

From: Thompson, Lennie

Sent: Tuesday, December 11, 2007 12:05 PM

Subject: JLT's Cochise Option for a Comprehensive Rezoning of the Unincorporated Areas in the Vicinity of the Confluence of I-70, U.S. 340, Md. Rts. 180 & 351, Solarex Ct., Himes Ave. & Butterfly Lane

Fellow Commissioners:

Yesterday (Monday, December 10) I distributed paper copies of my "Cochise" Option for a comprehensive rezoning of the unincorporated areas in the vicinity of the confluence of Interstate 70 (Dwight Eisenhower Highway), U.S. 340 (Jefferson National Highway) Maryland Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Solarex Court, Himes Avenue & Butterfly Lane. The tax map boundaries delineated on the paper version of the proposal are the intellectual property of the Maryland Department of Assessments & Taxation. As I understand it, the paper versions cannot be given away to the public but are available from the Planning & Zoning Office for the same fee we would charge for other regional zoning maps.

The area under study for the Cochise Option lies within the following boundaries: Beginning at the location where Maryland Route 355 (Urbana Pike) intersects the City of Frederick corporate limits; thence

- southeasterly along Maryland Route 355 (Urbana Pike) to the Monocacy River; thence
- southwesterly along the Monocacy River to the area where the confluence of the tributaries known as Clagett Run, Horsehead Run, Rocky Fountain Run, Kiln Run, etc. empty into the Monocacy; thence
- southwesterly to Maryland State Route 880 (Michaels Mill Road); thence
- westerly along Maryland State Route 880 (Michaels Mill Road) to its intersection with Maryland State Route 355 (Buckeystown Pike) and Manor Woods Road; thence
- northwesterly along Manor Woods Road to its terminus at Cap Stine Road; thence
- northerly along Cap Stine Road to Hawker Road; thence
- westerly along Hawker Road to its terminus; thence
- westerly from the terminus of Hawker Road to U.S. 15 (Catoctin Mountain Highway); thence
- northerly along U.S. 15 (Catoctin Mountain Highway) to the point where it intersects with U.S. 340 (Jefferson National Pike); thence
- northerly to Maryland Route 180 (Jefferson Pike); thence
- northeasterly along Maryland Route 180 (Jefferson Pike) to Teen Barnes Road; thence
- northwesterly along Teen Barnes Road to Jefferson Boulevard: thence

- northerly along Jefferson Boulevard to Maryland Avenue; thence
- northerly along Maryland Avenue to U.S. 40 Alternate (Old National Pike); thence
- easterly along U.S. 40 Alternate (Old National Pike) to its intersection with Mount Phillip Road; thence
- along the City of Frederick Corporate limits, southwesterly thence easterly to the place of beginning.

The area under study also includes the nearly enclaved unincorporated area in the vicinity of Grove Hill Road.

The area under study consists of 16,829.1 acres, more or less (\pm).

While the Planning, DPDR & GIS folks provided valuable assistance, the legislative policy recommendations set forth in the map are mine and mine alone.

Set forth below are the following attachments:




- the proposed comprehensive rezoning map;
- a summary of the net changes in acreage within zoning districts;
- a staff report;
- a proposed resolution to initiate the comprehensive rezoning proceeding; and
- a proposed ordinance that would, if enacted, implement the comprehensive rezoning

Your opinions & commentary are welcome,

Lennie

Zoning

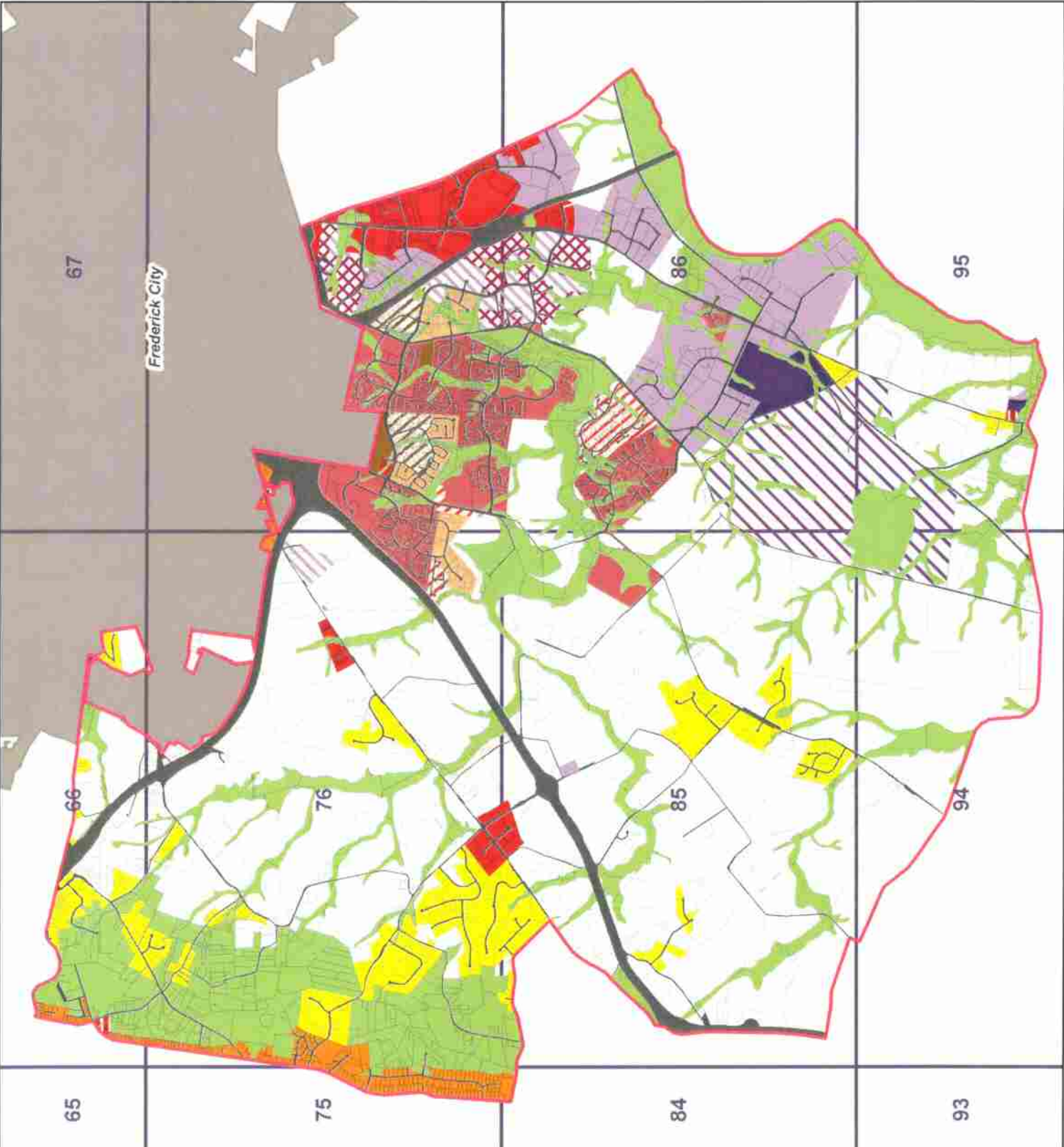
- RC - Resource Conservation
- A - Agricultural
- R1 - Residential
- R3 - Residential
- R5 - Residential
- R8 - Residential
- R12 - Residential
- R16 - Residential
- PUD - Planned Unit Development
- VC - Village Center
- HS - Highway Service
- GC - General Commercial
- MM - Mineral Mining
- LI - Limited Industrial
- GI - General Industrial
- ORI - Office Research Industrial
- MXD - Mixed Use Development
- Municipality
- Cochise Boundary

Cochise Project Current Zoning December 2007

Efforts have been made to ensure the accuracy of this map. Frederick County accepts no responsibility for errors or omissions, or positional inaccuracies in the content of this map. Reliance on this map is at the risk of the user. The parcels are a draft product that may not be current and may contain positional inaccuracies.

Prepared by Frederick County Division of Planning
December 2007



Zoning Acreage of Current and Cochise Zoning

	Current Zoning	Cochise Alternative	Change Alternative - Curent
A	7,447.9	7,624.6	176.7
GC	377.4	347.4	-30.0
GI	377.5	111.0	-266.5
LI	906.7	740.5	-166.2
MM	857.9	663.7	-194.2
ROW	1,220.8	1,220.8	0.0
MXD	737.8	164.7	-573.1
ORI	168.5	143.0	-25.5
PUD	1,252.6	667.4	-585.2
R1	2,041.1	853.8	-1,187.3
R3	323.1	215.0	-108.1
R5	135.9	95.3	-40.6
R8	152.6	112.1	-40.5
R12	85.0	72.7	-12.3
R16	28.1	26.7	-1.4
RC	702.9	3,762.6	3,059.7
VC	13.3	7.8	-5.5
	16,829.1	16,829.1	0.0



TO: Board of County Commissioners (“BOCC”)

FROM: Commissioner Lennie Thompson

RE: Proposed “Cochise” Plan for a Comprehensive Rezoning of the Unincorporated Areas in the vicinity of the confluence of Interstate 70, U.S. 340, Maryland State Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Himes Avenue, Butterfly Lane & Solarex Court

ISSUE: Should the BOCC adopt the proposed Resolution that would, if adopted, initiate a comprehensive rezoning of the unincorporated areas in the vicinity of the confluence Interstate 70, U.S. 340, Maryland State Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Himes Avenue, Butterfly Lane & Solarex Court?

BACKGROUND:

My “Cochise Option” proposal for a comprehensive rezoning of the unincorporated area around the confluence of Interstate 70, U.S. 340, Maryland State Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Himes Avenue, Butterfly Land & Solarex Court accompanies this memorandum. The paper version of Cochise includes tax map boundaries, which are the intellectual property of the Maryland Department of Assessments & Taxation. As I understand it, the paper copies cannot be given away to the public but are available from the Planning & Zoning Office for the same fee we would charge for other region zoning maps.

While our Planning & GIS folks helped me in the preparation of Cochise, the recommended policy choices set forth in the map are mine and mine alone.

The purposes of my Cochise Plan include:

- to control and direct the use of land and buildings according to present and planned future conditions, to accomplish as far as possible the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of the individual property owners; and

- to make sure that further development in the area:

- is supported by adequate infrastructure (particularly transportation infrastructure) that is already in place or planned and funded to be in place prior to further development; or
- does not occur.

Traffic Congestion

The recent presentation by the State Highway Administration (“SHA”) concerning the network of interstate, federal & state highways around the confluence of Interstate 70, U.S. 340, Maryland 180, Maryland 351, Solarex Court, Himes Avenue & Butterfly Lane is incorporated herein. The network will not support the amount of traffic that will be generated under the existing zoning classifications in the area. The SHA estimates that if present trends continue, it will take upwards of \$250 billion dollars to alleviate traffic congestion at that location. No funding is in place. The amount of money needed to alleviate projected traffic congestion “would place a burden on the taxpayers that the County legislative body thinks is unwarranted and beyond its present reasonable capabilities.”¹

I believe the following to be true with respect to the network of interstate, federal and state highways in the vicinity of the confluence Interstate 70, U.S. 340, Maryland State Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Himes Avenue, Butterfly Lane & Solarex Court:

- Most were designed and built in the decades of the 1940s, 1950s & 1960s;
- Most were never designed to handle the congestion created current levels of traffic;
- The federal and Maryland gas taxes are barely enough to maintain existing roadways and, even if they are raised, gas taxes are not a realistic source of revenue to expand our local road network;
- The cost to make improvements to the County's road network to solve traffic congestion problems will be in the billions of dollars and would constitute a considerable portion of the County's assessable tax base;
- Our elected officials at the national and state level have been unable to obtain the funding necessary to make major improvements to the network needed to solve the traffic congestion problem; and
- Solving traffic congestion problems does not appear to be a priority for our national and state elected officials.

¹ *Norbeck Village Joint Venture v. Montgomery County Council*, 254 Md. 59, 68, 254 A.2d 700, 706 (1969).

Using the past as a predictor of the future, It is unlikely that the network of network of interstate, federal and state highways in the vicinity of the confluence Interstate 70, U.S. 340, Maryland State Routes 180 (Jefferson Pike) & 351 (Ballenger Creek Pike), Himes Avenue, Butterfly Lane & Solarex Court will be improved anytime soon.

The Maryland Transportation Trust Fund helps finance not just roads but also the Washington & Baltimore area subways & rail lines. The dynamics of state politics results in a disproportionately high amount of gas tax revenue supporting transportation modes other than highways. Legislators outside of these areas, where transportation is dominated by private vehicles, are not inclined to vote for gas tax hikes when their constituents will not derive any perceived benefit.

Using the Story of the Little Red Hen as an analogy, just as those who do not help to bake the bread are in a poor position to demand to have a slice of it, those who vote against increases in the gas tax are in a poor position to turn around and request that a substantial portion of the monies generated by the higher taxes be spent of roads in their district. Our state officials have far more to lose politically by supporting increases in the gas tax than by not dealing with traffic congestion issues. While a generation ago our two State Senators, Ed Thomas & Charlie Smelser, had sufficient clout in Annapolis to vote against increases in the gas tax AND bring home some of those revenues to dualize U.S. 15 from Lewistown to the Mason-Dixon Line, that is no longer the case.

While federal gas taxes pretty much built the interstate highway system, they are now barely enough to maintain it. The federal government's attention these days is focused on the Middle East, not solving local traffic congestion problems. It will likely remain that way for the foreseeable future, regardless of who controls the White House or Congress.

Political realities make it unlikely the federal or state governments are going to come to the rescue on local traffic congestion issues, for the following reasons:

- "You broke it, you bought it." Land use decisions in Maryland are pretty much made at the County & municipal levels. Other than traffic emanating from out of County or out of state, the increase in traffic on our interstate, federal & state highways is the result of the land use decisions by prior County governments and municipalities. State & federal officials will naturally be reluctant to walk the plank and vote for higher or new taxes to clean up messes created by local governments.

- For better or worse, the voters have chosen to hold the County Commissioners, and not our state & federal folks, accountable for the congestion on interstate, federal and state highways, even though the County has little jurisdiction over those roads. Our state and federal elected officials are not inclined to argue with the voters over their choice of whom to blame for traffic congestion problems.

A purpose of zoning is to “Control congestion in the streets.”²

“Traffic conditions may be material factors in zoning.”³

“Traffic conditions may be material factors in the rezoning of an area.”⁴

“[I]n changing zoning regulations, traffic plans should have material consideration.”⁵

“Zoning regulations must be designed to lessen congestion in the streets. In making or changing such regulations traffic problems may be material considerations.”⁶

“[T]raffic impact is a sufficient basis to deny a zoning application . . .”⁷

“[T]he rezoning here would materially increase the traffic hazard on Liberty Road . . . This road now handles capacity traffic. It is indefinite also whether Liberty Road will be improved and, if so, when. To grant the rezoning would undoubtedly increase the traffic hazard on this narrow road. As in changing zoning regulations, traffic conditions should be given material consideration, and as this was not done by the Board, its rezoning was arbitrary and an abuse of discretion . . .”⁸

Floodplain District

On September 4, 2007 the BOCC adopted Ordinance #07-29-469 which amended and revised the County’s Floodplain District regulations⁹. The provisions of the County’s Floodplain District regulations are codified as §§1-19-326 through 333 of the Zoning Ordinance. “The Floodplain District is an overlay to the underlying zoning districts as shown on the zoning map. The provisions of the Floodplain District are supplementary to the regulations of the underlying zoning district. Where there is any conflict between the provisions or requirements of the Floodplain District and those of any underlying district, the more restrictive provisions pertaining to the Floodplain District will apply.”¹⁰

² Art. 66B, §4.03(b)(1).

³ *Quinn v. County Commissioners of Kent County*, 20 Md. App. 413, 424, 316 A.2d 535, 541 (1974).

⁴ *Bigenho v. Montgomery County Council*, 248 Md. 386, 394, 237 A.2d 53, 58 (1968).

⁵ *Price v. Cohen*, 213 Md. 457, 464, 132 A.2d 125, 129 (1957).

⁶ *Northwest Merchants Terminal, Inc. v. O’Rourke*, 191 Md. 171, 60 A.2d 743 (1948); *Hardesty v. Board of Zoning Appeals of Baltimore County*, 211 Md. 172, 180, 126 A.2d 621, 624 (1956) (internal quotations and citations omitted).

⁷ *Gowl v. Atlantic Richfield Company*, 27 Md. App. 410, 417, 341 A.2d 832, 836 (1975); *Exxon, Inc. v. City of Frederick*, 36 Md. App. 703, 706, 375 A.2d 34, 36 (1977).

⁸ *Price v. Cohen*, 213 Md. 457, 465, 132 A.2d 125, 129 (1957).

⁹ Ordinance #07-29-469 is on the web at: <http://www.co.frederick.md.us/DocumentView.asp?DID=4342> and at: <http://www.co.frederick.md.us/documents/Ordinances/07-29-469.pdf>

¹⁰ §1-19-326(B).

The Cochise Option applies Resource Conservation zoning to most of the areas that are located within the Floodplain District. This is consistent with the 1998 Frederick County Comprehensive Plan, Volume I: Countywide Plan:¹¹ “Structural development and the altering of land forms will be prohibited in the annual, 100-year floodplain, wetlands, and severely restricted in the historic floodplain areas.”¹²

“The State has a legitimate interest in seeing that floodplains are not unduly restricted. . . The General Assembly expressed that concern in its enactment. It is obvious that certain types of use of floodplains may either raise flood levels in other portions of a watershed so that it will be necessary to take action, at public expense, calculated to protect against flooding or construction in the floodplain itself may at a later time bring a hue and cry for protection of the buildings erected in the floodplain from the hazard of flooding. Of course, this protection also would be envisioned as being at public expense. These statutes and this regulation only provide for intelligent planning of land use. They are facially constitutional.”¹³

“Protection of the environment and of natural resources has long been recognized as a valid purpose of local zoning and land use regulations.”¹⁴

“The various purposes of zoning regulations . . . are . . . to promote the conservation of natural resources; to prevent environmental pollution. . .”¹⁵

“Protection of a natural resource has been held a valid and proper objective of a legislative exercise of the police power.”¹⁶

“[S]tormwater management is a traditional concern of the zoning process.”¹⁷

At present, most lands subject to the Floodplain District Regulations have underlying Euclidean or floating zone classifications that suggest that much more intensive uses are permitted on the lands than is actually the case. The better policy is to have the zoning map provide a more accurate indication of what is actually permitted. By placing lands that are subject to the Floodplain District Regulations into Resource Conservation zoning, observers of the zoning map will get much more accurate information as to what uses are likely to be permitted on the lands.

¹¹ On the web at: <http://md-frederickcounty.civicplus.com/index.asp?NID=1352>

¹² 1998 Frederick County Comprehensive Plan, Volume I: Countywide Plan, page 3-28.

¹³ *A. H. Smith Sand & Gravel Co. v. Department of Water Resources*, 270 Md. 652, 660-661, 313 A.2d 820, 825 (1974) (citations omitted), addressing statutory predecessor to EN §8-101.

¹⁴ *Holiday Point Marina Partners v. Anne Arundel County*, 349 A.2d 190, 208, 707 A.2d 829, 838 (1998).

¹⁵ *Schultz v. Pritts*, 291 Md. 1, 20, 432 A.2d 1319, 1329 (1981); *Holiday Point Marina Partners v. Anne Arundel County*, 349 A.2d 190, 208, 707 A.2d 829, 838 (1998).

¹⁶ *Mears v. Town of Oxford*, 52 Md. App. 407, 423, 449 A.2d 1165, 1175, *cert. denied*, 294 Md. 652 (1982).

¹⁷ *Days Cove Reclamation Co. v. Queen Anne's County*, 146 Md. App. 469, 503, 807 A.2d 156, 175, *cert. denied*, 372 Md. 431, 813 A.2d 258 (2002).

Q & A on Comprehensive Rezoning

What is a Comprehensive Rezoning?

"Comprehensive rezoning is a vital legislative function, and in making zoning decisions during the comprehensive rezoning process, a County Council is exercising what has been described as its 'plenary' legislative power. The power is broad and is limited only by the constitutional restriction that the Council's actions bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare..."¹⁸

"The indicia of 'comprehensiveness' in zoning are well established. A comprehensive zoning or rezoning must be well thought out, the product of careful consideration and extensive study, and based upon considerations concerning the common needs of the particular area. It must be designed to control and direct the use of land and buildings according to present and planned future conditions, to accomplish as far as possible the most appropriate uses of land consistent with the public interest and the safeguarding of the interests of the individual property owners. Other characteristics of comprehensiveness may be found in the fact that the zoning or rezoning applies to or covers a substantial or wide geographical area, that it regulates all uses, and that it covers all of the usual factors of land utilization: height, area and use."¹⁹

Isn't downzoning a per se violation of property rights?

No:

"The appellants argue that for the County to decrease the permissible density of their land and that of other similarly zoned land and to refuse to furnish sewerage to their land in order to control the growth of population and to continue the present open space in the Olney region was to use zoning and planning impermissibly as a substitute for eminent domain and to reduce so substantially the value of their land as to amount to confiscation.

¹⁸ *Stump v. Grand Lodge of Masons*, 45 Md. App. 263, 269, 412 A.2d 1305, 1308 (1980); *Montgomery County v. Horman*, 46 Md. App. 491, 495-496, 418 A.2d 1249, 1252 (1980); *JMC Construction Corporation v. Montgomery County*, 54 Md. App. 1, 17, 456 A.2d 931, 939 (1983); *Security Management Corporation v. Baltimore County*, 104 Md. App. 234, 249, 655 A.2d 1326, 1333, *cert. denied*, 339 Md. 643, 664 A.2d 886 (1995), *cert. denied* 516 U.S. 1115 (1996).

¹⁹ *Mraz v. County Commissioners of Cecil County*, 291 Md. 81, 88-89, 433 A.2d 771, 776 (1981); *Cardon Investments v. Town of New Market*, 302 Md. 77, 88, 485 A.2d 678, 684 (1984).

If these contentions are sound, no zoning would ever have been allowed or sustained and all comprehensive rezoning would have to continue or increase permissible density, not reduce it. All original zoning decreases the right to use property as the owner pleases. Zoning places restrictions on property that was free of any restriction and the value of some if not most of that property necessarily is going to be lessened. None of this as such invalidates comprehensive zoning, original or subsequent."²⁰

Is a comprehensive rezoning entitled to a presumption of validity & correctness?

Yes:

"A long line of decisions of this Court has recognized that comprehensive zoning or rezoning carries a strong presumption of correctness, and those who attack the same bear a heavy burden in overcoming that presumption."²¹

"Zoning decisions which are made during a comprehensive rezoning process are strongly presumed to be correct."²²

"Comprehensive rezoning is entitled to the same presumption of correctness as is original zoning."²³

"[T]here is a strong presumption of the correctness of the comprehensive rezoning..."²⁴

"While, in recent years, we have had occasion to enunciate a number of important principles applicable to the law of zoning, perhaps none is more rudimentary than the strong presumption of the correctness of original zoning and of comprehensive rezoning."²⁵

²⁰ *Norbeck Village Joint Venture v. Montgomery County Council*, 254 Md. 59, 65, 254 A.2d 700, 704-705 (1969); *County Council for Montgomery County v. District Land Corp.*, 274 Md. 691, 699-700, 337 A.2d 712, 717 (1975).

²¹ *Bonnie View Country Club, Inc. v. Glass*, 242 Md. 46, 52, 217 A.2d 647, 651 (1966).

²² *Stump v. The Grand Lodge of Ancient, Free and Accepted Masons of Maryland*, 45 Md. App. 263, 269, 412 A.2d 1305, 1308 (1980); *Montgomery County v. Horman*, 46 Md. App. 491, 495, 418 A.2d 1249, 1252 (1980).

²³ *Somerset v. County Council for Montgomery County*, 229 Md. 42, 48, 181 A.2d 671, 674 (1962); *Mandel v. Board of County Commissioners of Howard County*, 238 Md. 208, 219, 208 A.2d 710, 717 (1965); *Jay v. Smith*, 34 Md. App. 538, 544, 368 A.2d 487, 491 (1977).

²⁴ *Mothershead v. Board of County Commissioners of Prince George's County*, 240 Md. 365, 374, 214 A.2d 326, 330 (1965); e.g. *Miller v. Abrahams*, 257 Md. 126, 131, 262 A.2d 524, 527 (1970); *Hoy v. Boyd*, 42 Md. App. 527, 533, 401 A.2d 1047, 1051 (1979).

²⁵ *Stratakis v. Beauchamp*, 268 Md. 643, 652-653, 304 A.2d 244, 249 (1973); *Trainer v. Lipchin*, 269 Md. 667, 672, 309 A.2d 471, 474 (1973); *Quinn v. County Commissioners of Kent County*; 20 Md. App. 413,

"The broad test of the validity of a comprehensive rezoning is whether it bears a substantial relationship to the public health, comfort, order, safety, convenience, morals and general welfare, and such zoning enjoys a strong presumption of validity and correctness."²⁶

"[T]here is a strong presumption of the correctness of original zoning and of comprehensive rezoning..."²⁷

"It is well established in this State that comprehensive zoning or rezoning is presumed to be correct, and the one who attacks it carries the heavy burden of overcoming the presumption of correctness."²⁸

418-419, 316 A.2d 535, 538 (1974); *Coppolino v. County Board of Appeals of Baltimore County*, 23 Md. App. 358, 367, 328 A.2d 55, 60 (1974); *Boyce v. Sembly*, 25 Md. App. 43, 49, 334 A.2d 137, 142 (1975); *Howard County v. Dorsey*, 292 Md. 351, 355, 438 A.2d 1339, 1342 (1982); *People's Counsel for Baltimore County v. Beachwood I Limited Partnership*, 107 Md. App. 627, 640, 670 A.2d 484, 490 (1995), *cert. denied*, 342 Md. 472, 677 A.2d 565 (1996).

²⁶ *Norbeck Village Joint Venture v. Montgomery County Council*, 254 Md. 59, 66, 254 A.2d 700, 705 (1969); *Roberts v. Grant*, 20 Md. App. 247, 251-252, 315 A.2d 103, 106, *cert. denied*, 271 Md. 743 (1974); *County Council for Montgomery County v. District Land Corp.*, 274 Md. 691, 700, 337 A.2d 712, 717 (1975); *Levinson v. Montgomery County*, 95 Md. App. 307, 320, 620 A.2d 961, 967, *cert. denied*, 331 Md. 197, 627 A.2d 539 (1993); *People's Counsel for Baltimore County v. Beachwood I Limited Partnership*, 107 Md. App. 627, 648, 670 A.2d 484, 495 (1995), *cert. denied*, 342 Md. 472, 677 A.2d 565 (1996).

²⁷ *Shadynook Improvement Association, Inc. v. Molloy*, 232 Md. 265, 269-270, 192 A.2d 502, 504 (1963); *Greenblatt v. Toney Schloss Properties Corporation*; 235 Md. 9, 13, 200 A.2d 70, 72 (1964); *Pahl v. County Board of Appeals of Baltimore County*, 237 Md. 294, 297, 206 A.2d 245, 247 (1965); *Agneslane, Inc. v. Lucas*, 247 Md. 612, 618, 233 A.2d 757, 760 (1967); *France v. Shapiro*, 248 Md. 335, 342, 236 A.2d 726, 730 (1968); *Minor v. Shifflett*, 252 Md. 158, 164, 249 A.2d 159, 163 (1969); *Smith v. Board of County Commissioners of Howard County*, 252 Md. 280, 283, 249 A.2d 708, 710 (1969); *Chatham Corporation v. Beltram*, 252 Md. 578, 584, 251 A.2d 1, 4 (1969); *Wells v. Pierpont*, 253 Md. 554, 557, 253 A.2d 749, 751 (1969); *County Commissioners of Cecil County v. Phillips*, 255 Md. 229, 233, 257 A.2d 158, 160 (1969); *Westview Park Improvement and Civic Association v. Hayes*, 256 Md. 575, 581, 261 A.2d 164, 167 (1970); *Germenko v. County Board of Appeals of Baltimore County*, 257 Md. 706, 708, 264 A.2d 825, 829 (1970); *Chevy Chase Village v. Montgomery County Council*, 258 Md. 27, 41, 264 A.2d 861, 868 (1970); *Surkovich v. Doub*, 258 Md. 263, 270, 265 A.2d 447, 450 (1970); *Cabin John Ltd. v. Montgomery County*, 259 Md. 661, 669, 271 A.2d 174, 179 (1970); *Heller v. Prince Georges County*, 264 Md. 410, 412, 286 A.2d 772, 773 (1972); *Clayman v. Prince George's County*, 266 Md. 409, 417, 292 A.2d 689, 693-694 (1972); *Montgomery County v. National Capital Realty Corporation*, 267 Md. 364, 377, 297 A.2d 675, 682 (1972); *Mayor & Council of Rockville v. Henley*, 268 Md. 469, 472, 302 A.2d 45, 46 (1973); *Valenzia v. Zoning Board of Howard County*, 270 Md. 478, 483, 312 A.2d 277, 280 (1973); *Anne Arundel County v. Maryland National Bank*, 32 Md. App. 437, 440, 361 A.2d 134, 136 (1976); *Howard County v. Dorsey*, 292 Md. 351, 355, 438 A.2d 1339, 1342 (1982); *Buckel v. County Commissioners of Frederick County*, 80 Md. App. 305, 312, 562 A.2d 1297, 1300, *cert. denied*, 318 Md. 96, 566 A.2d 1112 (1989); *People's Counsel for Baltimore County v. Beachwood I Limited Partnership*, 107 Md. App. 627, 641, 670 A.2d 484, 491 (1995), *cert. denied*, 342 Md. 472, 677 A.2d 565 (1996); *People's Counsel for Baltimore County v. Surina*, 400 Md. 662, 717, 899, 932 A.2d 899 (2007).

²⁸ *Iverson v. Zoning Board of Howard County*, 22 Md. App. 265, 267-268, 322 A.2d 569, 571 (1974).