The Board of County Commissioners, Walton County, Florida, held a Land Use Hearing on Tuesday, April 2, 2002 at 3:00 p.m. at the Coastal Branch Library to consider the Barbarosa Subdivision proposed development, followed by the Regular Land Use Hearing at 5:00 p.m.

The following Board members were present: Commissioner Tim Pauls, Vice-Chairman Larry D. Jones, and Commissioner Herman L. Walker, Chairman Lane Rees and Commissioner Gene Ryan, Mr. Michael Underwood, County Administrator, Attorney Gary Vorbeck, Director of Legal Services, were also present. Attorney David A. Theriaque was present to represent the proponents and Attorney Ken Goldberg was present representing the opponents.

Commissioner Jones led with prayer following the Pledge of Allegiance to the American Flag.

Chairman Rees called the meeting to order and Attorney Vorbeck administered the oath to those individuals speaking on the proposed Barbarosa development.

Mr. Jack Arthur, Growth Management Director, presented the Planning Report with a recommendation of approval. The Planning Commission also reviewed and approved the proposed development. Mr. Arthur entered the report into record (Exhibit 1).

Ms. Linda Hildreth stated that she was at the Planning Commission Meeting and advised that they agreed to require covenants and restrictions concerning protection in the coastal dune lake areas and questioned if this would be a part of the requirements for
Mr. Arthur stated that the dune lake protection zone is shown properly on the plan.

Commissioner Jones read the Planning Commission’s recommendation for approval stating that the master plan for the Barbarosa Subdivision is hereby recommended for approval with the stipulations that covenants and restrictions protecting the sand dunes are included in the deeds of the lots.

Mr. Arthur entered the Planning Staff’s report into the record (Exhibit 2).

Attorney Theriaque questioned Mr. Arthur if he feels that it is staff’s conclusion that the proposed project as submitted to the Board today complies with the requirements of the Comprehensive Plan and the Land Development Code. Mr. Arthur stated that he agrees.

Attorney Goldberg questioned the land use designation for the Barbarosa property and clarification if it actually exists within two different land use categories. Mr. Arthur stated that it did not, that Traditional Neighborhood Development is a neighborhood planning area sub category.

Attorney Goldberg questioned what the designation for the Bannerman subdivision is. Mr. Arthur stated that it is RPA (Residential Preservation Area). He further asked Mr. Arthur to review portions of the Comp Plan regarding Neighborhood Categories and compatibility of new development existing neighborhoods. Attorney Goldberg asked if this particular policy establishes the criteria standards for which you are to apply, for a project that is proposed in the county. For example, it says, No new commercial development shall be within 250 feet of a residential preservation area. Mr. Arthur stated that the actual language says, unless developed as part of a detailed
Mr. Goldberg questioned if the intent of that policy, both the 250 foot buffer prohibition, and the 50 foot setback requirement demonstrates the county’s intent to protect residential preservation areas from adverse impact. Mr. Arthur stated it did.

Mr. Goldberg stated that Mr. Arthur has already testified that the Barbarosa project is proposed for development next door to residential preservation area and Mr. Arthur agreed. Mr. Arthur also answered questions stating that the developer of Barbarosa has not imposed any height restrictions on his project that he is aware of, but also stated that there is a prohibition in that area and he would have to comply with height limitations. Mr. Arthur stated that if it’s over two stories high, it has to be 50 feet back from the property line. Other than that, the height limitations and other compatibility issues in other parts of the Code limit them.

Mr. Goldberg stated that if the developer didn’t then they should be subject to that 50-foot setback.

Mr. Goldberg spoke about policy that talks to the issue of projects, not lots or individual houses and required plan review at this stage of major development.

Mr. Arthur stated that is correct and his department generally pick up on that when a building permit is applied for. Mr. Arthur and Mr. Goldberg disagreed on policy
on this issue. Mr. Arthur stated that you don’t measure projects by stories. You measure houses in stories.

Mr. Goldberg asked Mr. Arthur if the developer said that he would not build anything over 2-stories in height, as part of this project, that would be a limitation and comport with that requirement. Mr. Arthur agreed, but said they did not state that up front.

Mr. Arthur read policy L1.1.1 B3A (1-2d) regarding Traditional Neighborhood land use and design standards and setback requirement for projects adjoining Residential Preservation Areas.

Mr. Goldberg stated that that’s in the Neighborhood Planning Area. And in both cases they are saying if you are going to have a project over two stories in height, which would mean, I assume, that you’re going to have houses over two stories in height, and that requires a setback of 50 feet from the residential preservation area boundary. Mr. Arthur agreed but stated that his reviewing body, or himself, has not made this a requirement as part of this development because they have nothing telling them that they’re doing that. Mr. Arthur stated that they could impose a limitation of 2-stories on this project or they could also make each individual resident that builds over two stories, set back 50 feet

Attorney Goldberg questioned Mr. Arthur’s familiarity with the Bannerman Subdivision. He stated that he has seen the development, however he is not aware that there are no houses over one or two stories in height.

Mr. Goldberg questioned Mr. Arthur as to his background. Mr. Arthur stated that he is a Civil Engineer.
Mr. Goldberg spoke about the homes near the beach and how they rise in height as one travels away from the beach. Mr. Arthur stated that he knew of homes two and three stories high that are on the beach. He stated that Walton County has a four-story height limit and said that you can see houses four stories all over south Walton, but does not see any pattern as Mr. Goldberg referred to.

Attorney Goldberg questioned Mr. Arthur regarding the buffering requirement on the east side between the Barbarosa proposal and the Bannerman Subdivision. Mr. Arthur stated that he believes the buffer is 10 feet. Mr. Goldberg then referred Mr. Arthur to Objective L1.7 of the Comp Plan, which is entitled Compatibility of Adjacent Land Uses. He asked what mechanism the county has adopted to ensure compatibility. Mr. Arthur stated that there are several, buffer being one of them. Discussion continued regarding buffering requirements and their purpose.

Further questioning took place regarding the vegetative communities and why the type of vegetation chosen for this project was selected. Mr. Arthur stated that they rely on the developer. Mr. Goldberg spoke about policy in the Comp Plan requiring preservation of 95% of the vegetation inside the Coastal Construction Control Line (seaward) and 100% landward. He further questioned if Mr. Arthur considers replanting the same as preservation. Mr. Arthur stated, not always.

Mr. Goldberg then referenced policy regarding vegetation retention and why the Oak scrubs on the eastern side of the project was not required to be retained. Mr. Arthur stated that the engineer could better answer that question. They also discussed the buffer requirement width.
Discussion followed regarding the pedestrian walkway and whom it would provide access to. Mr. Arthur stated that it is private access and whomever they give access to could use it. Mr. Arthur agreed that the walkway would also serve the people north of Highway 30 A. Mr. Goldberg stated that the access way is located 10 feet away from the adjoining property owners and 1100 feet in length. Mr. Arthur stated that is correct.

Commissioner Pauls questioned if this is categorized as a Conventional Subdivision under Flue 009. Mr. Arthur stated that it is. Commissioner Pauls stated that it can then be modified.

Mrs. Kerri Delvoy asked if it would be mandatory for all house over 2-story to be set back 50 feet. Mr. Arthur agreed.

Attorney Theriaque questioned Mr. Arthur regarding specific language in the Comprehensive Plan regarding the TND Category that addresses the 50 feet. He also asked if the Land Development Code has included standards that implement the Traditional Neighborhood language in the Comp Plan. Mr. Arthur agreed. Mr. Theriaque further stated that if language exists in the Land Development Code that the County Commission could modify the 50 foot buffer language. Mr. Arthur agreed.

Mr. Arthur agreed with comments made by Attorney Theriaque that the project consists of 1.3 dwelling units per acre, totaling 49 total lots and is a two-phase project. It is not a Planned Unit Development and has no applications for a wetland fill permit. The applicant has not requested for any standards to be deviated.

Attorney Theriaque requested clarification that if an individual in this project desires to build a three-story house, that person would have to demonstrate to staff that
they are 50 feet from the boundary line from the Bannerman Subdivision before getting a permit. Mr. Arthur agreed and stated that would be a requirement implemented on a lot-by-lot basis.

Questions were raised regarding discussion that took place at the Planning Commission Meeting in reference to the walkway. Attorney Theriaque stated for the record that the walkway is to be a 5-foot meandering walkway through a proposed 15-foot vegetative section as discussed at the Planning Commission Meeting.

Attorney Goldberg cross-examined Mr. Arthur regarding the Traditional Neighborhood criteria. He asked if those standards referred to in the Land Development Code are a replication of the standards already adopted in the Comprehensive Plan. Mr. Arthur stated that it is a pattern to place standards in both the LDC and the Comp Plan. Discussion followed regarding public notice requirements for TND’s.

Attorney Theriaque called Mr. David Campbell, Campbell Engineer Inc., a Civil Engineer. Mr. Campbell stated that he is the one who dealt with the preservation area and then described what is taking place on the Bannerman property. He stated that it has been their intent that the 15’ would remain vegetated and the walkway would meander through the 15’. Mr. Theriaque clarified that a 25’ vegetated area that will contain a 5’ meandering walkway no closer than 10’ to the Bannerman property line. Mr. Campbell agreed. Mr. Theriaque asked if the proposed project complies with the preservation plan requirements of the Walton County Comp Plan and LDC. Mr. Campbell stated that it does.

Attorney Goldberg questioned Mr. Campbell regarding the amount of vegetation being retained. Mr. Campbell explained that everything south of the CCCL is required to
preserve 95%; this plan preserves 100%. He stated that it is their intent to show that they are not going to clear-cut the area. The 10 acres represents all of the coastal vegetation and the 7.89 acres represents everything south of the CCCL. Each lot owner will be required to preserve the vegetation as required in the Code.

Attorney Theriaque stated that his client is willing to make that a stipulation of the development order. As each permit is pulled for north of the CCCL line that 100% requirement must be met on a lot-by-lot basis.

Discussion occurred between Attorney Goldberg and Mr. Campbell regarding clear cutting of the vegetation for the footpath. Mr. Campbell stated that it is not their intentions to clear cut that area.

Chairman Rees questioned if any testing has been performed on the lake for current water quality. Mr. Campbell stated that he is not aware of any tests.

The commissioners recessed briefly.

Commissioner Pauls questioned Mr. Arthur regarding Conventional Subdivision. Mr. Arthur stated that it is a typical subdivision, however, there is not a definition in the Code. Commissioner Rees questioned if Mr. Arthur is aware of any testing being done for water quality. Mr. Arthur stated that he is not aware of any activity specific to this lake, however, that is the goal of the Dune Lake Task Force.

Attorney Goldberg followed up on Commissioner Pauls comment by stating that this project is not being designed as a Traditional Neighborhood Development project, but is a development project within a TND area. Mr. Arthur agreed.

Mr. Goldberg called Ann Redmond for questioning. Ms. Redmond is an Environmental Consultant with Wilson Miller, Tallahassee, who specializes in
plant/wetland ecology and has a Bachelor’s Degree in Biology, with an emphasis in Botany, and a Master’s Degree in Biology, with an emphasis in Ecology. Ms. Redmond gave an overview of her work experience in this field.

Mr. Goldberg tendered Ms. Redmond as an expert in Plant Ecology. Attorney Theriaque voiced no objections.

Ms. Redmond stated that she was hired to review the environmental assessment done by the developer’s consultant and to review with respect to the county’s natural vegetative community Comp Plan requirements and the LDC requirements. She stated that she was asked to look at the eastern parcel and did so by walking the property line along the eastern boundary on the Bannerman side. She took photographs of both properties and flew over the property and stated that what she saw appeared to be a seamless vegetative community. Ms. Redmond presented maps and photographs of the Bannerman and adjacent property. Mr. Goldberg entered the photographs into record (composite exhibit 3 consisting of document #1-4).

Ms. Redmond spoke about Oak Scrub and Sand Hill areas and the vegetation retention in those areas. She also spoke about how the trees are being “salt pruned” on the southern end of the property in the Coastal Strand section shown on exhibit 3-#4. The Coastal Strand area falls under the 100% retention of vegetation except for the house pad and access way to the house according to the Comp Plan. Attorney Goldberg clarified that Ms. Redmond’s identification of the vegetation is different than the identification that county staff based their recommendation for approval on. Ms. Redmond agreed. She agreed that according to the Comp Plan the Sand Pine Scrub requires 50% retention and
the Coastal Strand, Maritime Hammock and Beach Dune, each require 100% retention except within the CCCL, which requires 95%.

Ms. Redmond explained that even foot traffic could damage the ground cover vegetation, which the FNAI discourages. Minimizing cuts in the ground cover reduces damage from storms. Mr. Goldberg questioned Ms. Redmond regarding her interpretation of retention and if retain means the same as relocate; she disagreed. Mr. Goldberg further discussed the proposed plans for relocating the vegetation and questioned Ms. Redmond as to what she felt would be the success rate. She stated that the plants will not grow in all locations and cannot be transplanted just anywhere. She stated that she would not approve the plan if it were up to her because a footpath could not be created without cutting the scrub and therefore causing an impact.

Commissioner Pauls questioned if there would be greater detrimental affect if the development were designed so that the road was adjacent to the property line. Ms. Redmond stated that it would depend on how the cuts for the roadway are made.

Attorney Theriaque questioned Ms. Redmond regarding the date she was hired and when her visits were made to the site. She stated that she was hired in December 2001 and that her first visit was in January 2002. He asked her if she had called the county at any time. She stated that she had not. He further questioned Ms. Redmond regarding policy 3.2.7 of the Comp Plan that refers to the word “retain” and “preserve” as stated in paragraph 7. He stated that paragraph requires 50% to be preserved. She interpreted this to mean what is left should be retained in a compact configuration.

Mr. Voight, adjacent property owner, stated that he is not objecting to the development, however, he is concerned with the proximity of the path to their house. Mr.
Voight stated that the path is too close to his home and requested the path be moved over. He stated that he wants a 50’ buffer as required by the Comp Plan. He spoke about the number of people who would be utilizing the path. Mr. Voight stated that he would be ok with a 30’ buffer, the same as on Mr. Davies property. He further explained the location of the footpath in relation to his home. Again, he stated that he approved of the development with the footpath moved over.

Attorney Theriaque questioned Mr. Voight if he had met with Mr. Davies before buying his properties and showed him the proposed plan. Mr. Voight stated that he had met with Mr. Davies. Mr. Theriaque asked if Mr. Voight’s house is 10’ from the boundary line and the meandering path is an additional 10’ would he not have 20’. Mr. Voight agreed. Attorney Theriaque asked Mr. Voight if he is aware that this property is designated as TND and could have a mixed commercial use. He stated that he is aware of that.

Ms. Linda Hildreth, Blue Mt. Road homeowner, stated that at the Planning Commission Meeting that they stipulate there would be no transfer of density and questioned if that would still apply. Attorney Theriaque stated that they would make that a stipulation. Ms. Hildreth also stated that the Planning Commission agreed to use covenants and restrictions to prevent problems before they occur to provide a way to mandate compliance for the dune lakes.

Mr. Emit Hildreth stated that the Board has authority to apply law to any subdivision and asked the Board to include the stipulation that the covenants and restrictions protecting the sand dunes be included in the deeds of the lots.
Mr. Richard Folks appeared before the Commissioners and read a letter on behalf of the South Walton Community Council. They feel that the basic development is well designed and very attractive, however, they do have concerns regarding the protection of the coastal dune lake for the new owners. They are also concerned with the beach access and the treatment of the dunes. Mr. Folks stated that they are in favor of a 30’ preserved area between the Barbarosa property and the neighbors; signed Nancy James.

Mr. Smith Lanear stated that his property adjoins the Barbarosa property. He said that he does not have any buffer on his property and is concerned with the 40’ dune. His pool lies at the base of the dune and he is concerned with a dune walkover being constructed and people looking down into his pool and his bedroom.

Commissioner Pauls questioned Mr. Campbell regarding what areas will be cleared. He stated that there would be no clearing outside the right-of-way.

Attorney Theriaque presented his closing arguments. He stated that the proposed development is a Conventional Subdivision that is being proposed next to another residential subdivision. It has a low density of 1.3 units per acre. Mr. Theriaque stated that there is a disagreement regarding the vegetation issue. He spoke of the 50’ setback issue, which will be addressed at the time someone requests to construct a 3-story home. The walkway is a 5’ meandering walkway through a 25’ vegetated buffer, which is allowed by code. In summary, the Davies has proposed an outstanding low-density project and he therefore requested approval.

Attorney Goldberg gave his closing arguments stating that the developer must show substantial competent evidence that this project strictly complies with the requirements of the Comprehensive Plan. Mr. Goldberg stated that did not happen. He
stated that the coastal upland vegetation must be protected at a rate of 100%. Mr. Goldberg stated that the neighbors are asking that this area be protected by moving the walkway further away or remove it altogether. He stated that the people do not oppose the development, just the walkway. Mr. Goldberg also stated that Mr. Arthur is not strictly enforcing the Comp Plan. In closing, he asked that the walkway be moved back or removed, increase the buffer, protect it and leave it undisturbed.

Chairman Rees closed the hearing to public comment.

Commissioner Pauls commented that the people are concerned with their quality of life and how they don’t want the walkways, yet the county offers bonus points for developers who do provide walkways. He stated that the only way to make a determination is if the code allows for it.

Commissioner Walker stated that it appears an error was made 20 years ago when the house was built by building it on the property line. He stated that it would be unfair to penalize this developer because of a previous error. He felt that they are following the Code.

Commissioner Ryan stated that they have met the requirements of the Code.

Chairman Rees voiced the need to preserve the dune to the extent possible and encouraged the developer to move the walkway so it would not impact the pool and the dune. He also voiced concern regarding preserving the quality of the lake. Chairman Rees asked that sampling be conducted now and in future to monitor lake quality and that the lake would be part of the Coastal Lake Committee that reports to Director of Growth Management.
Motion by Commissioner Pauls, second by Commissioner Ryan to approve the proposed development of the Barbarosa Subdivision with three caveats: subject to correct preservation ratios per the Comprehensive Plan be followed within the land use areas; No areas referenced in terms of replanting would be clear cut first; and that the covenants adopted for the subdivision be referenced to the Comprehensive Plan and the Land Development Code. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

The Commissioners recessed briefly.

Chairman Rees called the meeting back to order and requested to consider the final plats first. Attorney Vorbeck stated that all the plats have been reviewed and comply with the rules and regulations.

Barbery Coast final plat was presented. Mrs. Jennifer Christensen, Planning Staff, advised that there is a letter of credit providing that the project improvements must be completed by October 1, 2002 or the county can collect against it.

Motion by Commissioner Ryan, second by Commissioner Pauls to approve the Barbery Coast final plat for recording contingent upon providing a letter of credit by the developer that the project improvements must be complete by October 1, 2002. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Pauls, second by Commissioner Jones to approve Baytowne North 1, Phase 1 final plat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.
Motion by Commissioner Pauls, second by Commissioner Ryan to approve Beach Haven Cottages final plat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Pauls, second by Commissioner Ryan to approve Miramar Beach Cottages final plat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Ryan, second by Commissioner Ryan, second by Commissioner Walker to approve Seaside 16 final plat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Pauls, second by Commissioner Walker to approve Vineyard at Raven Oaks Phase I final plat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Motion by Commissioner Walker, second by Commissioner Pauls to approve Waterview Cove Phase II replat for recording. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Attorney Vorbeck advised that there has been a request for a continuance for the Ciboney Condominium Homeowners Abandonment. Attorney Perry, representing the homeowners, appeared before the commissioners and explained that there was a pool built by the developer, which is on the easement on lot 101. There is parking on the easement on lot 108 and 109. She explained that they are attempting to work out a land swap, which appears would work best. Attorney Perry therefore requested a continuance to allow additional time.
Motion by Commissioner Jones, second by Commissioner Ryan to approve a continuance for the Ciboney Condominium Homeowners Association until May 7, 2002. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Attorney Ken Goldberg appeared before the Board on behalf of Mr. Lloyd Blue of Patrone’s at Grayton Beach. Mr. Goldberg stated that they are asking for the abandonment of an existing alley/roadway and to approve the conversion of a development. The change will remove commercial development with seven residences and to set the properties back from the lake. He also requested the Board approve a Developer’s Agreement allowing Mr. Blue a 10-year period to accomplish the conversion. Septic tanks will be converted to sewer and central water on the site. Planning Staff and the Planning Commission recommended approval.

Motion by Commissioner Ryan, second by Commissioner Pauls to adopt a resolution (2002-24) accepting the Planning Commission’s recommendation to approve the Patrone’s at Grayton Beach abandonment request and Developer’s Agreement. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Jack Arthur presented the Planning staff’s recommendation of denial for the Millington abandonment request. The Planning Commission also recommended denial. Mr. Arthur entered the Planning Staff’s Final Report (Exhibit 4) and the Planning Commission’s Final Recommendation (Exhibit 5) into the record.

Mr. Wayne Millington and wife, Ruth Millington, are requesting the abandonment of the North 33 feet of the West 50 feet of the East 129.36 feet of Lot 234, Government subdivision of Section 36, Township 3 South, Range 18 West.
Attorney Bill Green, representing the Millington’s, stated that his clients own property on the south side of the 66’ easement. The abandonment does not deny anyone access. They propose that there is no future potential use to the county. The property on the east side has previously been abandoned.

Mr. Arthur stated that they want to reserve the easement for possible traffic consideration in the future.

Mr. Millington addressed the commissioners stating that the other properties adjacent his have been abandoned, which would make it difficult for the county to use this portion.

Motion by Commissioner Jones, second by Commissioner Ryan to accept the Planning Commission’s recommendation to deny the Millington abandonment request. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur requested to table the Church Street PUD for further review. The Board agreed.

Mr. Arthur requested to table Summer’s Edge PUD pending further review. The Board agreed.

Mr. David Kramer appeared before the Board requesting a public hearing to amend LDC Section 13.02.01 “Buffer Setbacks for existing lots of record subject to Eminent Domain”. The suggested change: lot depth of100 feet or less be amended to 150 feet or less.

Motion by Commissioner Pauls, second by Commissioner Jones to approve the request to hold a public hearing to consider amending the LDC. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.
Mr. Arthur requested to table the Gary Cress/Winn Dixie Property issue pending review by the Public Works Department. The Board agreed.

Mr. Fredrick Tooke, County Surveyor, appeared before the Board regarding the recording of plats. He informed the commissioners that only one milar map is required when recording and recommended changing it to two. The Board suggested that Mr. Tooke meet with staff to discuss this issue further. Other surveyor’s were also present who stated that they would like to be made part of the discussions.

Attorney Vorbeck administered the oath to those individuals who would be speaking during the Quasi-Judicial hearings.

Mr. Tom Blackshear, County Planner, presented the Webber Small-scale amendment request to the commissioners. The county’s Future Land Use Map designates this parcel in two land use categories, Coastal Center and Neighborhood Planning Area/Residential Preservation Area, due to a map discrepancy. The property is located on Forest Shore Drive. Mr. Blackshear stated that he did not find any problems with wetlands, special flood hazard areas, wildlife habitats, or archeological resources. There is no compatibility to the east or to the south. The possible problems lie to the west and to the north, where there are existing subdivisions. The Planning Staff recommended denial. The Planning Commission recommended approval with the following conditions: limit building height to 1-story; restrict noise produced from any building; restrict light produced from any building; require a 6-foot privacy fence next to residential building; require Forest Street-only access to the property; and require 10-foot landscaped buffers. Mr. Blackshear explained that the map error exists because of two different maps being adopted the same night.
Attorney Vorbeck stated that it is very difficult to enforce deed restrictions. Commissioner Pauls stated that it becomes a matter of who the enforcing agency is, because the county does not enforce deed restrictions.

Mr. Blackshear entered the Planning Commission’s Final Report (Exhibit 6) and Planning Staff’s Final recommendation (Exhibit 7) into the record.

Mr. Russ Aldrich explained that the logical zoning is Coastal Center because it is located next to property containing commercial building and he felt that no one would construct residential on it. Mr. Aldrich also stated that he has received verbal support from the neighbors.

Motion by Commissioner Pauls to adopt an Ordinance (2002-08) accepting the Planning Commission’s recommendation to approve the Webber small-scale amendment. However, he urged Mr. Aldrich and the developer to give much consideration to what type of future developments will be placed on this parcel due to the compatibility issues with neighboring properties.

Ms. Faye Mowrey stated that she lives on the corner near this property and requested consideration be given so this property will remain as quiet as possible.

Mr. Zebb Webber stated that all of the surrounding property is Coastal Center.

Mr. Alan Ficarra appeared before the Board requesting the possibility of doing a neighborhood plan. Mr. Blackshear presented a map prepared by the South Walton Community Development Trust. That area is designated as a Neighborhood area on that map and you cannot have a mixture of commercial and residential in a Neighborhood Planning Area.
Commissioner Pauls again restated his motion to accept the Planning Commission’s recommendation and grant approval for the Webber small-scale amendment. Commissioner Ryan seconded the motion. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye. Commissioner Pauls commented on the need to hire a Professional Planner to help the county correct these problems, as voted on by a previous board.

Mr. Blackshear presented the Jablonka Small-scale amendment stating that this is the same situation as the Webber amendment. He entered the Planning Commission’s Final Recommendation (Exhibit 8) and the Planning Staff’s Final Order (Exhibit 9) into record.

Mr. Alex Alein voiced concerns regarding noise, light and traffic pollution. He stated that he previously spoke in favor of the amendment at the Planning Commission Meetings. Commissioner Pauls stated that granting this request does not allow for the Development Order at this time. At the time a development order is requested, that would be the proper time to add the conditions for these concerns. The commissioners directed staff to provide notification to the neighbors previous to any development. Mr. Russ Aldrich stated that the size of the property will force a developer to provide notification and neighborhood meetings will also be held.

Motion by Commissioner Pauls, second by Commissioner Jones to adopt an Ordinance (2002-07) accepting the Planning Commission’s recommendation to approve the Jablonka small-scale amendment with the requirement that the same notice requirements (as for a small-scale amendment) are followed for any potential development. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.
Ms. Linda Clark, Planning Staff, presented the Smith small-scale amendment request. She stated that Jean Barry Smith is requesting a land use amendment on property located on Old Blue Mountain Beach Road to Light Industrial. This is a mapping error and is designated as State owned property. Both the Planning Staff and Planning Commission recommended denial and their reports were entered into record (Exhibit 10 and 11).

Mr. Russ Aldrich stated that the property is surrounded on three sides by State owned land. The parcel to the north is Conservation Residential. The owner has indicated that if the change is approved he would be willing to pave the road up to this parcel. Discussion was held regarding the consideration that needs to be given to mitigation of wetlands in this area.

Motion by Commissioner Ryan, second by Commissioner Pauls to accept the recommendation and deny the Smith Small-scale amendment. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the proposed development for the Island Shop. The Planning Staff recommended approval and the Planning Commission recommended approval subject to a left hand turn deceleration lane in the median of US 98; to move the exit to Geronimo Street a minimum of 40 feet north of the proposed exit location; to expand Geronimo Street to 36 feet from the proposed exit south to the intersection of Geronimo Street and US 98. He advised that he has received the traffic information from Mr. Tipton and found it satisfactory. This project also received approval from the Design Review Board. Mr. Arthur entered the Staff’s Final report into record along with the Planning Commission’s Final Recommendation (Exhibit 12).
Mr. Dean Burgis, Emerald Coast Associates, represents the developer of this project. He stated that he concurs with staff and the Planning Commission. Mr. Burgess advised that he has a revised plan that he was requested to begin. He has applied for a driveway connection from DOT. The developer has agreed to put up a pro-rated amount of money to fund a deceleration lane. The project would create less than 500 trips and would qualify as a deminimus project. He stated that the amount would be calculated on the number of trips generated by the developer. The Planning Commission put the burden back on this developer to contact the other property owners to get the decel lane constructed. Attorney Vorbeck stated that the county does not have any legislative or ordinance structure on how to prorate these costs. Mr. Arthur advised that this developer is responsible for getting the turn lane built and how he is reimbursed is up to him.

Mr. Michael Flynt, who lives near the intersection, stated that he supports the Planning Commission’s recommendation with the stipulations. Mr. Flynt stated that it is not fair to require one developer to fund the entire project.

Ms. Kelly Merril appeared before the Board with pictures of the intersection showing the congestion. She stated that people park in the road while having their vehicles detailed; another business operates out of the back of a semi, which is parked in the right-of-way. She advised that she has reported the situation to the Sheriff’s Department and they will not respond until there is an accident.

Ms. Charlotte Flynt, Bayshore Drive, also voiced her concerns with the congested intersection. She commented that the businesses do not have proper loading zones.
Commissioner Pauls felt that the Planning Commission’s recommendation should be followed and also stated that he would support the county’s participation in the road improvements, but wants to see the development go forward.

Motion by Commissioner Pauls, second by Commissioner Jones to accept the Planning Commission’s recommendation and approve the Island Shop with the conditions. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Dean Burgis presented the proposed development for Bayou Gardens consisting of 3 single-family lots. The Planning Commission along with staff recommended approval. No one spoke in opposition to the proposed development. The Planning Staff’s Report and Planning Commission’s Final Report were entered into record (Exhibit 13).

*** clarify the conditions.

Motion by Commissioner Pauls, second by Commissioner Jones to accept the Planning Commission’s recommendation and approve Bayou Gardens with conditions. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the Bayou Landing proposed development consisting of a 47-lot subdivision on 10-acres. Planning staff recommended approval. The Planning Commission recommended approval with the stipulation that developer demonstrate through a tree survey that the road and the swells can be built with minimal damage to the large trees on the lot. Mr. Arthur entered into record the Final Report from the Planning Staff and the Final Recommendation from the Planning Commission (Exhibit 14).
Mr. Russ Aldrich, Emerald Coast Associates, representing the developer, stated that they will have to submit to the Planning Department a tree survey and the proposed layout of the roadway that will meander around the trees they feel are significant. He further explained that the tree survey is determined by visiting the site, making a determination as to the types and size of trees. Mr. Aldrich explained that the property is zoned Infill, which allows 8 units per acre and stated that they are only building 4.5 units per acre.

Mr. Allen Ficarra presented photos and a compatibility analysis of the property, as performed by Ms. Peggy Fowler, private Consultant. Mr. Ficarra read the statement issued by Ms. Fowler and entered the documents into record (Exhibit 15 consisting of three documents). He stated that this is a Conventional Subdivision and does not feel that it would be realistic to construct 8 units per acre. He spoke about the average density and setbacks and stated that the adjoining subdivision has a density of only 2.4 units per acre and the setbacks are 10’ on each side, whereas the proposed development has only 7.5 feet setbacks. He feels the project is not compatible.

Mr. Kevin Logan stated that he does not want to stop the development, however, he would like a lower density and wants assurance that the traffic problems will be addressed.

Mr. Stephen Pitkin, a City Planner, stated that the project meets the requirements of the code and urged the commissioners to approve the development. Mr. Pitkin entered into record a Compatibility Analysis (Exhibit 16).

Mr. Aldrich replied that 4.7 units per acre is not high density and further stated that they could clear cut the property if they desired, but they won’t.
The commissioners closed the public hearing.

Motion by Commissioner Jones, second by Commissioner Walker to accept the recommendation of the Planning Commission and approve the proposed development of Bayou Landing with the encouragement to the developer to keep the trees and prepare a plan to be presented back to the commissioners. Commissioner Pauls stated that he would like to see the plan first. Motion and second were withdrawn.

Motion by Commissioner Pauls, second by Commissioner Walker to continue the Bayou Landing public hearing until April 9, 2002 at 3:30 p.m. at the Tourist Development Council. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Chairman Rees called to order the public hearing for BMW Supply. Commissioner Pauls disclosed to the Board that he has met with the applicant and the Public Works Department on site. He stated that he has an interest in seeing the road constructed as part of the traffic grid in south Walton. He does not feel that the meeting will affect his ability to make a fair and impartial decision. The Board agreed with Mr. Pauls.

Mr. Arthur advised that BMW Supply at Coastal Business Center is a 7,000 square foot office warehouse on two lots. Staff recommended approval. The Planning Commission recommended denial based on only four members being present, therefore resulting in a tie vote. Mr. Arthur entered into record the Planning Staff’s Final Order along with the Planning Commission’s Final Recommendation (Exhibit 17).

Attorney Dana Matthews, representing the applicant, Emerald Coast Development appeared before the Board and explained that the proposed development is located on a
10-acre site in a coastal business center, currently Light Industrial. He stated that his client is in the sheetrock business. They purchase the material pre-made and cut it at their facility for their clients. BMW has entered into a contract to purchase the two lots. Mr. Matthews explained that the Planning Commission voted to deny the project because the Corps of Engineer found 1.73 acres of the 10-acre site is wetlands. He stated that his client is purchasing 17.5 to 23.5 acres for wetland mitigation. Mr. Matthews requested the Board approve the development order subject to BMW receiving their final COE and DEP permits on the wetlands exchange.

Mr. Mike Judkins questioned Attorney Vorbeck regarding Mr. Matthews representation of his client. He asked if Mr. Matthews could represent the owner of the property and not the owner of BMW and if BMW should have council present. Attorney Vorbeck stated that everything is in order.

Mr. Judkins spoke about the Light Industrial category, what is allowed and things not allowed. He stated that there are nuisances with this business such as off-site impacts, noise, fumes, and heavy truck traffic. He stated that the work is performed outdoors and the business is unsightly. He stated that they would be using the county’s road and easement to load and unload. He stated that these types of uses fall under the Heavy Industrial category. Mr. Judkins entered numerous pictures into record consisting of operations taking place at the current location and damage to the road by their delivery trucks (Exhibit 18).

Mrs. Shari Judkins also spoke about the business, which currently operates across the road from her home. She stated that they are proposing to move into a smaller building than what they operate from now. Mrs. Judkins stated that the Comp Plan
requires no off-site impacts and also felt that this is clearly a heavy industrial use, which is not allowed in south Walton. She stated that it is unfair to put this problem on someone else.

Attorney Matthews stated that they are attempting to move from a neighborhood area and stated that there are no houses in this neighborhood.

Motion by Commissioner Jones, second by Commissioner Ryan to approve the BMW Supply at Coastal Business Center proposed development. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

Mr. Arthur presented the Grand Isle proposed development and stated that both staff and the Planning Commission recommended approval. The proposed development consists of a three story, 21,024 square foot building with six leased business spaces. The project is located on the north side of CR 30A near Eastern Lake Road. Mr. Arthur entered into record the Planning Staff’s Final Order and the Planning Commission’s Final Recommendation (Exhibit 19).

Motion by Commissioner Walker, second by Commissioner Pauls to approve the Grand Isle proposed development. Ayes 5, Nayes 0. Pauls Aye, Jones Aye, Walker Aye, Rees Aye, Ryan Aye.

There being no further business, the meeting was adjourned at 10:10 p.m.

APPROVED: ______________________________
Lane Rees, Chairman

ATTEST: ___________________________
Martha Ingle, Clerk of Court