
By: **Delegates Smigiel, Rosenberg, and Sossi**
Introduced and read first time: February 10, 2006
Assigned to: Environmental Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Land Use - Local Planning Commission Plans - Open Space**

3 FOR the purpose of prohibiting local land use plans that provide for open space from
4 including certain areas with impervious or pervious surfaces that are unusable
5 by the public for parks or recreation areas as open space; and generally relating
6 to open space in local land use plans.

7 BY repealing and reenacting, with amendments,
8 Article 66B - Land Use
9 Section 3.05(a)
10 Annotated Code of Maryland
11 (2003 Replacement Volume and 2005 Supplement)

12 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
13 MARYLAND, That the Laws of Maryland read as follows:

14 **Article 66B - Land Use**

15 3.05.

16 (a) (1) A planning commission shall make and approve a plan which the
17 commission shall recommend to the local legislative body for adoption.

18 (2) The plan shall:

19 (i) Serve as a guide to public and private actions and decisions to
20 insure the development of public and private property in appropriate relationships;
21 and

22 (ii) Include any areas outside of the boundaries of the plan which,
23 in the planning commission's judgment, bear relation to the planning responsibilities
24 of the commission.

25 (3) (i) The elements of the plan may be expressed in words, graphics,
26 or any other appropriate form.

- 1 (ii) 1. The elements of the plan shall be interrelated.
- 2 2. Each element shall describe how it relates to each of the
3 other elements and to the statement of objectives, principles, policies, and standards.
- 4 (4) The plan shall contain at a minimum the following elements:
- 5 (i) A statement of goals and objectives, principles, policies, and
6 standards, which shall serve as a guide for the development and economic and social
7 well-being of the local jurisdiction;
- 8 (ii) A land use plan element, which:
- 9 1. Shall propose the most appropriate and desirable patterns
10 for the general location, character, extent, and interrelationship of the uses of public
11 and private land, on a schedule that extends as far into the future as is reasonable;
12 and
- 13 2. May include public and private, residential, commercial,
14 industrial, agricultural, and recreational land uses;
- 15 (iii) A transportation plan element which shall:
- 16 1. Propose the most appropriate and desirable patterns for
17 the general location, character, and extent of the channels, routes, and terminals for
18 transportation facilities, and for the circulation of persons and goods on a schedule
19 that extends as far into the future as is reasonable;
- 20 2. Provide for bicycle and pedestrian access and travelways;
21 and
- 22 3. Include an estimate of the probable utilization of any
23 proposed improvement;
- 24 (iv) A community facilities plan element, which:
- 25 1. Shall propose the most appropriate and desirable patterns
26 for the general location, character, and extent of public and semipublic buildings,
27 land, and facilities on a schedule that extends as far into the future as is reasonable;
28 and
- 29 2. May include parks and recreation areas, schools and other
30 educational and cultural facilities, libraries, churches, hospitals, social welfare and
31 medical facilities, institutions, fire stations, police stations, jails, or other public office
32 or administrative facilities;
- 33 (v) If current geological information is available, a mineral
34 resources plan element that:

- 1 1. Identifies undeveloped land that should be kept in its
2 undeveloped state until the land can be used to provide or assist in providing a
3 continuous supply of minerals, as defined in § 15-801(i) of the Environment Article;
- 4 2. Identifies appropriate post-excavation uses for the land
5 that are consistent with the county's land planning process;
- 6 3. Incorporates land use policies and recommendations for
7 regulations:
- 8 A. To balance mineral resource extraction with other land
9 uses; and
- 10 B. To the extent feasible, to prevent the preemption of
11 mineral resources extraction by other uses; and
- 12 4. Has been reviewed by the Department of the Environment
13 to determine whether the proposed plan is consistent with the programs and goals of
14 the Department;
- 15 (vi) An element which shall contain the planning commission's
16 recommendation for land development regulations to implement the plan and which
17 encourages the following:
- 18 1. Streamlined review of applications for development,
19 including permit review and subdivision plat review within the areas designated for
20 growth in the plan;
- 21 2. The use of flexible development regulations to promote
22 innovative and cost-saving site design and protect the environment; and
- 23 3. Economic development in areas designated for growth in
24 the plan through the use of innovative techniques;
- 25 (vii) Recommendations for the determination, identification, and
26 designation of areas within the county that are of critical State concern; and
- 27 (viii) A sensitive area element that contains goals, objectives,
28 principles, policies, and standards designed to protect sensitive areas from the
29 adverse effects of development.
- 30 (5) (i) The transportation element may include all types of highways
31 and streets, bicycle ways, sidewalks, railways, waterways, airways, routings for mass
32 transit, and terminals for people, goods, and vehicles related to highways, airways,
33 waterways, and railways.
- 34 (ii) The mineral resources plan element shall be incorporated in:
- 35 1. Any new plan adopted after July 1, 1986 for all or any part
36 of a local jurisdiction; and

1 2. Any amendment or addition that is adopted after July 1,
2 1986 to a plan that was in effect on July 1, 1985.

3 (6) (i) The plan may include any additional elements which, in the
4 judgment of the planning commission, will further advance the purposes of the plan.

5 (ii) The additional plan elements may include:

- 6 1. Community renewal elements;
- 7 2. Housing elements;
- 8 3. Flood control elements;
- 9 4. Pollution control elements;
- 10 5. Conservation elements;
- 11 6. Natural resources elements; and
- 12 7. The general location and extent of public utilities.

13 (7) (i) Each planning commission of a county that is located on the
14 tidal waters of the State and that exercises authority under this article shall include
15 in its plan the designation of areas on the tidal water or in close proximity to the tidal
16 water for the following purposes:

- 17 1. Loading and unloading finfish and shellfish;
- 18 2. Processing finfish and shellfish; and
- 19 3. Docking and mooring commercial fishing boats and
20 vessels.

21 (ii) The designated areas under subparagraph (i) of this paragraph
22 shall be geographically located to:

- 23 1. Facilitate the commercial harvesting of finfish and
24 shellfish; and
- 25 2. Assure reasonable access to the waterways of the State by
26 commercial watermen.

27 (8) A PLAN THAT PROVIDES FOR OPEN SPACES MAY NOT INCLUDE AS
28 OPEN SPACES:

29 (I) AREAS WITH IMPERVIOUS SURFACES, SUCH AS CUL-DE-SACS,
30 HIGHWAYS, AND PARKING LOTS; OR

1 (II) AREAS WITH PERVIOUS SURFACES THAT ARE UNUSABLE BY
2 THE PUBLIC FOR PARKS OR RECREATIONAL AREAS, SUCH AS SEDIMENT CONTROL
3 PONDS.

4 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
5 October 1, 2006.