

# Rezoning Protest Calculations

Overview of changes as a result of  
Arizona House Bill 2116

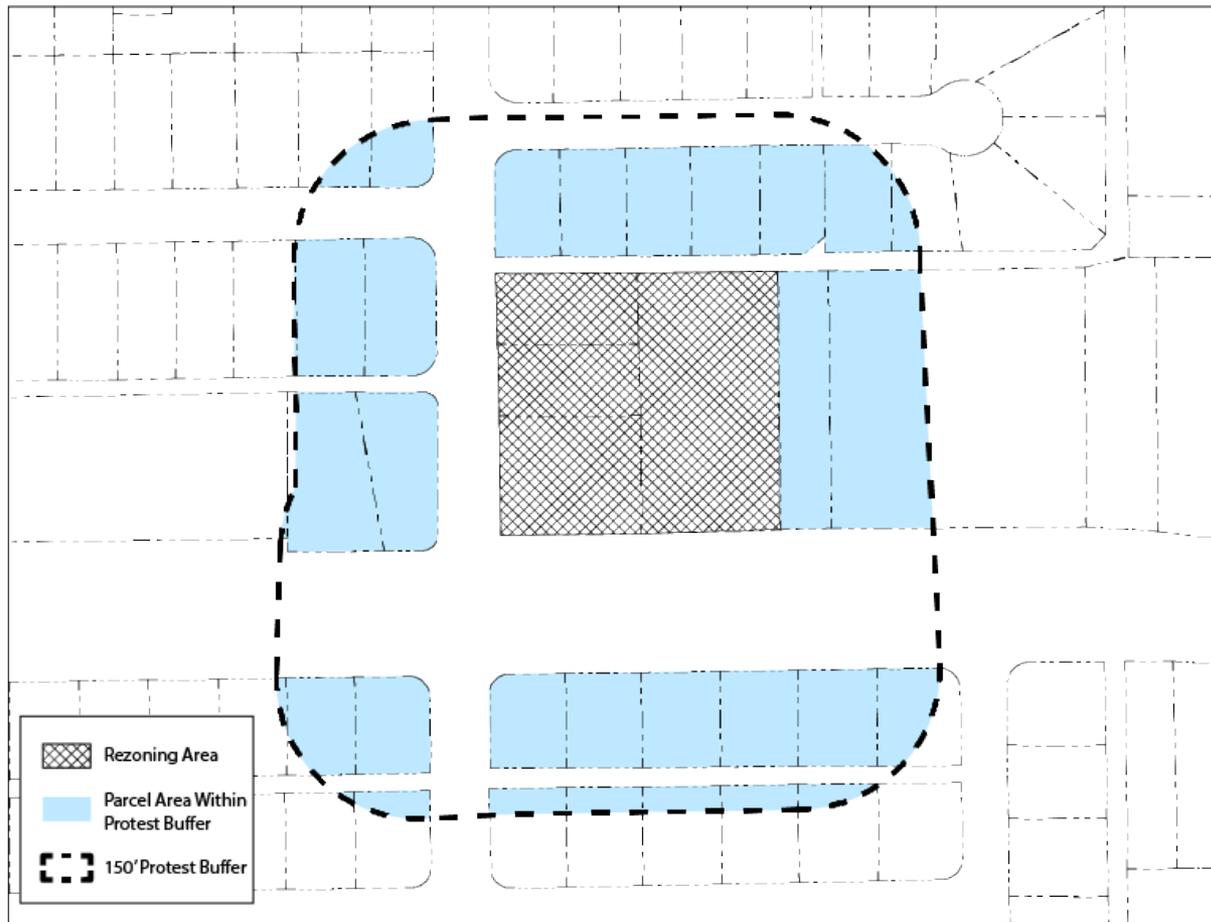
# Agenda

- Overview of changes
  - Area used to calculate a protest
  - How a 20% protest is calculated
  - How  $\frac{3}{4}$  is calculated triggering supermajority requirement
  - Protest submittal requirements
- Responses to submitted questions

Results of Arizona State House Bill 2116

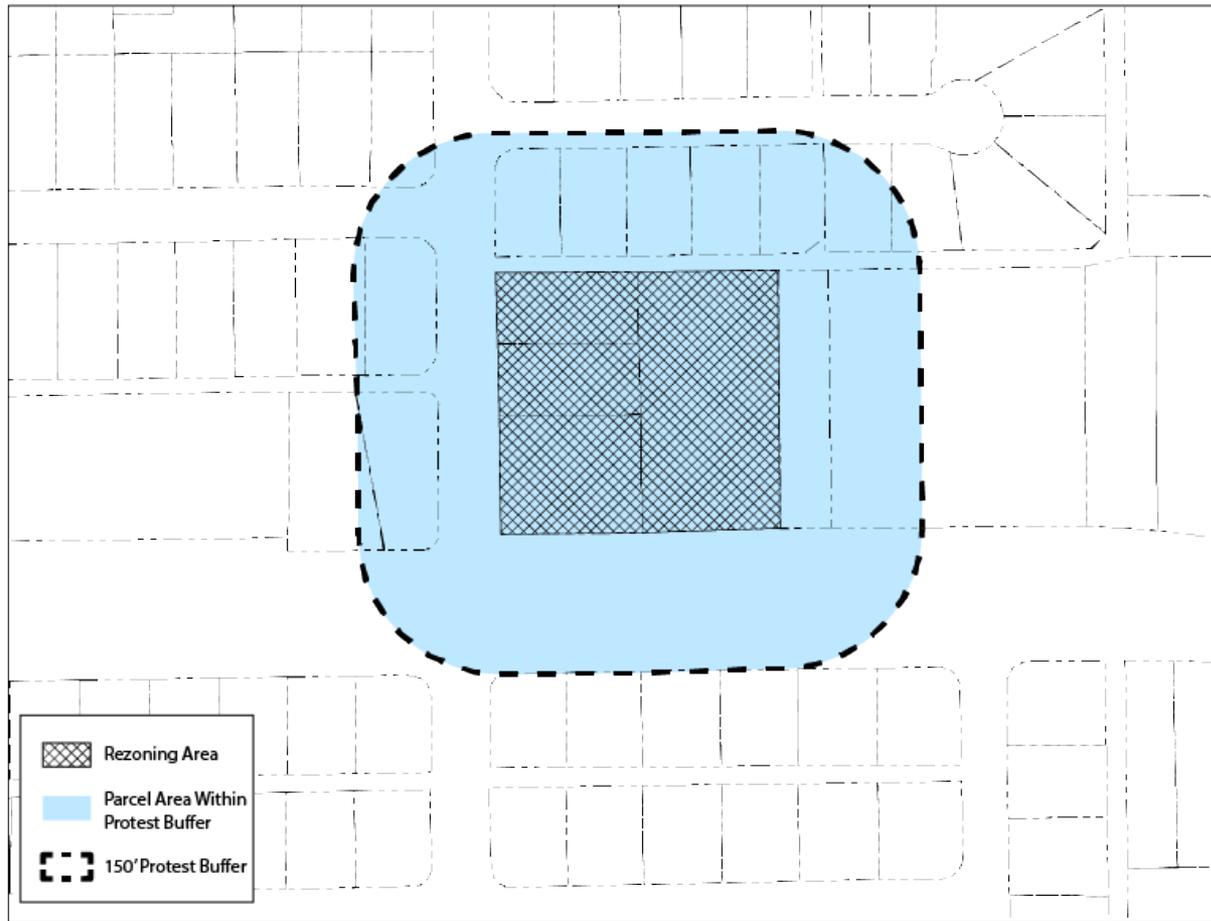
# **OVERVIEW OF CHANGES**

# Area used to calculate protest – previous rule



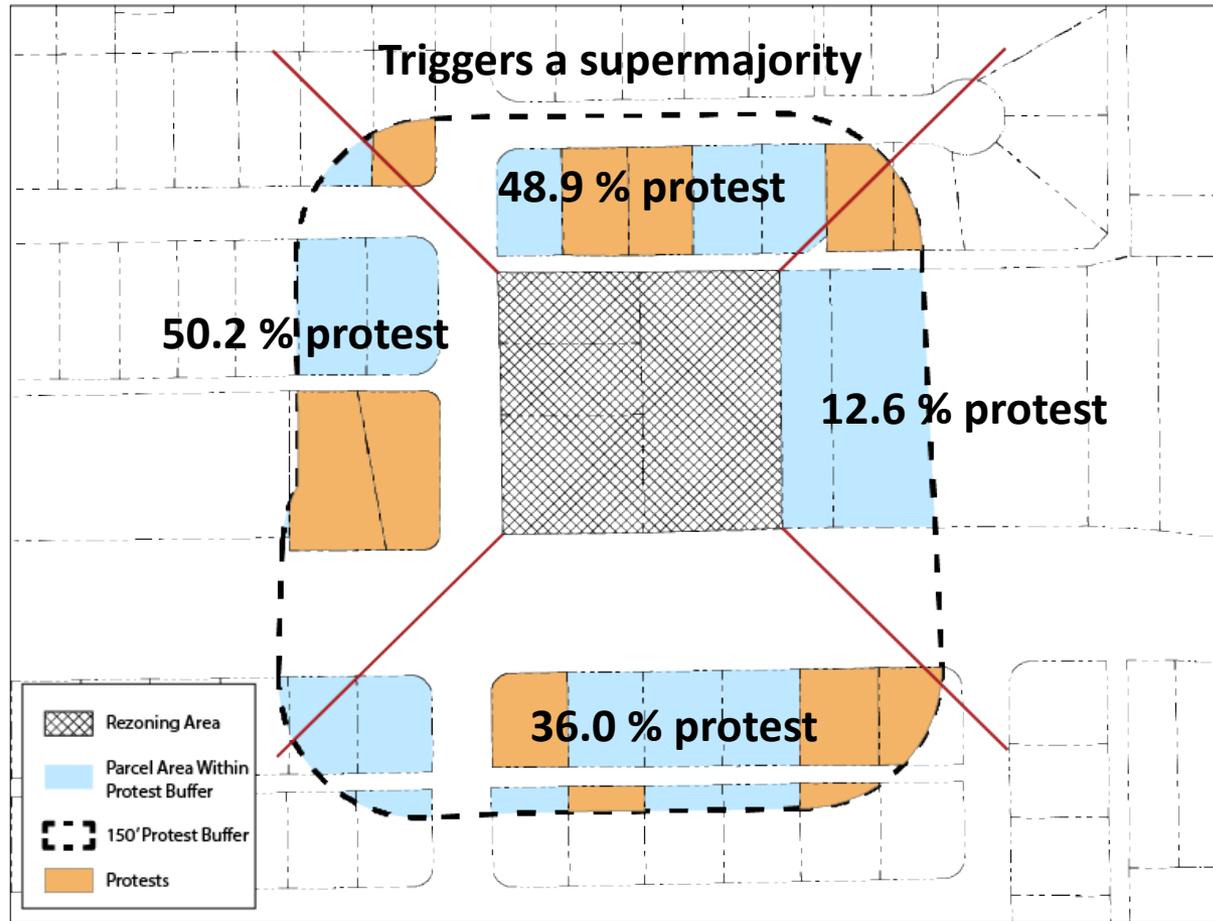
- Does not include the Rezoning Project Area
- Does not include the Right-of-Way

# Area used to calculate protest – current (new) rule



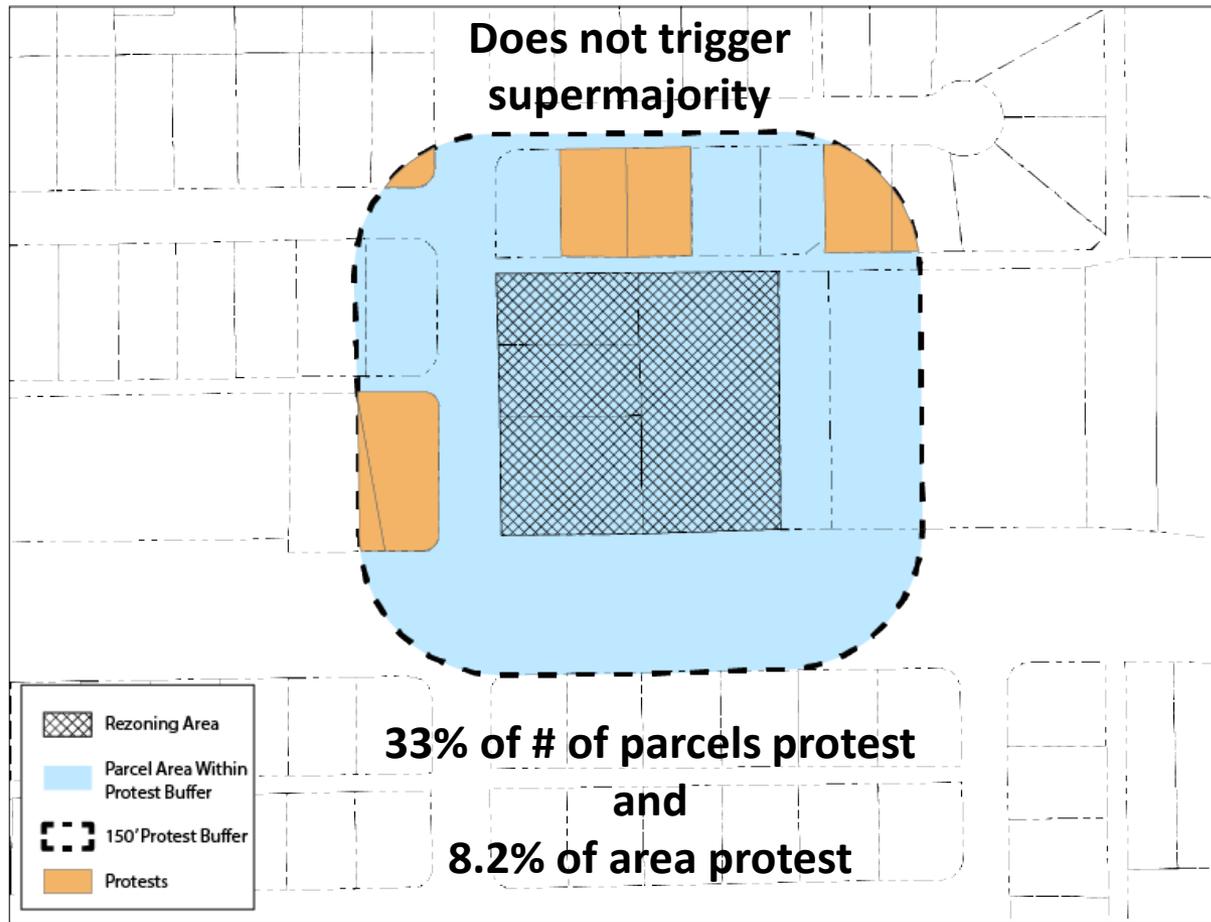
- Includes the Rezoning Project Area
- Includes the Right-of-Way

# How a 20% protest is calculated – previous rule



- Requires percentage of 1 quadrant to be <20% to trigger supermajority
- Protests are calculated by quadrants

# How a 20% protest is calculated – current (new) rule



- Entire site used for calculation
- Requires 20% of **both** area and # of parcels to trigger supermajority

# How $\frac{3}{4}$ is calculated triggering supermajority vote

## Previous Rule

- Round up to determine the amount of votes required to approve a rezoning ordinance with greater than 20% of protests
- 6 of 7 votes needed

## Current Rule

- Round to nearest whole number to determine the amount of votes required to approve a rezoning ordinance with greater than 20% of protests
- 5 of 7 votes needed

# Protest submittal requirements

## Previous Rule

- Protests may be submitted to the Planning and Development Services or the Clerk's Office
- Protests may be submitted up until the vote by the Mayor and Council

## Current Rule

- All protests must be submitted to Clerk's Office
- Protests must be received by noon the day prior to the date on which the Mayor and Council vote

# **RESPONSES TO SUBMITTED QUESTIONS**

# Question #1

Will the percent of protests be calculated based on number of property owners or by the area of the properties that are within 150 ft of the development or by including both?

- Protests are calculated both in terms of the property by area (ie, size) and in terms of the number of lots. The supermajority requirement is only triggered if the protesting property constitutes 20% or more of BOTH (1) the zoning area AND (2) 20% or more of the number of lots w/in the zoning area. "Zoning area" is defined as the area of the proposed rezoning plus the area w/in 150 feet of the proposed rezoning site, including rights-of-way.

## Question #2

If Rights of Way (ROW) such as roads are now part of the calculation, how are they used in the calculation? If there is road on the south and the west of a property within the 150 ft zone, is each roadway counted as an individual property and is the area of the ROW counted as part of the total area?

- ROW is included as part of the total area calculation. A ROW is not a lot so it would not be included in the total lot calculation.

# Question #3

Who is the property owner in the case of ROW? Is it the city? If so, then can the City offer support or protest or is the ROW property now a “dead zone” with respect to protest/support?

- The City owns the ROW. The PDSD makes recommendations to the Zoning Examiner in its staff report (either in support of or against) a particular rezoning or special exception. The Zoning Examiner makes recommendations on certain cases to the M/C who then decide whether to approve/deny a rezoning request. The City's "position" on any given rezoning will ultimately be decided by the legislative body. It would be inappropriate for that same body to take a position on a rezoning case (by way of protest) prior to any hearing on that matter. Practically speaking, the City will likely never take a position on a rezoning case, so the area of ROW included in any rezoning case will likely never be included as a protesting property for purposes of the area calculation.

# Question #4

If the “zoning area” now includes the property under development and it comprises more than 80% of the area within 150 ft, does that mean the rezoning will never need a super majority vote even if all the surrounding properties within 150 ft protest?

- The proposed rezoning site must now be included as part of the area calculation for protests (and will count toward the lot calculation as well). Yes, the size of the site will have an impact on the outcome of the area calculation for protests within 150 feet and if it is a large area may make it difficult to achieve the 20% or more protests for the area calculation.

# Question #5

Using the Fry's Houghton/22nd St. rezoning as an example, per your email of last week stating that a super majority is no longer required, can you provide a graphic that shows which properties are in the protest area, and the formula used to calculate the percentage of protest?

- The previous illustrations should provide an example of this.

# Question #6

Clarification about why it is being stated that this is how the counties have calculated super majorities (Rep. Bob Thorpe (R-6), the primary sponsor, says the measure aligns what is required of cities and towns to be the same as what is already required for areas under county jurisdiction). After spending 13 years on the Pima County Planning and Zoning Commission, I was never aware that ROW was used in the calculation of percent protests by the Board for approval.

- Staff is unaware of the referenced statement by Rep. Bob Thorpe, nor would we be comfortable speaking on his behalf.