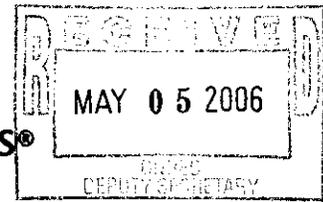




**THE DELAWARE ASSOCIATION OF REALTORS®**

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**Received**

May 5, 2006

The Honorable David Small  
Deputy Secretary  
Division of Natural Resources and Environmental Control  
99 Kings Highway  
Dover, Delaware 19901

MAY 05 2006  
Division of Parks & Recreation  
Directors Office

Re: State Resource Area Maps

Dear Deputy Secretary Small:

On behalf of the Delaware Association of REALTORS®, I wish to provide some comment and relate our concerns with the current draft of the State Resource Area (SRA) Maps which will soon be presented to the Open Space Council for consideration.

While we certainly appreciated the recent briefing our industry and the Home Builders received last week, there are still a number of issues that we have concern with as it relates to the currently drafted maps and the overall authority of the Open Space Council.

Our organization applauds the efforts of the Division to identify those areas around the state that need to be protected because of specific species of plants and animals. The following are our concerns with the SRA maps:

1. The statute, Chap. 75, Title 7, Sec. 7507 requires the Division to provide these maps to all planning authorities one (1) year prior to the adoption of that jurisdiction's comprehensive land use plan. Currently DNREC is out of compliance with both NCC and KC.
2. Throughout the statute, specifically Secs. 7506 (1-4), and Sec. 7507 (a) (1-3) that states the Open Space Council shall review and recommend lands to be dedicated as open space lands for SRA maps, lands for permanent protection, and a priority ranking system to establish land acquisition for protection. This is again restated in Sec. 7507 where the Open Space Council is to provide a "priority ranking system for the acquisition of said lands and waters or rights therein."

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3. There is a question as to what the term "...adjacent lands" in Sec. 7508 (1) means to the counties or municipalities that must develop some kind of overlay ordinance(s) to provide some level of protection for these lands designated as SRAs. Specifically, how far will the SRA encroach upon a private property owner and their ability to fully use their lands, up to the actual SRA boundary?  
  
The current SRA maps do not take into consideration any of the current zoning overlays that already exist in county code. New Castle County has the SR designation, essentially a down-zoning of 1 unit to 5 acres in vast areas Southern New Castle County; Kent County's new Coastal Zone overlay that is also a down-zoning of 1 unit to 5 acres east of Route 1, and 1 unit to 10 acres east of Route 9. It is absolutely critical that the Division and Open Space Council review these zoning designations as to the impact on property owners and how these areas have taken thousands of acres "off" the market for anything but large homesteads.
5. The Division should also overlay the Counties Comprehensive Land Use Plans to determine any conflict between SRAs that may in fact be in the heart of that County's growth zone.
6. It is stated that some 94,000 additional acres have been identified by the Division for consideration as SRAs. There is no doubt that despite the claims that "notification" has occurred via two articles in the News Journal, and residents having three workshops, the actual time between publication of the maps and the final review by the Open Space Council on May 9<sup>th</sup> at 9:00 AM is one (1) month. Essentially the SRAs will, in most likelihood, severely restrict the ability of the land owner to use their lands. We strongly urge the Division and the Open Space Council to aggressively notify each property owner of their inclusion in the SRA.
7. It is our understanding that of the 94,000+ acres of unprotected proposed SRAs, about 53% are considered uplands and could possibly be suitable for development. We consider overprotecting such private properties to be a taking and a basic violation of individual property rights.

In summary, while the goal of species protection is vital to Delaware's long term environmental health, the overall objectives of the Open Space Council in our opinion are not to restrict private property owner's ability to use their lands through the use of SRAs and new overlay ordinances developed by the local governments. It is to take input from all sources and determine, using a priority ranking system, which lands must be saved based upon the factors that drive this process.

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Then those lands that are identified via SRAs, the Open Space Council, or other means, are purchased – it is that simple.

We strongly urge the Division and the Open Space Council to further examine the impact of these newly identified SRAs upon the private property owner, and to seek those owners that have these high value lands for consideration as a SRA property prior to the adoption of new restrictive county or municipal ordinances that will take their value.

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Respectfully Submitted;

MAY 05 2006

  
Dick Brogan, President  
Delaware Association of REALTORS®

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Directors Office

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