

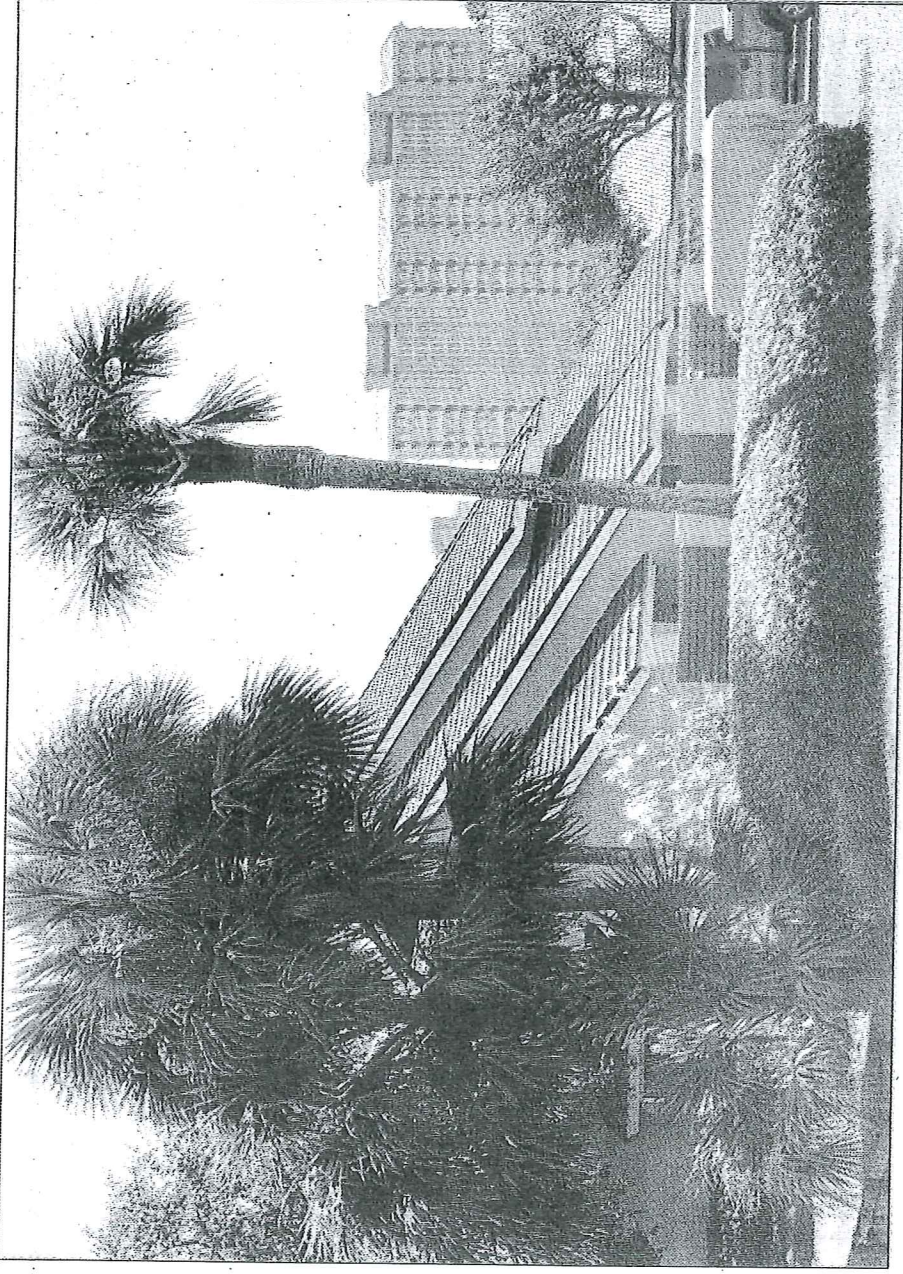
New lawsuit challenges most recent Sandestin DRI approval

By DOTTY NIST

Alleging mail notification violations, Driftwood Estates Phase I homeowner Alan Osborne has filed a complaint in Walton County Circuit Court. He is seeking that the court declare void county approvals taking place at a Nov. 7 Walton County Board of County Commissioners (BCC) public hearing. The hearing was in connection with a Sandestin Development of Regional Impact (DRI) notice of proposed change (NOPC).

While under separate ownership from Sandestin Golf and Beach Resort, Driftwood Estates Phase I is part of the Sandestin DRI originally approved by Walton County in 1976.

The Nov. 7 county actions had been undertaken in order to settle litigation filed



A RECENT APPROVAL in connection with the Sandestin Development of Regional Impact is facing a new legal challenge. (Photo by Dotty Nist)

See LAWSUIT 2-C

by the Sandestin Owners Association (SOA) in response to a BCC April 11 final approval. The April 11 action had been an approval by ordinance of a thirteenth and fourteenth amendments to the Sandestin DRI development order as requested by Sandestin Investments, Inc. (SDI), owner and operator of Sandestin Golf and Beach Resort and Sandestin Real Estate (SRE) sales office, along with a Notice of Proposed Change (NOPC) application and another application applying to a small property within the DRI known as Jolee Island, to amend the DRI development order.

In September, following meetings between the SOA and SDI, a compromise agreement was announced, resulting in an ordinance amendment/replacement ordinance being taken up by the BCC on Nov. 7 based on that agreement. The agreement had included provisions for the withdrawal of SOA's lawsuit and of an appeal to the Florida Land and Water Adjudicatory Commission (FLWAC) also filed by SOA in opposition to the April 11 BCC approvals.

SDI had opted not to send out mail notices of the Nov. 7 hearing to parties in and within

300 feet of the subject property, despite a Walton County Land Development Code (LDC) requirement that land use hearings are subject to an advance notice requirement by mail to owners of real property within that distance who are directly affected by the proposed action. Dana Matthews, an attorney representing SDI, had stated at the hearing that this would have been an expense of approximately \$40,000 to the applicant.

At the Oct. 26 BCC meeting, an agreement with SDI had been approved by the county by which SDI indemnified the county in connection with this mail notice not having been provided, with SDI pledging to defend at its own expense any legal challenges in connection with the absence of notification by mail.

Lawsuit plaintiff Alan Osborne had spoken out at the Nov. 7 BCC hearing in opposition to the approval of the terms of the settlement agreement. His comments had included objections to the aforementioned notification not being provided.

Gary Hunter, an attorney representing SOA, had not objected in connection with mail notification not being provided. However, two

county commissioners, District 3 Commissioner Melanie Nipper and District 4 Commissioner Sara Comander, had both raised the issue of mail notification procedures not having been followed for the Nov. 7 public hearing. At the end of the hearing, those two commissioners had voted against the replacement ordinance amendment/replacement ordinance proposed to settle the SOA litigation, with Comander commenting that SDI providing the mail notification and "going the extra mile would have assured the public that everything was above board."

In his legal complaint filed on Dec. 6, Osborne references mail notification requirements set forth in the LDC and Florida law. Chapter 163 Florida Statutes, is quoted, reading in part, "(2)(a) Notice of intent to consider a development agreement shall

be advertised approximately 7 days before each public hearing in a newspaper of general circulation and readership in the county where the local government is located. Notice of intent to consider a development agreement shall also be mailed to all affected property owners before the first public hearing. The day, time, and place at which the

second public hearing will be held shall be announced at the first public hearing."

The Nov. 7 public hearing had been the first held by the county to consider the amendment ordinance/replacement ordinance.

The "Demand for Relief" section of the plaintiff's lawsuit states, in part, "Osborne demands entry of judgment against (Walton) County declaratory and injunctive relief that provides that the County's approval of the Revised Ordinance 2017-12 taken on November 7, 2017 was in violation of Florida law and all such actions taken by the County at the November 7, 2017 Public Hearing regarding the Sandestin NOPC and/or the approval of any of the terms of any settlement between SDI and the SOA, including but not limited to the County's approval of Revised Ordinance 2017-12, are void ab initio," the latter term meaning from the beginning.

Osborne is represented by Tallahassee attorney Shawn M. Heath.

The case has been assigned to Walton County Circuit Judge Jeffrey E. Lewis. There has been no responsive filing by the county at this time, and no court date has been set.