

# REZONING

## What is a rezoning?

A rezoning is a process which changes the actual zoning category. A zoning category lists possible uses for land. The categories are residential, commercial, office-residential and industrial. Rezoning also includes changing the density or bulk regulations of a given category, B-3-2 to B-3-3 for example.

## Process

The process for rezoning property is passage of an ordinance approved by the Mayor and City Council.

If you are interested in rezoning your property, we suggest you contact the Planning Department. Staff will review your proposal prior to introduction and outline which criteria your proposal may or may not meet. Staff will also help you understand the ordinance process and give you the appropriate community contacts. The ordinance process is a public process which will include two (2) public hearings.

## Rezoning Standards

The existing zoning category is presumed to be correct. Rezoning property is a significant step and must meet stringent criteria in accordance with State regulations. Article 66B of the Maryland Annotated Code of Maryland, Zoning and Planning, outlines local jurisdictions' authority regarding land use and zoning. That regulation outlines two (2) criteria for rezoning property, which are as follows:

**1. A Comprehensive Plan:** The last comprehensive rezoning of the entire City was approved in 1971. The zoning outlined in that plan and existing on the current zoning map is presumed to be correct.

Changes in zoning based on a comprehensive plan have taken place in two (2) formats:

- ? Urban renewal plans are comprehensive plans for a designated area usually a neighborhood, a commercial district or section of downtown. The urban renewal plan outlines a long-range plan including a plan for zoning. The properties, however, are not rezoned by the urban renewal plan. They need to be rezoned by a separate ordinance.
- ? Neighborhoods have also worked with the Planning Department on comprehensive rezoning for their entire neighborhood.

**2. Change or mistake:** This is the second set of criteria for rezoning property.

- ? Change: Change is defined, as their having been a substantial change in the area that was not anticipated at the time of the original zoning. For example, a new highway interchange was put in place that was not anticipated at the time of the original comprehensive plan. It does not include "the property is not as economically viable as when the last comprehensive plan was done."
- ? Mistake: Was there an error at the time of the original rezoning. This requires the applicant to prove that there was an actual mistake such as the person drawing the original map put the line in the wrong place. Again, the map is presumed to be correct and it is the applicant's responsibility to prove an error. Planning staff cannot recall a case that was rezoned based solely on this standard.

The Change or Mistake Standard is very difficult to prove. It is intended to be difficult. The comprehensive zoning is intended to be the plan for how land is to be used. The goal of zoning is to insure stability and rezoning property has the potential to alter the stability of an area.

## **What is "Spot-zoning?"**

"Spot-zoning" is when special favor or disfavor is shown toward a property owner. This may occur for one or more properties. It is against State regulations to rezone property which would constitute "spot zoning." Courts overturn this type of rezoning.

If rezoning your property to a new category makes your site the only site with that new zoning, and the immediate surrounding properties would be a different zoning classification, you probably are proposing "spot zoning." This cannot be supported by the City agencies.