

**CHARLES COUNTY – PLANNING & GROWTH MANAGEMENT DEPARTMENT
STAFF REPORT
PLANNING COMMISSION MEETING DATE: SEPTEMBER 10, 2012**

PROJECT NAME: Westside Estates, Section 2, Preliminary Subdivision Plan

PROJECT #: XPN #03-0003

PROJECT REQUEST: A request for a one (1) year extension of time beyond the maximum six (6) year approval period per the Subdivision Regulations Section 25(i).E for the Westside Estates, Section 2, Preliminary Subdivision Plan, has been made by Mr. Timothy R. Lessner of Lorenzi, Dodds and Gunnill, Inc. The request, dated May 1, 2012, is attached to this report. The original approval date of the plan is June 16, 2003. The Applicant's request for this extension was received within the limits of the last extension of time granted, which was until June 16, 2012. Since the time of the Applicant's request for the additional extension of time, Staff has coordinated with the Applicant and internal agencies in order to verify the status of various conditions of approval, such as those regarding the status of the adequacy of public facilities.

SUBJECT PROPERTY:

Westside Estates, Section 2, XPN #03-0003, consists of 39.50 acres in the 3rd Election District off of Maryland Point Road. The property is Zoned AC - Agricultural Conservation and is identified as Parcel 90 on Tax Map 77. This is a Conventional Subdivision located outside of the Development District. The Preliminary Subdivision Plan was originally approved by the Planning Commission on June 16, 2003 for ten (10) single-family detached lots. Aerial, Location and Zoning maps are attached for reference.

PROPERTY OWNER: T.C. Westside, LLC

APPLICANT: Mr. Timothy R. Lessner of Lorenzi Dodds & Gunnill, Inc. on behalf of the owner.

BACKGROUND:

The Preliminary Subdivision Plan was originally approved by the Planning Commission on June 16, 2003 for ten (10) single-family detached lots. Per the most recently approved Revision #2, of December 5, 2011, Section 2 still consists of ten (10) single-family detached lots, which are identified as Lots 3, 4, 5, 9, 10, 21, 22, 23, 24, and 25. Revision #2 revised various lot lines in Section 2.

A Development Services permit VR # 07-0019 is currently under review which details aspects of the road improvements and fire suppression requirements found within the Adequate Public Facilities update included in this report.

As of the creation of this report none of the ten (10) single-family detached lots have been recorded; however a Final Plat application, XRS #11-0045, is currently under review awaiting recordation of all ten (10) lots in Section 2 as well as ten (10) additional lots in Section 3. To-date Section 2 has obtained all ten (10) school allocations.

CRITERIA FOR APPROVAL AND FINDINGS:

ADEQUATE PUBLIC FACILITIES UPDATE:

1. APF-Roads:

As stated in the Subdivision Regulations, Section 25(i).i.B., “(a)ny request for an extension beyond the two(2) year initial approval period shall include a revised and updated Adequate Public Facilities Analysis.

The original APF analysis (traffic study from 2005) considered the nearby intersections of Maryland Point Road at Maryland Route 6, and Site Access at Maryland Point Road. Maryland State Highway Administration traffic volume data reveals that average daily traffic volumes on Maryland Route 6 in the vicinity of the subdivision have decreased over the last several years (from 2005 until 2011-most recent available data). Given this fact, it is determined that a revised study is not required at this time, and findings of adequacy should remain valid.

2. APF-Fire Suppression:

In order to satisfy Zoning Ordinance Section 297-261 “Rural Fire Suppression”, this applicant is required to supply fire suppression facilities on site, as per the condition in the approval letter, and as per the note shown on the preliminary plan off of Maryland Point Road, and as per the Nanjemoy Volunteer Fire Department letter on Sheet 2 of the plan. The facility is planned to be located along Maryland Point Road, in the approximate location of Lot 3, just south of the project entrance Westside Court.

Condition #2 of the most recent (December 7, 2011) approval letter reads:

"In accordance with the letter dated October 11, 2004 from the Nanjemoy Volunteer Fire Department, Inc. on Sheet 2 on the plan, the 30,000 gallon fire suppression tank with dry fire hydrant will be installed prior to the issuance of the 11th building permit issued between Westside Estates (Section 2 or 3) and Beaver Creek (each allowed 5 lots). Refer to the letter on Sheet 2 of the plan for complete details. A note to this effect will be required on the Final Subdivision Plats in order to track the fulfillment of this condition."

Status: It is noted that a recent plan (PGM # VR07-0019), sheet 14 shows a Fire Suppression tank detail. Therefore, there is evidence that the applicant has shown progress toward meeting the above requirement. The applicant will continue to be responsible for ensuring the fire suppression facility's installation prior to issuance of 11th building permit.

3. APF-Water Supply:

The Project will be required to provide approved Groundwater Appropriation Permits for the proposed on-site wells, before final plat approval.

4. APF-Schools:

Section 2 of Westside Estates presently has 10 valid school allocations. These will expire on June 30, 2013.

5. Conditions of Approval-Letters:

Of the conditions listed in the December 7, 2011 approval letter, it was found that Condition #2 is related to APF requirements (Fire Suppression, quoted above in the "APF-Fire Suppression" section), and Condition #1 is related to road improvements.

Status on Condition #2: The applicant will continue to be responsible for ensuring the fire suppression facility's installation prior to issuance of 11th building permit.

Status on Condition #1: Please see section titled "Subdivision Regulations Section 75(a), Section 75(b), and Section 75(c):".

6. Conditions on Preliminary Plan:

Of the notes and conditions listed on the Preliminary Plan, it was found that General Note #22 is related to meeting Section 75 of the Subdivision Regulations, pertaining to required road improvements to Maryland Point Road.

Status: Please see section titled "Subdivision Regulations Section 75(a), Section 75(b), and Section 75(c):".

7. Subdivision Regulations Section 74(c)

Since a project of 46 single family lots, encompassing all of Westside Estates, does not produce more than 1000 vehicle trips per day, this Section is not applicable.

8. Subdivision Regulations Section 75(a), Section 75(b), and Section 75(c):

Section 75(a) is not applicable, as Maryland Point Road has an existing 60 feet of right-of-way, which meets the requirements for its road classification of Minor Collector Roadway.

Section 75(b) is applicable. Half-section Minor Collector road improvements to Maryland Point Road shall be constructed along the property frontage. A memorandum from Lorenzi Dodds & Gunnill to the county dated October 12, 2004, Revised December 4, 2004, which is located on Sheet 2 of the plan, delineates the details of this required improvement.

Status: It is found that developer required frontage improvements are shown on the applicant's current permit, PGM # VR07-0019.

Section 75(c) is applicable. "Maryland Point Road (a minor collector) from Smith Point Road to MD Route 6 (approx 2 miles) shall be improved where feasible with 7 foot gravel shoulders on both sides, and adjacent ditches shall be relocated and re-graded." "Feasibility of shoulder and ditch improvements shall be determined during final engineering of Westside Estates Section 2 & 3. These improvements to be determined based on topographic field / flown survey." "This work shall be bonded with the first phase of Westside Estates Sections 2 & 3. Prior to recordation of 22nd lot in Westside Estates and 13th lot in Beaver Creek, all improvements must be substantially complete."

Status: It is found that the developer-required off-site road improvements, to satisfy Subdivision Regulations Section 75(c), are shown on the applicant's current permit VR#07-0019. Any future plat that contains the 22nd cumulative lot (from the Westside Estates Preliminary Plans) will receive R.I.M. approval when the Applicant provides evidence that all required public road work (on Maryland Point Road) is substantially complete and available for public use.

THE STATUS OF PLANNING COMMISSION CONDITIONS OF APPROVAL OF REVISION #2, APPROVED ON DECEMBER 5, 2011, ARE AS FOLLOWS:

1. The Applicant shall be responsible for revising all recorded forest conservation easements prior to the recordation of any new lots, including but not limited to preparing legal documents, revising plans, and paying review fees.

Staff Finding: None of the ten (10) lots within Westside Estates, Section 2, have been recorded as of the creation of this report. A Final Plat application has been submitted, XRS #11-0045, and is currently under review in the Planning Office. Submission of the forest conservation materials has been requested prior to recordation. This condition is to remain in effect.

2. In accordance with the letter dated October 11, 2004 from the Nanjemoy Volunteer Fire Department, Inc. on Sheet 2 on the plan, the 30,000 gallon fire suppression tank with dry fire hydrant will be installed prior to the issuance of the 11th building permit issued between Westside Estates (Section 2 or 3) and Beaver Creek (each allowed 5 lots). Refer to the letter on Sheet 2 of the plan for complete details. A note to this effect will be required on the Final Subdivision Plats in order to track the fulfillment of this condition.

Staff Finding: It is noted that a recent plan (PGM # VR07-0019), sheet 14 shows a Fire Suppression tank detail. Therefore, there is evidence that the applicant has shown progress toward meeting the above requirement. The applicant will continue to be responsible for ensuring the fire suppression facility's installation prior to issuance of 11th building permit. Please reference APF Findings 2. and 5.

3. In accordance with General Note #22 on the plan, certain road improvements to satisfy Section 75 of the Subdivision Regulations are required.

Staff Finding: It is found that the developer-required off-site road improvements, to satisfy Subdivision Regulations Section 75(c), are shown on the applicant's current permit VR#07-0019. Any future plat that contains the 22nd cumulative lot (from the Westside Estates Preliminary Plans) will receive R.I.M. approval when the Applicant provides evidence that all required public road work (on Maryland Point Road) is substantially complete and available for public use. Please reference APF Finding 8.

4. In accordance with the Subdivision Regulations, Section 80(f), a draft copy of the deed agreement for all property owners using the common access easement Altrup Place will be required prior to Zoning Staff approval of the Final Plats for the affected lots.

As the applicant has advised that the portion of the existing 25' access easement to what is shown as the Hancock Family Cemetery at Plat Book 43 Page 242 located east of the proposed Hancock Court will be partially encumbered by a 25' common access easement for Lot 36 and Lot 37, the future Final Subdivision Plats for lots and/or land areas affected by this arrangement,

and associated draft access easement documents, will be provided by Planning Staff to the County Attorney's Office for a review for legal sufficiency prior to Planning and/or Zoning approval of the associated Final Subdivision Plat. If the proposed access is not approved by the County Attorney's Office, revisions shall be made to the subject plan as necessary to accommodate the required access to the existing cemetery on the site.

Staff Finding: This documentation has yet to be submitted. None of the ten (10) lots within Westside Estates, Section 2, have been recorded as of the creation of this report. A Final Plat application has been submitted, XRS #11-0045, and is currently under review in the Planning Office. This condition is to remain in effect.

5. The Applicant shall follow the Historic Preservation Plan as referenced in General Note #26 on the plan for the existing Bastain cemetery located on the property.

Staff Finding: The Historic Preservation Plan was approved by the Planning Commission on December 5, 2011. This condition is to remain in effect.

6. The Westside Estates Homeowners Association documents shall be reviewed by Community Planning prior to recordation of the first Final Subdivision Plat to ensure that provisions for maintenance of the existing cemetery, cemetery fence, and 25-foot access easement, and the proposed recreational amenities, have been documented as required by General Notes #26 and #28 on the plan.

Staff Finding: The requested Homeowners Association documents have yet to be submitted as part of the Final Plat submission currently under review (XRS #11-0045). The Homeowners Association documents have been requested prior to recordation. This condition is to remain in effect.

7. As required by General Note #27 on the plan, prior to demolition, the historic house ruins, located in Open Space 'A' near lots 36 and 37, shall be evaluated by Community Planning Staff.

Staff Finding: This evaluation has yet to occur. This condition is to remain in effect.

8. Street trees shall be 2 ½" in diameter as described in General Note #11.

Staff Finding: This condition is to remain in effect and will be verified at time of appropriate review stage and field inspection.

9. All related Infrastructure Permits and/or Site Development Plans will be reviewed for the use of native plant species wherever existing vegetation will be replaced, including street trees, bufferyards, and all landscape plantings located on open space areas.

Staff Finding: This condition is to remain in effect and will be performed at the appropriate review stages and field inspection.

10. Final Plat does not negate the need to comply with all applicable County, State, and Federal regulations, including but not limited to these local regulations: Charles County Zoning Ordinance, Subdivision Regulations, Grading and Sediment Control Ordinance, Road Ordinance, Stormwater Management Ordinance, Forest Conservation Ordinance, and Floodplain Ordinance.

Staff Finding: This condition is to remain in effect.

RECOMMENDATION:

As per Subdivision Regulations, Section 25(i)i.E.5, “The Planning Commission shall act on the request for extension...” Staff recommends approval of the request for a one-year extension of the plan’s approval from the previous expiration date of **June 16, 2012 to June 16, 2013** with the previous conditions of approval to remain in effect, as necessary, to ensure their future implementation.

Prepared by Kirby R. Blass, Planning Division, Department of Planning and Growth Management.

ATTACHMENTS:

Correspondence from Lorenzi, Dodds and Gunnill, Inc. (Timothy R. Lesser) dated May 1, 2012

Aerial Photograph

Location Map

Zoning Map

XPN #03-0003, Revision #2, dated 12/05/11

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