
Land planning is balancing act

By: **MARION CALLAHAN** (Mon, Oct/08/2007)

Curbing suburban sprawl is not easy for municipal governments, who are bound by that state's laws to make room for all land uses within their boundaries.

Municipal officials struggle to strike a balance between preserving the character of their communities and keeping themselves out of costly litigation. Zoning is their basic means of land use control — but using it to leverage open space is often risky.

"There is a gray line between using zoning fairly and using zoning to be unreasonably restrictive. And we don't know exactly where that line is," said Michael Frank, director of community planning for the Heritage Conservancy, an open-space advocacy group.

Each township has a comprehensive land-use plan, which maps out what kind of development is allowed within the municipality. Developers can have a township's zoning ruled illegal if the municipality does not provide a certain percentage of its developable land for every type of housing.

Townships must set aside areas for high-density residential development, commercial use, industrial use and mining. "You have to provide for every conceivable use, and planning becomes a balancing task that every township goes through," said attorney John Rice, who has represented [Bedminster](#) and other area townships in land-use cases.

State lawmakers have proposed legislation that would empower townships with new tools to save open space.

[Rep. Marguerite Quinn](#) said the state's Municipal Planning Code — written in 1968 — "is a one size fits all document that has little to no flexibility when it comes to municipalities trying to defend their own "sustainability" in terms of vision, resources and overall planning."

She is now rallying support for new legislation, HB 1787, that would give a municipality the opportunity to correct zoning problems identified subsequent to an appellate court decision, she said. "It essentially offers a second chance to the municipality so they, not the developers or the courts, are making the important land use decisions," she said.

According to a recent [PennEnvironment](#) report, the legislation is meant to level the playing field and close some of these legal loopholes so that developers can't strong-arm local elected officials.

"Unfortunately, [Pennsylvania](#)'s existing land use laws include numerous legal loopholes that make it easy for powerful developers like Toll Brothers to bring forth lawsuits against townships and force through projects that local communities oppose," it said.

Charles L. Guttenplan, director of planning services for the Waetzman Planning Group, who worked as a planning consultant, said many townships are using all the tools they have to preserve land.

"There is more of an effort being made to find legitimate ways to save open space through zoning," he said, "but some communities choose not to undertake them — there are too many court cases or it's too touchy a topic. Some are concerned about a landowner getting the upper hand in court, and they don't want to risk it."

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