

June 26, 2008

Secretary John Hughes
Department of Natural Resources and Environmental Control
State of Delaware
89 Kings Highway
Dover, Delaware 19904

Dear Secretary Hughes:

We are very pleased that you have begun the new Super Green initiative for Delaware. This is an important opportunity, and I am writing you to encourage discussion of a practical new direction for Delaware land use policy, with which I have decades of personal experience.

Delaware has an opportunity to institute policy that would have a positive effect on three areas simultaneously: land preservation, environmental stewardship and positive economic development. I have spoken about this topic for many years, based on my experience in the environmental field, and my involvement in countless land development projects over the last twenty years.

Delaware is home to many important species, habitat types and land formations, all of which hold great value for us and future generations. Problems in the preservation of these resources come from the vastly different valuations placed on these resources, and the willingness of the public to pay for the free-market value of these resources being preserved.

The current system asks that the landowner pay for preserving resources for the public good. The net result of this is that the value of the resource becomes negative for the people that actually own the resource. This is contrasted by the high value placed on the resource by the public and regulators. This type of system is bound to lead to problems.

Landowners know the value of their land and the resources that are part of their land. If their goal is to sell their land, they usually try to maximize the value. If wetlands or rare species or old growth forest on their property significantly detract from the value, there will be pressure to eliminate these areas prior to the sale of the property.

Imagine instead that natural resources had value to the landowner. Then, instead of trying to eliminate them, he or she would be looking to accurately map them, characterize them and preserve them. That would represent a 180-degree shift in current thinking, but it is possible.

Currently, these resources have no value because these areas are not developable and they usually cannot be counted towards the developable areas on a site. This makes them almost worthless, and therefore the landowner will look for ways to prove that the wetlands are smaller, the rare species habitat does not exist or worse, for example, they will legally clear the nicest Loblolly Pine forest in the state to eliminate the designation 'Mature Forest' from their property.

If the landowner could instead claim a development density bonus for preserving wetlands, rare species habitat and/or important forested areas, those truly outstanding and publicly-important areas, every landowner would instead try to prove that they had the best forest or a highly functional wetland or a rare species habitat on their site. This would be contrary to the way things are done now, but would make my job a lot more fun, and would take DNREC out of the current adversarial position to land development that they are currently in.

This approach would give the resources value and would give the most important resources the highest value to the people that currently own them or future purchasers. This approach would also result in more concentrated development at higher densities which results in "greener" development with less pressure on resources.

The only price that the public would have to pay for the preservation of important resources would be the acceptance of higher density development. This is going to happen anyway as we learn that high density development is more environmentally friendly. Of course the local jurisdictions would have to sign on to this concept to allow higher density "by right" in areas where valuable resources are being preserved.

For elected officials, this is a win-win proposition:

- By advocating resource protection and simultaneously promoting responsible development, the elected officials of Delaware become advocates for the best of both worlds.
- No longer would Delaware officials get those uncomfortable opposing requests from developers vs. environmentalists.

The new Super Green State initiative may be the perfect avenue to implement a program like this. We would be interested in discussing this further with you and your staff in order to explore the possibility of implementing this type of program.

Sincerely,

James C. McCulley IV, P.W.S.
CEO, JCM Environmental

cc: Governor Ruth Ann Minner
Lee Ann Walling
David Small
Steve Lefevre