

## **AN OPEN RESPONSE TO CONA'S "CLARIFICATION" OF ITS ANTI-UDO POSTCARD**

**Steve Volan, Member, District VI, City Council**

Wednesday, November 13, 2019

The so-called Council of Neighborhood Associations (CONA) recently mailed an incendiary postcard to core neighborhood residents inveighing against the Unified Development Ordinance (UDO) now working its way through the City Council. I and several other members of the Council and the public have called them out for this card, which appears to violate the IRS rules against lobbying by 501(c)(3) not-for-profits. CONA issued a "Clarification" to Council on Nov. 10 going into detail about its postcard.

This is my response to their "Clarification," which I find no less unsubstantiated than their postcard. All quotes below are from their document, in order in which they appear.

CONA also supports incremental growth and respectfully considers the proposed changes to zoning to be a significant alteration to current zoning, and one worthy of public notice to encourage opportunities for discourse and collaboration in our vision for the future.

The point of the UDO overhaul is to "significantly alter" current zoning — for the better. It has been exhaustively publicly noticed, including a postcard mailing to every property owner in the city, in compliance with state law. There have been literal years of opportunities for discourse; CONA veterans have been at most of them.

CONA is concerned that the Unified Development Ordinance was presented to the Plan Commission and sent to City Council for a vote within a few short months. This was in contrast to the Visioning Statement and Comprehensive Plan Process which took years to develop with the input of many stakeholders and hours of community input. This is not a way to build a sense of community, civic involvement and neighborhood pride (Goal 5.2). CONA supports the Goal and Policies in the 2018 Comprehensive Plan, p. 30, Policy 1.6.2: "Develop and operate government services that maximize transparency and public engagement."

The first public meeting for the UDO update was held on February 6, 2018. Many more public meetings were held. By the time the new UDO is codified, it will have taken two years from start to finish.

Complaining about how little time there was to consider legislation is a time-honored tactic of those who oppose it. If CONA had its way, we'd never get a review of city code done.

[Many] goals and policies in the UDO conflict with those of the Comprehensive Plan.

CONA got many changes into the Comprehensive Plan, mostly through Councilmember Sturbaum. If goals and policies conflict, it could be because CONA created the conflicts. CONA also likes to pretend that their fingerprints are not on the conflicts between the Comp Plan and the UDO.

In October 2019, CONA mailed an educational postcard to the residents who will be most affected by the proposed zoning changes.

CONA, as noted in my earlier response to this document, really should rename itself the League of Core Neighborhoods. They do not represent the entirety of the city; before their posting of the “Clarification”, their site had been dormant for years.

CONA begins here to attempt to back up the claims of its postcard:

***Single-Family Zoning Could be Eliminated in Bloomington...Duplexes and triplexes are proposed for all single-family zones except Residential Estate, effectively eliminating single-family zoning as it currently exists in Bloomington.***

This claim implies that *only* plexes will be allowed from now on; allowing “plexes” does not remove permission to build single-family houses. Nor is the City looking to raze whole streets and replace houses with plexes.

The core neighborhoods readily acknowledge that duplexes, triplexes and quadplexes exist among the single-family houses without trouble. Such housing types should be an option again.

The current UDO draft proposes to allow increasing the occupancy load from three to nine in R1-R3 and twelve in R4 single-family zones. Again, this would effectively eliminate single-family zoning as it is currently understood and enforced in Bloomington.

Once again, allowing duplexes does not prevent simplexes. Meanwhile, CM Piedmont-Smith’s Amendment 3 would reduce bedroom counts to 2 per unit — a change I support.

***National developers have their eyes on this zoning change and have already contacted local real estate companies.***

In public comment at Plan Commission and City Council hearings on the UDO, residents provided numerous examples in which they personally received multiple offers to buy their homes from out-of- state callers or by mail. One local realty

company drove an outside investment company representative around looking for neighborhoods to invest in. The owners of the house at the SW corner of Henderson and Grimes have received numerous letters asking to purchase their house. Now their daughter, who lives there, is being hounded on her cell phone by people wanting to buy the house. She has no idea how they got her cell phone number.

“Contacting” local companies or homeowners is a far cry from “offering” to purchase, let alone making a legitimate offer or resulting in a sale. This evidence is anecdotal and proof of nothing. CONA’s references supporting this point are to the Comprehensive Plan and to an article about the effects of student housing on a community, a topic we are all very familiar with, and mentions nothing new.

We already strongly control the spread of student housing, and nothing in this new UDO brings back the bad old days where rows of houses could be torn out and replaced with megaplexes. Piedmont-Smith’s Amendment 5 even prevents the tearing out of a single house for a plex.

***If you are a renter, the proposed changes may well cause your rent to rise. OR your landlord may decide to sell to developers, and you will be displaced***

This claim is so vague as to be meaningless. Rents rise all the time without changes in code. Landlords sell to developers all the time; they also sell to owner-occupants like me.

These are things that could happen *regardless of changes to code*. Furthermore, exactly zero people who spoke against plexes during the Council meeting where Chapter 3 was presented were renters. Owner-occupants want exactly zero more renters in their neighborhoods; they are not aligned with renters.

If a developer buys a rental property as a speculator, the house may be converted to a multiplex or demolished and a market-rate multiplex built in its place. This eliminates the naturally occurring affordability of an aging single-family rental.

The term “multiplex” is misleading. There’s a profound difference between 2-, 3- and 4-plexes, which are served by city sanitation and are eligible for neighborhood parking permits, and buildings of 5 units or more. But “multiplex” lumps them all together, so that nothing but simplex housing can be acceptable. Meanwhile, this statement is as speculative as it accuses all housebuyers of being.

When luxury development is encouraged in low-income neighborhoods, the value of surrounding properties rises too, and along with it the rents. Long-term tenants as well as low-income migrants then suffer from either higher rent burdens — the percentage of incomes paid to rent — or displacement to another neighborhood, another city, or another region entirely.

This description of the *Jacobin* article implies that core neighborhoods like Prospect Hill are “low-income.” It also implies that all new development is “luxury”, a term of marketing art. If all new housing is “luxury”, it becomes easier to argue that nothing should ever be built because it might displace someone.

*If you are an owner, your property taxes will increase as your property will be valued more and your quality of life may well go down.*

County council member Geoff McKim spoke during the October hearings of the UDO chapters to point out that Indiana, thanks to its constitutional tax caps, does not have a taxing system that will cause this outcome. None of the clarification that follows this claim is relevant to it.

*If you are thinking of buying a starter home, you will be competing with developers with deep pockets looking to convert the house into multiple rental units.*

This is perhaps the most disingenuous point made by CONA. People who are thinking of buying a starter home in a core neighborhood are competing with CONA members who own rentals in these neighborhoods. If CONA is so eager to help starter-home buyers, **let them sell their holdings to worthy owner-occupants** before they make this claim.

It is already difficult to find an affordable starter home in Bloomington. But the predictable market driven demand for up-zoned rental property will create more demand for these previously single family zoned houses. When rents are approximately \$800 per bedroom and now 6 to 9 bedrooms are conditionally allowed on a property, the property values will increase.

Not if CM Piedmont-Smith’s Amendment 3 passes. Then the maximum possible will be 4 to 6 bedrooms.

CONA respectfully requests that Council Members follow the goals and policies of the Comprehensive Plan and “Continue to support and promote affordable home ownership as another method of permanent affordability that can help to raise and keep residents from poverty while they build equity and security in the local community.”

I’ll follow this advice from CONA as soon as its leaders demonstrate that they’re following it — by selling their rentals.

Finally, CONA supports eliminating the possibility of duplexes and triplexes by citing the following policies of the Comprehensive Plan:

P. 63, Policy 5.2.1: “Evaluate all new developments and redevelopments in light of their potential to positively or adversely impact the overall health and well-being of the people who live in the surrounding neighborhood.”

A new duplex in a neighborhood where duplexes exist cannot be an “adverse” impact. Citing this goal simply says that CONA thinks duplexes are bad. Duplexes are not bad.

P. 63, Policy 5.2.3: “In historic neighborhoods and districts, preserve or enhance authentic design characteristics, such as building form, by encouraging new or remodeled structures to be historically compatible with the neighborhood and adjacent structures.”

It is possible for new construction to preserve authentic design characteristics or to be historically compatible; part of the point of the new UDO is to get closer to those characteristics.

P. 64, Policy 5.3.1: “Encourage opportunities for infill and redevelopment across Bloomington with consideration for increased residential densities, complementary design, and underutilized housing types such as accessory dwelling units, duplex, triplex, and fourplex buildings, courtyard apartments, bungalow courts, townhouses, row houses, and live/work spaces. Avoid placing these high density forms in single family neighborhoods.”

The final sentence in this policy was added by CM Sturbaum. If I had known that this sentence alone would be cited more often than any other policy in the Comp Plan by opponents of plexes, I would never have supported it. The sentence, by the way, says “avoid”, not “prohibit.” Plan Commissioners thought it contradictory to the rest of the policy in their deliberations. This is CONA putting its thumb on the scale. Here is a policy CONA conveniently ignores, on p. 63: Policy 5.1.2: Establish affordable housing in locations with close proximity to schools, employment centers, transit, recreational opportunities, and other community resources to increase access.”

P. 61, Housing Trends and Issues: “Bloomington’s older urban, small scale, compact, single-family housing stock located primarily around the city center and university provide some of the city’s more affordable housing stock and must be protected.”

Protected from what? From a conversion of a simplex house to a duplex? Maybe a duplex gone condo so that there can be two owners? We are already protecting it from the depredations of the 70s and 80s. I represent the district where the majority of those depredations occurred. You're never going to see another Terra Trace or Poolside Apartments, let alone in your damn neighborhood.

P. 84, Land Use Development Approvals: "A few locations may support increases in density and multifamily residential uses when adjacent to higher volume roads, or near major destinations, or located along neighborhood edges that may support small-scale neighborhood mixed uses. It is important to protect the existing single-family housing stock within this district. The conversion of dwellings to multifamily or commercial uses should be discouraged."

This paragraph was the subject of Comp Plan Amendment 157, authored by CM Rollo. It was adopted by consent agenda in January 2018, meaning there was no discussion on it and was accepted verbatim. The last phrase, "should be discouraged," replaced this phrase: "should carefully balance market demand with overall neighborhood integrity towards single-family residential." The original language was perfectly fine; had I known CONA would cite this to thwart the conversion of a simplex house to duplex, I would have called it out of the consent agenda and voted against it.

## **Conclusion**

CONA supports those goals and policies of the Comprehensive Plan selected to support their belief that single-family neighborhoods should not change in any way. They do not voice explicit support for Goal 1.5 Resilience, the community's need to "adapt to Bloomington's growth and change." They are certainly not concerned about Goal 5.1 Housing Affordability, as the protesters already own their homes in core neighborhoods and therefore can afford them. They are fighting Goal 5.3 Housing Supply tooth and nail.

Most significantly, they are ignoring 5.4 Neighborhood Stabilization: "Promote a variety of homeownership and rental housing options, mitigate against unforeseen eviction and rapid price changes, and promote opportunities for community interaction that are also aimed towards different stages of life, ages, and household incomes." In their utter fear of undergraduates and developers and new construction, they wish to deny the opportunities for other families and non-undergraduates to enjoy the benefits of their neighborhoods.

CONA does not speak for renters. CONA does not speak for starter-home buyers. CONA speaks only for owners of homes close to the center of town where everyone else would like to be, so afraid of another renter that they're trying to build a moat and pull up the drawbridge. This is not the way to set housing or land use policy in Bloomington. # # #

## Clarification on CONA Informational Mailing to Core Neighborhood Residents

November 10, 2019

The Council of Neighborhood Associations (CONA) supports the formation of neighborhood associations, provides advocacy for neighborhood issues and concerns, and aspires to make neighborhoods in Monroe County safe, welcoming and desirable places in which to live. Based on this mission statement, CONA supports the stated goals of the 2018 Bloomington Comprehensive Plan:

- (p. 60): “With greater density in the city comes the challenge to preserve neighborhood character and the opportunity to strengthen neighborhoods by developing small commercial nodes as community gathering places. Existing core neighborhoods should not be the focus of the city’s increasing density.”
- (p. 61) “Bloomington’s older urban, small scale, compact, single-family housing stock located primarily around the city center and university provide some of the city’s more affordable housing stock and must be protected. Building a growing stock of affordable housing requires assuring sustainability so unaffordable stock is not the only option for future generations.”
- (p. 64) Goal 5.2 Housing Planning and Design: “Guide growth, change, and preservation of residential and business areas through planning policies that create and sustain neighborhood character and green space, and that build a sense of community, civic involvement, and neighborhood pride.”

CONA supports increased housing density, Accessory Dwelling Units, and growth in parts of the city that can benefit from new housing options. CONA also supports incremental growth and respectfully considers the proposed changes to zoning to be a significant alteration to current zoning, and one worthy of public notice to encourage opportunities for discourse and collaboration in our vision for the future.

CONA is concerned that the Unified Development Ordinance was presented to the Plan Commission and sent to City Council for a vote within a few short months. This was in contrast to the Visioning Statement and Comprehensive Plan Process which took years to develop with the input of many stakeholders and hours of community input. This is not a way to build a sense of community, civic involvement and neighborhood pride (Goal 5.2). CONA supports the Goal and Policies in the 2018 Comprehensive Plan, p. 30, Policy 1.6.2: “Develop and operate government services that maximize transparency and public engagement.”

The proposed Bloomington Unified Development Ordinance (UDO) will profoundly impact Bloomington residents in the core neighborhoods. But many of goals and policies in the UDO conflict with those of the Comprehensive Plan. In October 2019, CONA mailed an educational postcard to the residents who will be most affected by the proposed zoning changes. CONA felt this was critical because citizens have received little information from the Herald Times or other sources about the proposed UDO.

The mailing was based on sources of information which may be different from, but are no less authoritative than, the sources of information cited by advocates for changing the zoning across the city. The following sections provide clarification and sources for the content of the postcard. CONA invites you to read through the articles listed on the CONA website which provide an extensive foundation supporting the information included on the postcard.

### **Single-Family Zoning Could be Eliminated in Bloomington...**

**Duplexes and triplexes are proposed for all single-family zones except Residential Estate, effectively eliminating single-family zoning as it currently exists in Bloomington.**

The proposed UDO lays out new residential single-family zones (RE, R1, R2, R3, & R4), each containing multi-family uses. The R4 zone even references multi-family buildings larger than 4-plexes. Although the new R4 zone will not be mapped until the spring, the city planning department will not make any commitment that R4 will not be placed within established neighborhoods. The UDO codifies the uses for these zones, as well as all other zones, regardless of when and where these zones are placed on the new map.

Single-family zones have been limited to three unrelated people per single-family lot since the time of Mayor Tomilea Allison. The current UDO draft proposes to allow increasing the occupancy load from three to nine in R1-R3 and twelve in R4 single-family zones. Again, this would effectively eliminate single-family zoning as it is currently understood and enforced in Bloomington.

Covenants may protect many newer subdivisions for now, but covenants expire. It will be up to the neighborhoods to challenge violations which this up-zone encourages, costing time and money for residents. If the violations are not challenged, the covenants can be ruled in court to be invalid, which would eliminate covenant protection in that neighborhood.

**Reference:**



- <https://www.huduser.gov/portal/sites/default/files/pdf/DisplacementReport.pdf> Preserve existing affordable housing. Normally market forces increase housing supply to meet demand from demographic changes, and rents of older units decrease with time and obsolescence in a process known as filtering down. Since the turn of the century, however, the supply of affordable rental units has shrunk despite rapid growth in the number of very low-income renters.
- <https://jacobinmag.com/2017/08/new-urban-crisis-review-richard-florida> Geographer David Harvey has argued that the biggest shift in urban economies over the last forty years has been the move from [managerialism](#) to [entrepreneurialism](#). City governments that once provided services for their residents in the form of welfare and infrastructure now market themselves to global pools of capital, tourists, and educated workforces.

**National developers have their eyes on this zoning change and have already contacted local real estate companies.**

In public comment at Plan Commission and City Council hearings on the UDO, residents provided numerous examples in which they personally received multiple offers to buy their homes from out-of-state callers or by mail. One local realty company drove an outside investment company representative around looking for neighborhoods to invest in. The owners of the house at the SW corner of Henderson and Grimes have received numerous letters asking to purchase their house. Now their daughter, who lives there, is being hounded on her cell phone by people wanting to buy the house. She has no idea how they got her cell phone number.

**Reference:**

- City of Bloomington Comprehensive Plan: (p.62) “These older homes are generally well built and have distinctive architectural features. They also often have smaller footprints compared to more modern homes. As seen in communities across the nation, this can lead to the phenomenon of people purchasing these homes purely for their desirable urban locations and tearing down the existing structure to make way for a brand-new home, which often features an excessively large footprint and a contemporary architectural style. Such homes may not fit into the context of their surroundings and can negatively impact the fabric of the entire neighborhood. This can lead to the

large-scale loss of a community's historic integrity and also the loss of affordable housing stock.”

- <https://shelterforce.org/2019/09/06/the-role-student-housing-plays-in-communities/>

For landlords, student rentals are an incredibly lucrative real estate opportunity as students pay by the room, allowing landlords to charge more per square foot as there are several roommates paying a monthly rent. As a website for real estate investors recently noted, “a home that might rent for \$1,000 a month to a single family could be rented by the room for nearly twice that.” In addition, students sign one-year leases so rents can be raised each year if the market allows. For neighbors, student housing can be disruptive as students keep different hours and enjoy different activities than their neighbors, such as late-night parties. And for real estate markets near college campuses, student housing can be transformative as investor capital competes with homeowners, making it so sale prices and rents increase. Local governments in college towns across the country are adopting proactive strategies to gain a measure of control over the spread of student housing and limit negative impact on real estate markets and affordable housing stock supply near college and university campuses.

***If you are a renter, the proposed changes may well cause your rent to rise. OR your landlord may decide to sell to developers, and you will be displaced***

Displacement is a direct result of up-zoning. Historically, houses around the university have been valued by occupancy load. When the occupancy load increases, it is likely that the amount of rent will increase on the next lease cycle. When five unrelated people per house was the limit, the rent was based on five, regardless of bedroom count. If a developer buys a rental property as a speculator, the house may be converted to a multiplex or demolished and a market-rate multiplex built in its place. This eliminates the naturally occurring affordability of an aging single-family rental.

#### **Reference:**

- Comprehensive Plan (p. 65) “Evaluate new development and redevelopment proposals with the goal of minimizing displacement of lower income residents from Bloomington neighborhoods and from the city as a whole.”
- <https://shelterforce.org/2018/11/05/heres-what-we-actually-know-about-market-rate-housing-development-and-displacement/> Studies show that market-rate housing development is linked to the mass displacement of

neighboring low-income residents (Davidson and Lees 2005, 2010; Pearsall 2010). Numerous studies show that market-rate housing development has price ripple effects on surrounding neighborhoods, driving up rents and increasing the burden on lower-income households.

- <https://jacobinmag.com/2019/06/the-zone-defense> When luxury development is encouraged in low-income neighborhoods, the value of surrounding properties rises too, and along with it the rents. Long-term tenants as well as low-income migrants then suffer from either higher rent burdens — the percentage of incomes paid to rent — or displacement to another neighborhood, another city, or another region entirely.

***If you are an owner, your property taxes will increase as your property will be valued more and your quality of life may well go down.***

Bloomington has already experienced an abrupt change from single-family to multi-family housing in the 1970's under Mayor Frank McCloskey. Allowing five unrelated people to live together in a single-family house created a massive conversion of single-family homes into student rentals, which resulted in a loss of community in the core neighborhoods close to Indiana University due to displacement of low-income (non-student) renters and multi-generational homeowners.

The occupancy rates were lowered in 1985 under Mayor Tomilea Allison. Those changes supported single-family zoning and resulted in stable neighborhoods that are dense and diverse in both housing types and income levels of owners and renters. Many of these neighborhoods already have a high percentage of rental property that is affordable and desirable for renters and are the city's source of less expensive starter homes. Up-zoning is how neighborhoods transition into predominantly rental neighborhoods.

“Neighborhood factor” is a variable used by the county to calculate the assessed value of the property on which the property taxes are based when an upward or downward trend is perceived in a neighborhood. If a property is modified to be a duplex, these modifications will indicate an uptick in the trend of the neighborhood. Adjacent properties will “benefit” from these changes by having their taxes adjusted upwards.

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**Reference:**

- <https://www.architecturaldigest.com/story/property-taxes-what-makes-them-go-up> “We find that property tax bills jump higher when there have been a number of sales in the neighborhood,” says Jeff Miller, cofounder of [AE Home Group](#). More sales mean an increase in the assessed value of properties in the area because, well, it's proof positive that the neighborhood is more desirable —so the properties are too. Ergo, Jeff says, your property tax bill will go up. For the same reason, nearby construction can increase your home’s value too, including the addition of such amenities as parks, golf courses, or lakes, for example.
- <https://beltmag.com/richard-florida-cant-let-go/> Quote from Richard Florida: “In little more than a decade, the revitalization of our cities and our urban areas that I had predicted was giving rise to rampant gentrification and unaffordability, driving deep wedges between affluent newcomers and struggling longtime residents.”

***If you are thinking of buying a starter home, you will be competing with developers with deep pockets looking to convert the house into multiple rental units.***

It is already difficult to find an affordable starter home in Bloomington. But the predictable market driven demand for up-zoned rental property will create more demand for these previously single family zoned houses. When rents are approximately \$800 per bedroom and now 6 to 9 bedrooms are conditionally allowed on a property, the property values will increase.

A house can be purchased by a homeowner or an investor. Zoning limiting occupants to 3 unrelated adults keeps costs down for both the owner and renter. An up-zone essentially prices out the owner/buyer and drives these neighborhoods toward rental-dominated areas. Starter homes will have to be found in the aging suburbs or Ellettsville and surrounding areas which will increase use of cars and carbon footprint for home owners.

Reference:

- <https://jacobinmag.com/2019/06/the-zone-defense> The rezonings many mayors are pushing, though vast in scale, cannot be mistaken for comprehensive plans; they are, in fact, more often abdications of planning to the market... In most iterations, inclusionary zoning is triggered by an up-zoning — or an increase in development capacity — in areas already at risk of

gentrification. This creates a windfall profit for affected landowners, who are then allowed to build something big and glitzy with far more rent-producing units than whatever stands on their lots today. Without doing anything, they can sell the land for a great deal more than it was worth prior to the rezoning, thus speculating off the value the city has gifted them. Ultimately, inclusionary zoning is a real estate strategy, not a social program. It is part of a larger turn away from public housing or even public subsidy and toward market-based planning strategies. It neither decomodifies housing nor limits landlord power.

- <https://jacobinmag.com/2017/08/new-urban-crisis-review-richard-florida>  
When the rich, the young, and the (mostly) white rediscovered the city, they created rampant property speculation, soaring home prices, and mass displacement. The “creative class” were just the rich all along, or at least the college-educated children of the rich.

CONA respectfully requests that Council Members follow the goals and policies of the Comprehensive Plan and “Continue to support and promote affordable home ownership as another method of permanent affordability that can help to raise and keep residents from poverty while they build equity and security in the local community.”

CONA requests and supports amendments to eliminate zoning that permit multiplexes to be built in the core neighborhoods, BOTH by-right and conditional use in order to meet the following policy statements in the Housing and Neighborhood section of the 2018 Comprehensive Plan:

- P. 63, Policy 5.2.1: “Evaluate all new developments and redevelopments in light of their potential to positively or adversely impact the overall health and well-being of the people who live in the surrounding neighborhood.”
- P. 63, Policy 5.2.3: “In historic neighborhoods and districts, preserve or enhance authentic design characteristics, such as building form, by encouraging new or remodeled structures to be historically compatible with the neighborhood and adjacent structures.”
- P. 64, Policy 5.3.1: “Encourage opportunities for infill and redevelopment across Bloomington with consideration for increased residential densities, complementary design, and underutilized housing types such as accessory dwelling units, duplex, triplex, and fourplex buildings, courtyard apartments,

bungalow courts, townhouses, row houses, and live/work spaces. Avoid placing these high density forms in single family neighborhoods.”

- P. 61, Housing Trends and Issues: “Bloomington’s older urban, small scale, compact, single-family housing stock located primarily around the city center and university provide some of the city’s more affordable housing stock and must be protected.”
- P. 84, Land Use Development Approvals: “A few locations may support increases in density and multifamily residential uses when adjacent to higher volume roads, or near major destinations, or located along neighborhood edges that may support small-scale neighborhood mixed uses. It is important to protect the existing single-family housing stock within this district. The conversion of dwellings to multifamily or commercial uses should be discouraged.”

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