

Patrick County Planning Commission

Meeting of August 2, 2004

Present: Leon Holt, Chairman; Hansford Alderman; Michael Burnette; Bill Clark; Cleve Lawson; Johnny Marion; and Roger Martin

Also Present: Eric Monday, County Attorney; Mavin and Tracy Harris, Harris Builders; Alfred Brammer, Citizen; Brian Lewis and Mark Johnson, Representatives for The Reserve at Fairystone, James "Jim" Shortt, Attorney for The Reserve at Fairystone; Jeannie Frisco, Special Assistant for Economic Development and Tourism; Nancy Lindsey, The Enterprise; and Jamie Clark, WHEO

Absent: None

A meeting of the Patrick County Planning Commission was held on August 2, 2004, at 7:30 PM, in the Third Floor Conference Room of the Patrick County Administration building.

Mr. Leon Holt, Chairman, called the meeting to order. Mr. Holt asked that members and guest identify themselves for the minutes.

Mr. Holt indicated to the commission that Mr. Burnette would be taking David Hoback's place and that Ms. Frisco has volunteered to be the commission's secretary. It was the consensus of the board to accept the county's recommendations.

The minutes of the October 20, 2003 meeting were presented and read. On motion by Mr. Clark and seconded by Mr. Marion, the minutes were approved.

Mr. Jim Shortt, Attorney for Land and Wood, LLC, addressed the commission regarding The Reserve at Fairystone project which consists of 138 acres and lies contiguous to Fairystone State Park. This project would create primarily summer, vacation and second homes in the area. Land and Wood, LLC requested a variance from the subdivision ordinance according to Mr. Shortt. The minimum lot size requested is 1/3 of an acre. He told the commission that he is not sure of the price ranges for the cabins but did know that there would be restricted covenants and architectural standards. He said pets and signs would be limited as well as such things as outdoor basketball goals. He said that it would be limiting to what people can do outside their home. The homes would be single-family dwellings with common, natural areas. The landowner would have the right to use the common areas. He went on to say that there would also be common septic and well areas. He indicated that even if the variance is granted, it is dependant upon perking of each site and determination of whether each site can handle the intensity of wells and septic systems. He said the Virginia State Health Department would have final say regarding the feasibility of this project and that the request for the variance would only

be the first of many steps they would have to take. Mr. Shortt went on to say that the average lot size would be ½ acre and if the common area is included, it would be 1 acre total per unit sold.

Mr. Shortt told the commission that surveys had been performed regarding this private ownership and from this information, Land and Wood, LLC felt sure that people understood what was required if they purchased a home and that it had received good response.

Mr. Shortt said he knew the landowners could have pursued this project under a condominium status but they would have had to go to the state level and they would rather keep it on the county level.

Mr. Shortt informed the commission that the best house sites are being picked and they will subdivide the land accordingly.

Mr. Eric Monday addressed Mr. Shortt and asked if this would be a phased development and if the covenants would cover all the phases. He also asked questions regarding common water/sewer and how problems with water/sewer would be addressed. Mr. Shortt responded indicating that each phase would have the same covenants presented to the commission in their informational package regarding The Reserve at Fairystone. Mr. Shortt indicated that the Homeowners Association dues would cover any septic problems and that commercial areas may be blocked off for retail stores. He also indicated that there is a possibility of public water/sewer provided by Henry County in the near future.

Mr. Mark Johnson provided a conceptual layout of the 19.26 acres, of which 2.07 acres are natural areas or roads, under Phase 1 of the project. He told the commission that trees around the cabins would be left. He went on to say that most of the lots are going to be bigger than 1/3 acre. He felt this project would both feed off of Fairystone and enhance the park. He indicated the next phase for this project, if the variance was granted, was to study the property around Phase 1 for suitability for drain fields. According to Mr. Johnson, Phase 1 would entail 38 cabins at a density of .51 acre per cabin.

Mr. Johnson contemplated The Reserve at Fairystone to be a \$4 million investment for Phase 1 and \$17-20 million for the overall project. He indicated to the commission the possibility for commercial development (i.e. general store) serving the immediate neighborhood.

Mr. Bill Clark addressed Mr. Johnson as well as Mr. Shortt regarding use restrictions and architectural review. Mr. Clark asked if he was correct in that 10 votes were allotted per lot owned by current owner and as they sell the lots, each lot comes with one vote. Therefore, until 90% is totally sold, the current owners have total control but after 90% of the cabins are sold, the landowners would have majority say in what is being done. Mr. Clark indicated that he believed Land and Wood, LLC would do what they say but once the ownership changes hands, how can they guarantee the arrangement will be upheld. Mr. Clark indicated his belief that the documentation presented was not a deed restriction but an agreement and that currently Land and Wood, LLC has total control over the document.

Mr. Holt indicated that 414 cabins is a significant amount to be put on the property and even with the great people, planners, great tax dollars, etc, how can the members of the commission satisfy other people that have been turned down for a variance request. Mr. Holt indicated that many countless hours had been spent developing the subdivision ordinance.

Mr. Johnson indicated that the developers of The Reserve at Fairystone have also developed other land at places such as TopSail Beach and South Port in Brunswick County.

Mr. Martin indicated that the commission must consider the good of the county and the good of the people and whatever is done must meet standards required by other governmental bodies, such as the Health Department.

Mr. Martin said that this project fits all four criteria required for granting a variance. Mr. Martin also indicated this ordinance was written to serve the people of the county. He said the purpose of this ordinance is to ensure that future development of land is done in a quality manner and to prevent chopping up land and haphazard development. Mr. Martin proceeded to say that the commission needed to look at the nature of this project and that it does conform to what the subdivision ordinance is suppose to do – promote the betterment of the county.

Mr. Monday indicated that covenants needed to be on all phases of the project and the commercial development should be restricted and require more than 1/3 of an acre. He indicated that legally the covenants are very difficult to amend and that landowners buy property based on covenants because they don't want anything to change.

Mr. Holt indicated that 1/2 acre lots are having problems in the county and that is why the subdivision ordinance requires 1 acre lots. He also felt the commission needed to take into consideration previous denials and be able to defend previous decisions.

Mr. Martin indicated that he did appraisals all the time and that a good many subdivisions have 1/2 acre lot and he knows of the problems but that is not the type of variance the commission is considering.

Mr. Hansford Alderman indicated he would hate to see this project go to another county.

Mr. Holt asked if it would be feasible to give a variance on the units already built and the rest of the development be on 1 acre lots. Mr. Holt asked the representatives if they would be willing to compromise on this project.

Mr. Martin indicated that the commission has to have faith. He said these people have gone the extra mile to show their intent. As long as they conform to what is agreed upon, we need to grant them a variance. He indicated that when the commission gets too restrictive on private property, he feels it may constitute an illegal taking of property owners' rights. Property owners have to have the ability to use their property. Mr. Martin felt the commission was on the verge of taking landowners rights.

Mr. Holt asked that all the members look at this project from all views. The bottom line is to feel good in what the commission is doing, not what they should have or shouldn't have done. He

asked the commission to look at it, study it, and know where they are going. Mr. Holt indicated the commission members are the ones that have to defend it.

Mr. Alderman asked if the landowners would consider going with ½ acre. Mr. Alderman reiterated the importance of having this quality operation in Patrick and the accumulation of dollars that is much needed.

Mr. Brammer addressed the commission as a previous Board member and supporter of this project. He indicated that the positives outweigh the negatives and that this is a major asset to the community.

Mr. Marion indicated that Land and Wood, LLC representatives presented themselves well and that it is a great concept.

Mr. Clark asked why the representatives were asking for 138 acres in the variance when there was not a current plat except for the 19+ acres. He indicated that he just couldn't approve a variance unless he knew what he was approving. He said the commission would be setting precedence in not requiring plats. He just has to know where buildings are going to go.

Mr. Holt indicated that he has seen many developments completed in rough terrain and further asked what it would do economically to the project if it were required on 1 acre lots.

Mr. Cleve Lawson asked the representatives of Land and Wood, LLC, how the park officials felt about this project. Mr. Johnson replied indicating it would be a huge benefit to the Fairystone area.

Mr. Holt said that he had spoken with state parks representatives and from what he understood, they are deeply concerned with what would happen on the 138 acres.

When Mr. Johnson was asked by the commission what would happen if the owners could not do the project, he indicated they could sell the property and go elsewhere to develop.

Mr. Holt indicated that it had never been the purpose of the commission to inhibit progress in this county but that he had a real problem with a variance allowing 1/3 of an acre per cabin.

Mr. Harris indicated to the commission that the total density would be more than 1 acre per house when the common areas were included.

Mr. Eric Monday suggested that the commission put a maximum amount on the number of units for this project.

Mr. Roger Martin made a motion that a variance for 1/3 an acre be granted for the 138 acres. Mr. Michael Burnette seconded the motion. Mr. Cleve Lawson asked that the motion be amended that the commercial development must have at least 1 acre of land. Mr. Martin agreed to amend his motion as requested by Mr. Lawson. Mr. Lawson then seconded the amended motion. Furthermore the commission approved the amended motion unanimously.

Upon questioning by the secretary, Mr. Martin clarified his motion and reiterated with the amendment. The motion is as follows: The Reserve at Fairystone, consisting of 138 acres, with the covenants presented to the commission, be approved with a minimum lot size of 1/3 of an acre and an overall density of one cabin per acre and that commercial development must have at least 1 acre of land.

Voting Aye: Hansford Alderman
Michael Burnette
Cleve Lawson
Roger Martin

Voting Nay: Bill Clark
Leon Holt
Johnny Marion

After discussion regarding a public hearing, the decision was made to schedule the hearing for August 9th at 7:30 PM in the second floor conference room of the County Administration Building. Ms. Frisco was asked that this notice be presented to and advertised in the Enterprise.

Mr. Holt presented a letter from Ms. Regena Handy requesting the commission have a regularly scheduled meeting and if there is no business to be discussed, then a notice would be sent to each member canceling the meeting. After discussion by commission members, it was decided the third Monday of every month at 7:30 PM would be appropriate and that the commission only be notified if there is to be a meeting and must receive the information at least two weeks prior.

With no further business to discuss, Mr. Marion made the motion to adjourn the meeting and Mr. Clark seconded.

Chairman

Date

