

## **MARCH 13, 2017 – SPECIAL MEETING**

The Board of County Commissioners, Walton County, Florida, held a Special Meeting on March 13, 2017 at 9:00 a.m. at the Emerald Coast Middle School in Santa Rosa Beach, Florida.

The following Board members were present: Commissioner Cecilia Jones, Chairwoman; Commissioner W. N. (Bill) Chapman, Vice-Chairman; Commissioner Tony Anderson; Commissioner Sara Comander; and Commissioner Melanie Nipper. Mr. Larry Jones, County Administrator; Attorney Mark Davis, County Attorney; Attorney Sidney Noyes, Assistant County Attorney; Attorney Heath Stokely, Special Counsel for the Planning Department; and Ms. Trudie Downs, Certified Court Reporter; were also present.

Chairwoman Jones called the Quasi-Judicial Hearing to order.

Attorney Davis administered the oath to those intending to speak. There were no objections to the advertisements. Attorney Davis instructed the Board to submit any Ex Parte forms to the clerk.

Attorney Davis reported a motion was made at the January 30, 2017 Special Meeting to deny the adoption of the staff's recommendations. There was no substitute motion at that time. The meeting was continued to today's date, place, and time. He announced there would be no new testimony on Open Space unless the commission has questions after a motion is made. He questioned if the board wished to make a substitute motion on the applicant's request regarding Open Space.

Motion by Commissioner Anderson, second by Commissioner Chapman to approve the proposed changes to Sandestin's DRI definition of Open Space in accordance with staff's recommendations attached as Exhibit A less the golf course easements (42.05 acres) and to include the platted common areas (42.3 acres) and drainage easements (5.63 acres) and to find

the issue underlying the Determination of Non-Compliance of Sandestin Investments, LLC (SDI) issued on July 2, 2014 are resolved and said determination is hereby revoked. In addition, the Board of County Commissioners directed SDI to amend the Master Plan to show the Open Space areas specified above. Further, SDI shall notify the county of any encroachments built within the Open Space as soon as it is discovered and for those and any other not previously identified encroachments to be deducted from the DRI's open space calculations in the bi-annual report.

Chairwoman Jones asked if this would remove the backyards from Open Space. Commissioner Anderson said it would.

Attorney Davis questioned how this would affect the Open Space threshold calculation. Commissioner Anderson stated it would be approximately 35 acres over.

Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Attorney Davis announced there were two requests to continue which would allow the applicant and objectors to go to mediation. He said the board has no legal authority to require mediation. He asked a motion be made to either deny or grant the continuance.

Motion by Commissioner Comander, second by Commissioner Nipper, to deny the requests to continue. Ayes 5, Nays 0. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Aye.

Attorney Davis stated there were a number of items remaining to be addressed in the Notice of Proposed Change (NOPC) request. He stated an agenda was given to the participants outlining the order of the meeting.

Attorney Dana Matthews, Matthews and Hawkins-Representing the Applicant, introduced the applicant and consultants providing testimony. He requested to reserve some of his allotted time for rebuttal. He presented argument and testimony supporting Sandestin

Investment's request for a NOPC. He discussed the changes which have occurred to the DRI since the original approval in 1976 and the subsequent 1984 Settlement Agreement. He reviewed the vested rights belonging to Sandestin which includes residential construction, commercial construction, and resort club services, etc. Attorney Matthews discussed the various entitlements which are allowed in a DRI including no height restriction and transfer of density. Sandestin will voluntarily limit building height on various parcels throughout the resort. He discussed the Master Plan and the changes which would occur as the plan is refined. He reported all state agencies have reviewed the E2 Change request and all have agreed to the application. Attorney Matthews stated if no deviation was found after presentation of testimony and evidence, approval would be required. He addressed the different components of the NOPC and said the NOPC request is not creating a significant regional impact and should be approved by the board.

**(Exhibit 3: Petitioner Exhibit 37-Williams Affidavit)**

Commissioner Nipper noted a proposed building at Osprey Pointe would be 54 feet and asked if new construction would be brought down to meet the county's standard 50' limit. Attorney Matthews said it would not and discussed Exhibit C: Sandestin Resort DRI-Low, Mid, and High Rise Map (Found in the Staff Report). He indicated the areas on the map where multi-story buildings either are located or would be located and noted the height limits for each area. Commissioner Nipper discussed the May 30, 2014 DEO letter addressing hurricane evacuation, ancillary space, map errors, and storm water and asked if these concerns would be rectified. Attorney Matthews responded that the NOPC being presented at this meeting is different than the NOPC referred to in the DEO letter. He referenced DEO's letter dated December 14, 2016 which was a review of the current NOPC. Commissioner Nipper voiced concern with the increase of

RDU's that hurricane evacuation would be subsequently worsened. Attorney Matthews stated DEO had no objection since there is no increase in entitlements.

Commissioner Comander asked what the highest proposed building was. Attorney Matthews replied 24 stories south of U.S. Highway 98 and 16 stories north of U.S. Highway 98.

Attorney Davis questioned what would be the application process for the 24 story building Development Order (DO). Attorney Matthews discussed the DO process the building would follow and stated that approving the NOPC does not allow the buildings to be built without proper procedure. Attorney Davis asked if the condominium on the beach would go through the same DO process. Attorney Matthews replied it would.

Commissioner Comander questioned if the State agencies visited the area or relied on reports to make their determinations regarding traffic. Attorney Matthews replied FDOT was involved with a traffic study which was conducted over an eight month period. FDOT is required to advise the county if they concluded there were traffic issues; they had no objections. He said FDOT evaluated the project to determine if the external trips exceeded the 15% being created outside the resort boundaries. Because the entitlements are not being increased, FDOT did not object. Attorney Matthews stated the issue of internal roadway uses within the resort is not a statutory requirement the board can take into consideration.

Attorney Matthews called Mr. Tom Patton, Former Sandestin Director of Development, to testify and questioned him about his employment with Sandestin (beginning in 1979), the different Sandestin owners throughout the years, and his comprehension of the 1984 Settlement Agreement. Mr. Patton, as directed by Attorney Matthews, explained the development process followed during the time of his employment with Sandestin. Attorney Matthews asked if density was transferred while Mr. Patton worked with Sandestin. Mr. Patton replied it was and that

records were kept of the transfers. Attorney Matthews questioned Mr. Patton regarding Parcels 208/308 (Grand Boulevard). Mr. Patton stated at the time the area was shown as mini-warehouses, nursing, nursing home, and retail. Today there is a gym, two hotels, offices, retail, restaurants, nursing home, movie theatre, and a grocery store. Attorney Matthews noted these were not the same uses as originally declared.

Attorney Heath Stokely, Nabors, Giblin & Nickerson-Special Counsel to the Planning Department, questioned Mr. Patton on his current involvement with Sandestin. Mr. Patton reported he was working as a consultant. Attorney Stokely questioned Mr. Patton regarding his knowledge of the current NOPC process and his expertise regarding vested rights. Mr. Patton stated he was not an attorney and did not have specialized experience in the matter of vested rights.

Attorney Matthews called Mr. Randy Gardner to testify to his affiliation with Sandestin. Mr. Gardner stated he was a licensed contractor overseeing construction within Sandestin from 1983 to 1990 and discussed the projects built during his employ. Attorney Matthews questioned if density was transferred during his tenure. Mr. Gardner replied it was, but he was not directly involved with that process. Attorney Matthews questioned Mr. Gardner whether he owned property within Sandestin. Mr. Gardner discussed the properties he owned within the DRI and what was constructed in those areas. Discussion was held regarding the transfer of density on Parcels 208/308 and the processes which were followed.

Attorney Stokely questioned Mr. Gardner on when the construction he discussed took place. Mr. Gardner replied between 1983 and 1990. Attorney Stokely asked Mr. Gardner if he was familiar with the processes and legal requirements for developments since 2005. Mr. Gardner said he was not.

Attorney Matthews called Attorney Robert Apgar, Sandestin Representative, for testimony. Attorney Apgar presented a brief overview of his experience with DRI's and Comprehensive Plans. He reported he had represented the homeowners in the Bay Point Club, Inc. v. Bay County case. He discussed F.S. 380.06(19) Substantial Deviations as it relates to the Jolee Island E2 Change request. Attorney Apgar stated the request was to correct a scrivener's error and that an environmental assessment has been submitted to support the request. He requested the board address the issue at this time. Attorney Davis said the objectors should have a chance to make their case. Attorney Matthews stated he would finish his presentation and that the E2 Change would have to be voted on first.

Attorney Apgar continued discussing vested rights and the impact of the Bay Point case on this issue. He responded to Attorney Greg Stewart's letter stating there was no issue of vested rights in the Bay Point case.

Chairwoman Jones asked Attorney Apgar if it was his opinion that the Bay Point case did not apply to the current issue. Attorney Apgar said it does apply and stated there are no changes to the proposed developments. He addressed Attorney Stewart's letter regarding the development plan and the suggestion that when a project reaches the stage of "under development" it is appropriate the flexibility should end. Attorney Apgar argued that there is nothing in the DO which stops the developer from moving density around the project. He submitted and discussed the Land Use Adjustment Charts (Petitioner Exhibit 38). He said in his opinion the law was clear that the developer is within the scope of the vested rights of the DO and the 1984 Settlement Agreement. He requested approval of the NOPC. **(Exhibit 4: Petitioner Exhibit 38-Land Use Adjustments Charts)**

Attorney Stokely questioned Attorney Apgar regarding his representation of Sandestin and whether or not he was paid. Attorney Apgar stated he was professionally engaged to testify on behalf of Sandestin. Attorney Stokely questioned Attorney Apgar if he represented the developer in the Bay Point Case. Attorney Apgar stated he represented the individual homeowners, not the developer. Attorney Stokely noted that Attorney Apgar was on the opposing side in the Bay Point case. Attorney Stokely asked if the Bay Point case involved vested rights. Attorney Apgar stated it did not. Attorney Stokely asked Attorney Apgar to read the first paragraph of the Bay Point case which stated that the “case involves the extent of vested rights in a development of regional impact (DRI).” Attorney Apgar said the developer did not claim vested rights, but rather the change proposed was non-substantial and that the local government had no authority to review and therefore must grant approval. Attorney Stokely asked if the request being presented today would make changes to the 1984 Sandestin DRI Development Order. Attorney Apgar said it would not. Discussion ensued on the reason for the NOPC being a request to move density as permitted in the vested rights of the Development Order.

Attorney Matthews asked to reserve the remainder of his time for rebuttal.

The hearing briefly recessed.

Mr. Larry Jones, County Administrator and Interim Planning Director, read the 11 NOPC Approval Conditions, staff response, and item resolution. **(Exhibit 1: Staff Report and NOPC Approval Conditions)** He requested the conditions and recommendations become a part of the approval process.

Attorney Stokely submitted a letter from Attorney Greg Stewart, Special Counsel to the Planning Department, which addresses Open Space, compliance issues and the ability to approve

development changes, and the application of the decision in the Bay Point Club, Inc. v. Bay County case to this issue. **(Exhibit 2: Staff-Stewart Letter)** He discussed the applicability of the Bay Point case to this issue. Attorney Stokely said the legal opinion regarding the current NOPC request is consistent with the legal opinion submitted March 24, 2005 in that both opinions state the proposed changes are subject to the terms to the existing Comprehensive Plan. He rebutted Attorney Apgar's stand that there would be no change to the 1984 Development Order. He said there have been issues raised questioning the request's consistency with the Comprehensive Plan.

Attorney Davis clarified it was not the staff's position that Bay Point would exclude the adoption of all the NOPCs, just the portions that deal with land use changes. Attorney Stokely replied there are parts of the request that are not land use related, but from a legal standpoint those changes could be in violation of the current Comprehensive Plan. He read an excerpt from the Bay Point Case (Exhibit 2: Stewart Letter-Attachment A-page 4) referencing F.S. 380.06(19)(f)6 and 163.3194(1)(a) requiring changes to be approved and be consistent with the Comprehensive Plan. Attorney Davis questioned if this applied to vested rights. Attorney Stokely discussed the determination on vesting and indicated the Bay Point case alludes to there being no vesting in a change.

Commissioner Anderson questioned that even though there have been transfers within Sandestin since 1984 that the Bay Point case (2004) would apply to the area now. Attorney Stokely said it would and discussed the legal opinion submitted by Attorney Stewart in 2005 regarding a Sandestin NOPC (Exhibit 2: Stewart Letter Attachment C).

Commissioner Chapman asked Attorney Stokely if it was his legal opinion that Sandestin did not have the right to move density. Attorney Stokely said it was allowed as long it was

consistent with the current Comprehensive Plan. Commissioner Chapman asked if the vested rights were no longer binding. Attorney Stokely said the changes requested would modify the 1984 Agreement. Discussion continued on the transfer of density within the DRI and maintaining consistency with the Comprehensive Plan.

Attorney Gary Hunter, Hopping Green & Sams-representing Sandestin Owners' Association, voiced concern regarding the Ex Parte received by the board since the January 30, 2017 hearing, asked what had been discussed and if that information would have any effect on their decision at this meeting. Attorney Davis said the majority of the Ex Parte contacts were emails either for or against the request and asked the board to individually address Attorney Hunter's concerns. Chairwoman Jones announced she had received hundreds of emails both for and against the project; they would not influence her decision. Commissioner Anderson stated he had met with Attorney Matthews, but would only consider the evidence presented. Attorney Hunter asked Commissioner Anderson if his meeting with Attorney Matthews was consistent with what was presented at this meeting. Commissioner Anderson confirmed it was. Commissioner Nipper stated she had received emails which would not influence her decision. Commissioner Comander stated she only discusses Quasi-judicial matters with staff, but that she received hundreds of emails which would not influence her decision.

Attorney Hunter referenced Commissioner Anderson's motion on Open Space and asked if the motion included golf course buffers and backyard easements. He also asked if the calculations would be updated. Commissioner Anderson confirmed the motion excluded those areas and that Mr. Jones would verify the calculations.

Attorney Hunter addressed the Jolee Island E2 Change and disputed that the change would significantly impact the area. He reasoned that Statute was being violated because there

was no offering of property to off-set the six acres being taken out of preservation. He discussed the 1984 agreement (Petitioners Exhibit 7) and said the Definitions, Explanations, and Qualifications was not attached as an exhibit to the 1984 Settlement Agreement, but rather was an attachment to a March 1, 1985 letter sent to DCA by Attorney Gary Sams, Hopping, Green & Sams. He discussed the proposed changes and the lack of vesting rights for those changes. Attorney Hunter stated his request for a continuance was based on his recommendation for mediation and presented evidence supporting his clients' opposition to the NOPC request.

**(Exhibit 5: Respondent-Power Point Presentation)**

Attorney Hunter introduced Mr. Brian Wetherell, Kimley-Horn, traffic consultant for Sandestin Owners' Association, who discussed the impact the proposed changes would have on traffic siting an increase in congestion and the inability to expand roadways.

Attorney Hunter completed his presentation and stated the board is not required by law to approve the request. Attorney Davis asked if the applicant's position to the 1984 agreement is upheld how they could be prevented from making the changes. Attorney Hunter replied the land use adjustments are limited until such parcels are under development.

The hearing recessed at 12:10 p.m. for lunch and reconvened at 1:16 p.m.

Attorney Shaun Heath, representing Greater Driftwood Homeowners Association (HOA), presented his argument opposing the Sandestin request. He stated Driftwood Estates is the example of what happens when development is presented and approved inappropriately. He discussed Sandestin as whole and said there were 3 basic limitations: gross acreage, Open Space minimum, and developer authorized entitlements. There have been 13 occasions since 1984 where the developer has requested changes. Attorney Heath addressed the requests for mediation and expressed concern that a less intense review of non like-kind transfers would limit public

input and cause more disputes. He voiced concern that the changes to the Open Space definition are inconsistent to the Comprehensive Plan and agreed with Attorney Stewart's opinion that any developmental changes must comply with the county's existing Comprehensive Plan; including the height changes.

Attorney David Theriaque, Theriaque & Spain-representing Beachside II Condominium Association, presented a power point presentation supporting his clients' opposition to the requested changes. He discussed the three DRI components, the conflicting legal principles, the definition of vested rights, and the concept of substantial and non-substantial deviations. He stated that current law is that any new development must comply with the current Comprehensive Plan. Attorney Theriaque said his clients are not opposed to development, but they are opposed to the changes from the original plan and the non-compliance with the Comprehensive Plan. **(Exhibit 6: Respondent-Power Point Presentation; Exhibit 7: Respondent-Letter; Exhibit 8: Respondent-1985 Definitions, Explanations, and Qualifications; Exhibit 10: Respondent-High Rise Photo)**

Attorney Nick Beninate, Harrison Sale McCloy-representing Driftwood Phase II, asked for clarification on which portions of Driftwood Phase II were affected by the motion made regarding Open Space and who would be contacted when clubhouses or pools are built. He asked that a map be included with the Final Order highlighting the affected areas. He presented his argument opposing the Open Space and changes to the NOPC. He encouraged the board to consider the opinions from the Bay Point case when deciding on this issue.

Attorney Dan Stengle, representing Old Bridge Park Sandestin, presented a June 7, 2016 survey of Parcel 108C (Sandestin Market Shops) showing an as-built of 40,650 square feet

instead of the previously reported amount of 37,054 square feet. He asked the record reflect the amount. Attorney Matthews agreed to the modification. **(Exhibit 9: Respondent-Survey Map)**

Chairwoman Jones opened the floor to public comments.

Mr. Bill Fletcher, Mr. Don Hawkins, and Mr. Jerry Kalish spoke in opposition to the NOPC request.

The meeting briefly recessed.

Public comment continued with Ms. Leigh Lindsay, Ms. K. Losson, Ms. Peggy Gogola, Mr. Ken Lloyd, Mr. Alan Osborne, Mr. Terry Caust, Mr. Michael Dwyre, Ms. Diane Christianson, Mr. Fred Cox, Mr. Steven Edwards, Mr. Steve Cline, and Mr. Clark Christianson all spoke in opposition to the NOPC request. Mr. David Pouliot spoke in support of the request

The meeting briefly recessed.

Attorney Matthews asked that Mr. Tom Patton be allowed to rebut testimony given by the objectors. Mr. Patton addressed the comments regarding the 1984 agreement made by Attorney Hunter and said the terms were preliminary uses which were to be defined as the project developed. He reported an accounting system was created to show the progresses in the different land uses throughout the resort.

Attorney Matthews called Attorney Apgar forward to provide his rebuttal regarding the Bay Point case, vested rights issues, and Open Space.

Attorney Matthews presented his rebuttal to the objectors' comments and discussed the E2 Change process, traffic study findings, the 1984 Settlement Agreement definitions, vested rights, like-kind transfers, and the consistency with the current Comprehensive Plan. **(Exhibit 11: Petitioner Exhibits 38-42)**

Ms. Debbie Dantin, Dantin Consulting, LLC-Consultant for Sandestin Investments, LLC, discussed the traffic concerns and stated there were no additional entitlements being proposed; therefore, no additional traffic will be proposed and would not significantly impact the region. She stated the following studies were recommended: parking, transit, widening Bay Towne, improving the Baytowne Village driveway, review of gate operations, parking, and multi-use path. She said FDOT had reviewed the traffic plans and had no comments. Discussion continued regarding the lack of comment from outside agencies on traffic issues. Attorney Matthews said he had spoken with FDOT and was told there are no significant regional impacts being made and comment was not needed.

Attorney Matthews stated the roads belong to the SOA and they are responsible for maintenance of the roads within the resort. He said new development may impact traffic patterns at the location of the construction. He said the SOA and SDI should work together for the betterment of the traffic within the resort. Attorney Matthews stated every issue heard today has been discussed in depth. He briefly discussed the proposals made to the SOA and rejected; with no communication regarding the rejection. He addressed the changes that have occurred within the resort over the years and the controversy on the height of the development at the Fins Restaurant location. He said the request to transfer density at the location of restaurant is being withdrawn at this meeting. Attorney Matthews briefly discussed beach congestion.

Commissioner Comander questioned if the withdrawn request would be brought back at a later date. Attorney Matthews said for the purposes of the NOPC, the request for transfer of density at the Fins Restaurant location is being withdrawn (Exhibit D-3: Parcel 113A). He said it is possible the request would be brought back. Another NOPC would be filed if the request is brought back. Attorney Matthews said the tables will be changed to reflect the withdrawal.

Attorney Matthews continued discussing the transfer of density and stated this is a Mixed-Use Resort development. He also discussed the Covenant, Conditions, and Restrictions. He reported nothing being proposed by SDI has to do with Driftwood. Attorney Matthews addressed drainage concerns and said any development within Sandestin will be required to meet storm water standards. He said Mr. Becnell wants to work with the county and be a responsible developer.

Chairwoman Jones clarified that Jolee Island is an E2 Change and asked how it was different from the Howard Group's request for E2 Changes. Attorney Matthews discussed the E2 review process. Chairwoman Jones voiced concern with other changes which were allowed that did not follow the Comprehensive Plan. Attorney Matthews stated they were an exempted DRI. He continued discussing Jolee Island and said there has not been a survey of environmental boundaries which is the purpose of the E2 Change. He clarified that the original 1984 Master Plan designated Jolee Island as Medium/High Residential with a limited surrounding buffer designated as Green Space Buffers for 96 Residential Dwelling Units (RDU). The 1984 Master Plan designated the salt marsh area as Nature Preserve in Ordinance 1998-11. The 96 RDUs were transferred from Jolee Island to Parcel 442. The uplands on Jolee Island continued to be designated as Greenbelt Recreation and Medium/High Residential. He said the 2002 approved Master Plan amendments did not change the land use tables. The changes occurred in 2004 when Jolee Island and the limited surrounding Greenspace buffering were designated as Nature Preserve. He said the designation was not requested and environmental surveys will be done to show the proper areas for preservation.

Ms. Bradley responded to Chairwoman Jones concerns regarding the E2 Changes on parcel 208/308 and said the change was a like-kind transfer for the hotel building. The building

had already been vested. She stated the changes regarding the Market Shops required the developer to meet the traffic requirements of the Comprehensive Plan. Grand Boulevard was a vested Development Order. Ms. Bradley said the changes to Jolee Island were to Open Space as Recreational/Greenbelt not Medium Residential. The change in 2004 was not from Open Space to Nature Preserve, but the current NOPC will change it from Open Space to Residential.

Commissioner Comander asked about the parcel in which the Muscogee Nation had interest in. Ms. Bradley said it was the archeological site and did not have the parcel number on hand.

Attorney Davis announced that the evidence portion of the hearing was closed and presented the following recommendations for board action: 1. A motion and second made regarding the Jolee Island E2 Change Issue; and 2. Move on the remainder of the NOPC issues as a whole or individually. He stated that there are staff recommendations and conditions with each issue.

Chairwoman Jones stepped down to second the following motion. Commissioner Chapman assumed the position as Chair.

Motion by Commissioner Anderson, second by Commissioner Jones to accept the applicants' E2 proposal.

Commissioner Jones expressed concern that all developers needed to be treated equally and that other E2 requests have been approved.

Commissioner Comander voiced concern regarding the environmental sensitivity of the area and that it should be protected.

Chairman Chapman questioned the size of the proposed building and the number of units. Attorney Matthews said it would be up to 14 stories with 76 RDUs. Chairman Chapman voiced concern with the impact the proposed project would have to the internal infrastructure.

Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Chairwoman Jones resumed the Chair position and recommended voting on the remaining issues individually.

Commissioner Comander briefly discussed the changes which have occurred since the original 1976 DRI and expressed concern how current vestments will affect future changes.

Motion by Commissioner Chapman, second by Commissioner Comander, to address the remaining NOPC issues individually. Ayes 5, Nays 0. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Aye.

Mr. Jones presented the following item for board action: Exhibit D.2 (Sandestin Investments, LLC NOPC October 2016): SDI requested the ability for the future development of 224 RDUs on the 8.68 acres of Open Space. Staff Response: Objection to the request and recommended the parcel be bifurcated between Residential and Open Space. Resolution: SDI has offered to allocate 4 acres as Residential and 4.68 acres as Open Space. This will be a condition of approval.

Attorney Davis asked Ms. Bradley to clarify the request in Exhibit D.2. Ms. Bradley replied that Exhibit D.2 is the RDU entitlement as of March 2016. There is a list of parcel numbers of RDUs being transferred, the allowable floors, and procedures.

Attorney Davis announced the NOPC is divided into 12 exhibits. Action has been taken on the Open Space issue. There are 11 more exhibits to address with the first exhibit being considered is the RDU entitlements found in Exhibit D.2. He said staff's recommendation is to

approve with conditions to Parcel 221A. He said a motion to either approve or deny the request found in Exhibit D.2 with staff conditions will be needed. Attorney Matthews stated Parcel 113A has been removed from consideration.

Commissioner Chapman questioned if Parcel 113B was still included. Attorney Davis responded that it was. Commissioner Chapman asked if Parcel 113B was located north or south of U.S. Highway 98. Attorney Matthews replied south.

The meeting briefly recessed.

Commissioner Chapman questioned what the development process would be if all the parcels included in Exhibit D.2 were approved collectively as one unit. Ms. Bradley discussed the type of development orders and the processes each of the parcels in Exhibit D.2 would be required to go through for development approval. (Parcel 209: Minor Development Order-Technical Review (TRC); Parcel 210: Major Development Order-TRC, Planning Commission (PC), and County Commission (BCC); Parcel 221A: Major Development Order-TRC, PC, and BCC; Parcel 221B: Major Development Order-TRC, PC, and BCC; Parcel 223, 320.1, 322.2, 126, 121C, and 113B: Major Development Orders-TRC, PC and BCC) Attorney Davis said only the land use transfer is being approved today, not the development order.

Commissioner Nipper questioned the total number of RDU Allocations. Ms. Bradley replied 1,301.

Commissioner Anderson asked if Parcel 209 would be the only parcel not to be presented to the board for development approval. Ms. Bradley confirmed that it would not.

Commissioner Chapman asked if there were any other parcels other than 223 which would have density applied when there was none before. Ms. Bradley replied that Parcel 221A (tennis courts) was used as Open Space; half of that parcel will be residential.

Motion by Commissioner Anderson, second by Commissioner Chapman, to approve Exhibit D.2 with the staff's recommendations. Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Ms. Bradley presented the following item for board action: Exhibit D.3.1 (Sandestin Investments, LLC NOPC October 2016): SDI calculates 129,866 square feet of remaining commercial entitlements to be built. Staff Response: Objection and wanted 21,292 square feet allocated to Parcel 215 (old administration building currently unoccupied), and 3,576 square feet to Parcel 108C (Market Shops) to clarify the 40,650 square feet actually built. Resolution: SDI shall account for reduction in commercial entitlements shown in the staff response and submit a revised Exhibit D.3.1 showing 104,998 square feet in remaining commercial entitlements.

Ms. Bradley reported the ancillary space language was removed from the commercial language and will be a part of the approval or denial. Commissioner Chapman requested clarification on the change in language. Ms. Bradley said staff had previously requested the developer not claim ancillary space within commercial development. It was proposed for future development that it would be reviewed to determine if ancillary space could be included in commercial; staff opposed the request. Ms. Bradley stated that clubs, administration, and resort services have their own draw down table which will be used instead of commercial for ancillary uses. Attorney Davis questioned the total amount of available square footage for development. Ms. Bradley replied 129,866 square feet which will change due to the reduction of the 3,576 square feet. Mr. Jones said the total would be 104,998 square feet.

Motion by Commissioner Comander, second by Commissioner Anderson, to approve Exhibit D.3.1 with staff's recommendations. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.4 (Sandestin Investments, LLC NOPC October 2016) Proposed definition of Ancillary Space as part of a Commercial Development. Ms. Bradley read into the record the definition agreed to by SDI and will be applied to conference facilities. She said this exhibit had not changed from the October 2016 submission. SDI shall submit a revised Exhibit D.3 reflecting that commercial space shall be measured as gross floor area as the term is defined in Trip Generation Handbook 3<sup>rd</sup> Edition, and ITE Proposed Recommended Practices, as may be amended. She said the Planning Commission did agree to the resolution siting that the condominiums were run in the same matter as hotels. The developer is willing to draw down to a certain percentage.

Motion by Commissioner Anderson, second by Commissioner Chapman, to approve Exhibit D.4 Proposed definition of Ancillary Space as part of a Commercial Development with staff conditions as recommended. Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.5 Allocation of Commercial, Residential, Resort Club, Resort Services, Administration and Open Space Acreage. Attorney Matthews reported the numbers would be adjusted to reflect the action the board took earlier in the meeting in regards to Open Space. Ms. Bradley briefly discussed the earlier action and what was being included in Open Space. She said an updated exhibit would be provided as a condition. Ms. Bradley stated the ENF will be updated as well.

Commissioner Anderson asked if action should be delayed until the final calculations have been submitted. Mr. Jones said the numbers will be generated from actions taken today and asked that the final motion of approval include the appropriate maps and charts reflecting the actions taken today.

Attorney Gary Hunter asked how the written order would be approved. Attorney Davis replied a written order would be drafted and submitted during a scheduled meeting for approval. He suggested the applicant prepare the charts, tables, and maps to be submitted with the written order. Discussion continued on the attachments to be submitted with the written order.

Attorney Davis recommended a vote on Exhibit D.5 requiring the applicant update the exhibit to include the updated attachments as discussed to be presented with the Final Order.

Motion by Commissioner Chapman, second by Commissioner Anderson, to conceptually approve Exhibit D.5 upon the condition an updated exhibit reflecting the action taken in regards to Open Space are submitted with the Final Order. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.6 Adoption of Land Use Parcel Tables; Form of Biennial Monitoring Report. Ms. Bradley stated staff had no objection to the biennial reporting which is required by Florida Statute.

Commissioner Chapman asked if there were issues with the report in years past. Ms. Bradley replied said if the current format is followed tables are required to show where the changes to the Open Space have occurred. She recommended maps showing the areas when the changes have occurred also be a requirement. Attorney Matthews agreed to the request.

Motion by Commissioner Chapman, second by Commissioner Anderson, to approve Exhibit D.6 Adoption of Land Use Parcel Tables; Form of Biennial Monitoring Report with staff's recommendations. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.7 Transfer of Entitlements within the DRI. Ms. Bradley discussed the like kind transfers which have been

approved and stated the developers have agreed any non-like kind transfers must follow the E2 Change process as required by statute. Attorney Davis stated if the board approves they are essentially agreeing with Attorney Matthews and the applicant's interpretation.

Motion by Commissioner Anderson , second by Commissioner Chapman, to approve Exhibit D.7 Transfer of Entitlements within the DRI with staff's recommendations. Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Attorney Davis presented the following for board action: Exhibit D.8 Amusements/Attractions. Ms. Bradley stated the main issue was how to draw these down: Commercial Development or Ancillary Space. The developer has agreed these requests will be reviewed on a case-by-case basis and will do a conversion according to the ITE Manual or other methodology deemed necessary by the county to get the square footage to determine trips.

Commissioner Nipper questioned if a Major Development Order would be required for amusements/attractions over 65 feet. Ms. Bradley stated it would.

Motion by Commissioner Chapman, second by Commissioner Anderson, to approve Exhibit D.8 Amusements/Attractions with staff recommendations. Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.9 Resort Club Uses. Ms. Bradley read the Resort Club Uses definition and discussed the condition that a 25% ratio requirement would be counted against commercial square footage.

Commissioner Chapman questioned how the 25% was determined. Ms. Bradley said there are people who come from outside the resort to participate in activities and the 25% would address the outside traffic coming in. Commissioner Chapman asked if it could be higher. Ms. Bradley stated it could.

Commissioner Anderson asked if staff agreed with the 25% ratio requirement. Ms. Bradley replied yes.

Chairwoman Jones stepped down to make the following second. Commissioner Chapman assumed the Chair position.

Motion by Commissioner Anderson, second by Commissioner Jones, to approve Exhibit D.9 Resort Club Uses with staff recommendations.

Commissioner Jones asked Ms. Bradley to explain the trip generation. Ms. Bradley discussed how the uses will be evaluated on a case-by-case basis utilizing the ITE Manual or other methodology to determine commercial draw down.

Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Chairwoman Jones resumed the Chair position.

Attorney Davis presented the following item for board action: Exhibit D.10 Resort Services. He said this is basically a definition for Resort Services. Ms. Bradley stated staff agreed with the definition.

Motion by Commissioner Comander, second by Commissioner Chapman, to approve Exhibit D.10 Resort Services with staff's recommendations. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.11 Administration. Ms. Bradley said Exhibit D.11 was a definition and staff had no objections.

Motion by Commissioner Chapman, second by Commissioner Anderson, to approve Exhibit D.11 Administration with staff's recommendations. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Attorney Davis presented the following item for board action: Exhibit D.12 Club Resort Services and Administration Square Footage Tables. Ms. Bradley said Exhibit D.12 will be amended to reflect 13,549 square feet remaining due to 5,177 square feet (Market Shops) on Parcel 116 was converted to commercial. Attorney Davis said the amended table would be attached to the proposed order.

Motion by Commissioner Chapman, second by Commissioner Anderson, to conceptually approve Exhibit D.12 Club Resort Services and Administration Square Footage Tables conditioned upon the amended tables being submitted with the proposed order as recommended. Ayes 3, Nays 2. Jones Aye, Chapman Aye, Anderson Aye, Comander Nay, Nipper Nay.

Ms. Bradley stated due to the E2 Change Parcel 116 the amount on Exhibit D.12 should reflect that change and the commercial square footage should be added to the Commercial Allocation Table. Attorney Matthews agreed that 17,000 square feet (11,823 square feet + 5,177 square feet (Market Shops)) would be moved to the Commercial Allocation Table.

Chairwoman Jones stepped down as Chair to make the following motion. Commissioner Chapman assumed the position of Chair.

Motion by Commissioner Jones, second by Commissioner Anderson, to amend Exhibit D.12 to reflect a reduction in Administration on Parcel 116 pursuant to the last E2 Change. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Chairwoman Jones resumed her position as Chair.

Ms. Bradley stated Exhibit E Master Table Summary should be updated to reflect all the changes made at this meeting. The amended table will be attached to the final ordinance.

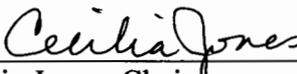
Motion by Commissioner Chapman, second by Commissioner Anderson, to amend Exhibit E Master Table Summary to reflect the changes made and attached to the ordinance. Ayes 5, Nays 0. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Aye.

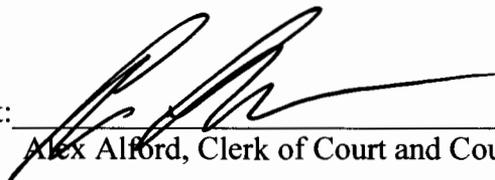
Attorney Davis presented Exhibit B Master Plan Map and recommended it be amended to reflect the changes made at this meeting. Attorney Matthews discussed the changes which will be made to the map. Ms. Bradley asked that an amended full-sized map be submitted to the Planning Department for use with the building permits process. Attorney Matthews said it would be provided. Discussion ensued on the amendment of the individual maps.

Motion by Commissioner Anderson, second by Commissioner Chapman, to approve Exhibit B Master Plan Map with the changes made at this meeting and to be submitted at the time of the final order. Ayes 4, Nays 1. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Nay.

Ms. Bradley presented Exhibit F Comparison Exhibit/Maps which track the changes to the DRI since 1984. She said this is not being presented for adoption. Attorney Matthews said the applicant would provide the information needed to update the exhibit.

Motion by Commissioner Chapman, second by Commissioner Anderson, to adjourn the hearing. Ayes 5, Nays 0. Jones Aye, Chapman Aye, Anderson Aye, Comander Aye, Nipper Aye.

Approved:   
Cecilia Jones, Chairwoman

Attest:   
Alex Alford, Clerk of Court and County Comptroller

# Exhibit A

Staff has recalculated the open space requirements based on allowing the 100% of Major ROWs, 1/2 the Minor Roadways and all Golf Course Easements as follows:

	SDI	STAFF	
Lakes	188.7	-188.7	0
Golf Course	378.5	-378.5	0
Green Space	207.04	-108.94	98.1 (108.94 + 42.05 = 150.99)
<del>delete</del> <del>Golf Course Easements</del> in above	<del>42.05</del>	<del>-42.05</del>	<del>0</del>
Archeological	13.1	-13.1	0
Nature Preserve	146	-146	0
Beach	16.8	-16.8	0
Dune Preserve	6.9	-6.9	0
Tennis	4.68	-4.68	0
Major Road R/W (100%)	86.3	-86.3	0
Minor Road R/W (50%)	51.0	-51.0	0
Power Line Easement	16.8	-16.8	0
	<u>-1115.85</u>	<del>-1031.1</del>	
	<u>-1031.1</u>	<u>-1031.1</u>	
	<u>-84.75</u>	<del>28.15</del>	

Add:  
42.03 Platted Common Space  
5.63 Drainage Easement

1064.84

~~Staff did not include the common areas in our calculations. However did give credit from the beginning of conservation easements found within plats.~~

Lakes	188.7 Acres
Golf Course	378.5 Acres
Green Space <sup>1,2</sup>	207.04 Acres
Archeological	13.1 Acres
Nature Preserve	146.0 Acres
Beach	16.8 Acres
Dune Preserve	6.9 Acres
Tennis	4.68 Acres
Major Road ROW (100%) <sup>4</sup>	86.3 Acres
Local Road ROW (50%) <sup>4</sup>	51.0 Acres
Power Line Easement	16.8 Acres
	<u>1115.82 Acres</u>
Less Benchmark <sup>3</sup>	<u>1031.1 Acres</u>
EXCESS	84.72 ACRES

**(COMMON AREA AS OPEN SPACE):** Staff opposes the inclusion of common area as open space. The property included in this proposal as areas of platted residential acreage should not be changed to open space. As indicated above, these areas are back yards of platted lots, mostly indicated as setbacks, some are golf course easements located on residential lots and common areas of condominiums. If these areas were to be claimed as open space it should have been indicated on the original and subsequent changes to the existing master plan, and labeled as