

*The following is the text only of a petition filed by three SCALE members on June 15, 2007, seeking to rezone 140 properties in the Fallon Park/Anderson Heights/Bloomsbury neighborhoods from R-6 and R-10 to R-4. The subject properties are primarily residential lots, with two City of Raleigh park properties.*

**I. Consistency of the proposed map amendment with the Comprehensive Plan (www.raleighnc.gov).**

**A. Please state which District Plan area the subject property is located within and the recommended land use for this property:**

The subject property is located within the University District Plan. The recommended plan for the property is suburban residential. The University District Plan, adopted as a supplement to the Comprehensive Plan in February 1985, identifies Fallon Park/Anderson Heights as an area whose conservation is important to the City and for which proper zoning is recommended. The proposed R-4 zoning would be a continued step in implementation of the University District Plan.

In the 1979 Comprehensive Plan, Objective I of the Goals is “To provide for a high quality of life in both new and old neighborhoods.” Objective V of the Goals is “To adopt a plan for land use concerned with ... preventing future blight.”

The proposed R-4 zoning would be a continued step in implementation of the University District Plan, and is consistent with these two stated Objectives.

**B. Please state whether the subject property is located within any adopted Regional Center Plan, Small Area Plan, Corridor Plan, Neighborhood Plan, Watershed Plan, Streetscape Plan, Redevelopment Plan or other City Council-adopted plans and policies and discuss the policies applicable to future development within the plan(s) area.**

The subject property is not located within any of the above referenced types of plans.

**C. Is the proposed map amendment consistent or inconsistent with the Comprehensive Plan and other City Council-adopted plans and policies?**

The proposed amendment is consistent with the Comprehensive Plan (see Paragraph I-A above).

**II. Compatibility of the proposed map amendment with the property and the surrounding area.**

**A. Description of land uses within the surrounding area (residential housing types, parks, institutional uses, commercial uses, large parking lots, thoroughfares and collector streets, transit facilities):**

The subject property is within/part of a larger neighborhood of low density, single-family dwellings. A variety of popular housing styles from the

1920s through the present day are represented, and many of the older homes have been preserved and enhanced with improvements that are consistent with their original architecture. The result is a neighborhood of structures with pleasing diversity and compatibility. The neighborhood has potential historical significance, due to the fact that it contains the childhood residences of at least two North Carolina writers of international renown, namely, Reynolds Price and Anne Tyler.

The neighborhood is immediately adjacent to an elementary school and a church with a related elementary school, all of which have associated/related parking. Except for Fallon Park and the Crabtree Greenway, the subject property is primarily developed at an R-4 or lower density. Of the 135 privately owned residential parcels, only 10 are less than ¼ acre according to the Wake County property records, and one of these is a .05 acre unbuildable parcel whose title is held by the neighboring homeowner. There are no known multi-family units within the areas requested to be rezoned to R-4. Surrounding development is primarily residential at R-4 with the exception of the former Whitaker Park Apartments property which is being redeveloped with single-family detached dwellings at a density of approximately 5 units per acre.

Topographically, the neighborhood consists of rolling hills, with some steep areas along the edges of Fallon Park, with meadows adjacent to the creeks. Sections of both park areas are thickly wooded, and the neighborhood as a whole contains many mature hardwoods, poplars and pines, with an understory of dogwoods and redbuds. Along the creek it is not uncommon to see mallard ducks, blue herons and kingfishers.

Oxford Road is a collector street, Anderson Drive is a minor thoroughfare, and Glenwood Avenue is a major thoroughfare.

**B. Description of existing Zoning patterns (zoning districts including overlay districts) and existing built environment (densities, building heights, setbacks, tree cover, buffer yards):**

Surrounding properties are predominately R-4 and are fully developed with single-family detached dwellings. East of Medway Drive, the former Whitaker Park Apartments (21.24 acres) have been rezoned from a combination of R-10, R-15 and R-20 CUD to R-10 CUD, and are being redeveloped with single-family detached dwellings at a density equivalent to approximately 5 units per acre. R-6 is located south of Pine Drive and west of the Crabtree Greenway area on Claremont Road; both are fully developed with single-family detached dwellings on lots/parcels greater than 1/6 acre. R-6 is also located in the Beechridge/Hales/Breeze area with single-family detached dwellings on 1/6 acre and larger lots/parcels. J.Y. Joyner Elementary School is zoned R-10 and Our Lady of Lourdes Catholic Church and playing fields are zoned R-6. Front yards throughout the larger neighborhood are generally greater than the 30 foot

minimum setback for R-4. The large majority of the lots are rectangular in shape, with the short side of the rectangle facing the street.

**C. Explanation of how the proposed zoning map amendment is compatible with the suitability of the property for particular uses and the character of the surrounding area**

The proposed amendment corrects existing zoning, making the uses, density and setbacks conform more closely to the existing development. The proposed amendment will establish a minimum lot size and minimum setbacks that will help to maintain the existing desirable characteristics of this unique, established and stable neighborhood. The density and setbacks of the proposed/requested R-4 zone are consistent with both the areas to be rezoned and the larger neighborhood in which they are located. For the existing park and greenway, R-4 zoning creates zoning consistency between these public open spaces and the neighborhood, and is otherwise neutral with respect to use of these parcels for park purposes, so that they can continue to be an integral part of the neighborhood. The Raleigh Parks and Recreation Department has indicated that it would not object to rezoning of Fallon Park and the Crabtree Greenway areas to R-4.

**III. Benefits and detriments of the proposed map amendment.**

**A. For the landowner(s):**

The proposed amendment will benefit the landowners by helping to assure the stability of the neighborhood through maintenance of its highly desirable character. Individual owners will be assured that development on adjacent parcels will be compatible and not negatively impact them. Minimum front and sides yards will assure that additions to or replacements of existing structures will not further encroach into the existing yards.

Existing property owners and those purchasing property in already developed and stable residential neighborhoods have a reasonable expectation of the character remaining the same. The proposed amendment supports this expectation in the Fallon Park/Anderson Heights/Bloomsbury areas, without removing a normal range of flexibility.

The current housing market encourages larger single-family houses in this highly desirable and already established neighborhood. The proposed zoning to R-4 will limit encroachment into existing side yards by only 5 feet and into existing front yards by 10 feet. This is a reasonable impact on development rights to maintain the existing value of all properties in this neighborhood. Variance may be requested where encroachment into setbacks may be justified in isolated situations.

A possible detriment for a minority of owners is that, there appear to be approximately 30 parcels with adequate area and width to **possibly** subdivide or redevelop for multi-family dwellings under the current zoning. However, the current market for parcels in the Fallon Park/Anderson Heights neighborhood currently zoned R-4 suggests that R-4 properties are valued more highly than R-6 or R-10 parcels, and that rezoning to R-4 would not decrease property values.

It is generally accepted that large lots, quiet streets and tree cover yield higher property values. Local exhibits in evidence are Hayes Barton, White Oak Road, Country Club Hills, and Coley Forest neighborhoods. This scenario also holds true in neighborhoods where the houses are more modest in size.

Empirical evidence indicates that when a neighborhood undergoes redevelopment at higher densities, owners of the first properties affected may experience the returns on sale of real estate. However, the rest of the neighborhood soon finds that the resulting change in character negatively affects the market values of remaining properties.

To a great extent, except for “location,” the value of a neighborhood is based on the existing character of that neighborhood. Development which threatens or destroys that character decreases livability and concomitant values for existing property owners and, potentially, for the entire city. Redevelopment in Fallon Park/Anderson Heights/Bloomsbury at R-6 or R-10, allowable under the current zoning, might benefit a few landowners, but would come at the expense of many. It is settled in North Carolina law that “The whole concept of zoning implies a restriction upon the owner’s right to use a specific tract for a use profitable to him but detrimental to the value of other properties in the area, thus promoting the most appropriate use of land throughout the municipality, considered as a whole.” *Blades v. City of Raleigh*, 280 N.C. 531, 546 (1972). This amendment is in keeping with that precedent.

#### **B. For the immediate neighbors**

The proposed amendment will benefit immediate neighbors by reducing the potential of higher density, incompatible land uses, and increased land coverage. The amendment will help assure that any development or redevelopment is compatible with the existing character of the neighborhood and thereby assure stability of the neighborhood. Fallon Park, Crabtree Greenway, and the general environment will benefit by maintaining existing setbacks and density, potentially reducing impermeable surfaces and stormwater runoff.

The amendment would minimize possible adverse impact on streets and utility lines that might occur with redevelopment under the current R-6 and R-10 zoning. Such redevelopment could congest the area’s narrow streets, increase

flows in the sewer lines, crowd the small neighborhood park, and further overload the area's already overloaded storm drainage system. These adverse effects would be detrimental to the Anderson Heights/Fallon Park/Bloomsbury neighborhoods, surrounding neighborhoods, and the general public. In the immediate area, major storms during the past few years have resulted in flooding of Oxford Road, Anderson Drive, the Crabtree Creek Greenway, Fallon Park, and the Lady of Lourdes playing field. It is a recurring problem, that would worsen incrementally in conjunction with higher density development in the area. On a larger scale, drainage into the Fallon Park flood plain from major weather events affects all downstream properties (witness, for example, the recent and repetitive massive flooding at Grove Park Apartments just downstream from Fallon Park) and eventually the Neuse River.

An adverse effect of the amendment for adjacent neighbors is that consistent R-4 zoning may make subdivision or recombination more challenging for the owners of some parcels.

**C. For the surrounding community:**

The Fallon Park/Anderson Heights neighborhood and the City will benefit from the increased stability of the neighborhood as well as the environmental benefits of reduced land coverage and maintenance of trees. Also see above comments about stormwater drainage.

In looking at both this unique neighborhood and the bigger picture, tree preservation and reduced impervious surfaces protect at-risk bird populations, improve air quality, and reduce global warming. All of these issues are vital to the quality of life in our community.

The requested change in zoning will benefit the community at large by helping assure the continued existence and stability of this older, sound, desirable residential neighborhood.

**IV. Does the rezoning of this property provide a significant benefit which is not available to the surrounding properties? Explain:**

This amendment is designed to benefit the majority of property owners of both the subject parcels and the adjacent ones. The benefits of this amendment are maintenance of the highly desirable characteristics of the neighborhood. These same benefits will inure to both the subject property and the surrounding R-4 properties. To a great extent, these benefits will also attach to the few adjacent (non-subject property) areas that are zoned R-6 and R-10.

The areas proposed to be rezoned are fully developed with uses, density and setbacks consistent with the proposed R-4 district. Correction of the zoning

will help assure the stability of these areas and will not decrease individual property values. Therefore it is in the public interest to make this correction.

**Explain why the characteristics of the subject property support the proposed map amendment as reasonable and in the public interest.**

The amendment is designed to eliminate the current gap between the existing zoning and the build-out. It is the petitioners' position that this gap creates a neighborhood vulnerability to potential redevelopment that is inconsistent with neighborhood character and scale.

**V. Recommended items of discussion (where applicable).**

The subject areas were developed for single-family detached dwellings, although they were zoned for higher densities and potentially other residential uses. These areas have remained stable through the present. However, increasing development pressures are threatening subdivision of existing parcels as well as combination of parcels for either higher density multi-family housing or for subdivision into smaller parcels for single-family detached dwellings. Rezoning of Fallon Park and the Crabtree Greenway area to R-4 ensures zoning consistency.

**a. An error by the City Council in establishing the current zoning classification of the property.**

The R-6 and R-10 zoning could be viewed as an error because it allows for a higher density and different uses than the development actually reflected when first zoned in the 1959 ordinance.

**b. How circumstances (land use and future development plans) have so changed since the property was last zoned that its current zoning classification could not properly be applied to it now were it being zoned for the first time.**

In addition to the R-4 permitted uses, the current R-6 and R-10 zoning permits many additional uses. Changes in the Raleigh real estate market now encourage re-development in neighborhoods like Anderson Heights/Fallon/Bloomsbury. Re-development in a sound neighborhood has the potential to change the character of the neighborhood and destabilize it. Redevelopment with different uses and at higher densities would conflict with the existing desirable neighborhood and would be detrimental to it. Such changes initiate a domino effect with an uncertain outcome.

Drastic alteration of what has been and is now a healthy neighborhood, and what has the potential to continue to be a healthy neighborhood, even

though residents may change, is not in the interest of either the neighborhood or the city.

For all these reasons, it would be inappropriate for the current zoning classification to be applied to the Anderson Heights/Fallon Park/Bloomsbury neighborhoods now if they were being zoned for the first time.

**c. The public need for additional land to be zoned to the classification requested.**

The need is for zoning to reflect the actual development in stable existing residential areas that should be protected and preserved to maintain their desirable character while ensuring consistency in zoning expectations – in other words, both developers and residents know what to expect.

As a part of this amendment process, petitioners and other volunteers have held an open neighborhood meeting, have canvassed every subject property homeowner, and have mailed information to non-resident property owners. In addition, petitioners and volunteers have visited and mailed or emailed information to residents in the wider neighborhood. More than 400 flyers were delivered, and emails were sent to about 200 addresses. Petitioners are part of the neighborhood group Community SCALE, which has created a web site, in part to facilitate the dissemination of information about rezoning and infill issues, and has encouraged discussion and communication.

At the time of filing this amendment, there are signed statements of support from 69 individuals representing 52 of the subject properties. In the wider neighborhood (and including the subject properties), there are statements of support from 188 neighbors in 124 properties.

**d. The impact on public services, facilities, infrastructure, fire and safety, parks and recreation, topography, access to light and air, etc.**

The amendment will have a positive impact on public services, infrastructure, parks, the environment, and access to light and air by setting minimum lot sizes and setbacks. The amendment will have the effects of (1) stabilizing the amount of stormwater runoff caused by impervious surfaces, thereby avoiding additional threat of flooding from Crabtree Creek overflow, (2) minimizing erosion, (3) encouraging tree preservation and bird habitat, (4) respecting the natural topography of the neighborhood, and (5) recognizing the reciprocal benefit of the availability of light and air to each dwelling in the neighborhood.

Rezoning of Fallon Park and the Crabtree Greenway affirms the protection of these public natural areas for the benefit of all citizens of the city of Raleigh.

For all of these reasons, this amendment is in keeping with the spirit, and the letter of N.C.G.S. sec. 160A-383, which codifies the purposes of zoning regulations.

**VI. Other arguments on behalf of the map amendment requested.**

The requested zoning amendment will provide necessary minimum density and setbacks for future development in the Fallon Park/Anderson Heights/Bloomsbury neighborhoods, but it will not address all of the concerns presented by current redevelopment in this neighborhood and other modest older residential neighborhoods in Raleigh. Additional standards for redevelopment of Raleigh's older neighborhoods must be established to help maintain the integrity of these valuable assets.

Unless the City intends to transformatively redevelop a neighborhood, the zoning should reflect the existing development. Otherwise, a zone with other uses, higher density, and smaller setbacks can destabilize the neighborhood to the detriment of the existing owner/occupants and the City in general. It is therefore in the best interest of City government to support rezoning compatible with the existing development.

When redevelopment does occur, it has the potential to add to the tax base of the City, but it would be unfortunate should that happen while simultaneously eroding benefits to homeowners. Steadily increasing property values are here to stay, with or without redevelopment, and in the neighborhoods addressed by this petition, rezoning can help to ensure that redevelopment is in harmony with what is already in place. It will be to the benefit of all for the City to bring consistency to the land governed by this proposal.