

SUSSEX COUNTY COUNCIL - GEORGETOWN, DELAWARE, FEBRUARY 10, 1998

Call to Order      The regular meeting of the Sussex County Council was held Tuesday, February 10, 1998, at 10:00 a.m., in the Council Chambers, Sussex County Administrative Office Building, Georgetown, Delaware, with the following present:

Finley B. Jones, Jr.	Vice President
George B. Cole	Member
George J. Collins	Member
Lynn J. Rogers	Member

The meeting was opened by repeating the Lord's Prayer and Pledge of Allegiance to the Flag.

M 066 98      A Motion was made by Mr. Rogers, seconded by Mr. Collins, to Approve Agenda approve the Agenda, as presented.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

M 067 98      A Motion was made by Mr. Collins, seconded by Mr. Rogers, to Approve Minutes approve the minutes of the previous meeting, dated February 3, 1998.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Corre-      Mr. Bayard, County Attorney, read the following correspondence: spondence

DELAWARE RIVER BASIN COMMISSION, WEST TRENTON, NEW JERSEY.  
RE: Notice of Commission Meeting and Public Hearing.

Billing      Mr. Baker, Finance Director, reviewed the results of a project Proce- undertaken to make improvements to the County's billing and dures bill processing procedures. This project was undertaken by a Committee consisting of the following County employees: Bonnie Smith, Director of Data Processing; Joyce Lord, Director of Treasury; William Townsend, Internal Auditor; and Leon Collins, Director of Utility Billing. The Committee considered whether or not the County should continue billing on an in-house basis or to have the billing and bill processing done by an outside concern; the Committee concluded that the County should continue billing on an in-house basis. This fiscal year's budget includes \$60,000 for the purpose of making improvements to the

Billing  
Proce-  
dures  
(con't)

existing system. Mr. Baker advised that the nearly completed project has cost approximately \$45,000; one-half of this amount is funded by the General Fund and one-half is charged to the sewer and water districts. Purchases made to complete this project include mail processing equipment, laser printers, wands and zip code software. Mr. Baker noted the following improvements/benefits that will be realized as a result of this project:

- Improved print quality.
- Savings in postage.
- Mail will be processed more efficiently.
- Estimated savings in postage annually - \$16,100.
- Mail returns will be reduced.
- Payments will be processed faster, thus increasing daily deposit balances which converts to increased interest income.
- More efficient processing of payments will hold payroll costs at the same level, or possibly reduce payroll costs, in the future.
- Alleviate errors in processing payments.
- Improved County address records.

Accep-  
tance of  
Waste-  
water  
Facili-  
ties

Mr. Green, Director of Utility Construction, discussed the construction of wastewater facilities in (1) The Retreat in the Bethany Beach Sanitary Sewer District, (2) Maplewood, Phase IV, in the West Rehoboth Expansion of the Dewey Beach Sanitary Sewer District, and (3) Clearwater Development, Phase V, in the South Bethany Sanitary Sewer District.

M 068 98  
Grant  
Bene-  
ficial  
Accep-  
tance/  
The  
Retreat

A Motion was made by Mr. Cole, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in The Retreat, located in the Bethany Beach Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

M 069 98 Grant Conditional Acceptance/Maplewood A Motion was made by Mr. Collins, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council grant Conditional Acceptance for the wastewater facilities constructed in Maplewood, Phase IV, located in the West Rehoboth Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

M 070 98 Grant Beneficial Acceptance/Clearwater Development A Motion was made by Mr. Collins, seconded by Mr. Rogers, based upon the recommendation of the Sussex County Engineering Department, for Sussex County Project No. 81-04, that the Sussex County Council grant Beneficial Acceptance for the wastewater facilities constructed in Clearwater Development, Phase V, located in the South Bethany Sanitary Sewer District.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Storm Related Assistance Senator Bunting was in attendance to extend thanks to County Administrator Robert Stickels, Sussex County Council, the Sussex County Emergency Operations Center, the Sussex County Volunteer Fire Companies and their Auxiliaries, DEMA, DNREC, DelDOT, State Police, National Guard, and all those involved, for their leadership and assistance during the last two storms.

Mr. Stickels, County Administrator, extended thanks to Senator Bunting for his assistance and for his involvement in the activation of the National Guard.

Storm Report Mr. Stickels, County Administrator, provided the following Storm Report for the dates February 4, 5, and 6, 1998.

**Damage Assessment - Countywide**

Power outages throughout the County - As many as 5,000 homes were without power at one time or another during the three days.

Schools were closed early Wednesday and remained closed Thursday and Friday.

Tides along the coast were seven to eight feet above normal from Wednesday into Friday.

Storm  
Report  
(con't)

The Governor declared a State of Emergency, activating the National Guard.

**Slaughter Beach**

Road 224 leading into Slaughter Beach was closed for two days.

As much as three feet of water, 1,200 to 1,500 feet wide closed the road.

Dunes were breached by waves and flooding occurred within the town limits.

**Broadkill**

Road 16 leading into Broadkill was closed for two days.

Water was two to three feet deep.

Several homes on the beach on North Carolina Street received damage.

The south end of Slaughter Beach had extensive flooding.

**Lewes**

Six streets had serious flooding.

27 Cedar Street homes had some type of water infiltration problems.

Lewes Beach parking lot was under water.

**Henlopen Acres**

Several homes had damage from trees falling. Approximately 40 trees fell during this storm. This is after approximately 60 trees had fallen the week before.

Flooding took place along the bay.

**North Shores**

Road 300 was closed for three days.

Approximately 12 homes had damage on the beach.

As much as three feet of sand washed back to Surf Avenue.

**Rehoboth Beach**

Significant damage to the boardwalk.

Storm  
Report  
(con't)

**Rehoboth Beach (con't)**

11 washed out street ends.

Possible structural damage to the Boardwalk Plaza and Atlantic Sands Hotel.

One Virginia Avenue condominium had as much as seven feet of water in the parking garage.

The sea wall at The Henlopen parking lot was damaged; major problems to the roadway and parking lot.

**Dewey Beach**

Severe damage to the road ends on ocean front.

Sewer services interrupted for several homes on the ocean.

Many homes on the bay side were flooded and as many as a dozen cars had severe flooding and water damage.

**Bethany Beach**

Appears to be damage to the boardwalk and sea wall.

South end of town lost much of their dunes.

Pennsylvania Avenue remained under water as late as Sunday.

**South Bethany**

The entire Ocean Drive was lost in South Bethany from First Street through Ninth Street.

Electrical poles were down.

All water and sewer service has been disconnected.

South Bethany also had major bay flooding.

**Fenwick Island**

Dunes were breached along the ocean.

As much as 2,000 feet of dunes were lost north of the town limits.

Flooding spilled over into Route 1.

The Town of Fenwick had severe bay flooding.

Storm  
Report  
(con't)

Long Neck

Severe bay flooding took place.

As many as 400 people had to be evacuated.

Damage to homes included heat pumps and floor insulation.

Milton

The downtown area was flooded.

Minor damage was reported to the County library.

State Assistance

Governor Carper activated the Delaware National Guard on Wednesday, February 4, at 7:00 a.m. They stayed activated until 7:00 p.m. on Saturday, February 7. The National Guard was very instrumental in helping control traffic and allowing for State, County, and town workers.

Additional State Police were brought into the area on Saturday, February 7. Eleven State Policemen worked with the Delaware National Guard controlling traffic from Dewey Beach to Fenwick Island.

County employees at the Emergency Operations Center and the County wastewater treatment facilities worked 16- to 18-hour days.

Volunteer firemen from the western side of the County assisted with coastal fire companies. Fire police were very helpful in controlling traffic when the storm first started until the Delaware National Guard was activated.

DelDOT has assigned maintenance crews to each community and will be working with them for a minimum of one week.

Farmland  
Preser-  
vation  
Program

Mr. Collins discussed facts and goals regarding Delaware's Farmland Preservation Program. The goal of the program is to preserve farmland in Delaware to ensure the continued existence and success of agriculture in Delaware. There are now 105,554.91 acres in 357 Agricultural Preservation Districts and District expansions in Delaware; of this amount 37,594.05 acres in 144 Districts and District expansions are located in Sussex County. The following members and secretary of the Sussex County Farmland Preservation Advisory Board were recognized with a Certificate of Appreciation: George J. Collins, Lowder W. Mitchell, Jr., Willis Kirk, Keith Carlisle, Donald A. Powell, and William A. McGowan, Secretary.

Adminis-  
trator's  
Report

Mr. Stickels, County Administrator, read the following information in his County Administrator's Report:

1. Presidents' Day

Sussex County government offices will be closed Monday, February 16, 1998, in observance of Presidents' Day. County offices will reopen Tuesday, February 17, at 8:30 a.m. There will be a Council meeting at 10:00 a.m. on February 17.

2. 1998 Delaware Population Projections

I have been notified by the Delaware Population Consortium that according to the 1998 projections, Delaware is expected to grow by nearly 17 percent -- to nearly 854,000 persons between now and the year 2020. Kent County is expected to grow by over 17 percent -- to nearly 144,000 persons; New Castle County is expected to grow by over 11 percent -- to 529,000 persons; and Sussex County is expected to grow by almost 35 percent -- to over 181,000 persons.

The projected growth in Sussex County is a sharp increase over the 1997 projection. The increase is due to growth in employment opportunities throughout the County and to the rise in the number of commuters living in Sussex and working in surrounding communities. The 1997 population for Sussex County was 134,287. This compares to 113,000 in 1990.

M 071 98  
Council-  
manic  
Grant

A Motion was made by Mr. Rogers, seconded by Mr. Cole, to give \$250.00 from Mr. Rogers' Councilmanic Account to the Lewes Little League for an additional ballfield.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent.

Proposed  
Ordinance

Mr. Collins introduced the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR AN AUTOMOTIVE REPAIR SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN BROAD CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 1.73 ACRES, MORE OR LESS" (Conditional Use No. 1235) filed on behalf of First State Mobile Mechanic, Inc. The Proposed Ordinance will be advertised for Public Hearing.

M 072 98  
Recess

At 11:22 a.m., a Motion was made by Mr. Collins, seconded by Mr. Rogers, to recess until 1:30 p.m. Motion Adopted by Voice Vote.

Reconvene Mr. Jones called Council back into session at 1:33 p.m.

Public Hearing (C/U No. 1221) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE MARKET (SEASONAL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.74 ACRES, MORE OR LESS" (Conditional Use No. 1221) filed on behalf of Joseph H. Smith. There were no public comments and the Public Hearing was closed.

M 073 98 Adopt Ordinance No. 1211 (C/U No. 1221) A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Ordinance No. 1211 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRODUCE MARKET (SEASONAL) TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN DAGSBORO HUNDRED, SUSSEX COUNTY, CONTAINING 1.74 ACRES, MORE OR LESS" (Conditional Use No. 1221) filed on behalf of Joseph H. Smith, with the following condition:

1. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings of Fact The Council found that the conditional use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will permit him to expand his agricultural business, serve the public convenience, and promote agricultural activity in the area, all without any impact on the character of the neighborhood, property values, traffic or the environment.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/U No. 1222) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MACHINE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTH-WEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.76 ACRES, MORE OR LESS, OF A 42.127 ACRE TRACT (Conditional Use No. 1222) filed on behalf of Harlan L. Jones. There were no public comments and the Public Hearing was closed.

M 074 98 A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1212 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A MACHINE SHOP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN NORTHWEST FORK HUNDRED, SUSSEX COUNTY, CONTAINING 4.76 ACRES, MORE OR LESS, OF A 42.127 ACRE TRACT" (Conditional Use No. 1222) filed on behalf of Harlan L. Jones, with the following conditions:

1. The boundary of the Conditional Use shall be reduced to a minimum width of 150', and shall begin 10' southeast of the 20' wide driveway. This will reduce the Conditional Use site to 1.03 acres more or less.
2. There shall be no business hours on Sunday.
3. There shall be no business hours from 11:00 p.m. to 6:00 a.m.
4. Welding may be included with this application.
5. Fabrication work may be included with this application.
6. One unlighted sign, not to exceed 32 square feet per side or facing, may be permitted.
7. No outside storage shall be permitted.
8. All business activities and work shall be performed within the building.
9. No business vehicles, other than those titled to the applicant, may remain parked outside overnight.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings of Fact The Council found that the Conditional Use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use will enable him to begin and develop a new business that will serve the area, with no impact upon the neighborhood, property values therein, the environment or traffic in the area.
2. The proposed use is consistent with the purposes and goals of the Comprehensive Plan.

Findings (con't) 3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public Hearing (C/U No. 1223) A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PRIVATE CLUB/COMMUNITY ACTIVITY CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1223) filed on behalf of West Side New Beginnings, Inc. Public comments were heard in favor of the application and the Public Hearing was closed.

M 075 98 Adopt Ordinance No. 1213 (C/U No. 1223) A Motion was made by Mr. Cole, seconded by Mr. Rogers, to Adopt Ordinance No. 1213 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN A GR GENERAL RESIDENTIAL DISTRICT FOR A PRIVATE CLUB/COMMUNITY ACTIVITY CENTER TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 17,500 SQUARE FEET, MORE OR LESS" (Conditional Use No. 1223) filed on behalf of West Side New Beginnings, Inc., with the following stipulations:

1. Parking and security lighting, if any, shall be arranged and installed to minimize glare on property in the area.
2. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings of Fact The Council found that the Conditional Use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the proposed use is a renewed application for a conditional use approved by Council in April 1994. Funds are now available to complete the project. The proposed use will have no adverse impact of any sort; in fact, the proposed use will have only positive impact on the neighborhood and the community.
2. The proposed use serves the purposes and goals of the Comprehensive Land Use Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/U  
No. 1224)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE AIR STRIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.00 ACRES, MORE OR LESS" (Conditional Use No. 1224) filed on behalf of Thomas M. and Amanda L. Rosenthal. Public comments were heard in support of and in opposition to this application. The Public Hearing was closed.

M 076 98  
Adopt  
Ordinance  
No. 1214  
(C/U  
No. 1224)

A Motion was made by Mr. Collins, seconded by Mr. Cole, to Adopt Ordinance No. 1214 entitled "AN ORDINANCE TO GRANT A CONDITIONAL USE OF LAND IN AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A PRIVATE AIR STRIP TO BE LOCATED ON A CERTAIN PARCEL OF LAND LYING AND BEING IN LITTLE CREEK HUNDRED, SUSSEX COUNTY, CONTAINING 79.00 ACRES, MORE OR LESS" (Conditional Use No. 1224) filed on behalf of Thomas M. and Amanda L. Rosenthal, with the following conditions:

1. There shall be no fuel storage or sales on the site.
2. Only one single engine aircraft shall be permanently stored on the site.
3. No commercial activities shall be permitted.
4. No runway lighting shall be permitted.
5. No hangar space or tie-down rentals shall be permitted.
6. The runway shall be no longer than 1,790 feet in length.
7. Landing and take-off of aircraft shall be to the western end of the runway and away from existing residences.
8. No skydiving activities shall be permitted.
9. The site plan shall be subject to review and approval by the Planning and Zoning Commission.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings  
of Fact

The Council found that the Conditional Use was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that with the nine conditions controlling the proposed use, that the use will have no adverse impact on the charac-

Findings  
of Fact  
(con't)

ter of the neighborhood, property values therein, traffic or the environment. In fact, the nine conditions serve to protect neighborhood concerns and promote safety.

2. The proposed use is consistent with the purposes and goals of the Comprehensive Plan.
3. The findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

Public  
Hearing  
(C/Z  
No. 1330)

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.67 ACRES, MORE OR LESS" (Change of Zone No. 1330) filed on behalf of Mumford Real Estate Partnership. There were no public comments and the Public Hearing was closed.

M 077 98  
Adopt  
Ordinance  
No. 1215  
(C/Z  
No. 1330)

A Motion was made by Mr. Cole, seconded by Mr. Collins, to Adopt Ordinance No. 1215 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A C-1 GENERAL COMMERCIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 6.67 ACRES, MORE OR LESS" (Change of Zone No. 1330) filed on behalf of Mumford Real Estate Partnership.

Motion Adopted: 4 Yea, 1 Absent.

Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings  
of Fact

For the reasons recommended by the Planning and Zoning Commission, which are incorporated herein, the Sussex County Council finds that the applied for rezoning is an appropriate legislative action, and also finds that the property subject to Change of Zone No. 1330 is located on Route 54 and 113 and is separated from the municipal boundaries of the Town of Selbyville by the U.S. Route 113 right-of-way.

The subject property is located within a development area of the Sussex County Comprehensive Land Use Plan of 1997. To the west of the property's boundary line and Route 113 is the Town of Selbyville, which is designated under the Sussex County Comprehensive Land Use Plan of 1997 as a Town Development District.

The Delaware Department of Transportation (DelDOT) has rendered an opinion on the rezoning application for this property, which finds no significant level of highway use change as a result of

Findings  
of Fact  
(con't)

the rezoning. DelDOT recommends that the County approve the rezoning for the use as proposed. The replacement building of the previously destroyed Mumford Sheet Metal Works is under construction. The investment in building provides adequate assurance that the use as proposed will be retained.

The rezoning application has been filed to zone lands for a building which replaces a pre-existing use which unfortunately sustained a total fire loss in the summer of 1997. The proposed rezoning does not change the use. The prior sheet metal facility was located on lands zoned in part commercial and on lands which in part house a non-conforming commercial use in an AR-1 District.

The subject property is located immediately across from lands zoned C-1 on the west side of U.S. Route 113 to a depth of 300 feet. Those lands, also owned by Mumford Real Estate Partnership, have been used since the adoption of the Sussex County Comprehensive Zoning Ordinance for an open air storage of culvert pipe.

The subject property is well-suited for commercial use. This parcel is located on U.S. Route 113, and is served by an existing traffic light, and the parcel is in an area that lies adjacent to a Town Development Center under the 1997 Comprehensive Plan.

The Sussex County Council also finds that the property has been used for the Mumford Sheet Metal Works for approximately 65 years, and the purpose of the rezoning is to replace a building destroyed by fire to a proper and appropriate zoning designation. Building permits to rebuild the facility were issued on January 20, and February 4, 1998. The building permit as to the lands subject to this rezoning was issued to authorize replacement of the destruction of a building grandfathered as a non-conforming use.

The proposed rezoning conforms the renovation and rebuilding of Mumford Sheet Metal Works to make the entire property which previously housed the business to be zoned C-1, as opposed to a portion of the property being zoned agricultural, with a pre-existing non-conforming use.

The applicant has submitted evidence that the Town of Selbyville supports the rezoning application, which will allow continuation of employment opportunities near the Town Center. The Town of Selbyville has stated that its water services will be extended to the facility to allow for a sprinkler system, which will assist in avoiding the catastrophe that visited these premises during the summer of 1997. The Town of Selbyville has indicated that if necessary, its sewer services can be extended to the site in the event the currently permitted wastewater disposal system fails, or if additional sewer capacity is needed.

Findings  
of Fact  
(con't)

The applicant has projected that the number of employees that will be employed at the facility are between 12 and 15; and historically, 50 to 75 customers visit the premises daily, when the business was open.

The Sussex County Council finds that the commercial use which has been housed in the premises serves the agricultural industry in Sussex County. The applicant has stated that historically 50 percent of Mumford Sheet Metal products have been sold to the agricultural industry in Sussex County.

The proposed rezoning possesses an important relationship to the Sussex County Comprehensive Plan of 1997, since the subject property is in a development zone and the development zone is adjacent to a Town Center.

The proposed use conforms to the purposes of a Development District under the Sussex County Comprehensive Plan of 1997 based upon the Plan's guidelines which provide:

The purpose of the Development District is to concentrate development in areas where public water and wastewater systems are available or planned and where past trends indicate that growth will occur ... The Development District will produce a mixed-use growth pattern supported by public and private investments to provide a variety of economic development and housing opportunities.

Commercial uses in the Development District include retail stores, professional offices and recreation. Commercial uses within residential areas, especially those in the Inland Bays and other areas which are influenced by cultural, environmental and/or mobility concerns, should be limited to neighborhood shopping and businesses which serve the current development.

The proposed rezoning will allow the traditional use of this property to be rebuilt such that its display areas and offices will be located directly on Route 113, and its manufacturing facilities will be located to the rear of the property. The Sussex County Council finds that there is no adverse economic impact on any surrounding uses, since all surrounding uses were located with knowledge of the existence of the subject business and its operation.

Public  
Hearing

A Public Hearing was held on the Proposed Ordinance entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRI-

Public Hearing (C/Z No. 1331) CULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 23.41 ACRES, MORE OR LESS" (Change of Zone No. 1331) filed on behalf of Joseph W. McQuaide and Bettina M. McQuaide. There were no public comments and the Public Hearing was closed.

M 078 98 Adopt Ordinance No. 1216 (C/Z No. 1331) A Motion was made by Mr. Collins, seconded by Mr. Rogers, to Adopt Ordinance No. 1216 entitled "AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A GR GENERAL RESIDENTIAL DISTRICT TO AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN INDIAN RIVER HUNDRED, SUSSEX COUNTY, CONTAINING 23.41 ACRES, MORE OR LESS" (Change of Zone No. 1331) filed on behalf of Joseph W. McQuaide and Bettina M. McQuaide.

Motion Adopted: 4 Yea, 1 Absent.

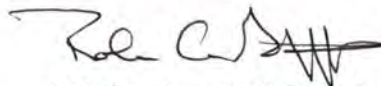
Vote by Roll Call: Mr. Cole, Yea; Mr. Rogers, Yea;  
Mr. Jones, Yea; Mr. Collins, Yea;  
Mr. Dukes, Absent

Findings of Fact The Council found that the change of zone was appropriate legislative action based on the following findings of fact:

1. The applicant established by substantial evidence that the change of zone will promote and preserve agricultural lands, purposes supported by the Comprehensive Plan and the State Agricultural Land Preservation Foundation, without adverse impact of any sort.
2. Accordingly, the findings of fact and recommendations of the Planning and Zoning Commission are incorporated herein.

M 079 98 Adjourn A Motion was made by Mr. Collins, seconded by Mr. Rogers, to adjourn at 3:15 p.m. Motion Adopted by Voice Vote.

Respectfully submitted,



Robin A. Griffith  
Clerk of the County Council