

**Board of County Commissioners  
Leon County, Florida**

**Workshop on  
Council of Neighborhood Associations'  
Recommendations Regarding Residential  
Preservation**

**1:30 p.m.  
Tuesday, June 26, 2007**

**Leon County Board of County Commissioner Chambers  
Leon County Courthouse, 5<sup>th</sup> Floor**

**This document distributed: June 21, 2007**

# Board of County Commissioners

## Agenda Request

Date of Meeting: June 26, 2007  
Date Submitted: June 20, 2007

To: Honorable Chairman and Members of the Board

From: Parwez Alam, County Administrator *PA*  
Vincent S. Long, Deputy County Administrator *VSL*  
Wayne Tedder, Planning Department Director

Subject: Workshop on the Council of Neighborhood Associations' Recommendations  
Regarding Residential Preservation

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### Statement of Issue:

To conduct a workshop on recommendations presented by the Council of Neighborhood Associations (CONA) (Attachment #1) that would assist in the protection of Residential Preservation neighborhoods.

### Background:

On August 21, 2006, CONA submitted recommendations intended to strengthen Residential Preservation categories in the Tallahassee-Leon County Comprehensive Plan. The recommendations include amendments to the Comprehensive Plan's Land Use Element and ordinances related to land use regulations and the land use change process (rezoning and Comprehensive Plan amendment).

In an effort to begin dialogue with CONA, staff provided a response to these recommendations. On November 15, 2006, the City Commission's Long Range Target Issue (LRTI) Committee, consisting of Commissioners Gillum and Lightsey, reviewed CONA's recommendations as well as staff's response, and provided direction to be forwarded to the full City Commission in the near future. Attachment #2 provides a summary of the City's LRTI's direction.

On February 13, 2007, Commissioner Desloge requested, and the Board approved, that staff review the recommendations by CONA and report their findings back to the Board. Staff prepared a report for Board Review at the May 8, 2007 meeting. However, the Board requested that the item be brought back in a workshop format. As a result of the May 8 agenda CONA provided some additional responses to staff's report (Attachment #3). In preparation for the workshop, staff and CONA met on June 14, 2007 to better understand each other's issues, to seek resolution of the issues where possible and to identify areas where resolution of issues have not yet been obtained.

**Analysis:**

While CONA has provided a number of recommendations that they feel would provide greater protection of Residential Preservation neighborhoods, the following are those recommendations that CONA identified as their priority issues:

1. Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).
2. Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit: there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.
3. Require setbacks and minimum vegetation to be retained on individual lots.
4. Require compatible design standards.
5. Restrict commercial encroachment into residential neighborhoods.
6. Restrict ancillary uses of religious facilities.
7. Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.
8. Notify affected registered neighborhood associations as part of any notification sent to citizens.
9. Require developers to schedule pre-application conferences with affected residents. Agreements from these meetings would be binding on all parties.

Planning Department staff has reviewed the recommendations and provides responses to each of the recommendations. In addition, staff has provided recommendations where appropriate.

**Recommendation #1:**

Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).

**Staff Response:**

Often times, land use changes do affect areas larger than 500 feet from the request site. However, such impacts beyond the 500 feet are generally related only to additional traffic within the area. It

would be appropriate to increase the notice along access routes to the request site for a distance of 1,500 feet. However, such distances should not be required if the site is separated by a major collector and/or arterial road. **If notification requirements were increased, then staff would recommend increasing the notification fees included in the application.**

It should be noted that the Planning Department has recently developed an automatic electronic notice system where all interested citizens can get copies of all rezoning and Comprehensive Plan amendment notices. Staff has worked with CONA to ensure the membership is aware of this system. It is hoped that this new system will reduce the need to increase the notification requirements.

**Staff Recommendations: Direct staff to develop an ordinance for Board consideration that amends the Land Development Code to require additional notice requirements for land use changes (Comprehensive Plan amendments and rezonings). Concurrent with the proposed ordinance, develop a proposed fee resolution that increases notification fees to offset any additional County costs of the new requirements.**

**Recommendation #2:**

Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit: there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.

**Staff Response:**

It is staff's understanding that the reason for the requested buffers was to ensure appropriate setbacks and screening of more intense uses adjoining residential preservation properties. CONA has indicated that their concerns are raised when a neighborhood transitions abruptly from a low-density area to a more intense use without a graduated scale in use and intensity. The current buffer standards in the zoning code are based on compatibility. The more incompatible the use, the more buffering is required. The maximum buffer that can be required for land uses (except industrial) adjoining single-family detached properties is a 30' wide buffer. Staff, generally, agrees that the larger and more incompatible land use that is proposed adjacent to a residential area, the more buffering/transitioning should occur.

Smart growth principles encourage more intense development in areas where infrastructure is available. Additionally, smart growth principles encourage goods and services within ¼ mile walking distance of neighborhoods. Where these goods and services are located near neighborhoods, they need to be integrated with the area and not be blight in the community. An example of integrated uses is the Southwood Development of Regional Impact (DRI). There are no buffers within the development. Land uses are separated/integrated through scale, land use types and intensities. Many of the residential preservation areas are located within the urban areas of our community. As we continue to grow, staff is looking toward opportunities to integrate more intense uses near the residential areas, much like Southwood has done, but maybe with greater intensities and densities where appropriate. Staff will continue to work with CONA to identify appropriate transitions between single-family uses and more dense and intense development.

Great design standards are key to addressing this issue. The Neighborhood Boundary Future Land Use Map Category (and Neighborhood Boundary Office Zoning District) addresses many of the compatibility standards. The flaw may simply be that before neighborhoods accept these uses adjacent to their neighborhoods; they actually want to see exactly how the uses will fit into their community. CONA has been asked to verify and approve the list of standards that are included in the Neighborhood Boundary Category, identify any additional standards that may need to be addressed, and then identify a process that will provide assurance to neighborhoods that all issues (building mass/size, orientation, lighting, access, buffers, signs, noise, dumpster building design) will be addressed before any land use changes are made. Staff will work with CONA to identify the standards that need to be addressed as well as identify potential changes to the category to address these standards. Upon identification of these issues, staff can forward to the Board for appropriate action.

**Buffers for light industrial land uses adjacent to residential areas should be increased.** The current minimum standard is a 30-foot wide Type D buffer. A buffer of 100 feet wide for these types of uses adjoining residential areas is appropriate. County Growth and Environmental Management staff has suggested that the Board also consider alternative buffering requirements (instead of a 100 feet wide buffer) such as berms, fences, and walls. In instances where adequate visual and sound buffering is provided, buffering widths could, possibly, be reduced to widths less than 100 feet. Buffer standards for regional (or greater than immediate community) commercial uses may also need to be addressed. However, there needs to be a very strong interconnection (vehicular and pedestrian) from the surrounding residential areas to the commercial uses.

**Staff Recommendations: Direct staff to amend the Land Development Code to require a 100 feet wide buffer between single-family residential development and light industrial uses and develop alternative buffering requirements that may reduce buffering less than 100 feet. It is also recommended that the Board direct staff to identify options for buffering standards for all other uses adjoining single-family residential land use for future Board consideration.**

**Recommendation #3:**

Require setbacks and minimum vegetation to be retained on individual lots.

**Staff Response:**

The concern of CONA is that new development in established neighborhoods may not be consistent with the remainder of the neighborhood. The County's Residential Preservation zoning district requires new development within an existing recorded or unrecorded subdivision to be consistent (housing type, setbacks, and density) with the previously approved development. The City's land development code does not have the specific protection measures as contained within the County's code. Therefore, it appears that the concern should be more focused on the City's land development code. Staff will work with CONA to address this issue before the City Commission.

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**Recommendation #4:**

Require compatible design standards.

**Staff Response:**

At the June 14<sup>th</sup> meeting with CONA, it was generally understood that there is a distinction between incompatible land uses and incompatible design. Regarding incompatible design, every neighborhood is unique. It would be an impossible task for the City and County to develop standards for each neighborhood. In the County, the general character of development within existing neighborhoods is controlled by land use type limitations, setbacks and building height limits. There are no architectural controls (building and parking orientation, materials, design elements, etc.) in the current code. Within existing single-family neighborhoods, architectural controls for (single-family) development should be addressed by the individual neighborhood to ensure compatibility with the rest of the neighborhood. The Planning Department could assist CONA with a boilerplate of compatibility factors such as height, orientation (building and parking), etc. If not already provided within a neighborhood's covenants and restrictions, such unique standards could be incorporated into each neighborhood's covenants and restrictions. Planning staff may be able to assist in the creation of a recommended format for these design restrictions in homeowners' association restrictive covenants; however, it is important that homeowners' associations bear in mind that it is a long-standing County policy that restrictive covenants are not taken into consideration during County review of any proposed project. Restrictive Covenants are private contracts between the property subject to them, and it is the responsibility of the homeowners' association to enforce the terms of the Restrictive Covenants.

Another option to ensure compatibility between different land use types within and adjacent to single-family subdivisions would be to create a review process such as the City's Urban Design Committee (UDC). The City's UDC is composed of design professionals (architects and landscape architects) as well as stakeholders within the review area of the UDC. The UDC does not have final approval authority of projects, but rather makes recommendations to the approval body regarding design standards and any deviations to the Land Development Code requirements. The membership could be extended to include a representative from the affected neighborhood/s to ensure appropriate consideration of compatibility standards that are identified in the Code. Staff would suggest that, if the Board supports this concept, it would only apply to the areas within the Urban Service Area (USA) boundary, only apply to development adjacent to or within single-family detached neighborhoods, and only to proposed development within the single-family neighborhoods that is not single-family detached development.

**Staff Recommendation: Direct staff to work with CONA to develop the framework of an Urban Design Committee process, functions and composition.** Upon completion of staff's and CONA's work on this issue, staff can bring this item back to the Board for consideration.

**Recommendation #5:**

Restrict commercial encroachment into residential neighborhoods.

**Staff Response:**

In order to address this issue, a well-defined set of criteria needs to be established that defines what a neighborhood means. To some, it means a more broad area than their subdivision. To others, it means only their subdivision. Smart growth principles mean that we place goods and services close to neighborhoods. If planned correctly, these services could be placed in the center of the neighborhoods. New and larger developments have the ability to plan ahead and include these "town centers." The Planning Department does not support placing non-residential uses in the middle of platted and stable residential subdivisions. However, there are occasions where services are most appropriate at the edges of such subdivisions, and central to multiple Residential Preservation neighborhoods, especially along collector and arterial roadways. The County must look toward opportunities that encourage smart growth. The Neighborhood Boundary Future Land Use Map category provides for these opportunities. This category also provides significant design standards when adjacent to residential areas.

As part of the Comprehensive Plan reform process, the Planning Department developed a new Future Land Use Map category – Village Mixed Use. This category provides for an appropriate mixture of uses (residential and non-residential) and appropriate design standards to integrate these uses. The Planning Department is currently drafting a Traditional Neighborhood Design (TND) ordinance to fully implement this category. Staff intends to make the TND standards eligible in any mixed-use category as well as in single-use developments where such standards are desired. It is anticipated that the TND ordinance will be completed by December 2007.

Staff has also committed to work with CONA to address residential preservation areas along the City and County's collector and arterial roadways. It is along these roadways that greater densities and intensities should occur, where appropriate. Staff will be working with CONA to identify possible areas where greater intensities and densities could be encouraged.

**Recommendation #6:**

Restrict ancillary uses of religious facilities.

**Staff Response:**

Religious facilities are permitted in all zoning districts. It is customary that religious facilities have ancillary uses such as day care facilities, broadcast studios, etc. Ancillary uses are not permitted with religious uses where such facilities have access only to local streets. Therefore, it appears that this concern is related only to religious uses that have access to arterial and collector roads where it is anticipated large traffic volumes occur or are expected.

While some districts provide intensity levels for non-residential uses, the County's Residential Preservation zoning district does not appear to provide such limitations. The City's Residential Preservation zoning districts limit intensity of non-residential uses in terms of impervious surface area. For example, a two-acre parcel is limited to only 40% impervious area (34,848 square feet –

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that includes building and parking). Accessory uses are limited to 33% of the principle structure. It would be possible to have a 10,000 square foot building on a two-acre site and 3,300 square feet could be dedicated as an ancillary use. If the site is 20 acres, then 348,480 square feet of the site could be impervious. Likewise, it could be possible to place a 100,000 square foot building on the site and include a 33,000 square foot accessory use.

While the County's land development code does not provide any intensity limitation for non-residential uses within the Residential Preservation zoning district, default limitations exist in the form of landscaping and natural area requirements. The County's land development code requires 25% natural area and 25% of the developed portion of the site to be landscaped. Therefore, it appears that approximately 56% of a Residential Preservation zoned parcel can be developed for permitted non-residential uses. Based on comparison with the City's standards, it appears that greater intensities could be achieved in the County's Residential Preservation zoning district.

In order to address the potential size of accessory uses, a possible solution is to establish a building maximum size and ancillary use size. Please note that adding such restrictions could make a number of previously approved land uses non-conforming. Staff does not support increasing the number of nonconforming uses unless there is a clear and broad consensus that the community desires to see the uses removed from the property. This issue is a significant challenge and may not be productive to address. It should be remembered that the Comprehensive Plan does not allow religious facilities to have ancillary uses where the site only has access to a local street. Given the access limitations, the remaining issue may be the development of appropriate buffering between the uses. If the Board accepts staff's recommendations, then such buffering standards will be analyzed and brought before the Board for appropriate action. In consultation with the County Attorney's office, the Board's actions on this issue need to be consistent with the treatment of other types of land uses in order to ensure equitable treatment of religious land uses. Federal laws restrict governments from placing standards on religious facilities that are greater than those for all other land uses.

**Recommendation #7:**

Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.

**Staff Response:**

The current application fees do not cover staff time and expense necessary to process the applications and the public notification required. Rezoning application fees (\$250) are higher than Comprehensive Plan Map amendment fees (\$200). Because Senate Bill 360 (Legislation adopted in 2005) requires additional reporting requirements for Map amendments, staff has instituted procedures that require the applicant to complete the additional requirements (i.e., concurrency analysis, water and sewer studies, school concurrency, etc.) at time of application submittal. Therefore, it is expected that such applications will cost more to complete. Even under this scenario, the current fee structure does not cover the staff costs to review the new data, prepare an analysis, process and notice the applications. Likewise, significant staff time is required to review and process rezoning applications. The current application fee (\$250) does not cover the cost of staff time

necessary to process and advertise applications. It should be noted that there are no requirements for individuals submitting text amendments to the Comprehensive Plan. These amendments could require significant staff time and may not be a priority to the Board or City Commission. In an effort to address the staff resource issue, staff is requiring that any applicants proposing text amendments provide all data and analysis to support the proposed changes.

**Staff Recommendation:** Staff recommends a significant increase in all rezoning and Comprehensive Plan amendment application processing fees. If the Board directs staff to increase fees, a detailed analysis will be required before specific recommendations can be provided. It should be noted that the Comprehensive Plan has been in existence for 16 years now and the potential for unintended consequences has declined significantly. A provision for Board waiver of fees can be included in any fee increase so that the Board may right any injustice in fee charges for any unintended consequences that may come up in the future – or any other hardship that may become evident in processing a particular application.

**Recommendation #8:**

Notify affected registered neighborhood associations as part of any notification sent to citizens.

**Staff Response:**

If a database is provided to staff, then notifications could be sent with little effort. However, it would take a significant staffing effort to develop the database necessary. The City's Neighborhood and Community Services Department currently provides this database for the City.

**Recommendation #9:**

Require developers to schedule pre-application conferences with affected residents. Agreements from these meetings would be binding on all parties.

**Staff Response:**

It is staff's understanding that the additional requirement for a pre-application would only apply to those proposed developments or land use changes adjoining single-family detached homes within the Residential Preservation Future Land Use Map category. The intent is to have early dialogue between the property owner and the adjoining residential area. This dialogue could reduce the amount of citizen complaints that are forwarded to the Board and require significant staff time to address the issues. It is recommended that the Board consider the development of a preliminary review opportunity for affected single-family neighborhoods when developments or land use changes are proposed for properties adjoining the neighborhood. Whether a formal process (i.e., pre-application) or informal process (submittal requirement for formal application submittal and not staffed by the County), such process could reduce conflicts at the end of a review process. The Planning Department routinely suggests applicants (and potential applicants) meet with affected property owners when the Department has identified potential conflicts. This informal process, when adhered to, has resulted in a smoother review process as well as reduction of applications submitted when great conflict would occur. This process is not mandated in the Land Development Code.

**Staff Recommendation:** Direct staff to develop an informal neighborhood pre-application review process for developments and land use changes for Board consideration. This process would only be applicable to developments adjacent to or within existing single-family neighborhoods.

Staff further suggests that the County do not enter into any binding commitments with developers and property owners other than those required by the Land Development Code or adopted ordinance (such as required for a PUD rezoning).

#### **Additional Concerns of Residential Preservation Areas Identified by Staff**

There are areas that should not be designated as Residential Preservation. In addition to the areas located along collector and arterial roads (as discussed in #5 above) there are a number of properties that are designated as Residential Preservation, but the uses and/or densities are not consistent with the Residential Preservation category or zoning districts. These uses are deemed to be nonconforming and, as such, limit reinvestment opportunities on these properties. Essentially, lending institutions will not grant loans for rehabilitation work or for use changes (i.e., selling an existing commercial building for another commercial use) when the use is nonconforming with the Zoning Code and Comprehensive Plan. Most of these areas, however, exist within the incorporated areas of the City of Tallahassee. Staff will be proactive in identifying these areas as they are found.

#### **Options:**

1. Accept staff's report on Council of Neighborhood Associations' recommendations regarding Residential Preservation.
2. Direct staff to develop an ordinance for Board consideration that amends the Land Development Code to require additional notice requirements for land use changes (Comprehensive Plan amendments and rezonings). Concurrent with the proposed ordinance, develop a proposed fee resolution that increases notification fees to offset an additional County costs of the new requirements.
3. Direct staff to amend the Land Development Code to require a 100- foot wide buffer between single-family residential development and light industrial uses, develop alternative buffering requirements that may reduce buffering less than 100 feet, and schedule the appropriate public hearings.
4. Direct staff to work with CONA to develop the framework for an Urban Design Committee process, functions and composition for Board consideration.
5. Direct staff to identify options for buffering standards for all uses adjoining single-family residential land use for future Board consideration.

6. Direct staff to develop proposed fee increases for rezoning and Comprehensive Plan amendments. If the Board directs staff to increase fees, a detailed analysis and specific recommendations will be provided to the Board for final action.
7. Direct staff to develop an informal neighborhood pre-application review process for developments and land use changes for Board consideration.
8. Board direction.

**Recommendation:**

Options #1, 2, 3, 4, 5, 6 & 7.

**Attachments:**

1. August 21, 2006, Letter from CONA.
2. City Long Range Target Issue Committee's Response to CONA's Recommendations.
3. CONA Response to the May 8, 2007 Board Agenda

PA/VSL/WT



# MEMORANDUM

*Tallahassee-Leon County  
Planning Department*

DATE: November 20, 2006  
TO: Honorable Chairman and Members of the Board  
FROM: Wayne Tedder, Planning Department Director *WT*  
SUBJECT: CONA Recommendations Regarding Residential Preservation

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As you are aware, the Council of Neighborhood Associations (CONA) has submitted recommendations (Attachment #1) to ensure greater awareness of land use change proposals (Comprehensive Plan amendments and rezonings) and other recommendations that they feel would provide greater protection of the community's neighborhoods. In an effort to begin dialogue with CONA, I have provided a response to their recommendations (Attachment #2). My staff will also be meeting with representatives from CONA to address the neighborhood protection issues that you approved to be a part of the Comprehensive Plan Evaluation and Appraisal Report (EAR) that must be transmitted to the Department of Community Affairs (DCA) by July 2, 2007. Some of CONA's issues are very similar to those issues identified in the EAR scoping process and must be addressed in the EAR.

The recommendations from CONA will require policy direction by both the Board and the City Commission. The City Commission's Long Range Target Issue Committee consisting of Commissioners Gillum and Lightsey are in the process of reviewing the recommendations and providing staff direction.

Please let me know if you have any questions regarding this matter.

WT/cg  
Attachments

- cc: Parwez Alam, County Administrator
- Anita Favors Thompson, City Manager
- Vincent S. Long, Deputy County Administrator
- Michael Wright, Assistant City Manager
- Herb Thiele, County Attorney
- Jim English, City Attorney



August 21, 2006

RE: CONA Suggested Protections for the Residential Preservation Land Use Category

Dear Commissioner Gillum:

The Tallahassee / Leon County Council of Neighborhood Associations (CONA) has established a committee to develop policies intended to strengthen Residential Preservation categories in the Tallahassee-Leon County Comprehensive Plan. CONA will recommend these policies to the Leon County and Tallahassee City Commissions. The recommendations will include amendments to the Comprehensive Plan's Land Use Element and ordinances related to land use regulations. A CONA representative has already met with your planning staff to discuss ways we might initiate and implement a planning process that can help us maintain our quality of life as Tallahassee continues to grow.

CONA has strongly supported the city and county's efforts to promote quality neighborhoods. Between 1990 and 2005, the city and county, with our support and encouragement, added numerous policies that recognize the importance of neighborhoods and the importance of protecting them from commercial encroachment, incompatible land uses on their borders, and incompatible design standards. Our only regret at this point is that more specific standards have not been added.

Your staff suggested that we work through the coming Evaluation and Appraisal Report (EAR) process to address our concerns. While we intend to participate in this process, we also believe that Comprehensive Plan goals and policies 2.1, 2.1.1, 2.1.2, 2.1.3, 2.1.4, 2.1.5, and 2.1.6 do an excellent job of creating the basis for the type of detail we seek. The EAR process provides an opportunity to enhance these goals and policies. We have also examined the current neighborhood planning process which, while useful, is only advisory and does not contain the type of enforceable protections we seek. In addition, we believe that Residential Preservation can be strengthened by modifying current land use regulations.

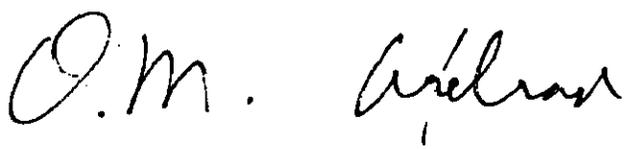
Our members met to discuss this situation after meeting with your staff as noted above. We believe work with your staff should begin immediately to address the following

issues: (1) expanding of the notice requirements involving use changes from 500 feet to at least 1,500 feet, and from 21 calendar days in advance to 30 calendar days in advance; (2) giving a 30 day notice of any use changes to affected registered neighborhood associations; (3) increasing buffers from 30 feet to at least 100 feet with a two-story height limit and 200 feet with a three-story height limit; there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise; these requirements should follow the land regardless of ownership; (4) requiring setbacks and minimum vegetation to be retained on individual lots; (5) requiring compatible design standards; (6) restricting commercial encroachment into residential neighborhoods; and (7) restricting ancillary uses of religious facilities.

Further, fees for rezoning and Comprehensive Plan amendments intended to change Residential Preservation to any other category are too low. Fees that change uses from residential to commercial should be higher, and fees should increase with the size of the parcel. Finally, changing a Residential Preservation category to any other category should require "super-majority" votes of the City (4-1) and County (5-2) Commissions.

We would like your guidance and support to immediately begin the process to put into place the protections we seek as quickly as possible. Above all else, we want to avoid having another 15 years pass before meaningful and specific neighborhood protection strategies are put into effect. We look forward to hearing from you at your earliest convenience. Thank you for your time and consideration.

Sincerely



Don Axelrad, President  
Tallahassee / Leon County Council of Neighborhood Associations (CONA)

And representatives from the following neighborhoods:

- |                      |                       |
|----------------------|-----------------------|
| Arendell Hills       | Lafayette Oaks        |
| Betton Hills         | Lafayette Park        |
| Brandon Woods        | Myers Park            |
| Charter Oak/Dellview | Northwest Tallahassee |
| Greater Brandt Hills | Old Town              |
| Hartsfield Village   | Southeast Leon County |
| Jake Gaither         | Waverly Hills         |

Cc: Wayne Tedder

Response to CONA  
Suggested Protections for the Residential Preservation Land Use Category

Below are the recommendations that CONA has provided in response to protecting Residential Preservation areas in the City and County. Planning Department staff has reviewed the recommendations and provided a response to each of the recommendations. Staff has provided possible solutions where appropriate.

1. Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).
2. Give a 30 day notice of any use changes to affected registered neighborhood associations.
3. Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit: there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.
4. Require setbacks and minimum vegetation to be retained on individual lots.
5. Require compatible design standards.
6. Restrict commercial encroachment into residential neighborhoods.
7. Restrict ancillary uses of religious facilities.
8. Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.
9. Require a super-majority vote of the City (4-1) and County (5-2) Commissions for properties that proposing to be removed from the Residential Preservation Land Use Category.

Planning Department Response:

1. Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).

Often times, land use changes do affect areas larger than 500 feet from the request site. However, such impacts beyond the 500 feet are generally related to only additional traffic within the area. It would be appropriate to increase the notice along access routes to the request site for a distance of 1,500 feet. However, such distances should not be required if the site is separated by a major collector and/or arterial road. If notification requirements are increased, then staff would recommend increasing the notification fees included in the application.

It should be noted that a notice of all rezonings are sent to CONA ([CONA@econa.org](mailto:CONA@econa.org)) in an effort to broaden notice requirements. Staff will also send a notice of all Comprehensive Plan Amendments to CONA in the future. CONA could assist staff in providing and maintaining an active email distribution list of all neighborhood associations so that all associations receive the notices directly.

2. Give a 30 day notice of any use changes to affected registered neighborhood associations.

Approximately 4 years ago the City and County reduced the notification of items that must appear before the Planning Commission from 30 days to 21 days. This was an effort that addressed concerns from the development community who indicated that the permit and development approval time took too long. While the notice period for Planning Commission meetings is only 21 days, the notice for the City and County Commission meetings is at least 30 days.

3. Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit; there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.

Residential Preservation 1 and 2 (RP-1 and RP-2) zoning districts allow maximum building heights of 35 feet. It is possible to achieve up to 3-story homes in these districts. It is my understanding that the reason for the requested buffers was to ensure privacy of adjoining residential preservation properties. The current buffer standards in the zoning code are based on compatibility rather than privacy. The more incompatible the use is, then more buffering is required.

Smart growth principles encourage more intense development in areas where infrastructure is available. Additionally, smart growth principles encourage goods and services within walking distance of neighborhoods. Where these goods and services are located near neighborhoods, they need to be integrated with the community and not be blight in the community. Great design standards are key to addressing this issue. The Neighborhood Boundary Future Land Use Map Category (and Neighborhood Boundary Office Zoning District) addresses many of the compatibility standards. The flaw may simply be that before neighborhoods accept these uses adjacent to their neighborhoods, they actually want to see exactly how they will fit in their community. I believe we need for CONA to verify and approve the list of standards that are included in the Neighborhood Boundary Category, generate additional standards that may be needed to address outstanding issues, and then address the process that will provide assurance to neighborhoods that all issues will be addressed before any land use changes are made.

Buffers for light industrial land uses adjacent to residential areas should be increased. The current minimum standard is a 30-foot wide Type D buffer. A buffer of 100 feet wide for these types of uses adjoining residential areas is appropriate. Buffer standards for regional (or greater than immediate community) commercial uses may also need to be addressed. However, there needs to be a very strong interconnection (vehicular and pedestrian) from the surrounding residential areas to the commercial uses.

4. Require setbacks and minimum vegetation to be retained on individual lots.

See response to #5 below.

5. Require compatible design standards.

Every neighborhood is unique. It would be an impossible task for the City and County to develop standards for each neighborhood. In existing neighborhoods, this issue should be addressed by the individual neighborhood to ensure compatibility with the rest of the neighborhood. The Planning Department could assist CONA with a boilerplate of compatibility factors such as height, setbacks, orientation (building and parking), etc. Such standards could be incorporated into NOA covenants and restrictions.

See response to Number 3 above for design standards for developments adjacent to the Residential Preservation communities.

6. Restrict commercial encroachment into residential neighborhoods.

In order to address this issue, a well-defined set of criteria needs to be established that defines what a neighborhood means. To some, it means a more broad area than their subdivision. To others, it means only their subdivision. Smart growth principles mean that we place goods and services close to neighborhoods. If planned correctly, the services could be placed in the center of the neighborhoods. New and larger developments have the ability to plan ahead and include these "town centers." The Planning Department does not support placing non-residential uses in the middle of platted and stable residential subdivisions. However, there are occasions where services are most appropriate at the edges of such subdivisions, especially along collector and arterial roadways. We must look toward opportunities that encourage smart growth. The Neighborhood Boundary category provides for these opportunities. This category also provides significant design standards when adjacent to residential areas.

7. Restrict ancillary uses of religious facilities.

Many districts, including the Residential Preservation category, limits intensity of non-residential uses in terms of impervious surface area. For example, a 2 acre parcel is limited to only 40% impervious area (34,848 square feet – This includes building and parking). Accessory uses are limited to 33% of the principle structure. It would be possible to have a 10,000 square foot building on a 2 acre site and 3,300 square feet could be dedicated as an ancillary use. If the site is 20 acres, then 348,480 square feet of the site could be impervious. Likewise, it could be possible to place a 100,000 square foot building on the site and include a 33,000 square foot accessory use.

In order to address the potential size of accessory uses, a possible solution is to establish a building maximum size and ancillary use size. Please note that adding such restrictions could make a number of previously approved land uses non-conforming. I do not support increasing the number of nonconforming uses unless there is a clear and broad consensus that the community desires to see the uses removed from the property. This is a significant challenge and may not be productive to address.

8. Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.

The current fees included in applications do not cover staff time necessary to process the applications and the public notification required. Rezoning application fees (Approx. \$1,300 and up) are more costly than Comprehensive Plan Map amendment fees (\$200). Because Senate Bill 360 (Legislation adopted in 2005) requires additional reporting requirements for Map amendments, staff is recommending that the applicant complete the additional requirements (i.e., concurrency analysis, water and sewer studies, school concurrency, etc.) at time of application submittal. Therefore, it is expected that such applications will cost more to complete. Even under this scenario, the current fee structure will not cover the costs to process and notice the applications.

9. Require a super-majority vote of the City (4-1) and County (5-2) Commissions for properties that proposing to be removed from the Residential Preservation Land Use Category.

This is a policy issue that will need to be addressed by the City and County Commissions.

There are additional concerns

There are areas that should not be designated as Residential Preservation. There are large parcels that are not a part of any subdivision. Some of these parcels are located along collector and arterial roads and could serve as infill development opportunities. Additionally, there are a number of properties that are designated as Residential Preservation, but the uses and/or densities are not consistent with the Residential Preservation category or zoning districts. These uses are deemed to be nonconforming and as such limits reinvestment opportunities on these properties. Essentially, lending institutions will not grant loans for rehabilitation work or for use changes (i.e., selling an existing commercial building for another commercial use) when the use is nonconforming with the Zoning Code and Comprehensive Plan.

There should be a clear distinction between Residential Preservation 1 and 2 zoning districts in the Comprehensive Plan. The Residential Preservation Future Land Use Map category allows up to 6 dwelling units per acre. Additionally, the Comprehensive Plan identifies low density residential as 0-8 dwelling units per acre. Therefore any Residential Preservation zoning district (including PUD's) that is consistent with the uses and densities of the Residential Preservation Land Use category is consistent with the Comprehensive Plan. However, the use and the density could be "different" or more intense than the surrounding residential preservation properties.

**Long Range Target Issue (LRTI) Committee Response to CONA's  
Suggested Protections for the Residential Preservation Land Use Category**

Below are the recommendations that CONA has provided in response to protecting Residential Preservation areas in the City and County. Planning Department staff reviewed the recommendations and provided a response to each of the recommendations before the LRTI Committee.

The LRTI Committee reviewed the responses and provided the following direction:

**CONA Suggested Protections for the Residential Preservation Land Use Category**

1. Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).
  2. Give a 30 day notice of any use changes to affected registered neighborhood associations.
  3. Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit: there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.
  4. Require setbacks and minimum vegetation to be retained on individual lots.
  5. Require compatible design standards.
  6. Restrict commercial encroachment into residential neighborhoods.
  7. Restrict ancillary uses of religious facilities.
  8. Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.
  9. Require a super-majority vote of the City (4-1) and County (5-2) Commissions for properties that proposing to be removed from the Residential Preservation Land Use Category.
- 
1. Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).

**Long Range Planning Target Issue Committee Response:** Forward this issue to the full Commission for direction/action.

2. Give a 30 day notice of any use changes to affected registered neighborhood associations.

**Long Range Planning Target Issue Committee Response:** No change in the current time span was directed. Planning Department will provide notices through email to the CONA distribution list.

3. Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit; there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.

**Long Range Planning Target Issue Committee Response:** Staff should look at buffer requirements between multi family and light industrial adjacent to residential areas. Staff should obtain a better description of the problem from CONA . Staff was directed to ask CONA to list the zoning districts that are problematic. Staff was directed to consider increasing the buffer based on light versus heavy traffic land uses.

4. Require setbacks and minimum vegetation to be retained on individual lots.

**Long Range Planning Target Issue Committee Response:** See response to number 5 below.

5. Require compatible design standards.

**Long Range Planning Target Issue Committee Response:** Do not direct staff to address this issue. However, in order to address the recent trend to subdivide lots in previously platted neighborhoods, staff was directed to prepare an ordinance to address this particular issue.

6. Restrict commercial encroachment into residential neighborhoods.

**Long Range Planning Target Issue Committee Response:** This issue will be discussed at a future LRTI Committee meeting.

7. Restrict ancillary uses of religious facilities.

**Long Range Planning Target Issue Committee Response:** This issue will be discussed at a future LRTI Committee meeting.

8. Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.

**Long Range Planning Target Issue Committee Response:** This issue will be discussed at a future LRTI Committee meeting.

9. Require a super-majority vote of the City (4-1) and County (5-2) Commissions for properties that proposing to be removed from the Residential Preservation Land Use Category.

**Long Range Planning Target Issue Committee Response:** Do not take action on this issue.

10. Additionally, CONA has suggested that TLCPD should stop processing any amendments to the RP land use category until the EAR is finished.

**Long Range Planning Target Issue Committee Response:** Do not take action on this issue.

**Additional Concerns Identified by Staff**

*There are areas that should not be designated as Residential Preservation. There are large parcels that are not a part of any subdivision. Some of these parcels are located along collector and arterial roads and could serve as infill development opportunities. Additionally, there are a number of properties that are designated as Residential Preservation, but the uses and/or densities are not consistent with the Residential Preservation category or zoning districts. These uses are deemed to be nonconforming and as such limits reinvestment opportunities on these properties. Essentially, lending institutions will not grant loans for rehabilitation work or for use changes (i.e., selling an existing commercial building for another commercial use) when the use is nonconforming with the Zoning Code and Comprehensive Plan.*

**Long Range Planning Target Issue Committee Response:** This issue will be addressed, in part, through a current Comprehensive Plan amendment application review. Additionally, staff will be working with CONA to identify areas within the Residential Preservation Future Land Use Map category where nonconforming uses are located.

*There should be a clear distinction between Residential Preservation 1 and 2 zoning districts in the Comprehensive Plan. The Residential Preservation Future Land Use Map category allows up to 6 dwelling units per acre. Additionally, the Comprehensive Plan identifies low density residential as 0-8 dwelling units per acre. Therefore any Residential Preservation zoning district (including PUD's) that is consistent with the uses and densities of the Residential Preservation Land Use category is consistent with the Comprehensive Plan. However, the use and the density could be "different" or more intense than the surrounding residential preservation properties.*

**Long Range Planning Target Issue Committee Response:** In order to address the recent trend to subdivide lots in previously platted neighborhoods, staff was directed to prepare an ordinance to address this particular issue.

**CONA's Comments on Staff Response to Our Recommendations**

**Recommendation #1:**

Expand the notice requirements for land use map changes (and rezonings) from 500 feet to at least 1,500 feet and from 21 calendar days in advance to 30 calendar days in advance of the first public hearing (Planning Commission).

**Staff Response:**

Often times, land use changes do affect areas larger than 500 feet from the request site. However, such impacts beyond the 500 feet are generally related only to additional traffic within the area. It would be appropriate to increase the notice along access routes to the request site for a distance of 1,500 feet. However, such distances should not be required if the site is separated by a major collector and/or arterial road. If notification requirements were increased, then staff would recommend increasing the notification fees included in the application.

It should be noted that the Planning Department has recently developed an automatic electronic notice system where all interested citizens can get copies of all rezoning and Comprehensive Plan amendment notices. Staff has worked with CONA to ensure the membership is aware of this system. It is hoped that this new system will alleviate the need to increase the notification requirements.

**CONA's Comments:**

The exception for major collector and/or arterial roads seems reasonable. So does increasing notification fees. Distances under 1,500 feet may be appropriate for land use changes that affect areas other than Residential Preservation. Although the electronic notification system is a positive development, it may take some time to make the citizens aware of its existence and to correct some of its major technical problems. Further, all of our citizens do not have Internet access, and many are not represented by neighborhood associations. Everyone deserves written notification when a development would affect a person's neighborhood. Timeliness is another issue. Notifications should go out when these items are filed, not just when they appear on an agenda.

**Recommendation #2:**

Give a 30-day notice of any use changes to affected registered neighborhood associations.

**Staff Response:**

Approximately 4 years ago the City and County reduced the notification of items that must appear before the Planning Commission from 30 days to 21 days. This was an effort that addressed concerns from the development community who indicated that the permit and development approval time took too long. While the notice period for Planning Commission meetings is only 21 days, the notice for the City and County Commission meetings is at least 30 days.

**CONA's Comments:**

The notice period of 30 days would not unduly burden the development community. The City and County may want to consider this period for major projects such as Planned Unit Developments.

**Recommendation #3:**

Increase buffers from 30 feet wide to at least 100 feet wide with a two-story height limit and 200 feet with a three-story height limit: there should also be requirements for fencing, vegetation, and other features which will mitigate the effects of traffic, lighting, and noise.

**Staff Response:**

It is staff's understanding that the reason for the requested buffers was to ensure privacy of adjoining residential preservation properties. The current buffer standards in the zoning code are based on compatibility rather than privacy. The more incompatible the use, the more buffering is required.

Smart growth principles encourage more intense development in areas where infrastructure is available. Additionally, smart growth principles encourage goods and services within ¼ mile walking distance of neighborhoods. Where these goods and services are located near neighborhoods, they need to be integrated with the community and not be a blight in the community. Great design standards are key to addressing this issue. The Neighborhood Boundary Future Land Use Map Category (and Neighborhood Boundary Office Zoning District) addresses many of the compatibility standards. The flaw may simply be that before neighborhoods accept these uses adjacent to their neighborhoods; they actually want to see exactly how the uses will fit into their community. CONA has been asked to verify and approve the list of standards that are included in the Neighborhood Boundary Category, identify any additional standards that may be need to be address, and then identify a process that will provide assurance to neighborhoods that all issues (building mass/size, orientation, lighting, access, buffers, signs, noise, dumpster building design) will be addressed before any land use changes are made. Upon identification of these issues, staff can forward to the Board for appropriate action.

Buffers for light industrial land uses adjacent to residential areas should be increased. The current minimum standard is a 30-foot wide Type D buffer. A buffer of 100 feet wide for these types of uses adjoining residential areas is appropriate. County Growth and Environmental Management staff has suggested that the Board also consider alternative buffering requirements (instead of a 100 feet wide buffer) such as berms, fences, and walls. In instances where adequate visual and sound buffering is provided, buffering widths could be reduced to widths less than 100 feet. Buffer standards for regional (or greater than immediate community) commercial uses may also need to be

addressed. However, there needs to be a very strong interconnection (vehicular and pedestrian) from the surrounding residential areas to the commercial uses.

**Staff Recommendations:** Direct staff to amend the Land Development Code to require a 100 foot wide buffer between single-family residential development and light industrial uses and develop alternative buffering requirements that may reduce buffering less than 100 feet. It is also recommended that the Board direct staff to identify options for buffering standards for all other uses adjoining single-family residential land use for future Board consideration.

**CONA's Comments:**

Current buffer standards do not ensure compatibility; and privacy is just one component of compatibility. The Neighborhood Boundary Office category is not a substitute for adequate buffers that would ensure compatibility. While CONA and neighborhood representatives would be glad to review planning staff's options for more robust buffers, we do not have the time or expertise to revise the Neighborhood Boundary Office category.

A buffer of 100 feet between residential and light industrial is a good start. A similar buffer between residential and other uses might also be appropriate. In some cases, 100 feet may not be far enough. Remember that 100 feet is about the length of three Star Metro buses. Planned Unit Developments might be more acceptable to some neighborhoods if they came with buffers exceeding 100 feet.

**Recommendation #4:**

Require setbacks and minimum vegetation to be retained on individual lots.

**Staff Response:**

The concern of CONA is that new development in established neighborhoods may not be consistent with the remainder of the neighborhood. The County's Residential Preservation zoning district requires new development within an existing recorded or unrecorded subdivision to be consistent (housing type, setbacks, and density) with the previously approved development. The City's land development code does not have the specific protection measures as contained within the County's code. Therefore, it appears that the concern should be more focused on the City's land development code.

**CONA's Comments:**

CONA and neighborhood representatives should work with staff to propose revisions in the City's land use development code to make it similar to the County's code regarding development consistency, including setbacks, minimum vegetation, housing type, and density.

**Recommendation #5:**

Require compatible design standards.

**Staff Response:**

Every neighborhood is unique. It would be an impossible task for the City and County to develop standards for each neighborhood. Within existing neighborhoods, this issue should be addressed by the individual neighborhood to ensure compatibility with the rest of the neighborhood. The Planning Department could assist CONA with a boilerplate of compatibility factors such as height, orientation (building and parking), etc. If the compatibility standards are not already provided within a neighborhood's covenants and restrictions, such unique standards could be incorporated into each neighborhood's covenants and restrictions. Planning staff may be able to assist in the creation of a recommended format for these design restrictions in homeowners' association restrictive covenants; however, it is important that homeowners' associations bear in mind that it is a long-standing County policy that restrictive covenants are not taken into consideration during County review of any proposed project. Restrictive Covenants are private contracts between the property subject to them, and it is the responsibility of the homeowners' association to enforce the terms of the Restrictive Covenants.

**CONA's Comments:**

Neighborhoods without homeowners associations typically do not have restrictive covenants. Staff and CONA should develop "boilerplate" minimum standards that could be modified for each neighborhood. Then there should be a mechanism whereby each neighborhood could adopt an enforceable "neighborhood plan." In addition, City and County land use development codes should be amended to say that agreements between neighborhoods and developers are binding.

**Recommendation #6:**

Restrict commercial encroachment into residential neighborhoods.

**Staff Response:**

In order to address this issue, a well-defined set of criteria needs to be established that defines what a neighborhood means. To some, it means a more broad area than their subdivision. To others, it means only their subdivision. Smart growth principles mean that we place goods and services close to neighborhoods. If planned correctly, these services could be placed in the center of the neighborhoods. New and larger developments have the ability to plan ahead and include these "town centers." The Planning Department does not support placing non-residential uses in the middle of platted and stable residential subdivisions. However, there are occasions where services are most appropriate at the edges of such subdivisions, and central to multiple Residential Preservation neighborhoods, especially along collector and arterial roadways. The County must look toward opportunities that encourage smart growth. The Neighborhood Boundary Future Land Use Map category provides for these opportunities. This category also provides significant design standards when adjacent to residential areas.

As part of the Comprehensive Plan reform process, the Planning Department developed a new Future Land Use Map category – Village Mixed Use. This category provides for an appropriate mixture of uses (residential and non-residential) and appropriate design standards to integrate these uses. The Planning Department is currently drafting a

Traditional Neighborhood Design (TND) ordinance to fully implement this category. Staff intends to make the TND standards eligible in any mixed-use category as well as in single-use developments where such standards are desired. It is anticipated that the TND ordinance will be completed by December 2007.

**CONA's Comments:**

The Village Mixed Use category addresses new development, not commercial encroachment near well established neighborhoods. Stronger buffer requirements are needed to provide adequate separation between residential and commercial uses.

**Recommendation #7:**

Restrict ancillary uses of religious facilities.

**Staff Response:**

Religious facilities are permitted in all zoning districts. It is customary that religious facilities have ancillary uses such as day care facilities, broadcast studios, etc. Ancillary uses are not permitted with religious uses where such facilities have access only to local streets. Therefore, it appears that this concern is related only to religious uses that have access to arterial and collector roads where it is anticipated large traffic volumes occur or are expected.

While some districts provide intensity levels for non-residential uses, the County's Residential Preservation zoning district does not appear to provide such limitations. The City's Residential Preservation zoning districts limit intensity of non-residential uses in terms of impervious surface area. For example, a two-acre parcel is limited to only 40% impervious area (34,848 square feet – that includes building and parking). Accessory uses are limited to 33% of the principle structure. It would be possible to have a 10,000 square foot building on a two-acre site and 3,300 square feet could be dedicated as an ancillary use. If the site is 20 acres, then 348,480 square feet of the site could be impervious. Likewise, it could be possible to place a 100,000 square foot building on the site and include a 33,000 square foot accessory use.

While the County's land development code does not provide any intensity limitation for non-residential uses within the Residential Preservation zoning district, default limitations exist in the form of landscaping and natural area requirements. The County's land development code requires 25% natural area and 25% of the developed portion of the site to be landscaped. Therefore, it appears that approximately 56% of a Residential Preservation zoned parcel can be developed for permitted non-residential uses. Based on comparison with the City's standards, it appears that greater intensities could be achieved in the County's Residential Preservation zoning district.

In order to address the potential size of accessory uses, a possible solution is to establish a building maximum size and ancillary use size. Please note that adding such restrictions could make a number of previously approved land uses non-conforming. Staff does not support increasing the number of nonconforming uses unless there is a clear and broad consensus that the community desires to see the uses removed from the property. This

issue is a significant challenge and may not be productive to address. It should be remembered that the Comprehensive Plan does not allow religious facilities to have ancillary uses where the site only has access to a local street. Given the access limitations, the remaining issue may be the development of appropriate buffering between the uses. If the Board accepts staff's recommendations, then such buffering standards will be analyzed and brought before the Board for appropriate action.

**CONA's Comments:**

Better buffering may help, but size limitations should be explored. Nobody suggests that religious institutions should be banned from Residential Preservation. However, these institutions should be compatible with their neighborhoods. Size restrictions for ancillary uses should be explored. Regulation of ancillary uses should also occur even if there is access to arterial and collector roads.

**Recommendation #8:**

Increase rezoning and Comprehensive Plan map amendment fees for properties proposing to be removed from the Residential Preservation Land Use Category.

**Staff Response:**

The current application fees do not cover staff time and expense necessary to process the applications and the public notification required. Rezoning application fees (\$250) are higher than Comprehensive Plan Map amendment fees (\$200). Because Senate Bill 360 (Legislation adopted in 2005) requires additional reporting requirements for Map amendments, staff has instituted procedures that require the applicant to complete the additional requirements (i.e., concurrency analysis, water and sewer studies, school concurrency, etc.) at time of application submittal. Therefore, it is expected that such applications will cost more to complete. Even under this scenario, the current fee structure does not cover the staff costs to review the new data, prepare an analysis, process and notice the applications. Likewise, significant staff time is required to review and process rezoning applications. The current application fee (\$250) does not cover the cost of staff time necessary to process and advertise applications.

**Staff Recommendation:** Staff recommends a significant increase in all rezoning and Comprehensive Plan amendment application processing fees. If the Board directs staff to increase fees, a detailed analysis and specific recommendations will be provided to the Board for final action. It should be noted that the Comprehensive Plan has been in existence for 16 years now and the potential for unintended consequences has declined significantly. A provision for Board waiver of fees can be included in any fee increase so that the Board may right any injustice in fee charges for any unintended consequences that may come up in the future – or any other hardship that may become evident in processing a particular application.

**CONA's Comments:**

We concur with raising application fees to cover the cost of regulation. However, to justify this increase, staff should fully and specifically document the cost of providing

these services and the need for any increase. Further, the revenue from these fees should not be directed to other governmental services.

**Recommendation #9:**

Require a super-majority vote of the City (4-1) and County (5-2) Commissions for properties that proposing to be removed from the Residential Preservation Land Use Category.

**Staff Response:**

This is a policy issue that will need to be addressed by the City and County Commissions. However, the County Attorney's office has raised concerns regarding equal protection if changes from the Residential Preservation categories are treated differently than other land use categories.

**CONA's Comments:**

CONA and neighborhood representatives should discuss this issue with the County Attorney and the City Attorney. Legal arguments regarding equal protection are too varied and complex to discuss here. Perhaps a super-majority should be required to change any land use category.

**Recommendation #10:**

Additionally, CONA has suggested that the Planning Department should stop processing any amendments to the Residential Preservation land use category until the Evaluation and Appraisal Report (EAR) is finished.

**Staff Response:**

Staff believes that this request is putting too much detail emphasis on the EAR amendments. The EAR and resulting amendments to the Comprehensive Plan are policy statements and should not be regulatory in nature. The issues brought forward by CONA (and incorporated within the EAR) are predominantly regulatory in nature and can be addressed by code changes if necessary. Any cessation in processing land use plan amendments could very well unjustly penalize a sound request for an amendment.

**CONA's Comments:**

CONA thought it was a reasonable request. However, the adoption hearing is only a few weeks away (May 22), so this is moot.

**Additional Concerns of Residential Preservation Areas Identified by Staff**

There are areas that should not be designated as Residential Preservation. There are large parcels that are not a part of any subdivision that are designated as Residential Preservation. Some of these parcels are located along collector and arterial roads and could serve as infill development opportunities. Additionally, there are a number of properties that are designated as Residential Preservation, but the uses and/or densities are not consistent with the Residential Preservation category or zoning districts. These uses are deemed to be nonconforming and, as such, limit reinvestment opportunities on

these properties. Essentially, lending institutions will not grant loans for rehabilitation work or for use changes (i.e., selling an existing commercial building for another commercial use) when the use is nonconforming with the Zoning Code and Comprehensive Plan. Most of these areas, however, exist within the incorporated areas of the City of Tallahassee.

**CONA's Comments:**

There should be a comprehensive review of these parcels in order to evaluate whether or not they should be included in Residential preservation.