

THE FRANKLIN COUNTY BOARD OF SUPERVISORS HELD THEIR REGULAR MONTHLY MEETING ON TUESDAY, NOVEMBER 27<sup>TH</sup>, 2007 AT 6:00 P.M., IN THE BOARD OF SUPERVISORS MEETING ROOM IN THE COUNTY COURTHOUSE.

THERE WERE PRESENT: Wayne Angell, Chairman  
Charles Wagner, Vice-Chairman  
Leland Mitchell  
David Hurt  
Charles Poindexter  
Russ Johnson  
Hubert Quinn

OTHERS PRESENT: Richard E. Huff, II, County Administrator  
Christopher L. Whitlow, Asst. County Administrator  
B. J. Jefferson, County Attorney  
Sharon K. Tudor, CMC, Clerk

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Chairman Wayne Angell called the meeting to order.

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**PUBLIC COMMENT:**

- J. Whit Ellerman, Attorney/Gentry Locke Rakes & Moore/Opposition to Lakewatch Petition People for Responsible Growth in Opposition to Lakewatch. First want to make the point that our clients are not opposed to development on this property. What the citizens are opposed to is the State Code, County Zoning Ordinance and recently adopted Comprehensive Plan does not fit the current petition as presented. The proposed project does not fit into the RPD Ordinance nor surrounding land uses. This is a resort development with a commercial development component and does not fit the RPD guidelines. Mr. Ellerman urged the Board to refer the petition back to the Planning Commission for further review due to the extent of the deviations.

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**LAKEWATCH PETITION (TABLED DURING 10/23/2007 MEETING)**

Steve Sandy, Interim Planning & Community Development Director, presented the following revisions to Lakewatch Spa & Resort Request to rezone to RPD as follows:

**REZONE REQUEST A1 TO RPD**

Proffered conditions for rezoning as submitted by petitioner:

1. The property shall be developed in substantial conformance with the Rezoning and Special Use Permit Requests Concept Plan for Lakewatch Plantation Spa & Resort dated June 1, 2007, revised June 13, 2007, August 3, 2007, September 15, 2007 and October 23, 2007 prepared by Edward C. Park III and others.
2. The applicant shall provide for the future right of way of Virginia State Route 122 to accommodate one-half of the right of way width required for five (5) traffic lanes (one center turn lane and four travel lanes) up to a maximum of fifty-five feet on the southeast side from the existing centerline. The applicant shall complete the construction of the approved right turn lane into the Spa & Resort facility, design and install the proposed entrance improvements (widen to three entrance lanes and two exit lanes) with the proposed traffic signal when allowed by traffic warrants approved by the Virginia Department of Transportation.
3. The applicant shall install a 20' wide and  $\pm$  10' high ( $\pm$  two (2) foot variance measured from existing road level) landscape berm outside of the proposed future right of way along Virginia State Route 122. Said berm is to be of varying heights depending upon the existing topography and shall include planted trees along the top of the berm. Trees shall be a mixture of hardwoods and evergreens planted at a maximum separation distance of 25' with a minimum height of 4' at time of planting.
4. Architectural Proffers:
  - a. The design of any future building shall relate to adjacent development that is considered to be contributing to the character of LakeWatch Plantation Spa and Resort by the use of complementing forms and materials to create continuity within the resort area. Materials for exterior walls may include, but not limited to, brick, drivet, and other low maintenance facades; and walls will be articulated through the use of window and door openings, belt courses, pilasters and other similar architectural treatments.
  - b. Architectural detail shall be incorporated to create architectural character. Detail includes highlighting foundations, lintels, sills and cornices with contrasting materials and breaking up the mass of the building with bands at floor levels or projections at entries.

- c. Windows and doors shall have a regular pattern of solids and voids that are consistent throughout individual buildings.
- d. Buildings elevations shall be included with any building permit request.
5. Striping or stamped asphalt will be provided at all road crossings.
6. Environmental/Low Impact Development Techniques:  
Best management practices for low impact development are based on the premise that most of the pollutants from impervious surfaces are transferred during the first ½ inch of rainfall. Low impact development techniques such as, but not limited to, mini bio-retention ponds, rain barrels, pervious berms, and pervious swales shall be designed and constructed to provide adequate storage and infiltration to meet the Department of Conservation and Recreation guidelines (one-half inch minimum) for storm water quality. These facilities may be provided individually on each site or combined at any other appropriate location.
7. The Concept Plan provides for a projected total uncovered area of 57% with 152 acres, more or less, of said area to be developed open space. The concept plan is preliminary in nature and final site design may require minor changes because of topography and other engineering design issues. Any decrease in open space due to engineering design issues shall not reduce the total amount of open space 7%, thus guaranteeing that a minimum of 50% of the RPD area shall remain as open space.
8. A twenty foot (20) wide buffer shall remain in place along the perimeter of the property. This buffer area may remain in its natural state or be replaced with additional landscaping if the buffer function is compromised due to construction or grading requirements. Replacement vegetation shall consist of a double row of evergreen trees six (6) foot minimum height at time of planting, with ten (10) foot spacing between rows, five (5) foot staggered offset between rows, and trees at ten (10) foot spacing center to center. Trees shall be planted at the first growing season after final grade has been achieved.
9. All utilities shall be located underground.
10. The proposed use and size deviations for the Motor Coach Home Village Lots are to be removed. The one hundred and ninety (190) Motor Coach Home Village Lots are to be replaced with a maximum of one hundred and thirty (130) R1 single family lots with a minimum lot width of seventy-five (75) feet and a minimum lot area of seven thousand five hundred (7,500) square feet (no deviations required).
11. The proposed use deviation for the Community Center requesting “use for profit” has been withdrawn. The proposed community center building (for both location and size) shall remain as a permitted use under Section 25-294 and as defined under Section 25-40 of the Franklin County Zoning Ordinance.
12. Lake access will be restricted to the residents and guests of the development with the proposed community dock or ramp/pier to be owned, controlled, and operated by the home owners association or their assigns.
13. Neighborhood commercial uses in the golf club house building will not exceed one thousand four hundred (1,400) square feet for any Pro Shop use that may not be considered as a lawful accessory use by right.
14. Neighborhood commercial uses in the wake lake pro shop will not exceed one thousand four hundred (1,400) square feet for any Pro Shop use that may not be considered as a lawful accessory use by right.

#### **Deviations Requested:**

##### **A. Proposed use descriptions and deviations:**

1. 8,000 square feet of condominium building (#1) to be used as restaurant and lounge (open to the general public), and facilities management office (including boat access reservations).
2. 2,000 square feet spa facility (#2) open to general public.
3. 1,400 square feet of the 20,000 square foot golf club house building (#6) for any pro shop use that may not be considered as a lawful accessory use by right.
4. 1,400 square feet of the wake lake pro shop building (#14) for any pro shop use that may not be considered as a lawful accessory use by right.

##### **B. Proposed Size/Height Deviations:**

1. 5' deviation from 75' width (with public water and sewer) to 70' width for pond view patio homes, wake lake cottages, and mountain village villas.
2. 45' deviation from 75' width (with public water and sewer) to 30' width and 5000 square foot area deviation from 7500 square feet to 2500 square feet for lakeview townhomes.
3. 10' deviation from 40' maximum height restriction to a maximum of 50' for condominium units building #1.

**C. Proposed Design Guidelines Deviations:**

1. Deviation to Section 16.1-10 (1)(b) to allow boundary survey information to be included with site plan submittals.
2. Deviation to Section 16.1-10 (1)(m) to allow existing operations plan for the sewage treatment plant (previously approved by Franklin County and VDH) to be incorporated by reference.
3. Deviation to Section 25-310 (1) to allow maintenance agreement for private streets to be included with site plan submittals.
4. Deviation to Section 25-144 (b) to allow fifty percent reserve areas pursuant to current special use permit for subsurface disposal system guidelines.

**LAKEWATCH PLANTATION SPA & RESORT**  
**Revised 10/23/07**

**SPECIAL USE PERMIT REQUEST FOR PRIVATE ROADS**

Suggested Conditions from the Staff Report:

1. The property shall be developed in substantial conformance with the Rezoning and Special Use Permit Requests Concept Plan for Lakewatch Plantation *Spa and Resort*, dated June 1, 2007 and last revised October 23, 2007 and prepared by Edward C. Park III and others (Job No 21-04.)
2. The proposed private road system shall be designed by an individual licensed by the Commonwealth of Virginia to provide such services and meet the horizontal alignment and pavement cross section requirements specified in Virginia Department of Transportation regulations for subdivision streets. All road construction plans shall include location and cross-sections of all pedestrian walkways, sidewalks and bike paths. Road grades shall not exceed fourteen percent (14%) for more than four (4) individual two-hundred (200) foot road segments. The final surface coat shall be asphalt pavement.
3. The portion of the road constructed along the proposed earthen embankment directly adjacent to the Wake Board Cable Park (#13 on concept plan) shall be inspected for safety of the roadway prior to vehicle use. This shall require certification of the earthen embankment by a Virginia licensed geotechnical engineer and review and comment by the Virginia Department of Conservation and Recreation, Division of Dam Safety.
4. The developer shall record a document in the land records of the Clerk of the Circuit Court prior to receiving a certificate of occupancy for any dwellings served by the private roads, obligating the property owner's to pay for upkeep and maintenance of the private roads on a pro-rata basis or other basis as determined.
5. No Certificates of Occupancy shall be issued to any residence (or other use) served by such private road prior to an initial coat of surface treatment being placed on such private road serving the residence (or other use).
6. Surety shall be posted in the form of a letter of credit or cash escrow with Franklin County for the construction of the private road system and shall not be released until the County has received a certification, from an individual licensed by the Commonwealth of Virginia to provide such services, that the construction of the road meets all applicable requirements consistent with required VDOT Subdivision Streets Standards and any conditions approved with this request.

**WATCH PLANTATION SPA & RESORT**  
**Revised 10/23/07**

**SPECIAL USE PERMIT REQUEST FOR BOAT AND RECREATIONAL VEHICLE STORAGE AREA**

Suggested Conditions from the Staff Report:

1. The property shall be developed in substantial conformance with the Rezoning and Special Use Permit Requests Concept Plan for Lakewatch Plantation *Spa and Resort*, dated June 1, 2007 and last revised October 23, 2007 and prepared by Edward C. Park III and others (Job No 21-04.)
2. The boat, trailer, and recreational vehicle storage lot shall be located so as to be screened from the view of adjoining property owners outside the development.
3. No buildings shall be allowed within the boat, trailer and recreational vehicle storage lot.
4. The minimum surface treatment for the boat, trailer, and recreational vehicle storage lot shall be a blotted seal coat.

5. A six foot high chain link fence with black or dark green vinyl coating with an electronic gate shall be installed around the storage area for security purposes. Screening shall be installed in those areas where the existing natural vegetation does not adequately screen the storage lot from adjoining properties. Screening shall consist of a minimum of a three (3) foot high berm on all sides of the storage area outside of the fence. This berm shall have trees planted along the top of the berm. Trees shall consist of two (2) staggered rows of evergreen trees with ten (10) foot spacing. Trees shall be a minimum height of six (6) feet at time of planting.
6. Vehicle maintenance shall be prohibited in the boat, trailer, and recreational vehicle storage lot except for minor repairs that would be necessary to enable it to be transported to a repair facility.
7. Valid tags with current decals shall be required for all vehicles stored in the boat, trailer, and recreational vehicle storage lot.
8. Signage shall be limited to a single monument style sign not to exceed thirty-two (32) square feet in area and eight (8) feet in height. Except for no trespassing signs (maximum size of one (1) square feet), no additional signage shall be placed on the fence.
9. All utilities shall be located underground.
10. Use of the storage facility shall be limited to residents and visitors of LakeWatch Plantation Spa and Resort.

### **LAKEWATCH PLANTATION SPA & RESORT**

**Revised 10/23/07**

#### **SPECIAL USE PERMIT REQUEST FOR EXTENSION OF SERVICE AREA FOR SANITARY SEWER SYSTEM AND OFF SITE DRAINFIELDS**

1. The property shall be developed in substantial conformance with the Rezoning and Concept Plan for Lakewatch Plantation *Spa and Resort*, dated June 1, 2007 and last revised October 23, 2007 and prepared by Edward C. Park III and others (Job No 21-04.)
2. The design of any wastewater treatment facility or mass drain field shall comply with all of the requirements as found in the Special Use Permit Standard Guidelines for Subsurface Wastewater Disposal Systems as adopted by the Board of Supervisors of Franklin County adopted July 18, 2006.
3. A twenty (20) foot wide vegetative buffer shall remain along Route 951.
4. The proposed sewer system and associated drainfields shall be constructed in general conformity with the concept plan prepared by ACS Design and dated March 11, 2005.
5. This special use permit includes Tax Parcels 15-39, 15-40, and 15-42 (Lakewatch Plantation Rural Village Center) pursuant to Final Order Case # U 05-04-03, Tax Parcel 15-47.1 (sixteen waterfront lots) pursuant to Final Order Case # UA 06-04-02, Tax Parcel 15.2-8 (0.608 acre, Lot A, Aubon Water Company) pursuant to Final Order Case # UA 07-06-01, and may be extended to include sewage generation from Map #30-17, 30-19.1, 30-20, 30-46, 30-47, and 30-60; and Portion of #15-39 (consisting of +/- 576 acres, Lakewatch Plantation Spa and Resort rezone request and +/- 29 acres remaining A1).
6. Any future uses on the existing 29 acre A1 parcel shall be subject to an additional special use permit request.

### **LAKEWATCH PLANTATION SPA & RESORT**

**Revised 10/23/07**

#### **SPECIAL USE PERMIT REQUEST FOR ADDITIONAL DRAINFIELD AREA**

1. The property shall be developed in substantial conformance with the Rezoning and Concept Plan for Lakewatch Plantation *Spa and Resort*, dated June 1, 2007 and last revised October 23, 2007, and prepared by Edward C. Park III and others (Job No 21-04.)
2. The design of any wastewater treatment facility or mass drain field shall comply with all of the requirements as found in the Special Use Permit Standard Guidelines for Subsurface Wastewater Disposal Systems as adopted by the Board of Supervisors of Franklin County July 18, 2006.

3. This special use permit includes Tax Parcels 15-39, 15-40, 15-41, and 15-42 (Lakewatch Plantation Rural Village Center) pursuant to Final Order Case # U 05-04-03, Tax Parcel 15-47.1 (sixteen water front lots) pursuant to Final Order Case # UA 06-04-02, Tax Parcel 15.2-8 (0.608 acre, Lot 9A, Aubon Water Company) pursuant to Final Order Case # UA 07-06-01, Tax Map # 30-17, 30-19.1, 30-20, 30-46, 30-47, and 30-60; and Portion of #15-39 (consisting of +/- 576 acres, Lakewatch Plantation Spa and Resort rezone request and +/- 29 acres remaining A1).

4. Any future uses on the existing 29 acre A1 parcel shall be subject to an additional special use permit request.

**LAKEWATCH PLANTATION SPA & RESORT**  
**Revised 10/23/07**

**SPECIAL USE PERMIT REQUEST FOR REDUCTION IN OFF SITE DRAINFIELD AREA FROM 100% TO 50%**

1. The property shall be developed in substantial conformance with the Rezoning and Concept Plan for Lakewatch Plantation *Spa and Resort*, dated June 1, 2007 and last revised October 23, 2007 and prepared by Edward C. Park III and others (Job No 21-04.)
2. The design of any wastewater treatment facility or mass drain field shall comply with all of the requirements as found in the Special Use Permit Standard Guidelines for Subsurface Wastewater Disposal Systems as adopted by the Board of Supervisors of Franklin County on July 18, 2006.
3. A twenty (20) foot wide vegetative buffer shall remain along Route 951.
4. The proposed sewer system and associated drainfields shall be constructed in general conformity with the concept plan prepared by ACS Design and dated March 11, 2005.

**LAKEWATCH PLANTATION SPA & RESORT**  
**Revised 10/23/07**

**SPECIAL USE PERMIT REQUEST FOR INCREASING CAPACITY FROM 150,000 GAL BY 300,000 GAL FOR TOTAL OF 450,000 GAL**

1. The property shall be developed in substantial conformance with the Rezoning and Concept Plan for Lakewatch Plantation Spa and Resort, dated June 1, 2007 and last revised October 23, 2007 and prepared by Edward C. Park III and others (Job No 21-04.)
2. The design of any wastewater treatment facility or mass drain field shall comply with all of the requirements as found in the Special Use Permit Standard Guidelines for Subsurface Wastewater Disposal Systems as adopted by the Board of Supervisors of Franklin County.
3. A twenty (20) foot wide vegetative buffer shall remain along Route 951.
4. The proposed sewer system and associated drainfields shall be constructed in general conformity with the concept plan prepared by ACS Design and dated March 11, 2005.

**LAKEWATCH PLANTATION SPA & RESORT**  
**Revised 10/23/07**

**SPECIAL USE PERMIT REQUEST FOR RECREATIONAL ACCESSORY USES, COMMUNITY CENTER BUILDING & OTHER NEIGHBORHOOD COMMERCIAL USES**

1. The property shall be developed in substantial conformance with the Rezoning and Special Use Permit Requests Concept Plan for Lakewatch Plantation Spa & Resort dated June 1, 2007, last revised October 23, 2007, prepared by Edward C. Park III and others.
2. The maximum number of motorized watercraft in the boat storage facility shall be limited to fifty (50). Use of watercraft shall be restricted to the residents or short term tourist rental guests of the development.
3. All deviations, proffers, and special use permits shall be provided on the cover sheet for all submitted site plan and erosion and sediment control plans.

4. Neighborhood commercial uses on the property shall be limited to no more than 12,860 square feet of building area.

Steve Sandy, Acting Director, Planning & Community Development, advised the Board on the evening of October 23, 2007, the Board of Supervisors was presented with a revised proposal and concept plan for the LakeWatch Plantation Spa & Resort petition. Following the public hearing, the board voted to table the petition until their November 27, 2007 meeting to allow planning staff to review the information presented at the public hearing.

The revisions to the concept plan that were submitted on October 23, 2007 can be summarized as follows:

1. **190 “Class A” Motor Coach Home Village Lots have been removed from the concept plan and replaced with 130 R-1 single-family lots.**  
*The removal of the motor coach home lots brings the proposed housing types more in conformance with the housing types envisioned in the zoning ordinance and comprehensive plan.*
  - **Use deviations to allow individual lot ownership and residential use of motor coach homes have been withdrawn.**
  - **Lot width and size deviations for motor coach lots have been withdrawn.**
  - **Overall residential gross density reduced from 2.33 units/acre to 2.2 units/acre.** *The applicant has indicated that they believe that the allowable gross residential density for this project is 3.5units/acre. Staff projects the allowable gross residential density for the development based on the combination of all future land use designations described in the comprehensive plan to be closer to 2.45 units/acre.*
  
2. **Deviations requested to square foot area devoted to neighborhood commercial uses have been withdrawn.**
  - **Use deviation for the Community Center to allow it to be operated “for profit” has been withdrawn.** *Staff notes that County enforcement of the non-profit use of a community center could be difficult.*
  - **Lake access will be restricted to the residents and guests of the development with the proposed community dock or ramp/pier to be owned, controlled and operated by the home owners association or their heirs.** *Staff notes that County enforcement of this restriction could be extremely difficult.*
  - **Neighborhood commercial uses have been reduced and will be limited to 12,860 sf allowed by the planned residential development district standards.** *Applicant submits that all other non-residential accessory uses of the property are allowed by-right within the parameters of the ordinance. Staff notes that County enforcement of the square feet devoted to lawful accessory uses could be difficult.*  
*Due to concerns of enforcing whether or not a use was commercial or accessory to a permitted use, staff originally recommended that all non-residential activities within the planned development receive a deviation of use from the board of supervisors.*
  
3. **No additional traffic information has been provided by the applicant to reflect the amendments to the concept plan.** *Current traffic impact study (dated June 15, 2007, revised August 6, 2007) indicates current daily traffic volume on Route 122 is 9700 vehicles per day and current peak hour volume is 1067 vehicles. Proposed project is expected to increase peak hour volumes by as much as 1224 vehicles, representing a 120% increase over current volumes. This projection does not include traffic volumes that may be generated from other developments previously approved in the project area. Staff continues to express concern that enough detailed traffic information has not been provided to the County to adequately assess the full impact of this project on the existing transportation network.*

Russ Johnson, Gills Creek District Supervisor, presented the following PowerPoint presentation:

# Lakewatch Spa and Resort

## Is It Reasonable?

- ▶ We have no clear idea as to the impact this project would have in terms of emergency services, law enforcement, and our roads:
  - ▶ We only have a general letter from Public Safety
  - ▶ The local fire chief was not asked
  - ▶ Local EMS was not asked
  - ▶ This petition has been expedited as to avoid meeting new VDOT requirements
- Our own staff has advised you of this major weakness
- If approved, any traffic impact/improvements beyond the immediate entrance will be at the expense of the citizens of Franklin County

## Reasonable?

- We have a new Comprehensive Plan and it is very clear as to what is and is not allowable regarding the proposed use of this land.
  - ▶ I remind you of the letter from Mr. Jefferson it which he reminded us that we have a new plan which may not give us the same range of discretion as the old one did.
  - ▶ The Comprehensive Plan states that "multiple factors must be considered when determining the appropriateness of a proposed development ... "the timing of its use, and its relationship to infrastructure development and the orderly succession of land use in the area and the restrictions imposed by environmental, Public Safety, traffic, and community facilities."

## Reasonable?

- The very name and description of the petition “Lakewatch Spa and Resort” ... Is it reasonable to believe that such a project was ever envisioned as belonging in an RPD zone?
  - By asking for a Spa, we are being asked to create a new use within the RPD
  - Recall that this petition was originally submitted as a Planned Commercial Development and the re-submission changed very little, except the title.
- Services that are designated as “open to the public” ... and will require an additional cash transaction, beyond membership in the residential community these amenities claim to serve - Is it reasonable to believe that they belong in an RPD zone?
- A wake lake park described by the petitioner as an attraction for tourists throughout the United States - Is it reasonable to believe that it belongs in an RPD zone?

## Reasonable?

- ▶ Is the Community Center an accessory to this development? (By RPD definition, it is not).
- ▶ “Use that may not be considered as a lawful accessory by right” – ref. #13, #14 – why are we even approached and asked to go above the law).
- ▶ The golf club building is 20,000 square feet, 1,400 has been requested as “use not considered as a lawful accessory by right,” what is the other 18,600 square feet for?
- ▶ The wake lake pro shop is 6,000 square feet, with 1,400 requested as “use not considered as a lawful accessory by right,” what is the other 4,600 square feet for?
 

$18,600 + 4,600 = 23,200$  square feet of what??????
- ▶ What has happened here is that the developer has submitted an overly broad special use permit to obtain additional commercial space.
  - This is an enforcement nightmare for staff and provides a significant amount of commercial space over what is permitted.

## Reasonable?

- ▶ A 45 foot deviation from a 75 foot requirement for lake view townhouse unit width – 60% - is excessive AND a 5,000 sq. ft. deviation from 7,500 is a 66% deviation.
- ▶ A restaurant and lounge “open to the general public”
- ▶ A spa – “open to the public”

## Reasonable?

- ▶ Request for a deviation of 10 feet over and above the permitted feet for the height of the condominium building – 25% - to make the building higher – which means – to ask us to allow for further negative impact on the surrounding properties of this project and future applied for projects.
- ▶ The Concept Plan provides for 328 acres of open space from which the petitioner is asking to be allowed a 7% reduction.
- ▶ **A 7% reduction is 40 acres! This would bring the project back to the minimum 50% requirement or 288 acres**

## Reasonable?

- ▶ A petition dated June 1, revised June 13, August 3, September 15, and October 23.
- ▶
  - ▶ The petitioner was allowed to violate our own Board procedures.
  - ▶ The petitioner did not just withdraw something, he also replaced what he withdrew with 130 single family residential homes.
    - Mr. Pace called attention to this in his letter to us as he referred to it as a “procedural defect.”
- ▶ When you charge an additional fee (such as for use of the boats, and for wakeboarding) you create a **commercial** situation.
- ▶ When you identify all commercial uses that are allowed by ordinance to support the RPD, and open to the public – you create a **commercial** situation.

## My Motion

- ▶ I find that the required information for the submitted petition is incomplete. Therefore, I move to delay action until the petitioner provides:
  - A traffic study according to the new VDOT guidelines
  - All fire/EMS and safety issues are clearly identified and addressed
  - All requests for deviations are reviewed and understood
  - Special Use permits are re-submitted with specific uses identified
  - The Staff report indicates that the project is enforceable
  - A new outside legal counsel has reviewed the entire project, and reports to this Board in writing as to their interpretation of this petition in terms of State and local ordinances, law, etc.
  - The petition again goes to the Planning and Zoning Commission before coming back to the new Board sometime next year

**PETITION of Edward C. Park, III, as Petitioner and Owner**, requesting to rezone property consisting of ± 576 acres, currently zoned A-1, Agricultural District, to RPD, Residential Planned Unit Development District, with possible proffers, and deviations as proposed on the amended

concept plan sheet 3 of 3 revised September 15, 2007, for the purpose of a resort community with residential and commercial uses, to be known as LakeWatch Plantation Spa and Resort.

**(RESOLUTION #11-11-2007)**

BE THE THEREFORE RESOLVED, to delay action due to an incomplete petition and until the petitioner provides the following information:

- ❖ A traffic study according to the new VDOT guidelines
- ❖ All fire/EMS and safety issues are clearly identified and addressed
- ❖ All requests for deviations are reviewed and understood
- ❖ Special Use Permits are re-submitted with specific uses identified
- ❖ The Staff report indicates that the project is enforceable
- ❖ The petition again goes to the Planning and Zoning Commission before coming back to the new Board sometime next year.

MOTION BY: Russ Johnson

SECONDED BY: Charles Poindexter

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Hurt, Poindexter, & Johnson

NAYS: Mitchell, Wagner, Quinn & Angell

THE MOTION FAILS WITH A 3-4 VOTE.

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**(RESOLUTION #12-11-2007)**

BE THE THEREFORE RESOLVED, to table action on the Lakewatch petition until the December 18<sup>th</sup>, 2007 meeting and limit debate to discussion addressing only the discrepancies discussed regarding the plat deviations on lot sizes.

MOTION BY: Hubert Quinn

SECONDED BY: Leland Mitchell

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Wagner, Quinn & Angell

NAYS: Hurt, Poindexter & Johnson

MOTION PASSED WITH A 4-3 VOTE

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Chairman Wayne Angell recessed the meeting for the previously advertised public hearings as follows:

**PETITION of Phillip G. Jung and Gwen B. Jung, as Petitioners and Owners**, requesting a Special Use Permit for property currently zoned A-1, Agricultural District, with possible conditions, consisting of ± 1.273 acres, for the purpose of a Radio and Television Tower (Amateur Radio Tower). The future land use map of the adopted 2025 Comprehensive Plan for Franklin County designates the area as Agriculture Forestry/Rural Residential. The property is located on Hay Field Road in the Countryside Subdivision, Lot 26, in the Boone Magisterial District of Franklin County and is identified on Franklin County Real Estate Tax Records as Tax Map # 37.4, Parcel # 26. (Case # U 07-10-01)

Eric Ferguson, Attorney, presented the petitioners request.

**THE FOLLOWING PEOPLE SPOKE IN OPPOSITION OF THE PROPOSED SPECIAL USE PERMIT:**

Ed & Katie Mullins

Jean Andrews

Bill Keller

Steve Shively

Kevin Mills

Gwen Jung, stated, she was the petitioner and advised the Board prior to her construction of her home, she was given authorization for the erection of the tower to be allowed on the property. Later the bylaws were re-written and the language did not include the Amateur Radio Tower.

**(RESOLUTION #13-11-2007)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the special use permit with the conditions as discussed for uses as provided in this chapter finding by the Franklin County Board of Supervisors that such use will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare and in accord with the requirements of Section 25-638 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended. Further the proposal

encourages economic development activities that provide desirable employment and enlarges the tax base. Approval with the following conditions:

Approved Conditions:

Conditions for Case # U 07-10-01, Phillip G. Jung and Gwen B. Jung:

1. The tower site shall be constructed in strict conformity with the concept plan accompanying this request. The overall height of the tower and all antennas shall not exceed two hundred (200) feet in height and maintain a minimum setback of 100% of the tower height.
2. The proposed wood fence shall be four (4) feet tall, as required and approved by Homeowners Association. Landscaping around tie-downs shall consist of evergreen trees a minimum six (6) feet in height at time of planting. The trees shall be sufficient to screen and buffer the tie-downs for guy wires from adjacent properties and be installed no later than May 1, 2008.
3. Applicant shall obtain a land use permit and a building permit within thirty (30) days of approval of this special use permit.
4. Applicant shall coordinate with Franklin County Public Safety for a public safety call sign within thirty (30) days of approval of this special use permit.
5. Applicant shall provide a copy of HAM FCC License and bands/meters of broadcast to the Zoning Administrator within thirty (30) days of approval of this special use permit.

**NOW, THEREFORE** BE IT RESOLVED that the aforementioned parcel(s) of land, which is contained in the Franklin County Tax Records as Tax Map # 37.4, Parcel # 26, Countryside Subdivision, Lot 26, (Deed Book # 874, Page # 1209; Plat Book # 745, Page # 377) be granted the request to obtain a Special Use Permit for the purpose of a Radio and Television Tower (Amateur Radio Tower).

MOTION BY: Leland Mitchell

SECONDED BY: Hubert Quinn

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn & Angell

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**PETITION of R. Jack Smith and Patsy C. Smith, as Petitioners and Owners,** requesting a rezone amendment to a rezone approved March 18, 2003, currently zoned B-2, Business District General, with possible proffers, consisting of ± 1.5 acres, a portion of ± 6.90 acres, for the purpose of removing proffer #2 which eliminates certain uses from the list of permitted uses on the property from the B-2 zoning in the Franklin County Zoning Ordinance. The future land use map of the adopted 2025 Comprehensive Plan for Franklin County designates the area as Low Density Residential and Commercial Highway Corridor. The property is located on State Route 220 North, in the Boone Magisterial District of Franklin County and is identified on Franklin County Real Estate Tax Records as a portion of Tax Map # 36, Parcel # 185.1. (Case # RA 07-10-01)

Mr. Jack Smith requested the Board to remove proffer #2 in its entirety.

No one spoke for or against the proposed petition.

**(RESOLUTION #14-11-2007)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the aforementioned rezoning with proffers, whereby the proposed rezoning will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare, will promote good zoning practice and is in accord with Section 25-730 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with the following proffers and deviations:

Approved Proffers and Deviations:

Proffers for Case # RA 07-10-01, R. Jack Smith and Patsy C. Smith:

1. Site will be developed in accordance with the concept plan for R. Jack Smith and Patsy C. Smith, dated January 21, 2003, last revised August 31, 2007, as prepared by Stone Engineering.
2. The uses of this site will be limited to the uses permitted in the B-2 district, except that the following uses will not be permitted on the site:
  - Apartments combined with business
  - Assembly halls
  - Auction barn/auction house
  - Blacksmiths
  - Boat clubs
  - Car and vehicle was operations

- Carpet cleaning
- Cemeteries, community and commercial
- Clubs (private)
- Clubs (public)
- Cold storage lockers, facilities
- Drive-in restaurants/walk-ins
- Flea markets
- Gasoline stations
- Laundromats
- Marinas
- Mobile home sales
- Railroad facilities

3. The applicant will comply with all requirements of the Virginia Department of Health regarding the provision of water and sewage disposal.
4. The applicant will coordinate with Virginia Department of Transportation to meet requirements for a commercial entrance permit.
5. The applicant will maintain a twenty (20) foot landscaped buffer adjacent to Route 220. In addition, the applicant will maintain landscaped buffer to the east and west of the property in conformance with the Franklin County Landscape and Buffering Ordinance adopted July 2002.
6. The applicant will be limited to two (2) free standing signs measuring no more that thirty-two (32) square feet in area. There will be no off-premise signs located on the property.

**NOW, THEREFORE,** BE IT ORDAINED that the aforementioned parcel of land, which is contained in the Franklin County Tax Records as a portion of Tax Map # 36, Parcel # 185.1 (Deed Book 671, Page 116; Plat Book 430, Page 1031), be granted the request to amend the rezone approved March 18, 2003 to eliminate proffer #2 which eliminates certain uses from the list of permitted uses on the property from the B-2, Business District General zoning in the Franklin County Zoning Ordinance.

MOTION BY: David Hurt  
 SECONDED BY: Russ Johnson  
 VOTING ON THE MOTION WAS AS FOLLOWS:  
 AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn & Angell

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**PETITION of Howard Eugene Huff and Melinda Gail Huff, as Petitioners and Owners,** requesting to rezone property consisting of a total of ± 1.580 acres, currently zoned RC-1, Residential Combined Subdivision District and A-1, Agricultural District, to M-1, Light Industry District, with possible proffers, for the purpose of relocating the equipment parking for the existing Southern Well Drilling, Inc., and to relocate and consolidate the parking for the existing B & E Motors. The future land use map of the current adopted 2025 Comprehensive Plan for Franklin County designates this area as Agriculture Forestry/Rural Residential. The property is located on State Route 40 East, 0.2 miles east of Route 122, in the Union Hall Magisterial District of Franklin County and is identified on Franklin County Real Estate Tax Records as Tax Map # 54.2, Parcel #'s 13 (0.579 acres) and a portion of Tax Map # 54.2, Parcel #15 (1.004 acres). (Case # R 07-10-01)

Phil Nester, Land Surveyor, presented the petitioner's request.

No one spoke for or against the proposed rezone request.

**(RESOLUTION #15-11-2007)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the aforementioned rezoning with proffers, whereby the proposed rezoning will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare, will promote good zoning practice and is in accord with Section 25-730 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with the following proffers and deviations:

Approved Proffers and Deviations:

Proffers for Case # R 07-10-01, Howard Eugene Huff and Melinda Gail Huff:

1. The subject property shall be developed in substantial conformance with the rezoning request plan for Howard Eugene Huff, dated August 29, 2007, prepared by Philip W. Nester. No buildings or other proposed uses shall be added without being approved by an additional public hearing.

2. Access shall be restricted to the existing paved entrance on Tax Parcel #54.2-14 (existing M-1 zoning). The existing gravel entrance on Tax Parcel #54.2-13 (proposed M-1 zoning) shall be removed.

3. No additional signs shall be added.

4. No additional lighting is proposed at this time. Any future lighting additions shall comply with Franklin County Zoning and Site Plan requirements. Any additional lighting must be approved by Franklin County Planning staff only after review of a site plan.

**NOW, THEREFORE,** BE IT ORDAINED that the aforementioned parcel of land, which is contained in the Franklin County Tax Records as a portion of Tax Map # 54.2, Parcel # 13 (Deed Book 881, Page 2928; Plat Book 881, Page 2926), and a portion of Tax Map # 54.2, Parcel # 15 (Deed Book 881, Page 2928; Plat Book 881, Page 2926) be granted the request to rezone property currently zoned RC-1, Residential Combined Subdivision District and M-1, Light Industry District, to be rezoned to M-1, Light Industry District, for the purpose of a car lot for B & E Motors and as equipment parking for Southern Well Drilling, Inc., consisting of a total of ± 1.583 acres.

MOTION BY: Charles Wagner

SECONDED BY: Charles Poindexter

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn & Angell

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**PETITION of Mod U Kraf Homes, LLC, as Petitioner and Owner,** requesting to rezone property consisting of ± 5.175 acres, currently zoned A-1, Agricultural District and B-2, Business District General, to B-2, Business District General, with possible proffers, for the purpose of professional offices, temporary uses, construction activities including temporary buildings. The future land use map of the current adopted 2025 Comprehensive Plan for Franklin County designates this area as a Commercial Highway Corridor. The property is located on State Route 220 North in the Rocky Mount Magisterial District of Franklin County and is identified on Franklin County Real Estate Tax Records as Tax Map # 44, Parcel #'s 148 (a portion of) and 149. (Case # R 07-10-02)

Clyde Perdue, Attorney, presented the rezone petition.

No one spoke for or against the proposed rezone property.

**(RESOLUTION #16-11-2007)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to approve the aforementioned rezoning with proffers, whereby the proposed rezoning will not be of substantial detriment to adjacent property, that the character of the projected future land use of the community will not be adversely impacted, that such use will be in harmony with the purpose and intent of the zoning ordinance and with the public health, safety and general welfare, will promote good zoning practice and is in accord with Section 25-730 of the Franklin County Code and Section 15.2-2283, Purpose of zoning ordinances of the Code of Virginia of 1950, as amended with the following proffers and deviations:

Approved Proffers and Deviations:

**Proffers for Case # R 07-10-02, Mod U Kraf Homes, LLC:**

1. Property is to be developed in substantial conformity with the Concept Plan prepared by Stone Engineering, dated August 30, 2007, revised October 2, 2007.
2. No Mobile home, single wide or double wide homes will be placed on the property.
3. Building equipment will not be stored on site longer than necessary to set up or remove a modular home.
4. Applicant reserves the right to construct a decorative fence along the northern and southern boundary line in order to screen against the adjoining uses.
5. Applicant will have the common boundary/division line of tax map/parcel #44-148 and #44-149 vacated in order to create a single tax parcel containing 5.175 acres. Any further subdivision of the property shall be in compliance with the Franklin County Subdivision Ordinance.

**NOW, THEREFORE,** BE IT ORDAINED that the aforementioned parcel of land, which is contained in the Franklin County Tax Records as Tax Map # 44, Parcel # 149 (Deed Book 941, Page 30; Plat Book 914, Page 28), and a portion of Tax Map # 44, Parcel # 148 (Deed Book 917, Page 1050) be granted the request to rezone property currently zoned B-2, Business District General and A-1, Agricultural District, to be rezoned to B-2, Business District General, for the purpose of professional offices, temporary uses, construction activities including temporary buildings consisting of a total of ± 5.175 acres.

MOTION BY: Charles Wagner

SECONDED BY: Charles Poindexter

VOTING ON THE MOTION WAS AS FOLLOWS:

AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn & Angell

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**(RESOLUTION #17-11-2007)**

BE IT THEREFORE RESOLVED, by the Board of Supervisors to go into a Closed Meeting in Accordance with 2.2-3711, a-7, Consult with Legal Counsel and a-29, Discussion of the award of a public contract involving the expenditure of public funds, including interviews of bidders or offerors, and discussion of the terms or scope of such contract, where discussion in an open session would adversely affect the bargaining position or negotiating strategy of the public body, of Virginia, as amended.

MOTION BY: David Hurt  
SECONDED BY: Charles Wagner  
VOTING ON THE MOTION WAS AS FOLLOWS:  
AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn & Angell

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MOTION: Russ Johnson **RESOLUTION: #18-11-2007**  
SECOND: Leland Mitchell MEETING DATE NOVEMBER 27<sup>TH</sup>, 2007

WHEREAS, the Franklin County Board of Supervisors has convened an closed meeting on this date pursuant to an affirmative recorded vote and in accordance with the provisions of The Virginia Freedom of Information Act: and

WHEREAS, Section 2.2-3712(d) of the Code of Virginia requires a certification by this Franklin County Board of Supervisors that such closed meeting was conducted in conformity with Virginia law;

NOW, THEREFORE, BE IT RESOLVED, that the Franklin County Board of Supervisors hereby certifies that, to the best of each member’s knowledge, (i) only public business matters lawfully exempted from open meeting requirements by Virginia law were discussed in the closed meeting to which this certification resolution applies, and (ii) only such public business matters as were identified in the motion convening the closed meeting were heard, discussed or considered by the Franklin County Board of Supervisors.

VOTE:  
AYES: Mitchell, Hurt, Poindexter, Wagner, Johnson, Quinn, & Angell  
NAYS: NONE  
ABSENT DURING VOTE: NONE  
ABSENT DURING MEETING: NONE

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Chairman Angell adjourned the meeting.

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W. WAYNE ANGELL  
CHAIRMAN

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RICHARD E. HUFF, II  
COUNTY ADMINISTRATOR