

ORDINANCE NO. 2719

AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM AN AR-1 AGRICULTURAL RESIDENTIAL DISTRICT TO A B-3 BUSINESS RESEARCH DISTRICT FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN BALTIMORE HUNDRED, SUSSEX COUNTY, CONTAINING 17.15 ACRES, MORE OR LESS

WHEREAS, on the 19th day of December 2019, a zoning application, denominated Change of Zone No. 1915, was filed on behalf of Fisher’s Popcorn Fenwick, LLC; and

WHEREAS, on the 28th day of May 2020, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 11th day of June 2020, said Planning and Zoning Commission recommended that Change of Zone No. 1915 be approved; and

WHEREAS, on the 30th day of June 2020, a public hearing was held, after notice, before the County Council of Sussex County and the County Council of Sussex County has determined, based on the findings of facts, that said change of zone is in accordance with the Comprehensive Development Plan and promotes the health, safety, morals, convenience, order, prosperity and welfare of the present and future inhabitants of Sussex County.

NOW, THEREFORE, THE COUNTY OF SUSSEX HEREBY ORDAINS:

Section 1. That Chapter 115, Article II, Subsection 115-7, Code of Sussex County, be amended by deleting from the Comprehensive Zoning Map of Sussex County the zoning classification of [AR-1 Agricultural Residential District] and adding in lieu thereof the designation of B-3 Business Research District as it applies to the property hereinafter described.

Section 2. The subject property is described as follows:

ALL that certain tract, piece or parcel of land lying and being situate in Baltimore Hundred, Sussex County, Delaware, and lying on the north side of Zion Church Road, and being more particularly described in the attached legal description prepared by Sarah L. Ford of Land Design, Inc., said parcel containing 17.15 acres, more or less.

This Ordinance shall take effect immediately upon its adoption by majority vote of all members of the County Council of Sussex County, Delaware.

I DO HEREBY CERTIFY THAT THE FOREGOING IS A TRUE AND CORRECT COPY OF ORDINANCE NO. 2719 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 30TH DAY OF JUNE 2020.

**ROBIN A. GRIFFITH
CLERK OF THE COUNCIL**

The Council found that the Change of Zone was appropriate legislative action based on the following Findings of Fact:

- A. This is the application of Fisher’s Popcorn Fenwick, LLC to amend the Comprehensive Zoning Map of Sussex County from an AR-1 Agricultural Residential District to a B-3 Business Research District for a certain parcel of land lying and being in Baltimore Hundred, Sussex County, containing 17.15 acres, more or less (property lying on the north side of Zion Church Road (Route 20), approximately 318 feet southeast of Deer Run Road) (Tax I.D. No. 533-11.00-78.04) (Portion of) (911 Address: None Available).**
- B. Based on the record before the Planning and Zoning Commission and the hearing before the Sussex County Council, Council found that David Hutt, Esquire, of Morris James, LLP, was present by teleconference at the Planning and Zoning Commission’s hearing on behalf of Fisher’s Popcorn Fenwick, LLC, along with Mr. Russell Hall, Fisher’s Popcorn Fenwick, LLC and Mr. Tom Ford, Land Design, Inc.; that David Hutt, Esquire, of Morris James, LLP, was present at the Sussex County Council’s hearing on behalf of Fisher’s Popcorn Fenwick, LLC, along with Mr. Bill Hall and Mr. Russell Hall of Fisher’s Popcorn Fenwick, LLC; that the parcel is located between European Coach Werkes and Bayside Storage in the greater Roxana area; that the parcel is 17.15 acres, but the rezoning request is for 3.25 acres of that parcel; that the split zoning request matches the zoning on the neighboring properties; and that the letters of support are from the adjacent neighbors to the east and west.**
- C. Council also found that the reason for the request for B-3 is to allow Fisher’s Popcorn to have a place to manufacture, store and distribute their products; that this is a permitted use in the B-3 District; that the property is currently undeveloped; that there are no wetlands within the 3.25 acres; that public sewer is available and water would be provided by an onsite well; that the Comprehensive Plan identifies the property as being in the Coastal Area which is one of the County’s growth areas; that the B-3 District is listed as being an appropriate district within the Coastal Area as shown on the Future Land Use Map; and that a Traffic Impact Study is not required by DeIDOT as the amount of traffic would be negligible.**
- D. Based on the Planning and Zoning Commission’s Findings (1 through 9), Council found that:**
 - 1. The B-3 Business Research District is designed to allow a range of business research and business park uses, including office and administrative uses. According to the Zoning Code, these uses are to occur entirely within enclosed buildings.**
 - 2. The site is in the Coastal Area according to the current Sussex County Comprehensive Plan and it is surrounded by this classification. B-3 uses are appropriate in the Coastal Area according to the Plan.**
 - 3. The site is located along Zion Church Road in an area where there is a mix of commercial zoning, small businesses and residential uses. The properties on either side are zoned C-1 and CR-1, and the property across the road is zoned C-1. This location is appropriate for B-3 zoning, which allows less intensive uses than the existing C-1 and CR-1 zones nearby.**

- 4. The rezoning will not adversely affect neighboring properties or property values.**
 - 5. The rezoning will not adversely affect area traffic or roadways.**
 - 6. The sanitary sewer service is available to the property from Sussex County.**
 - 7. The proposed rezoning meets the general purpose of the Zoning Code by promoting the orderly growth, convenience, order, prosperity and welfare of the County.**
 - 8. No parties appeared in opposition to the application.**
 - 9. Any future use of the property will be subject to Site Plan Review by the Sussex County Planning and Zoning Commission.**
- E. Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**