requested Commission consideration of a change to the 2016 Meeting & Filing Schedule in order to reschedule the March work session to March 17, 2016 at 1:30 p.m.

Action: A motion was made by Ms. Plumlee, seconded by Ms. Mundy, and carried 6-1 (Cravens opposed; Berkley, Drake, Penn, and Richardson absent) to reschedule the work session from March 31<sup>st</sup> to March 17<sup>th</sup>.

- B. **CLINTON ROAD NEIGHBORHOOD DESIGN CHARACTER OVERLAY (ND-1) ZONE CHANGE INITIATION REQUEST** – Ms. Wade stated that the residents of Clinton Road had submitted a request for Planning Commission initiation of a zone change for an ND-1 overlay zone. She distributed to the Commission members a map of the area to be included in the overlay, as well as a summary of the notice postcard responses. The staff mailed 55 postcards to the residents of Clinton Road to survey their level of support for the ND-1 overlay zone; 35 were returned, which represents a 63.6% return rate. Of the postcards returned, 91.4% were in support; 8.6% were opposed. A few of those in support commented that they did not agree with some of the proposed design standards, but they indicated that they were in support overall of an ND-1 overlay.

Ms. Wade said that a design study had been conducted by the residents for the 55 properties on Clinton Road. She noted that there was a much higher response rate during the study and public input period than for the Commission's survey postcard mailing. The staff does not provide a recommendation at this time on the particular restrictions proposed by the neighborhood. Ordinarily, a staff report would be presented at a later date, should the Commission choose to initiate this rezoning.

Neighborhood Presentation: Dr. Monica Kern, 505 Clinton Road, was present representing the Clinton Road neighborhood steering committee. She stated that three unifying features give Clinton Road its distinctive character: large lots, the average size of which is .43 acres; a large amount of greenspace; and deep, uniform building setbacks. These characteristics create a spacious, open impression along the street.

Dr. Kern said that the residents of Clinton Road fear for its future, given recent neighborhood trends to the west and south of their street, such as subdividing large corner lots in order to construct very large homes with little yard space or distance between the houses. Residents are also concerned about the homes that have been constructed as a result of tear-downs, which are disproportionately large for the lot size and overwhelm the neighboring homes. Dr. Kern displayed several photographs, noting several examples of this type of development around Clinton Road.

Dr. Kern stated that the Clinton Road residents began the ND-1 process due to an application by the property owner of 508 Clinton Road to reduce the front yard setback. During that process, residents became aware of the ND-1 overlay zone, and that it could provide protection for their neighborhood against future development that might be out of character. The steering committee met with Coleman Bush, a Meadowthorpe resident who was instrumental in that neighborhood's ND-1 process. The steering committee members met extensively with Ms. Rackers and Ms. Wade of the Planning staff, as well as Bettie Kerr of the Division of Historic Preservation. Once it was determined that Clinton Road was suitable for ND-1 protection, a letter was mailed to all residents, and an information meeting was scheduled. Following that meeting, it was clear that there was overwhelming support for the ND-1 overlay. The next step in the process included an architectural study of the residences, the format of which was based on the Meadowthorpe study. The study was performed in consultation with an architect who is a Clinton Road resident. Dr. Kern said that the neighborhood's architectural study revealed that, while the houses on Clinton Road all have slightly different architectural styles, there are several commonalities that create a distinctive visual identity. Their homes are comprised almost exclusively of brick or stone; and all but three lots include deep front and back yards, and ample greenspace.

Dr. Kern noted that the steering committee held focus group meetings and encouraged open dialog with residents about what standards should be addressed as part of the ND-1 overlay. They then began drafting standards, submitting them for resident input and vetting by the Planning staff, and changing them in response to feedback. Once the standards were prepared, a packet was mailed to each residence including a list of the standards; the rationale behind each standard; and a petition to be returned to indicate the resident's degree of support for the proposal in general, as well as each of the nine standards. That packet was mailed to all 55 residences; 42 petitions were returned, which equates to a 76% response rate. Of those 42, 90% voted in favor of the ND-1 overlay, with only two residents opposed. The individual standards were supported by between 86 and 95% of the respondents. Dr. Kern noted that all of the statistics, itemized by household, were included in the neighborhood's exhibit packet, which was distributed to the Commission members.

With regard to the proposed design standards, Dr. Kern said that they were written to accomplish the residents' four main preservation goals: to maintain the open, uniform and expansive appearance from the street; to avoid the further subdivision of corner lots; to preserve the building sizes and areas devoted to yards or greenspace; and to maintain the consistency and quality of the exterior building appearances. The proposed standards would regulate building setbacks and lot widths; floor ar-

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\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.



ea ratio; maximum building height; exterior finishes; front yard fences; rear yard setbacks; accessory structures; and a requirement that the front building plane must face Clinton Road.

Dr. Kern stated that that the ND-1 zone was created over a decade ago to provide a means for neighborhoods to preserve the distinctive character that makes Lexington-Fayette County unique. For 30 years, Clinton Road was adequately protected by the original deed restrictions; since the expiration of those restrictions, residents are concerned that the attractive, open feel of the street could be "irrevocably altered or destroyed." Dr. Kern said that the residents believe strongly in the cause, and their petition results demonstrate how much they want the ND-1 overlay for their street.

Citizen Support: John Price, Clinton Road resident, stated that Clinton Road was originally the location of the barns for the Henry Clay estate, and an area for watering cattle. He said that Clinton Road is an area where parents bring their children to go sledding or watch the fireworks on the Shriners Hospital property, and he requested Planning Commission initiation of the ND-1 overlay zone.

Citizen Opposition: Chris Clendenen, attorney, was present representing the owners of 508 Clinton Road. He requested that the Planning Commission deny this initiation request, based on his clients' contention that it is out of character with the intent of the Zoning Ordinance. The Planning Commission must decide how a "neighborhood" is defined, whether it is a single street, or a collection of streets. The other ND-1 areas in Lexington-Fayette County all include several streets each, with many lots.

Mr. Clendenen said that he believed that one of the main reasons for this ND-1 request was his clients' desire to construct an extension on their garage, which was not in conformance with the original deed restrictions for the street. His clients believe that this request is an overreaction to that issue, and an inappropriate use of ND-1 zoning. Clinton Road is part of a neighborhood, but it does not comprise a neighborhood in and of itself. Mr. Clendenen opined that this might not be the best use of this Article of the Zoning Ordinance, and it could set a precedent for other single streets to request ND-1 zoning. For those reasons, he asked that the Planning Commission deny this request.

Jerry Calvert, 427 Clinton Road, stated that he moved into the neighborhood in 1986, which was the last year that the original deed restrictions were in effect. He said that he appeared before the Planning Commission in opposition to the garage expansion at 508 Clinton Road.

Mr. Calvert opined that an ND-1 overlay is not the best option for Clinton Road; he would rather reinstate the deed restrictions, which all the residents previously lived with for more than 60 years. Referring to the map exhibit prepared by the staff, outlining the postcard response rate, he said that there appeared to be numerous residents who did not respond.

Mr. Calvert stated that he opposes ND-1 zoning, and he will continue to oppose it, because he is concerned about the elderly residents on the street, who might not understand the ramifications of the proposed ND-1 overlay.

Jane Farmer, 509 Clinton Road, stated that she lived in her home for approximately 16 years. She said that she loved Clinton Road, and does not want to move, but she is concerned about the recent subdivision of lots and construction of huge homes. Ms. Farmer stated that she would like to keep the existing character of the Clinton Road area.

Rebuttal: Dr. Kern said, with regard to Mr. Clendenen's comments, that the ND-1 ordinance states "an area, neighborhood, or place," and does not specify the size or configuration of neighborhoods.

Action: A motion was made by Mr. Brewer, seconded by Ms. Plumlee, and carried 5-1 (Smith opposed; Berkley, Drake, Penn, Richardson, and Wilson absent) to initiate the requested zone change for the ND-1 overlay zone for Clinton Road.

**VII. STAFF ITEMS** – No such items were presented.

**VIII. AUDIENCE ITEMS** – No such items were presented.

**IX. MEETING DATES FOR March, 2016**

Subdivision Committee, Thursday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	March 3, 2016
Zoning Committee, Thursday, 1:30 p.m., Planning Division Office (101 East Vine Street).....	March 3, 2016
<b>Subdivision and ND-1 Items Public Meeting</b> , Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	<b>March 10, 2016</b>
Work Session, Thursday, 1:30 p.m., 2 <sup>nd</sup> Floor Council Chambers.....	March 17, 2016
<b>Zoning Items Public Hearing, Thursday, 1:30 p.m., 2nd Floor Council Chambers.....</b>	<b>March 24, 2016</b>
Technical Committee, Wednesday, 8:30 a.m., Planning Division Office (101 East Vine Street).....	March 30, 2016

**X. ADJOURNMENT** – There being no further business, Chairman Owens declared the meeting adjourned at 6:43 p.m.

TLW/TM/CT/BJR/BS/src

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**STAFF REPORT ON PETITION FOR ZONE MAP AMENDMENT**

**MAR 2016-17: URBAN COUNTY PLANNING COMMISSION**

**DESCRIPTION**

**Zone Change:** To a Neighborhood Character Design Overlay (ND-1) zone

**Acreage:** 23.33± Net (29.81± Gross) Acres

**Location:** 201–540 Clinton Road

**Proposed Design Standards:**

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
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**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
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**3. Floor Area Ratio**

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**4. Building Heights**

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**7. Rear Yard Setbacks**

Rear yard setback shall be measured 40 feet from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

## **EXISTING ZONING & LAND USE**

<b><u>Properties</u></b>	<b><u>Zoning</u></b>	<b><u>Existing Land Use</u></b>
Subject Properties	R-1B & R-1C	Single Family Residential
To North	R-1B & R-1C	Single Family Residential
To East	R-1C & P-1	Single Family Residential & Shriners Hospital
To South	R-1B & R-1C	Single Family Residential
To West	R-1B, R-1C & R-1D	Single Family Residential

## **URBAN SERVICES REPORT**

**Roads** – Clinton Road is a local street that connects from Clays Spring Lane to Prather Road. It is located within the Shriners Neighborhood and is four blocks (3,000 feet) in length. Generally, local streets within the Shriners Neighborhood run parallel to Chinoe Road; but several terminate as cul-de-sacs within the area, including Adair Road, Bristol Road, and Hart Court. No changes to Clinton Road are expected as a result of the imposition of the Neighborhood Design Character overlay zone.

**Curb/Gutter/Sidewalks** – The street system in this neighborhood was constructed with curbs, gutters and sidewalks throughout the area, including Clinton Road.

**Storm Sewers** – The neighborhood is located within the West Hickman Creek watershed. Storm sewers have been constructed along Clinton Road and throughout the neighborhood, and stormwater generally drains southeasterly, toward Reservoir #2. No FEMA Special Flood Hazard Area exists within this specific area.

**Sanitary Sewers** – Sanitary sewers exist in the Shriners neighborhood area. This area is served by sanitary sewer lines to the West Hickman Wastewater Treatment Facility, located in northern Jessamine County.

**Refuse** – The Urban County Government serves this residential area with collection on Fridays.

**Police** – The nearest police station is the East Sector Roll Call Center, located about 2½ miles to the south, on Centre Parkway in the Gainesway neighborhood.

**Fire/Ambulance** – Fire Station #9 is the nearest station to Clinton Road. It is located less than one mile to the east, on Richmond Road, next to the Kentucky American Water offices and reservoir.

**Utilities** – Electric, gas, cable television, water, and phone service, as well as street lights, all exist in the neighborhood at this time.

## **COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan no longer makes a specific land use recommendation, but *Chapter 1: Goals and Objectives* does recommend “enabling existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expanded options for mixed-use and mixed-type housing throughout Lexington-Fayette County.” (emphasis added)

The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate front yard building setbacks; lot widths; floor area ratio (FAR); building height; exterior building materials; landscaping; rear yard building setbacks; accessory structures; and building orientation, regardless of the underlying zoning for 55 residential lots on Clinton Road.

## **CASE REVIEW**

The Planning Commission initiated a zone change to a Neighborhood Design Character Overlay (ND-1) zone for the subject area in February 2016 at the request of the Clinton Road residents (requesting party). The area now proposed for an ND-1 overlay zone constitutes 55 contiguous properties and over 20 acres. Clinton Road is located within the Shriners Neighborhood, which includes parts of the Ashland Park and Lakewood Estates Subdivisions, west of Richmond Road, east of Chinoe Road and inside of New Circle Road (KY 4).

The subject area is a single-family residential street within an established neighborhood. All parcels along Clinton Road, with the exception of the Clays Spring Park (adjacent to Shriners Hospital) are included in the area proposed for the overlay zone. The subject area is zoned Single Family Residential (R-1B and R-1C) and will remain as such if the proposed overlay zone is approved. The subject area is surrounded by single-family residential development of similar age, although of varying character. The surrounding zoning, outside of the neighborhood itself, is also Single Family Residential, including R-1B, R-1C and R-1D zoning.

Clinton Road was platted as part of the Ashland Park Subdivision (Units 10, 11, 11A, and 12) in the mid-1950s; as such, it was originally part of the Henry Clay estate and farm. The homes are mostly post-WWII ranch style, and colonial/traditional homes on basements. Several contemporary and a few Cape Cod style homes also exist within the four-block area, and one lot is currently vacant.

**Neighborhood Request** - The Clinton Road residents submitted a request and supporting documentation to the Planning Commission describing the impetus for the ND-1 proposal prior to the initiation of the zone change. They indicate that their deed restrictions expired in the mid-1980s, 30 years after they were imposed by the developer. Since that time, little has changed until last year when one property owner filed an amended final record plat with the Planning Commission requesting a reduced front yard building setback - reducing the existing setback from 50 feet to 30 feet - in order to construct a front facing, attached garage. After the application was denied by the Planning Commission, a second application to reduce the front yard building setback from 50 feet to 40 feet was also denied. That decision is now under litigation in the courts. This precipitating event led the residents of Clinton Road to evaluate the character of the area and to request a Neighborhood Design Character Overlay (ND-1) zone to preserve the existing neighborhood, and to protect Clinton Road from inappropriate or incompatible development. The request includes regulation of nine design standards, as follows: front yard building setbacks, lot widths, floor area ratio (FAR), building height, exterior building materials, landscaping, rear yard building setbacks, accessory structures, and building orientation. Such regulations would be applied to the area regardless of the underlying zoning.

The purpose of the ND-1 overlay zone is to permit conservation of key features or visual and natural characteristics of an interested neighborhood (Article 29 of the Zoning Ordinance). The ND-1 overlay has already been applied to five other neighborhoods – Greenbrier, Chevy Chase, Montclair, Meadowthorpe and The Old Colony – since it was added to the Zoning Ordinance in December 2002. The ND-1 zone is designed to be administered in a way similar to properties that have conditional zoning restrictions, and any change or modification to the standards requires approval by the Planning Commission.

Article 29-3 offers seven criteria, at least one of which must be met by a neighborhood in order to qualify for an ND-1 overlay zone. As noted in the material submitted by the requesting party to the Planning Commission, the neighborhood would like to maintain the overall character of the neighborhood. They have established a need to protect some of the visual characteristics that give their neighborhood its distinct identity (#3) based upon recent changes, the projected future character, and current building trends. The Clinton Road ND-1 Design Standards are intended to help protect the historic character of the street by achieving the following goals:

1. Maintain the open, uniform, and expansive appearance of the street;
2. Avoid further subdivision of corner lots;
3. Preserve current building sizes and area devoted to yards/greenspace; and
4. Maintain the consistency and quality of exterior building appearances.

The proposed Design Standards were developed based upon these four stated goals. The requested standards can be divided into two overall groups – standards to address structural or building changes (which include floor area ratio (FAR), building height, exterior building materials and accessory structures);

and standards to address site design and land redevelopment (which include front and rear yard building setbacks, lot widths, landscaping and building orientation).

### **Structural Changes**

The neighborhood has requested that a maximum floor area ratio (FAR) of 0.33, excluding basements (#3), be established for all lots in the neighborhood. This standard was developed by researching Property Valuation Administrator (PVA) data for each structure and calculating the existing FAR (excluding basements), to determine that 100% of properties on Clinton Road currently meet this restriction and that FARs currently range from 0.16 to 0.33. An average lot on Clinton Road is 18,000 square feet in size (0.43 acres); thus, an average buildable floor area of over 6,000 square feet would be permitted under this limitation (in addition to a basement), which is a generous home size for this area.

The neighborhood has also proposed to limit the building height to 30 feet (as measured at roof ridge rather than mid-gable) (#4). These height limits are only slightly more restrictive than the underlying single family residential zones' requirement of 35 feet to mid-gable; but would most likely prevent three-story buildings, which is desirable, as the neighborhood is comprised of mostly 1-, 1½-, and 2-story structures. These regulations are aimed at keeping homes in scale with the neighborhood and maintaining the appearance of the streetscape.

The neighborhood has requested that exterior wall coverings (excluding windows and doors and their respective frames) be limited to brick, stone, finished wood, cementitious fiberboard, or the same material as exists on 90 percent of any existing structure (#5). This standard would apply to principal and accessory structures within the neighborhood. An exception for vinyl materials on eaves and cornices was suggested by HBAL representatives because of its common practice and because it is an economically viable alternative to wood that requires little maintenance. The architectural study conducted by the residents indicates that the primary exterior cladding for all structures on Clinton Road is either brick (85%) or stone (11%); and two homes have been constructed with mixed materials, including one that was renovated with mostly vinyl siding. The purpose of the standard is to ensure that new construction, including additions, is consistent with the existing character of the street and quality of the built environment.

The neighborhood is characterized primarily by attached garages (80%); but standards for accessory structures were deemed important to maintain the existing visual streetscape and to protect greenspace of the lots. While the FAR restriction mentioned above maintains the scale of the principal structure on the lot, it does not govern accessory structures. The proposed standard would limit the footprint of any accessory structure to 800 square feet (#8), falling within the range of existing accessory structures on Clinton Road, which varies from 440 feet to 900 feet in size. The residents selected 800 square feet as a suitable upper limit for accessory structure size that would also limit the possibility of inadequate yard space if the FAR were also being maximized.

### **Site Design & Land Redevelopment**

The neighborhood has proposed standards to address both front yard (#1) and rear yard building setbacks (#7). The front yard setback, as proposed, would mimic the expansive, established front yard setbacks varying between 50 and 60 feet (depending on the block and side of the street) that were set when the original record plats were recorded in the mid 1950s, as opposed to the underlying zone requirements of 30 feet (R-1C) and 40 feet (R-1B). The rear yard setback is proposed to be set at 40 feet, whereas the underlying zoning would allow a minimum of 10 feet. The neighborhood has also proposed a minimum lot width of 80 feet for the 500 block, and 100 feet for the other three blocks (#2). The staff suggests a rewording of the rear yard setback design standard for clarity, which is noted in the Alternative Design Standards. The residents of Clinton Road state that these three requirements, although more stringent than the underlying zoning, will preserve the character of the street by maintaining open space, eliminating

the possibility of corner lot subdivisions, and preserving the original development intent for the street, all of which are considered vital to the character of Clinton Road.

The residents propose a design standard to restrict front yard fences and retaining walls (#6). This standard would limit fences to 3 feet in height and the permissible materials for such fences to brick, stone, wood and iron. No mention of free-standing walls is made, but the issue should be addressed in the proposed design standard that free-standing walls be regulated in a manner similar to fences. Retaining walls are permitted as well, but limited to a height of 18 inches above any unbalanced fill. Lastly, the residents propose to require all structures and their main entrance to be oriented to Clinton Road (#9). These two standards generally reinforce the existing condition of the neighborhood and preserve the character as it is today. The purpose of these standards is to preserve the open feeling of the street and prevent further subdivision of corner lots.

### **Comprehensive Plan**

The Neighborhood Design Character Overlay (ND-1) and the Historic District (H-1) Overlay zones are the two tools available to neighborhoods to preserve and protect their physical surroundings and the built environment. Each offers a different approach to meeting the 2013 Comprehensive Plan Goals and Objectives for “providing well-designed neighborhoods and communities” (Theme A, Goal #3) and to “protect and enhance the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image” (Theme D, Goal #3). Theme A, Goal #3.a. more specifically recommends enabling existing neighborhoods to flourish through expanded opportunities for neighborhood character preservation. Therefore, it follows that the implementation of a Neighborhood Design Character (ND-1) overlay zone in on Clinton Road is in agreement with the Comprehensive Plan’s Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, regardless of the underlying zoning.

Although the Comprehensive Plan is supportive, in general, of the neighborhood-driven process and ND-1 regulations to help maintain the existing character of a neighborhood, the staff would like to note some concern about segments of larger neighborhoods requesting ND-1 overlays. In this case, the residents of one street within a larger subdivision (Ashland Park) and neighborhood association (Shriners) have requested that only their street be protected. While protection for Clinton Road has been deemed important by the residents thereof, the overarching question of “what about the rest of the neighborhood” can’t help but be raised. Presumably, future ND-1 Overlay zones, perhaps with different standards, will be considered for Ashland Park or for the rest of Shriners neighborhood. Additionally, single street ND-1 Overlay zones, if they become commonplace, may become an issue for the government, as well as contractors and homeowners, due to the level of review (effort and time) required above and beyond the typical building permit.

### **Conclusion**

The proposed ND-1 regulations will help maintain the existing character of the neighborhood, ensuring that any new development or additions to existing homes will be compatible with the surrounding subdivision. The residents studied the early and present character of the neighborhood, and found that incompatible development is beginning to occur in their area, which could threaten Clinton Road’s identity and unique fabric. Should this area not be protected through the use of the proposed Neighborhood Design Character Overlay (ND-1) zone, it might be significantly altered, one property at a time, much to the detriment of the overall neighborhood’s stability.

**The Staff Recommends: Approval of the ND-1 overlay zone with the Staff Alternative Design Standards**, for the following reason:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2013 Comprehensive Plan for the following reasons:

- a. The Goals & Objectives of the Plan recommend “providing well-designed neighborhoods and communities” (Theme A, Goal #3) and “protecting and enhancing the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image” (Theme D, Goal #3). Theme A, Goal #3.a. more specifically recommends enabling existing neighborhoods to flourish through expanded opportunities for neighborhood character preservation. This will be enhanced with this zoning overlay for Clinton Road.
  - b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan’s Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
  - c. The Clinton Road residents have completed a design character study, defined the existing character of their neighborhood area, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

**Alternative Design Standards** (Note: Additions are identified by an underline, and deletions are identified by a ~~strikethrough~~.)

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

Front yard fences and free-standing walls shall be limited to a maximum of 36” in height. Allowable materials for front yard fences and walls are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18” above the unbalanced fill in the front yard.

**7. Rear Yard Setbacks**

Rear yard setback shall be a minimum of ~~measured~~ 40 feet, as measured from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the Clinton Road residents, and are necessary to maintain that existing character in the future.

TLW/BJR/WLS

6/2/16

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**2. URBAN COUNTY PLANNING COMMISSION ZONING MAP AMENDMENT**

- a. **MAR 2016-17: URBAN COUNTY PLANNING COMMISSION** – petition for a zone map amendment to a Neighborhood Design Overlay (ND-1) zone, for 23.33 net (29.81 gross) acres, for properties located at 201-540 Clinton Road.

**Proposed Design Standards:****1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

Front yard fences shall be limited to 36" in height. Allowable materials for front yard fences are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

**7. Rear Yard Setbacks**

Rear yard setback shall be measured 40 feet from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

**COMPREHENSIVE PLAN AND PROPOSED USE**

The 2013 Comprehensive Plan no longer makes a specific land use recommendation, but *Chapter 1: Goals and Objectives* does recommend "enabling existing and new neighborhoods to flourish through improved regulation, expanded opportunities for neighborhood character preservation, and public commitment to expanded options for mixed-use and mixed-type housing throughout Lexington-Fayette County." (emphasis added)

The Planning Commission has initiated a zone change request to add a Neighborhood Design Character Overlay (ND-1) zone in order to regulate front yard building setbacks; lot widths; floor area ratio (FAR); building height; exterior building materials; landscaping; rear yard building setbacks; accessory structures; and building orientation, regardless of the underlying zoning for 55 residential lots on Clinton Road.

The Zoning Committee Recommended: Approval of the staff alternative.

The Staff Recommends: Approval of the ND-1 overlay zone with the Staff Alternative Design Standards, for the following reason:

1. The requested Neighborhood Design Character (ND-1) overlay zone is in agreement with the 2013 Comprehensive Plan for the following reasons:
  - a. The Goals & Objectives of the Plan recommend "providing well-designed neighborhoods and communities" (Theme A, Goal #3) and "protecting and enhancing the natural and cultural landscapes that give Lexington-Fayette County its unique identity and image" (Theme D, Goal #3). Theme A, Goal #3.a. more specifically rec-

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- ommends enabling existing neighborhoods to flourish through expanded opportunities for neighborhood character preservation. This will be enhanced with this zoning overlay for Clinton Road.
- b. The implementation of a Neighborhood Design Character (ND-1) overlay zone is in agreement with the Comprehensive Plan's Goals & Objectives by providing specific standards that will maintain the existing character of the neighborhood, independent of the underlying zoning.
  - c. The Clinton Road residents have completed a design character study, defined the existing character of their neighborhood area, developed preservation goals, and proposed appropriate neighborhood design standards (in need of only slight modification), thus meeting the requirements of the ND-1 zone.
2. Under the provisions of Article 6-7 of the Zoning Ordinance, the following use restrictions are proposed for the subject property via conditional zoning:

**Alternative Design Standards** (Note: Additions are identified by an underline, and deletions are identified by a ~~strikethrough~~.)

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

Front yard fences and free-standing walls shall be limited to a maximum of 36" in height. Allowable materials for front yard fences and walls are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

**7. Rear Yard Setbacks**

Rear yard setback shall be a minimum of measured 40 feet, as measured from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

These restrictions are appropriate, given the extensive study undertaken to identify the existing neighborhood character by the Clinton Road residents, and are necessary to maintain that existing character in the future.

**Staff Zoning Presentation** – Ms. Wade presented the staff report on this zone change request that was initiated by the Planning Commission in February to facilitate a Neighborhood Design Overlay (ND-1) zone for 23.33 acres to be applied to properties that are located on Clinton Road. A total of 55 residential parcels are part of the application (one local park that wasn't included). She distributed a handout, which the staff had prepared since the Zoning Committee meeting, related to potential nonconformities that would be created by the overlay. She also stated that she had received 18 letters of correspondence from area residents that are in favor of this request. Clinton Road is located within the Shriners Neighborhood Association and is also part of Ashland Park in the Lakewood Estates Subdivision. It is to the southwest of Richmond Road, east of Chinoe Road, and inside of New Circle. The subject area is approximately four blocks long and connects from Cooper Drive and Prather Road, to the south, and runs north and south connecting to Clays Spring Lane, at its north end. All of Clinton Road is residentially zoned and the overlay zone won't change that; it will only change the requirements for redevelopment.

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Clinton Road was platted as part of the Ashland Park Subdivision in the mid-1950s and was originally part of the Henry Clay Estate and farm. Most of the homes are post-WWII ranch style, colonial/traditional homes on basements, and a few are more contemporary Cape Cod style homes. The area is characterized by large setbacks, mature trees and other landscaping, and the structures are primarily brick and stone. The ND-1 Overlay zone was considered by the Clinton Road residents originally because the deed restrictions that were put in place in the 1950s had expired in the mid-1980s and were not automatically renewed, as many are today. A new property owner was requested to have the front setback changed by the Planning Commission to allow an addition to be built onto their house, which was one precipitating factor. Another was that the character of the surrounding neighborhood has changed; for example, on Culpepper Road, there have been several large additions/renovations that have changed the character on that street. The neighborhood had become aware that the deed restrictions were no longer in place, which also made them aware of what changes could happen in their neighborhood. This encouraged the neighborhood consider the ND-1 Overlay and they conducted a study of the early and present character and how it has changed. They also did resident meetings and a survey about the different standards that they developed based on their studies.

Article 29 of the Zoning Ordinance gives the option to propose an overlay, zone with the intent of helping to preserve the character of a neighborhood; otherwise, that character could be lost. The Clinton Road residents submitted their request and supporting documentation to the Planning Commission, also listing their research and what they had proposed in terms of standards and goals for the neighborhood. The four goals are: 1) maintain the open, uniform, and expansive appearance of the street; 2) avoid further subdivision of corner lots; 3) preserve current building sizes and area devoted to yards/green space; and 4) maintain the consistency and quality of exterior building appearances. The Clinton Road residents proposed nine ND-1 standards for their street and agreed to the staff alternative text, which are:

**1. Building Setbacks**

Building setbacks shall be as follows:

- a. 200 and 300 blocks of Clinton Road: 50 feet
- b. 400 and 500 blocks of Clinton Road (odd-numbered houses): 60 feet
- c. 400 and 500 blocks of Clinton Road (even-numbered houses): 50 feet

**2. Lot Widths**

Minimum lot widths shall be as follows:

- a. 200-400 blocks of Clinton Road: 100 feet
- b. 500 block of Clinton Road: 80 feet

**3. Floor Area Ratio**

The Floor Area Ratio (excluding basements) may not exceed 0.33.

**4. Building Heights**

Maximum of 30 feet to highest ridge line (excludes new additions, which may exceed 30 feet in order to match existing ridge lines).

**5. Exterior Building Materials**

Allowable exterior finish building materials are brick, stone, finished wood, cementitious fiberboard siding, or the same material as 90 percent of the existing structure (excludes windows and doors and their respective frames). Vinyl is allowable on eaves and cornices only and is otherwise prohibited. All other materials are prohibited.

**6. Landscaping**

Front yard fences and free-standing walls shall be limited to a maximum of 36" in height. Allowable materials for front yard fences and walls are brick, stone, wood and iron. Chain link fences are prohibited in the front yard. If a retaining wall is used, it shall be subject to a maximum height of 18" above the unbalanced fill in the front yard.

**7. Rear Yard Setbacks**

Rear yard setback shall be a minimum of ~~measured~~ 40 feet, as measured from the rear property line, excluding accessory structures.

**8. Accessory Structures**

Maximum footprint of 800 square feet for all accessory structures per lot.

**9. Building Orientation**

The front plane and front entrance of the principal structure shall face Clinton Road.

She said that implementation of an ND-1 zone is in agreement with the Comprehensive Plan. Staff does have one concern about the proposal of this overlay and that is that it is just one street of a larger neighborhood association and larger subdivi-

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sion. The residents do believe that they are a neighborhood in and of themselves. The staff does recommend approval with the minor modifications to the design standards. The Zoning Committee also recommended approval of the alternative standards that the staff presented three weeks ago.

Commission Questions: Mr. Penn asked about design standard number 8; if the structure can be two stories high and be 1,600 square feet. Ms. Wade replied that it can, but there is still a height limit in the Zoning Ordinance for accessory structures, which is generally 20 feet. Mr. Sallee added that there is a general Zoning Ordinance provision that accessory structures can only total half of the square footage of the principal structure, but they would be permitted to contain two stories.

Mr. Cravens asked what kind of uses could be in an accessory structure. Ms. Wade replied that generally they could be a pool house, a detached garage, equipment shed, or a playhouse. Mr. Cravens also asked if it could have bedroom. Ms. Wade stated that it could have guest quarters, but it can't have a kitchen and a bathroom. It can't have all three; otherwise, it will become a separate dwelling unit.

Ms. Mundy asked if it could be a granny flat. Ms. Wade replied that it could be only if the kitchen was left out.

Requestor Comments – Monica Kern, resident of 505 Clinton Road, said that Clinton Road is an established neighborhood and is one of the most desirable neighborhoods in the area, in terms of its location. The lots average just less than half an acre in size; and in the most recent PVA assessment, the homes range in value from \$345,000 to over \$1,000,000. She presented a slide show of numerous photographs of the area homes, displaying the large lots, the deep front yard setbacks, the ample green space, and the mature landscaping. The houses vary considerably in architectural style with regard to features such as porches, columns, and types of windows. She said the vast majority of the homes are constructed of brick or a brick/stone combination. Slightly over half of the homes are ranch style, with the remaining being 1 1/2 stories high. She said that the existing zoning restrictions are not adequate to preserve the distinctive character of the neighborhood.

She said that the residents of Clinton Road became interested in establishing the ND-1 overlay when they discovered that the deed restrictions that were originally attached to their homes had expired. They were alarmed by recent trends on neighboring streets where some houses were being torn down or being substantially renovated, resulting in larger houses being built and leaving no green space or distance between the houses. Some of the corner lots were being subdivided into two and three lots. She displayed an aerial photo of a corner lot on Culpepper Road and Hart Road that had been subdivided into three lots with three large, tall houses built on them, leaving no space between them. She continued to show photos of many new houses that been built, some with additions that have been built onto existing homes. She stressed that these types of houses would be suitable for larger lots, but they are out of character for this neighborhood. The residents of Clinton Road are worried that this type of construction may begin to happen on their street.

She reviewed the process that the neighborhood had undergone, noting that they had consulted with the members of the Planning staff, as well as Coleman Bush, who had spearheaded the overlay for the Meadowthorpe neighborhood; they conducted an architectural survey; they held numerous neighborhood meetings and focus groups; and they met with representatives of the Building and Home Renovation trade. She said that it is important to stress that their goal is not to discourage any kind of renovation or additions - just to specify the limits of them so that they accommodate the existing character of the street. After completing the standards, they mailed a ballot to the residents to determine if they support the overlay and to indicate whether they agree/disagree with the nine standards that were being proposed. Fifty-five ballots were sent out and forty-two were returned; of those, forty voted in favor of the overlay. The Planning staff had also sent out a mailing to property owners along Clinton Road; and of those ballots, thirty-five were returned with only three negative votes. She stated that the neighbors on Clinton Road want the ND-1 Overlay.

Citizen Comments in Favor – Linda Allin, resident of 504 Clinton Road, said that she and her husband are in full support of the overlay zone. They value the character and the distinctiveness of their street; it was the primary reason they moved to this residence. She said that the street has remained the same, for the most part, with the exception of some of the issues previously described. She also stated that she is pleased that neighbors have the ability to construct additions and build nice homes on vacant lots; they are not trying to restrict the owners from doing that. She said that some of these new homes take over the entire lot, leaving little or no yard, which is out of character with the neighborhood.

Linda Price, resident of 501 Clinton Road, a corner lot, said that she is concerned about preserving the character of Clinton Road. She said that the street is very desirable and she admires the green space. She believes that without the protection of the ND-1 Overlay, the street is in danger and the beauty and character of the neighborhood is at great risk. Without this protection, a lot like theirs would be purchased by a developer and divided into two or three lots with the same number of houses built on it, which will change the character of Clinton Road. She respects that some people may prefer larger houses on smaller lots so they don't have a lot of yard maintenance, but that is the opposite of the character of Clinton Road.

Penny Warren, resident of 208 Clinton Road, said the Clays Spring Park is a great example of how much the residents care for Clinton Road and their concern for preserving open green space. The Clays Spring Park, formerly known as Clinton Road Park, is the neighborhood jewel. It was deeded to the City from the Henry Clay heirs to remain a park and has been historically marked. Some of the Clinton Road residents contributed toward the cost of landscaping the park.

Jane Farmer, resident of 509 Clinton Road for sixteen years, said that her street is changing a lot. There has been a huge three-story high house built behind her and a solid, tall fence. She said that she doesn't like the huge houses and the diminishing yards. It doesn't create the same feeling of the neighborhood.

Catherine Donworth, resident of 512 Clinton Road, said that she is supportive of the ND-1 Overlay to preserve the street. She has a young child who spends time with the family across the street in the large green space area. She said that it is a great environment for their kids to be able to play in the safety of their front yards. She feels that if the setbacks are not preserved, the character of the neighborhood will be lost.

Anne Donworth, resident of 405 Clinton Road, said that she admired the neighborhood from visiting relatives that live there. They have renovated their home substantially because it is where they want to live for a long while. She said that the point of these restrictions is not saying that a person can't update his/her home; these restrictions would not have changed what she had updated. She said that the property values of the neighborhood are based on the lot and the existing homes; they don't need to be redeveloped with three-story houses to retain the value. She said that if residents want to build larger homes on their lot, they can do it elsewhere.

Alanson Boden, resident of 412 Clinton Road, said that she chose her home on Clinton Rd. because of the open yard with the large green space. She said there is a vacant lot next door, and is she concerned that someone will build a large house on the lot, and that it would lower the value of her home. She supports the ND-1 Overlay.

Kathy Arms, resident of 513 Clinton Road, said that she chose her home because of the large lot and its proximity to schools, and the downtown area. She supports the ND-1 Overlay.

Opposition Comments – Christopher Clendenen, attorney, was present representing the residents of 508 Clinton Road, Wayne and Linda Bussell. He said the Bussells had applied to change the setback from 50 feet to 30 feet, which was turned down by the Planning Commission. A subsequent application of 50 feet to 40 feet was also turned down by the Planning Commission, and that application is in litigation. He said that the Bussells want to build a garage that will be more accessible for them since their driveway is very narrow.

Mr. Clendenen referred to the intent, the purpose, and the policies of Article 29. They all refer to residential neighborhoods and non-residential neighborhoods. He said "words used consistently, should be consistently interpreted in a consistent manner to make sense of the statute." They are differentiating in this ordinance what a neighborhood is and what an area is. He pointed out the areas that currently have ND-1 Overlays and said that they have three things in common: they have unique and distinct characteristics that are worth preserving; multiple streets that comprise the neighborhoods; and neighborhood associations that reflect the actual neighborhood. He said that this particular overlay consists of only one street. He said that he is in favor of the ND-1 Overlay zone in general, but said that it isn't being used in the correct manner. He said that he doesn't think that this is in agreement with the 2013 Comprehensive Plan because he doesn't believe that one street constitutes a neighborhood. He also said that it could be a gateway to set a bad precedent. He showed a photo of Clays Spring Park and the said that there are five lots on Clay Spring Lane, two of which are vacant.

Mr. Clendenen asked if the ND-1 Overlay should also be given to this street. In his opinion, every street in Lexington could propose this overlay for their street; they could come before the Planning Commission and state, "this is what I love about my street...", and "this is why it needs to be preserved and protected from these people next door that have a different idea of what they want to do with their property." He said that the Planning Commission has no time limit on this decision; he would like for them to wait for the outcome of the litigation before agreeing to the ND-1 Overlay zone. He doesn't disagree with the intent of the ND-1 Overlay zone, he disagrees with their methods and so do his clients. He doesn't believe that the ND-1 Overlay zone is the appropriate way to accomplish what they are trying to accomplish. The ND-1 Overlay zone is a valuable tool and is very worthwhile; and in the other areas where it has been granted, it is appropriate. In this case, it doesn't seem appropriate for just one street. He also said that we could be inundated with street after street coming to the Planning Commission, if we set this precedent.

Commission Question - Mr. Drake asked what would be the injury to his clients if the ND-1 Overlay zone is adopted. Mr. Clendenen replied that his clients are not here on behalf of themselves in terms of the ND-1 zone. He said there wouldn't be any impact on them directly and that there are other residents on Clinton that are not in favor of the overlay zone.

Requestor's Rebuttal – Ms. Kern commented on Mr. Clendenen's objection regarding Clinton Road not being a neighborhood. She asked what constitutes a neighborhood. The Zoning Ordinance has 18 pages of definitions and various terms related to property, but it doesn't include a definition of a neighborhood. The dictionary definition of "neighborhood" is defined spatially as a specific geographic area and functionally as a set of social networks. Neighborhoods then are the spatial units in which face-to-face interactions occur. She said that by that or any definition, Clinton Road is a neighborhood. It possesses a distinct geographical identity and a distinct social identity. They have an annual Clinton Road picnic that has been held for over twenty years and is well attended by the residents. She said that they are a neighborhood because they feel and act as such. If Clinton Road is not perceived as a neighborhood, they are still eligible for the ND-1 Overlay. The Zoning Ordinance didn't in-

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\* - Denotes date by which Commission must either approve or disapprove request, unless agreed to a longer time by the applicant.

clude a definition of a neighborhood in its definitions; however, it did include a definition of the ND-1 Overlay zone, describing it as a zone where key characteristics of a particular neighborhood are preserved for either new building or replacement of existing structures. She said that Article 29 states: "any area, neighborhood, or place that meets one or more of the following criteria shall be eligible for designation of a ND-1 district." Clinton Road meets most of the seven criteria that were listed.

Ms. Kern commented on the objections that Clinton Road is too small for the ND-1 Overlay. She said that the Zoning Ordinance doesn't specify a minimum number of houses or streets that must be included to qualify as an area. There is also precedent for smaller ND-1 Overlay zones; for example, the Colony consists of 75 homes on five streets, this one consists of 55 homes on four blocks. With regard to then concerns of the staff and Mr. Clendenen, she said that if their ND-1 Overlay zone is approved, the staff and Planning Commission will not be deluged with many other applications from other streets. She doesn't believe that other areas will devote the time and money to this process unless they are passionately committed to preserving their neighborhoods.

Ms. Kern also commented on Mr. Clendenen's comment that the ND-1 Overlay zone isn't necessary for Clinton Road, because the Planning Commission will not support motions to reduce setbacks on the street. To this objection, she said that just because they were successful in one particular instance doesn't mean that they will be in the future. Their proposal for the ND-1 Overlay zone is more than just the issues of setbacks; their design standards also include floor area ratio that is not addressed on the plat or in current zoning restrictions. It is needed to protect the character of their street. The residents of Clinton Road feel strongly that their street is a neighborhood, that they are eligible for the ND-1 Overlay zone, and that it is essential for preserving the unique and beautiful character of their street. She said that with all the renovations and rebuilding that is currently happening very close to Clinton Road, they don't feel that they have the time to wait for some undetermined purpose.

Opposition's Rebuttal – Mr. Clendenen said that what is relevant here is the Zoning Ordinance and the way it was crafted. Referring to Article 29, in the Intent, "area" is used in connection with non-residential; in the Purpose, "area" is used in connection with non-residential; in the Policies, "area" and "places" are used in connection with non-residential; and in the Goals, "neighborhoods", "area" and "places" are used in connection with either a residential or a non-residential area.

Staff Rebuttal – Ms. Wade said that Clinton Road does constitute a neighborhood in and of itself, but in other ways it can also constitute a place. The Zoning Ordinance doesn't make any kind of determination that one should be residential or non-residential; the word "place" is used more generically. If the Planning Commission doesn't feel that Clinton Road is a neighborhood in and of itself, it could be determined by the Zoning Ordinance definition that it is a "place." The staff doesn't believe that the Zoning Ordinance eliminates the eligibility of the ND-1 Overlay zone in this case. The staff expressed their concern that if every ND-1 zone that comes in is one street, it could be more time consuming for the staff to review.

Commission Question - Mr. Drake asked who owns Clays Spring Park. Ms. Wade replied that the City owns it. Mr. Drake asked if the 200 Clinton lot is part of the park or if it was intentionally left out of the overlay. Ms. Wade said that 200 is the address of the park.

Mr. Wilson asked if Ms. Kern was representing the neighborhood. Ms. Kern said that she is the official representative. Mr. Wilson said that the staff has made a recommendation for alternative design standards and asked if the neighborhood is in favor of the standards. Ms. Kern replied that they agree with the staff's recommendation.

Chairman's Comments – Chairman Cravens stated that the hearing was now "closed," and he opened the floor for discussion. Mr. Brewer stated that the Commission members appreciate the neighborhood's efforts in this and the amount of work it took to get this case through, congratulating them for getting it this far. He believed that the staff's comment was worth noting about "street by street" but the importance of protecting this neighborhood is much more critical than the possibility of that. He said that he supports this effort and that Clinton Road is a beautiful street and it should be preserved. He said that he drives it nearly every day.

Mr. Penn said that he feels that the ND-1 Overlay zone should have a high standard. Since the previous applications for the one resident on Clinton Road, he has traveled this street frequently. He said he does have reservations that this is too small of an area, and he would have liked for Adair Road or some other street to have also been involved in this request. Seeing the houses that are being torn down and the rebuilds in the neighborhood, he understands the urgency of this issue. He said he would let his reservation of the one street be overturned by the fact that he thinks it is needed at this time.

Ms. Mundy also thanked the citizens for the time that they put into preserving their neighborhood. She said that this is like "a bundle of sticks." When they bought their property, they got a bundle of sticks; in that bundle of sticks they give up rights in owning that property, such as taxes, zoning ordinances, etc. In doing this, not only are they preventing others from doing things in the area, but each property owner is giving up another stick or two. She cautioned them to think about their future when they get ready to sell their property and the restrictions that might be in place.

Ms. Plumlee also thanked the neighbors for coming to the hearing and for preserving the character of their neighborhood, which is unique. She said she intends to support the ND-1 zone change request.

Zoning Action – A motion was made by Ms. Plumlee, seconded by Mr. Brewer, and carried 10-0 (Owens absent) to approve MAR 2016-17: URBAN COUNTY PLANNING COMMISSION for the reasons provided by the staff for the Alternative Design Standards.

