



Preserving and Conserving the Nature of the Neighborhood

P.O. Box 17702 / Raleigh, NC 27619

Frequently Asked Questions about the Community SCALE/Fallon Park Area Rezoning Case # Z-31-07

Who is Community SCALE?

Community SCALE is a group of your neighbors who live in the Fallon Park/Anderson Heights/Bloomsbury/Kenmore neighborhoods who are concerned about preserving the character and integrity of this neighborhood. SCALE stands for: *Streets that connect people under a Canopy of trees with Architecture of different types and Land preserved for a neighborhood Everyone can enjoy.*

What problems does SCALE want to address?

We are proactively working to preserve the character of the Fallon Park area neighborhoods. The number of homes being torn down and replaced with ***much larger*** houses has accelerated [by 75% over last year alone, according to a 6/10/07 *News & Observer* article], and the National Trust for Historic Preservation notes that teardowns spread rapidly once they start. Until the City Council and City Planning Department can address issues arising from this trend, the only regulatory tool available to the residents of a vulnerable area is zoning. Zoning determines minimum lot size and required setbacks from the street and from neighboring residences.

Most lots in our area are zoned R-4 (4 dwelling units per acre). Exceptions to this on some streets near Fallon Park and Glenwood create a gap between the zoning and the “buildout” of the area. Although these streets are fully built, with mostly generous setbacks and large lots that would conform to R-4 zoning, the zoning is R-6 or R-10. If an area is zoned R-6 or R-10 but is built with front and back yard setbacks deeper than required by the existing zoning, then new buildings could be built closer to adjoining properties and the street than the other houses in the neighborhood. Likewise, if the lot is large enough to subdivide, the higher the zoning, the closer together and the closer to the street the resulting homes can be. Recombination of smaller lots or back yards to allow subdivisions or creation of cul-de-sacs poses a third type of challenge. All these scenarios impact immediate neighbors, the vegetation, runoff, and the street character itself. We maintain that too much of this will affect the nature of our neighborhood and could cause detrimental environmental effects to the watershed in Fallon Park.

What does SCALE propose doing? Where are the affected properties?

We looked into creating a Neighborhood Plan and then applying for Neighborhood Conservation Overlay District (NCOD) zoning, which would tailor the zoning to the neighborhood to add a layer of protection. Among the 21 neighborhoods that already have NCOD protection are Cameron Park, Five Points East, Brookhaven, Mordecai, Avent West, and Oakwood Park. The City Planning Department has had to put the process of creating new neighborhood plans and NCODs on hold while the City revises its Comprehensive Plan, which may take a few years to complete. This leaves neighborhoods lacking important tools to preserve the existing character as teardowns become more prevalent.

The best way we can find to maintain the integrity of the neighborhood is to request rezoning of these streets to a lower density zoning district. Thus, we propose rezoning ***140 properties on portions of Medway, Dunbill, Oxford, Pine, Anderson, Breeze, Hales, Beechridge, and Byrd, a total of 65.98 acres, from R-6 or R-10 to R-4.*** This means any new homes constructed would meet R-4 setbacks rather than R-6 or R-10 setbacks. For the sake of neighborhood consistency, we have included in the proposed rezoning from R-6 to R-4 both Fallon Park and part of the Greenway near Claremont.

Can you tell me more about zoning and setbacks?

Zoning is the legal classification of land into districts. Its purpose is to regulate the land use including the type, placement, setbacks, size of buildings, yard requirements and parking.

R = residential

Number = the number of dwelling units per acre allowed under that zoning district

Setback = the distance between a property boundary and a building or a boundary and the street right of way

Yards / Setbacks / Density / Minimum Lot Size under different zoning districts

Zone	Front yard setbacks	Side yard setbacks	Aggregate side yards setbacks*	Rear yard setbacks	Minimum lot sizes	Dwelling units per acre
R-4	30'	10'	20'	30'	10,890 sq ft	4
R-6	20'	5'	15'	20'	7,260 sq ft	6
R-10	20'	5'	15'	20'	5,000 sq ft	10

* The total of the 2 side yards. There are variations for corner lot side yards.

What uses are allowed in each zoning district?

R-4 will **not** allow group housing, condominiums, townhouses, and multi-family uses **unless** they are part of a Cluster Unit Development (20 acres minimum size).

R-6 & R-10 **will** allow multi-family dwellings, townhouses, condominiums, or group housing and accessory uses.

Special R-6 **will** allow duplex dwellings (14,520 sq. ft. minimum lot size) and Cluster Unit Development (10 acres minimum size).

Will rezoning from R-6 or R-10 to R-4 harm my property values?

In areas such as Country Club Hills, Coley Forest, and Hayes Barton, **R-4 has been a valuable zoning designation.** Thanks to its older homes, mature vegetation, generous green space, and central location, our own neighborhood has enjoyed rising property values, and we think interest in our area will continue to be strong. The prevailing wisdom holds that in Raleigh neighborhoods of single family housing, the lower the density (which also means the larger the lot size and setbacks), the more valuable the property, including areas where the houses are more modest in size.

In a June 17, 2007 New & Observer article, Preservation NC's Myrick Howard notes: **"After oversized houses are built, neighboring property values actually drop in many cases...**The remaining small houses are valued only for their land. Though their land value may marginally increase, often their total market value is reduced. According to a study at the University of Illinois at Chicago, existing properties in close proximity to teardowns in Arlington Heights have lost as much as 24 percent of their value due to the construction of larger and more expensive houses nearby." Sometimes property developers say they can't make a profit unless they build big houses or subdivide properties, but we have seen no data to support this statement. Many developers, builders and renovators blend the old and new and preserve trees to enhance the neighborhood look and feel, which we can all appreciate and enjoy!

What about nonconforming properties?

Throughout older neighborhoods there are nonconforming properties – parcels or lots that are either smaller in area than the zoning allows or whose buildings are set closer to the road or to adjacent parcels than the zoning permits. These properties are "grandfathered" in and considered "legal nonconformities," and nothing is required unless a renovation is done to the property. Many Board of Adjustment cases are requests for variances from residents who have nonconforming side yards. When much of the Fallon Park area was rezoned to R-4 in the mid-1980s, there were non-conforming properties included in the rezoning. Kenmore and Lochmore, two of the charming streets in our neighborhood, have many such properties. Our research indicates there are approximately **10 properties that do not have conforming lot sizes in the area currently proposed for rezoning.**

You may build on a nonconforming size lot as long as you meet the required setbacks for that zoning district **or** get a variance from the Board of Adjustment. R-4 requires a 30' front yard setback, a 30' rear yard setback, and 10' on both sides. In a case where a structure is lost to casualty and requires rebuilding, but the footprint of the old structure does not comply with the required setbacks, the owner would need to ask the Board of Adjustment for a variance to the setbacks. If a nonconforming structure is destroyed by a casualty loss of 50% or more, a Special Use Permit from the Board of Adjustment is required to replace the structure on the same foundation. Without a Special Use Permit, the owner would have to rebuild and conform to the required setbacks required by the zoning district in which that particular property is located.

How difficult is it to get a variance from the Raleigh Board of Adjustment?

We reviewed 1.5 years of variance requests (not including special use permits) and found that from January 2006 to June 2007, 109 variance requests were submitted to the Board. Of these, 92/109 (84.4%) were completely approved. Overall, 97/109 (88.9%) were either completely or partially approved. There is a non-refundable fee of \$200 to file for a variance.

What if I want to sell my property to a person who wants to tear down or subdivide?

There is nothing stopping you from doing that. Should the City Council approve the new zoning, it will help ensure that your neighbors are impacted less by any new development on your property. Under the proposed R-4 zoning, a .50 acre lot would be necessary in order to subdivide. There are other criteria that you would need to discuss with Department of City Planning staff.

What is the timeline for this proposed rezoning?

- **6-15-07** Rezoning petition filed.
- **7-2-07** Letters about the rezoning mailed by SCALE to all subject and adjacent property owners.
- **9-12-07** 5 Points CAC meeting presentation, discussion, and vote on rezoning case.
- **9-18-07** Joint public hearing of City Council and the Planning Commission in City Council Chambers. Owners of subject and adjacent properties (within 100 yards of rezone area) get a notice from the City before the hearing.
- **9-25-07** Earliest date the Planning Commission will make a recommendation.
- **10-2-07** Earliest date the City Council will vote.

What is the cost?

Community SCALE paid **\$500** to file this rezoning petition. There are other administrative (printing, postage, etc.) costs associated with informing neighbors. SCALE committee members have donated much time to research and develop the petition as well as the web site, brochures, and letters. We have accepted and continue to accept *cash and in-kind contributions to help offset filing fee, postage and other cash expenses.*

Who supports this effort?

As a part of this process, SCALE volunteers canvassed every homeowner in the affected area, as well as neighbors in the wider neighborhood, visiting many homes several times to leave information. Although a general use rezoning case does not require a neighborhood meeting or signatures from a certain % of owners, we distributed over 400 brochures, emailed over 200 households and held a meeting in March that over 45 people attended. While a few people said they did not receive the information we left, we have worked diligently to collect input. In early July, we mailed letters to all property owners and adjacent neighbors (as defined by the City) to ensure that everyone is informed. As of 8/15 we have received **statements of support** favoring the rezoning from one or more people living in 160 properties. Of these 160 properties, 61 are subject properties, 39 are adjacent properties (100 feet from subject), and 60 are from the wider neighborhood.

Why are SCALE members concerned about matching the zoning to the “buildout”?

We think efforts to secure the current character through zoning will enhance this neighborhood's desirability. We have this one tool – rezoning - available to help at this time. For a visual of what R-10 and R-6 setbacks look like, you can drive around the area to visit some of the new homes being constructed in these zoning districts. While a whole area built at R-6 or R-10 may look cohesive, homes built to this scale might well look out of place in the areas we have applied to rezone.

Are we trying to control homeowners' property rights?

We think existing homeowners have the same right to protect their investment that new homeowners or absentee homeowners and investors do to maximize their return on their property, and that those who want to remain in their houses have a right to expect development that is compatible with the existing character, including front yards and side yards. With the privilege of owning property is a responsibility to respect neighboring properties. All residential properties in Raleigh already have regulatory controls that govern building heights, setbacks, land use, etc. Zoning districts were applied to neighborhoods during the late 1950s that did not necessarily match the built neighborhoods. Around the 1970s, neighborhoods began to use covenants, which pick up where zoning leaves off to make sure there is harmony in building styles, sizes, etc. Older neighborhoods generally don't have covenants to protect their scale and character. ***We are trying to use the only tool readily available to us to preserve the harmony and character of our older neighborhoods: zoning.***

Zoning is designed to protect the rights of individual property owners while also promoting the general welfare of the community. The following language is from a certified Planning Commission document:

“RECOMMENDATION: That this request be denied. FINDINGS AND REASONS: (1) That although this request is consistent with the Comprehensive Plan's low density land use policy for this neighborhood... , the proposal is not compatible with the subject property or surrounding area. Rezoning, as requested, would permit an intensity of development on the subject property that would negatively impact the character of this older neighborhood. ... [T]he proposed rezoning would result in the creation of lot sizes and setbacks that are not consistent with those of the surrounding neighbors.”

Is there another way to preserve neighborhood character?

Not at this time. The Board of Adjustment addresses renovations when a variance is requested but does not deal with rebuilding. The City Council recently voted to hire a staff person to work on infill issues, but it will be 6-12 months before a review of issues is complete. Although the Neighborhood Plan/NCOD process is on hold, it is possible for Council to approve a special request for neighborhood planning assistance, but this is a much lengthier process than rezoning.

Can historic district designations help?

Somewhat. The listing of a property in the *National Register* places no building restrictions on a private owner using private resources to maintain or alter the property, but there are renovation tax incentives for a privately owned building that is listed in the National Register or is a contributing building in a National Register historic district. *Local historic district designation through the Raleigh Historic Districts Commission* (RHDC) is a different process to protect and enhance the existing character of a community. Through local historic district overlay zoning, a neighborhood is protected from unmanaged change by a review process based on established design guidelines. Teardowns are allowed under both designations. The RHDC can delay demolition within local districts for up to 365 days but cannot deny it unless a property is of statewide significance. New construction in the districts/landmarks must gain RHDC approval before construction permits are issued.

Aren't older homes just too small these days?

Some people will say that older houses are too small for a family of four - but not everyone who wants to live in a house has this size family or can afford a large home. Retaining housing diversity offers singles, couples, and small families the chance to have a reasonably sized house with a yard. SCALE members and supporters represent a diverse group of households that reflects the demographic makeup of our neighborhood. We see the need for homes of various sizes and prices, already well represented by the existing housing stock in many of Raleigh's established neighborhoods.

Don't we need to address the issue of sprawl?

Will higher density zoning and multi-family housing help with that? Isn't this an environmental issue?

There is an inherent tension between sprawl and neighborhood redevelopment. Part of that tension involves environmental questions. Replacing single units with much larger homes or multi-family housing within well established neighborhoods is disruptive for those already living in the neighborhood (change in the landscape and character; added construction noise and traffic) and also affects storm water runoff and transportation and sewer systems. The Crabtree Creek branch in Fallon Park feeds the Neuse River, and teardowns and higher density impact the already significant runoff that spills over into the flood plain. There is also an impact on landfills and local water consumption and problems disposing of hazardous materials found in old homes. Some experts say density can be better addressed in areas undergoing complete redevelopment or in undeveloped or underdeveloped land peripheral to established neighborhoods.

In his June 17 N&O article, Myrick Howard notes "...a larger home consumes more materials and energy than a small home over its entire lifecycle -- from its construction to its demolition...You can heat, cool and operate a house for nearly a half-century with the energy that goes into its construction. When an existing house is torn down, the energy deficit is even greater. The older home contains millions of Btu's of embedded energy -- natural resources that have already been "paid for." And, a 6/28/06 National Trust for Historic Preservation speech notes, "Tearing down a smaller house to build a bigger one simply adds square footage, not population density."

What can I do to help?

You can sign a **statement of support**, contact your neighbors, make a donation, write letters to City Council, attend hearings and meetings, and let us know if you can help with mailings, phone calls, and other projects.

Is there more information?

More information can be found at SCALE's web sites, including the rezoning petition and statement of support form. Contact the Department of City Planning for information about your individual property.

Web sites: <http://fallonparkzone.googlepages.com>
<http://communityscale.googlepages.com> or www.communityscale.com

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