
BROWN PROPERTY

SAMPLE REZONING ISSUE

A Request to Rezone the Brown Property from DR 3.5
to DR 2 to Preserve Quality of Life for Area Residents
& Brown Family Equity in Their Land

This is NOT an actual rezoning issue petition.

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On Behalf Of The

Rolling Acres Community Association

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INTRODUCTION

This is an example of a *Rezoning Issue*: a detailed request to rezone a property through the Baltimore County Comprehensive Zoning Map Process (CZMP)¹. The Brown Property is a 38-acre farm located in Baltimore County. The Rolling Acres Community Association learned that John Brown, who had farmed the property for decades, plans to retire and his children no longer wish to continue farming the land. Instead, they have urged their father to sell the farm so he will have enough money for his retirement years. Many Association members have known Mr. Brown for years and want to find a way to help him meet his financial needs while preserving quality of life for nearby homeowners.

ALTERNATIVES TO REZONING

Rezoning someone else's property is a rather drastic step and should not be undertaken lightly. There are a number of other options for preserving a property in total or partially². These other options should be thoroughly researched before settling on rezoning as your preferred course of action. Following are some of the items of research applicable to the Brown Property. If this were an actual analysis then more steps would likely be included. Also, rezoning analyses are highly property-specific. So the analysis for the property of concern to you would likely differ from that given below.

A. Have you discussed options, including rezoning, for preserving the property in total or in-part with the Baltimore County Community Planner³ assigned to the area?

Yes, the Association has had this discussion. The Community Planner felt that the usual options for farm preservation are not applicable to the Brown Property given that it is located in a rather densely populated area of the County and is served by public water and sewer. However, there is a possibility the NeighborSpace⁴ program might be a source of preservation funds, but this is questionable given the likely high cost of acquiring the Brown Property. The planner felt a case might be made for rezoning the property from the current DR3.5 classification to perhaps DR2, though a number of questions must be answered first.

B. Have you spoken with the property owner about their interest in preserving the property in total or partially?

Several Association members who have known Mr. Brown for years met with him to discuss preservation options. They learned that Mr. Brown really didn't want to sell his

¹ For further information on CZMP visit: <http://www.co.ba.md.us/Agencies/planning/zoning/2008czmp/>

² Preservation options are described in detail in Chapter 16: Open Space Preservation of the free, 300-page CEDS book How To Win Land Development Issues: <http://www.ceds.org/publications.html>

³ To identify the Baltimore County Office of Planning Community Planner for your area visit: http://www.co.ba.md.us/Agencies/planning/community_planning/planners_by_district/index.html

⁴ For further information on NeighborSpace visit the following Office of Planning webpage: http://www.baltimorecountymd.gov/Agencies/planning/community_planning/neighborspace/index.html

farm but his children were quite insistent. The family hopes to sell the farm for the highest amount to cover college tuition for grand kids and to generate the money Mr. Brown will live on once he retires. Association members explored a variety of options for getting the funds the family sought, some of which would likely come quite close to generating the proceeds from selling the farm as DR3.5. These options would ensure the site is developed in a way that preserved existing quality of life for Association members. In the end though one of Mr. Brown's children simply insisted on selling the farm to a development company while still zoned DR3.5. Mr. Brown felt obliged to go along with his family's wishes.

ASSESSING THE IMPACT OF CURRENT ZONING

Following are examples of questions citizens should research to determine how development of the property as currently zoned would impact community quality of life. As you will see, one resource makes this research much easier: the *North County Preservation CZMP Geographical Information System*⁵ (NCP-GIS).

C. What sensitive environmental features exist on the property or in the immediate vicinity?

Using NCP-GIS, the Association learned that there is a stream along the west side of the Brown Property and it flows through County-owned forestland. After talking with Association members who live nearby it was learned that many children play in the Brown Farm stream and a number of adults walk the trails adjoining the stream. CEDS assisted Association members in assessing development impacts. They learned that the watershed of the stream is presently 12% impervious and 15% is the upper limit for a stream that still supports sufficient aquatic life to attract children. If the Brown Property were developed as DR3.5 then imperviousness would rise to 29% and all aquatic life would disappear.

D. What cultural (historic-archaeological) resources exist on the property or in the immediate vicinity?

The County's My Neighborhood Historic⁶ mapping revealed that the Brown home is on the County's Landmarks List. The 170-year old house is in a large open area at the center of the property. If developed as DR3.5, houses would be packed very close and the probability of compromising the historic integrity of the Brown home would be very high.

E. If the property were developed as zoned, would area roads be able to handle the increased traffic without undue impacts?

⁵ The NCP-GIS database was created by North County Preservation which is an invaluable resource to community associations throughout Baltimore County. For information on how you can gain access to this database visit the North County Preservation website at: <http://www.northcountypreservation.org/>

⁶ My Neighborhood Historic mapping can be accessed at the following Office of Planning website: <http://www.co.ba.md.us/Agencies/myneighborhood/historic.html>

There is a single road which provides access to the Brown Property and no other access is possible. There are eleven existing homes along this single access residential street. These eleven homes generate a traffic volume of about 110 trips/day. If the farm were developed as DR3.5 then the number of trips would increase to 1,440 trips/day. A study provided by CEDS⁷ showed the thirteen-fold increase in traffic volume would clearly have a negative effect on residential street safety, noise levels, and property value.

MAKING THE CASE THAT CURRENT ZONING IS NOT APPROPRIATE

Following is an example of some of the questions citizens should consider when seeking to link the impacts of developing a property as presently zoned to some of the factors the County is obligated to consider when deliberating on a rezoning issue.

F. Can you demonstrate that changes have occurred since the property was last rezoned that make the current zoning inappropriate?

Thanks to the NCP-GIS database, Association members learned that an area of DR2 zoned land exists just north of the DR3.5-zoned Brown Property. They also learned the northerly property was rezoned from DR3.5 to DR2 during the 2004 CZMP. Since the Association is considering DR2 as a more appropriate zone for the Brown Property, the rezoning of the northerly property certainly constitutes a change favoring the citizens' position.

G. Alternatively, can you show that the current zoning was a result of some error?

Association members could not identify a mistake or error in how the Brown Property came to be zoned DR3.5.

H. Is the current zoning consistent with the applicable sections of the *Master Plan 2010*⁸, the *Community Plan*⁹ for the area (assuming such a plan exists), and other applicable County policies?

Association members found several inconsistencies between the *Master Plan 2010* and development of the 38-acre farm as DR3.5.

- The following policy appears on page 90 of *Master Plan 2010*:

⁷ One such study is *Residential Noise Damage Costs Caused by Motor Vehicles*, which is among more than 4,000 studies and reports in the *CEDS Responsible Growth Management* library.

⁸ The Baltimore County *Master Plan 2010* can be viewed at the following Baltimore County website: <http://www.co.ba.md.us/Agencies/planning/masterplanning/downloadplanparts.html>

⁹ Community plans adopted by Baltimore County can be viewed at the following Office of Planning website: http://www.co.ba.md.us/Agencies/planning/community_planning/adopted_community_plans/index.html

Increased traffic volumes and vehicular speeds have negatively impacted the livability of many residential communities. Mitigation measures should be taken to ensure that community streets remain safe and compatible with the respective community.

As stated above, should the property develop as DR3.5, traffic volume on the residential access street would go from 110 trips/day to 1,440 trips/day. This thirteen-fold increase in traffic volume would clearly violate this *Master Plan 2010* policy;

- Pages 128-130 of the *Master Plan 2010* sets forth policies for the protection of streams. Allowing development of the 38-acre property as DR3.5 would result in the Brown Farm stream going from a waterway suited for childhood play to a waterway so degraded no aquatic life would remain. This action clearly conflicts with the *Master Plan 2010* policy regarding stream quality preservation.
- Pages 208-213 of the *Master Plan 2010* sets forth policies for the protection of historic resources. Developing the property as DR3.5, would likely result in homes being placed very close to the historic Brown House, which would detract from the setting critical to appreciating the historical significance of this 170-year old home. This action clearly conflicts with the *Master Plan 2010* policy of preserving historic resources.

WHY IS YOUR PROPOSED ZONING CLASSIFICATION MORE APPROPRIATE

To learn about the County's numerous zoning classification and to get the detail needed to judge which may be most appropriate for the property of concern to you, see *A Citizen's Guide to Planning and Zoning*¹⁰.

I. What zoning classification do you propose for the property?

As will be shown in the analyses presented in response to the following questions, Association members believe rezoning the 38-acre property to DR2 would preserve community quality of life while allowing the Brown family to get a large percentage of the same income they would derive from selling the farm as DR3.5.

J. Does the property meet the locational criteria, intent, or other factors set forth in the Baltimore County Zoning Regulations¹¹ (BCZR) for applying your preferred zoning classification to the property?

The BCZR does not distinguish between DR2 and DR3.5 with respect to these criteria and factors. Therefore, DR2 is an appropriate classification.

¹⁰ *A Citizen's Guide to Planning and Zoning*, published by the Office of Planning, can be viewed at: http://www.co.ba.md.us/Agencies/planning/zoning/download_plan_parts.html

¹¹ The *Baltimore County Zoning Regulations* can be viewed online at the following Office of Planning webpage: <http://www.baltimorecountymd.gov/Agencies/law/countycode.html#regs>

K. Is it more likely that the new zoning would preserve sensitive environmental features?

With DR2, no more than 76 homes (compared to 133 as DR3.5) could be built on the Brown Farm. CEDS assisted the Association in evaluating a number of scenarios for how the site could be developed as DR2. Many of these scenarios allow the development of nearly 76 homes but without causing the Brown Farm stream to exceed the critical 15% impervious area threshold for preserving aquatic ecosystem health.

L. Is it more likely that cultural resources would be preserved if the property were rezoned as you wish?

Many of the DR2 scenarios mentioned above for preserving stream quality also left a substantial amount of open space around the historic Brown House. After consultation with the County's historic preservation expert the Association concluded that most of these scenarios would preserve the historic integrity of the 170-year old home.

M. If the property were rezoned as you wish, would traffic volume be more consistent with criteria for minimizing congestion, protecting public safety, and maintaining the tranquility of residential streets?

Developing the site as DR3.5 could result in up to 133 housing units which would generate 1,330 trips/day. When combined with the 110 trips/day generated by the existing eleven homes, there would be thirteen-fold increase in traffic volume on the residential access street. Developing the site as DR2 would nearly cut traffic volume in half, which would dramatically reduce the impact to the residents of the eleven existing homes.

N. Would this classification increase the likelihood that development of the site would be consistent with the *Master Plan 2010*, the *Community Plan*, and other applicable County policies?

Based upon the preceding analysis, rezoning the Brown farm to DR2 would increase compliance with the *Master Plan 2010* and other County policies as follows:

- Traffic volume would be reduced considerably as called for in the following policy appears on page 90 of *Master Plan 2010*:

Increased traffic volumes and vehicular speeds have negatively impacted the livability of many residential communities. Mitigation measures should be taken to ensure that community streets remain safe and compatible with the respective community.

- The reduced impervious area associated with DR2 would keep the watershed at or below the 15% threshold for maintaining a healthy aquatic ecosystem and a stream fit for

childhood play. Therefore, DR2 is more consistent with the *Master Plan 2010* policy calling for preserving stream quality.

- The lower density associated with DR2 means that it is more likely sufficient area could be retained around the Brown house as open space to preserve the historic integrity of this Landmark structure. Therefore, DR2 is more compatible with the *Master Plan 2010* policies regarding the protection of historic resources.
- In addition to the preceding Master Plan policies, Section XIII, on page 22, of the *Baltimore County Bureau of Development Plans Review Policy Manual* limits the number of homes on a single means of access to 100. However, the Hearing Officer does have the authority to waive this limit. It is far more likely an applicant would pressure a Hearing Officer to waive this safety limit if the property is zoned DR3.5 (allowing up to 133 homes) compared with DR2 zoning which only permits a maximum of 76 homes (well below the 100-home limit).
- The *2000 Maryland Stormwater Design Manual*¹² calls for giving special attention to *sensitive streams*, which are those draining watersheds with an imperviousness of 15% or less. One of the “special attention measures” is to limit impervious area. It is far easier to keep imperviousness at 15% or less in the watershed of the sensitive Brown Farm stream if the 38-acre property is zoned DR2 as opposed to DR3.5.

The preceding research was designed to demonstrate that a rezoning issue is sound from a technical and policy perspective. While this demonstration is critical, it does not guarantee a successful outcome. You must also demonstrate that your proposal is fair to the property owner. To do this you must show that either the property owner supports the rezoning issue, which is unlikely, or that you attempted to find other options for achieving your goals and nothing short of rezoning will work. **And** that the proposed zoning classification causes the least impact to the property owner’s interest while resolving the impacts should the property be developed as presently zoned.

MOBILIZING SUPPORT FOR YOUR PROPOSED ZONING CLASSIFICATION

Rezoning is as much a political process as technical and in many situations the political repercussions outweigh the technical-policy merits of an issue. To win a rezoning issue you must show substantial public support. Additionally, you must seek the support of those who influence the final decision-maker: your representative on the Baltimore County Council.

O. Do those who own property adjacent to the property support the rezoning issue?

Using the NCP-GIS database, identify each of those who own property next to the property you wish to rezone. Distribute a letter or flyer to each owner explaining the negative

¹² The *2000 Maryland Stormwater Design Manual* can be viewed at the following webpage:
http://www.mde.state.md.us/Programs/WaterPrograms/SedimentandStormwater/stormwater_design/index.asp

impacts that could result if the property were developed as presently zoned and how your proposed classification would allow reasonable use of the property while preserving quality of life for the adjoining land owners. Follow the letter-flyer up with a phone call or knock on the door. After answering any questions each owner has, ask if you could list them as a supporter of the rezoning issue. An excellent graphic for illustrating support can be created using the NCP-GIS database to print out a property map of the site and adjoining parcels. Highlight the rezoning issue property with one color, say yellow, and that of adjoining owners who support the rezoning issue with another color, like green. Hopefully, all adjoining properties will be green.

P. Do others potentially benefitting from the rezoning issue support it as well?

In addition to the adjoining property owners, there are frequently many others who will benefit from a rezoning issue. In the case of the Brown Property these others would include:

- the folks who do not own property next to the farm but who enjoy the Brown Farm stream;
- those who live along the cul-de-sac street and other roads which would see an increase in traffic volume should the Brown Farm be developed as zoned; and
- historic preservation enthusiasts who cherish the cultural significance of the 170-year old Brown Farm house.

Q. Do local and regional citizen groups support the rezoning issue?

There are more than 600 community associations and other citizen groups active in Baltimore County¹³. Dealing with development issues is a primary function for many of these groups. The association(s) representing those benefitting from the rezoning are likely supporters of the issue. Begin with a letter or email to each group pointing out the quality of life impacts should the property be developed as zoned, the benefits of the proposed rezoning, your efforts to work with the property owner, and a request that the group support the issue. Follow-up the letter-email with a phone call to answer questions then request the association's support for the rezoning issue. Offer to meet with the association's leadership to discuss the issue. If they do agree to support the issue, then make certain they are okay with your communicating their support to others. Ask the association leadership if they belong to an umbrella group or if they know of other organizations that might support the issue. If they do then request their help in approaching these other groups.

¹³ To learn of groups active in your area click the following link to the Baltimore County Library Community Information Database: <http://www.bcplonline.org/databases.html#community>

R. Does your Office of Planning Community Planner support the rezoning issue?

The first step suggested in this publication was a discussion with the Community Planner¹⁴ for your area. During that discussion you will have learned of any reservations or questions the planner had regarding the rezoning issue. Hopefully, the research you conducted since that first meeting will allow you to answer the planner's questions in a way that will satisfy their reservations and prompt the planner to support the rezoning issue. Of course, you should request a meeting to share the results of your research, present the list of individuals and organizations supporting the rezoning issue, answer the planner's specific questions, ask about any new questions or reservations, then ask if the planner will recommend support for the rezoning issue. If they say no or are hesitant then find out why and seek to address their concerns. If they agree to support the issue then ask when they will formalize their recommendation and check back with them during the interim to determine if any new matters have arisen that may affect their support for your rezoning issue.

S. Does the Planning Board member appointed for your Councilmatic District support the rezoning issue?

The Baltimore County Planning Board¹⁵ consists of 15 members, eight of which are appointed by the County Executive while the seven County Council members appoint one person each to the remaining positions on the Board. The Planning Board will hold hearings on rezoning issues throughout March, 2008. But *do not* wait until then to contact the Planning Board about your rezoning issue. Unlike with other matters, County law does not prohibit citizens from contacting Planning Board members about rezoning issues prior to the 2008 hearings. But do a bit of research beforehand. Begin with the Planning Board member who represents your Councilmatic District¹⁶. Poll all the individuals and groups supporting your rezoning issue to see if anyone knows the Planning Board member appointed for your district or any other potentially sympathetic Board members. If yes, ask each mutual acquaintance how the rezoning issue might be best presented to win the support of the Board member and if they would be willing to attend a meeting with the Planning Board member.

When you meet with the Planning Board member, present:

¹⁴ To identify the Baltimore County Office of Planning Community Planner for your area visit: http://www.co.ba.md.us/Agencies/planning/community_planning/planners_by_district/index.html

¹⁵ For further information on the Baltimore County Planning Board visit: http://www.co.ba.md.us/Agencies/planning/planning_board/index.html

¹⁶ See the following website for a list of Planning Board members by Council district and a biography for each member: http://www.co.ba.md.us/Agencies/planning/planning_board/members.html

- your perception of the consequences of allowing the property to be developed as presently zoned;
- your efforts to work with the property owner to find an alternative to resolve your concerns that is also compatible with the owner's wishes;
- why those efforts failed and why you are now proposing rezoning;
- why the proposed zoning classification is the least change possible to achieve your goal while minimizing adverse effects to the property owner;
- your perception about how the property owner feels about the rezoning;
- the map showing adjoining property owners supporting the issue;
- other individuals and organizations supporting the rezoning issue; and
- your perception of the Community Planner's position on the rezoning issue.

Ask the Planning Board member what questions they have about the rezoning issue. If you cannot answer a question during the meeting then ask if you can do the necessary research and get back to them, then ask if the Board member has any other questions. Once you have answered all of the questions, ask if the Board member is inclined to support your rezoning issue. If not, ask why. If appropriate, seek to address any reservations the Board member has about the issue. If they are supportive then ask about other Planning Board members who may be inclined to support the rezoning issue. For these other Planning Board members, go through the same process described above for identifying mutual acquaintances and arranging a meeting. If the other Board members are outside your area, then contact citizen groups active in the *other* area. They may well agree to help you win the support of another Board member in exchange for your help in winning over the Board member appointed for your district.

T. Does your representative on the Baltimore County Council support the rezoning issue?

Because of the practice of *Councilmatic Courtesy*, each of the seven County Council members are usually the final decision-maker on rezoning issues within their District. If the District A Council representative supports rezoning Issue X and the property which is the subject of Issue X is in District A, then the other six Council members will support Issue X as well. In exchange, the District A Council member will follow the lead of the other six Council member with respect to rezoning issues in each of their respective districts.

Because of *Councilmatic Courtesy* all of your efforts should be building towards winning the support of the Council representative for your district. The County Council will hold their hearings on rezoning issues in June, 2008. But as with Planning Board members, you do not need to wait until the hearings to discuss the issue with your Council representative. ***And you definitely should not wait!***

Poll all the individuals and groups supporting your rezoning issue to learn who knows the Council representative for your district. Ask each mutual acquaintance how the rezoning

issue might be best presented to win the support of your Council representative and if they would be willing to attend a meeting with the elected official.

When you meet with your Council representative, present:

- your perception of the consequences of allowing the property to be developed as zoned;
- your efforts to work with the property owner to find an alternative to resolve your concerns and fulfill the owners wishes;
- why those efforts failed and why you are now proposing rezoning;
- why the proposed zoning classification is the least change possible to achieve your goal while minimizing adverse effects to the property owner;
- your perception about how the property owner feels about the rezoning;
- the map showing adjoining property owners supporting the issue;
- a list of other individuals and organizations supporting your rezoning issue; and
- your perception of the position of the Community Planner and Planning Board member(s) on the rezoning issue.

Ask the Council representative what questions they have about the rezoning issue. If you cannot answer a question during the meeting then ask if you can do the necessary research and get back to them. Ask if your Council representative has any other questions. Once you have answered all of the questions, ask if your Council representative is inclined to support your rezoning issue. If not, ask why. If appropriate, seek to address any reservations your Council representative has about the issue.

After the meeting stay in touch with your Council representative or their staff to learn of any new developments affecting how they feel about your rezoning issue. Be certain to turn out a large showing of speakers for both the Planning Board and County Council hearing in your district. The County Council will vote on each rezoning issue in September, 2008.