

**ORDINANCE NO. 2528**

**AN ORDINANCE TO AMEND THE COMPREHENSIVE ZONING MAP OF SUSSEX COUNTY FROM A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT-RESIDENTIAL PLANNED COMMUNITY TO A MR-RPC MEDIUM DENSITY RESIDENTIAL DISTRICT – RESIDENTIAL PLANNED COMMUNITY TO AMEND CHANGE OF ZONE NO. 1764 (ORDINANCE NO. 1770) CONDITIONS 17A AND 17D TO EXTEND TIMEFRAME ONE YEAR FOR A CERTAIN PARCEL OF LAND LYING AND BEING IN LEWES AND REHOBOTH HUNDRED, SUSSEX COUNTY, CONTAINING 373 ACRES, MORE OR LESS**

**WHEREAS, on the 9th day of May 2017, a zoning application, denominated Change of Zone No. 1828, was filed on behalf of Coastal Club (a/k/a Marine Farm); and**

**WHEREAS, on the 14th day of September 2017, a public hearing was held, after notice, before the Planning and Zoning Commission of Sussex County and on the 28th day of September, 2017, said Planning and Zoning Commission recommended that Change of Zone No. 1828 be approved; and**

**WHEREAS, on the 24th day of October 2017, 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 [MR-RPC Medium Density Residential District – Residential Planned Community] and adding in lieu thereof the designation of MR-RPC Medium Density Residential District – Residential Planned Community to amend Change of Zone No. 1764 (Ordinance No. 1770) Conditions 17A and 17D to extend timeframe one year 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 Lewes and Rehoboth Hundred, Sussex County, Delaware, and lying on the south side of Beaver Dam Road, and being more particularly described in Ordinance No. 1770 (Change of Zone No. 1764), said parcel containing 373 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. 2528 ADOPTED BY THE SUSSEX COUNTY COUNCIL ON THE 24TH DAY OF OCTOBER 2017.**

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**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 Coastal Club (aka Marine Farm) to amend the Comprehensive Zoning Map of Sussex County from a MR-RPC Medium Density Residential District – Residential Planned Community to a MR-RPC Medium Density Residential District – Residential Planned Community to amend Change of Zone No. 1764 (Ordinance No. 1770) Conditions 17A and 17D to extend timeframe one year for a certain parcel of land lying and being in Lewes and Rehoboth Hundred, Sussex County, containing 373 acres, more or less (located on the south side of Beaver Dam Road) (Tax I.D. No. 334-11.00-5.00, 334-11.00-395.00 and 396.00) (911 Address: Not Available)**
- B. Based on the record before the Planning and Zoning Commission and the public hearing before the Sussex County Council, Council found that James Fuqua, Esquire with Fuqua, Willard, Stevens and Schab, P.A. and Preston Schell with Schell Brothers, Bobby Horsey with Horsey Companies, and Zachary Crouch of Davis, Bowen & Friedel, Inc. were present on behalf of the application at the Planning and Zoning Commission public hearing and the Sussex County Council public hearing; that the request is for a one (1) year time extension of conditions 17A and 17D that required construction of the sewer and sidewalks be completed prior to May 22, 2017; that they are asking for an extension; that the original approval was granted in April of 2005 with a different developer; that the previous developer recognized the impact on the Jimtown Road area and proffered sewer, water, sidewalk, street lights and road improvements along Jimtown Road; that the application was part of the time extensions granted by Council and a new developer purchased the property; that work began on the project in 2014; and that the sewer went from being provided privately to County sewer.**
- C. Council also found that it required the improvements identified in conditions 17A and 17D to be completed within three (3) years; however, it only allowed the developer nineteen (19) months to complete the improvements based on approval by County Council; that the developer is trying to do road improvements in a 50 foot right-of-way that would typically require a 70 foot right-of-way; that they have been working with DelDOT to address the roadway plans; that they submitted the request for the time extension prior to May 22, 2017; that DelDOT granted approval on August 10, 2017; however, they could not begin construction until October 1, 2017.**
- D. Based on the Findings (1 through 7) of the Planning & Zoning Commission, Council found that:**
- 1. Paragraph 17A of Ordinance No. 1770 required the developer to install sanitary sewer within the Jimtown Road right-of-way prior to May 22, 2017.**
  - 2. Paragraph 17D of Ordinance No. 1770 required the developer to install sidewalks within the Jimtown Road right-of-way prior to May 22, 2017.**
  - 3. The developer requested the one-year time extension prior to May 22, 2017, which was the original deadline for completing the work.**
  - 4. The developer testified that it has diligently been working towards an approved design of the sewer, sidewalk and roadway work with its engineers and representatives of the state and county agencies that have jurisdiction over the work.**
  - 5. The need for additional time is due to several factors, including:**

- a. **There was only 19 months left to do the work, and not 3 years, by the time the County Council approved CZ #1764 (Ordinance No. 1770).**
  - b. **The complexity of needing to design what is essentially 70 feet of typical roadway improvements into a 50-foot wide right of way with DelDOT's approval.**
  - c. **DelDOT granted approval for the design on August 10, 2017, but also mandated that work could not commence until October 1, 2017.**
6. **The Applicant's contractor stated that the work can be completed prior to May 22, 2018.**
  7. **For all these reasons, it is appropriate to grant a final time extension for the work covered by Conditions 17A and D of Ordinance No. 1770.**
- E. **Based on the record created before the Planning and Zoning Commission and the Sussex County Council, the Council approved this application.**