

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON

MARCH 5, 1992

Roll Call

I. CALL TO ORDER AND ROLL CALL: President Heeke called the Special Town Council Meeting to order at 9 AM on March 5, 1992 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Marix, President Heeke, President Pro Tem Weinberg, Councilwomen Douthitt and Wiener and Councilman Ilyinsky. Also attending were Town Manager Doney, Attorney Randolph, Town Clerk Peters, Mr. Moore, Mr. Zimmerman, Mr. Frank from Staff and from Adley, Brisson & Engman, Mr. Brisson was in attendance.

Invocation

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by President Pro Tem Weinberg.

Approval of Agenda

III. APPROVAL OF AGENDA: On motion of Ilyinsky/Weinberg, the agenda was approved as printed. On roll call, the motion carried unanimously.

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IV. CONSIDERATION OF PUD APPLICATION FOR MAR-A-LAGO PROPERTY. Mr. Heeke explained the Clerk will give the oath to anyone who expects to make any statements. He advised then the staff will give their comments, followed by the presentation of the applicant, followed by public comments after which the applicant can make their summarization, and then the Town Council will go into Executive Session.

Mrs. Peters rendered the oath to all who expected to testify in these proceedings.

Mr. Moore reported the purpose of this hearing is to receive the Zoning Commission's report on the application for PUD-4 on Mar-a-Lago. He advised the Zoning Commission heard this application on Dec. 3, 1991 and after lengthy deliberation, they recommended disapproval of the application before them on Mar-a-Lago. He indicated as a result of those particular hearings, additional information was furnished regarding the application and was forwarded to the Council on Dec. 17, 1991 and there have been two postponements of the hearing of the Zoning Commission Report and staff had asked for and had received yesterday at 2:30 PM, a Preservation Report on the PUD-4 at Mar-a-Lago. He indicated the staff has had no opportunity to review this application and has had no opportunity to find as to its completeness, nor have they had an opportunity to forward it to the Clarion Group.

Attorney Peter Broberg summarized the history of this procedure and the different steps that have been taken by the applicant, the Landmarks Preservation Commission and the Zoning Commission. He advised on Jan. 1, 1991, preliminary plans were submitted to the Town, in accordance with Sub-Division Ordinances, which the Building Department reviewed and deemed this a matter which had to go to the Landmarks Commission, and it required a complete set of construction plans. He reported the applicant compiled, at great expense, a complete set of construction plans, which were presented in April of 1991 and in May of 1991, when the applicant appeared before the Landmarks Commission for lengthy meetings. He advised the bottom line was the Landmarks Commission felt there was not enough information to go forward and the issue was deferred. He stated in June of 1991, the applicant appeared before the Town Council appealing the decision of the Landmarks Commission and the Town Council upheld the Landmarks Commission and sent the applicant back to the Landmarks Commission. He advised later in June, Landmarks Commission again heard the issue and deferred it asking for more information.

Mr. Broberg indicated the information was provided and the applicant went back to the Landmarks Commission in July and in August, and the Certificate of Appropriateness was denied, not because there was not enough information but because there was no Preservation Plan. He appealed again to the Town Council but before the meeting in October, the applicant filed an application for PUD-4 in September, which was necessary to preserve all options of the applicant since September was the deadline for filing for this PUD-4.

He reported the appeal to the Town Council in October was heard and it was the Council's intention for the applicant to go back to the Landmarks Commission and the Landmarks Commission to work with the applicant, which he thought was something the applicant was asking for all along.

He advised in the meantime, the process for the PUD-4 was moving along and on Dec. 3, 1991, the preliminary hearing of the Zoning Commission took place, which was quite lengthy and the Zoning Commission after some discussion, determined that the plans as submitted would adversely affect the Town because it did not preserve the Landmark.

He indicated at this Dec. 3, 1991 meeting, there was a lot of discussion from the beginning to the end of whether or not the application was complete. Attorneys Chopin, Kolins, Burden and Mrs. Leslie Smith of the Garden Club all cited numerous Code references indicating the application was incomplete. He advised the Town's own consultant, Mr. Brisson, told the Zoning Commission the application was complete and in his Nov. 22, 1991 Report, stated the application was complete. He advised the Building Department staff also said it was complete. He submitted that if they couldn't rely on their own consultants and the Building Department, and they are going to rely on the comments of a lot of other people who will be testifying today that the application is not complete, all of this is a waste of time.

Mr. Broberg felt if they would read the transcript of the Dec. 3, 1991 Zoning Commission's meeting, they will note some of the Commission members voted the matter down and stated their reason was because the application was incomplete. He submitted that was wrong. He reported after the Zoning Commission meeting on Dec. 3, 1991, the applicant reviewed his application, to make absolutely sure the application was complete and provided an additional submission, although in his opinion, it was not necessary. He believed there were many things that were not necessary, however, the applicant was willing to comply and furnished them.

Mr. Broberg indicated there are two more entries he wishes to address and one is the seven lot plan and the other is the Preservation Plan. He advised the applicant must comply with the rules and Ordinances of the Town of Palm Beach and the applicant, just like everyone else in the Town, has the absolute right to know what those rules and regulations are before they file any process and they have that right to know the rules of the game. He advised the rules of the game cannot be

changed in mid-stream. He believed the applicant complied with the Sub-Division Ordinance as it is written. He believed the applicant complied with the PUD-4 Ordinance as it is written. He believed the applicant complied with the Landmarks Preservation Ordinance, as it is written, nevertheless, the Landmarks Commission could not decide what its' own Ordinance said and decided there was much more information they deemed necessary and kept sending the applicant away and the applicant kept bringing back information even though it wasn't required as it wasn't in the Ordinance. He stated the applicant is willing to comply with anything that is requested, however, they need to have some guidance that all of this will not be for naught. He felt it just wasn't fair.

Mr. Broberg advised the applicant needs from the Council today for them to disregard the Zoning Commission's recommendation and grant him tentative approval as the Ordinance states many stipulations can be put onto this to satisfy themselves and he felt the applicant was entitled to have a tentative approval. He knew that if this was not a landmarked property, the Subdivision would have been approved as it is there as a matter of right and additionally, if it wasn't Mr. Trump as the applicant, they would be further along on this process. He felt the Zoning Commission and the Town have missed the boat on Mar-a-Lago as if it is such a gem and such a national treasure, why didn't the Council enact a special Ordinance for Mar-a-Lago?

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He recalled Col. Stern's statement (a member of the Zoning Commission) which stated the Ordinance lacked one word, the word "Landmark" and he asked Mr. Randolph if that was to be included in the word "historic" and Mr. Randolph agreed that it was probably included in that word, however, there is nothing that deals with Landmarks in the PUD-4 Ordinance, as it states simply "historic".

Mr. Broberg felt the problems with the Ordinances is the way they are written as none of them are written to deal with the situation at hand, the subdivision of Mar-a-Lago and it is like putting the proverbial round peg in a square hole as it doesn't fit. He stated the Landmarks Ordinance has been around for a long time. He recalled a subdivision has been attempted for Mar-a-Lago once before and if it wasn't liked at that time, the Ordinance should have been changed and that has not happened.

Mr. Broberg believed because of this inability to place Mar-a-Lago into any one of these three ordinances, the Landmarks and Zoning Commissions have placed such a stranglehold on that property that nothing can be done to the extent that a year ago it was assessed at fourteen million and now it is twelve million as nothing can be done to the property. He stated that should indicate that landmark properties do not increase their value.

Mr. Broberg continued by digressing to the previous sub-division request by Cerf Ross which showed in the upper right hand quadrant where the house sits, and there are seven obstructionary lots with two wide roads which blocked the view to the west. He reminded them this plan was approved by a previous Council unanimously and nothing is changed today that wasn't in place at that time as the property was landmarked at that time. He noted there is still the same acreage and nothing is changed. He stated he found an article in the Palm Beach Daily News in December of 1984 and suggests that the Preservation Foundation was behind the earlier subdivision and hoped that under the guidance of the Town Council, the proposed plan would be successfully accomplished. He pointed out that Captain Cantacuzene of the Post Foundation was quoted in the Miami Herald on 11-14-84, "Ross's idea for the Estate is good for Mar-a-Lago - it's what Mrs. Post would have wanted to do. We have not gone to bat for any other purchaser - this one is good. I'd like to be able to go to my Board with the Town's blessing."

Mr. Broberg pointed out Cpt. Cantacuzene stated it was a good plan but Mr. Broberg didn't think it was, as it completely obliterated the views which everyone is concerned about and that the applicant in this case has tried so hard to save in every one of their presentations. He reminded the Council that that particular plan submitted by Cerf Ross was approved.

Mr. Broberg exhibited a plat of Casa Apova which is a property less than a mile away from Mar-a-Lago which sits on sixteen acres of land and has a landmarked house and a view. He never read anything about this sub-division as it went right through, however, he did read about a man who owned the house and divided it because he was in financial trouble. He stated there is one difference as only the house was the area that was landmarked and in Mar-a-Lago, all the lands around the house are landmarked.

Mr. Broberg exhibited an aerial photograph of Mar-a-Lago and the homes to the north and it showed there were four streets to the north and thirty houses in the same amount of land that Mar-a-Lago occupies. He has submitted an eight lot plan, a PUD with ten lots and has an exhibit for discussion with seven lots.

Mr. Broberg stated he wished to tie up the seven lot plan and the Preservation Plan into an accounting of what has transpired to date. He told the Mayor and Council the seven lot plan which will be presented by Mr. Lawrence is the sum total of a meeting that the applicant requested with the Town's consultants, Clarion & Associates. He recalled Clarion came to Mar-a-Lago, walked the grounds with the applicant's consultants and showed the applicant where zones of construction could take place. He stated Clarion felt that the original plan submitted was not sensitive to the features of the property. He stated the applicant, therefore, has tried to comply with their report, which came up with seven zones which were on the table and submitted prior to the Dec. 3rd Zoning Commission Meeting and they were an exhibit, although they were not the application, but were a part of it. He stated it could not have been submitted when the original submittal was made as it hadn't happened yet. He stated it was an effort to be completely above board and honest with everybody and state what they were doing.

Mr. Broberg explained at the Zoning Commission meetings, there was much discussion on the completeness of applications, timeliness of filing and he felt there was close mindedness on the part of some of the Board members, therefore, the merits were never reached. He thought the purpose of the PUD-4 is to have give and take discussions and the Ordinance has language in it which states "encourage flexibility and design in development." He didn't meet anything but a rigid stance against the project, with comments that they should sell the property and if it wasn't able to be sold, they should come back next season and the Zoning Commission would then listen.

Mr. Broberg stated they have submitted a Preservation Plan and it is true, it was submitted yesterday, and he wasn't sure anyone has ever reviewed a Preservation Plan before and he didn't know how they would make a determination as to whether or not that Plan was complete as it was

never specified in any of the Ordinances but since it was requested, they have complied with the request to submit a Preservation Plan.

He observed that today the Council may grant them a tentative approval of any Plan they so desire and they can condition it upon anything they so desire and one of those conditions could be a complete review of the Preservation Plan. He felt the application and submissions were now complete.

Mr. Eugene Lawrence, Architect addressed the Council indicating he is the author of the many plans submitted for Mar-a-Lago and he thought what was being dealt with was a matter of questions and answers and as designers and planners, they do try and come up with answers to the questions that have been raised and he thought he had done well to answer all of the questions posed by the Subdivision Ordinance. He recalled later the Clarion Group had other questions on the preservation, so they went to the second focus, a PUD Plan, which was submitted and which allows flexibility in design and is not as rigid as the Subdivision Ordinance. He recalled that was submitted before the Appeal was made to the Council on the Landmarks Preservation Commission's decision. He stated that was filed before this, to meet the filing deadlines, and later they developed the seven unit plan. He exhibited a slide presentation pointing out the building zones where the proposed seven units would be located. He recalled one of the consultant's suggestions was to make an attempt not to essentially change or significantly affect the topography of the land and the drive as shown was able to be kept at the minimum Flood Control level within the topography of what is now there. He indicated the wall and all of the property boundary would remain and inside the wall, the planting would be able to be preserved by following the track of the exiting roadway.

He advised they did meet with the consultant's on the property and they designated what they called the building zones. He reported they started out with the concept that they would take the standard zoning requirements and make it a Subdivision, however, this plan provides a zone on which a building could be constructed and is a totally different concept than the subdivision. He stated the first thing they did was to identify the critical features of the site and the mansion itself is the major feature which needs to be preserved. He believed the entrance drive to the mansion itself is also significant. He felt the tree lines to the north and the green space down the center of the property and the landscaping on the south side also, but essentially the mansion itself is the overwhelming main item to be saved and the property manager's group of buildings and the entranceway. He felt the vistas to the Lake and to the Ocean with the flow of the land are extremely important to be preserved.

Mr. Lawrence felt from the inventory of critical site features, they went through the site to identify the zones on which a building would be least intrusive or not intrusive at all. He felt they couldn't think of these zones as R-A or R-AA as each of these sites have its own separate size and set of constraints.

Mr. Lawrence stated they kept the wall and the roadway at the same place where it is now located to alleviate any noise or glare to the neighbors to the north and setback so there was no nonconformity. He advised on the most western side, they left a great deal of greenspace so the view to the causeway and from the causeway would not be obstructed.

He stated in the cross-over roadway, they moved the road farther east to be able to cut the drive into the topography.

Mr. Lawrence felt the plan now presented responds to the goals which the consultants had set out with regards to the topography, to the vegetation and they believed the critical features have been identified and he as an architect and planner is trying to provide the right answers to the right questions, and hopefully, they feel they have now identified the zones on the property which could support additional construction and asked for the Council's favorable consideration, and he believed the submission is complete with regards to the information required by way of the PUD Ordinance.

A short break was taken. President Heeke called the meeting back to order.

Mr. James F. Murley, Executive Director of One Thousand Friends of Florida, addressed the Council, stating his organization is based in Tallahassee, which is a state-wide nonprofit organization advocating non-growth management throughout the State, and have been following the progress of this application through the various Commissions. He felt as an out-of-town expert, it was not his function to tell them of the importance of the state-wide, regional and national landmark which they have in Palm Beach, however, the members of his organization felt it was important to emphasize to the Council their responsibility in making any type of development decision in Florida, to be very specific in following the Comprehensive Plan, as under the Growth-Management Act, every development decision must be consistent with the Comprehensive Plan, which means to be compatible and further the goals and objectives which have been set. He stated there were numerous goals and policies in the Comprehensive Plan which reflect the significance of historic preservation, i.e., in the Land Use Element, Objective 2, Policy 2.3, Objective 9, which references this and in the Housing Element in Objective 6. He advised in Florida since 1985, the rules of the game have changed and the Comprehensive Plan is controlling. He knew that flexibility in Ordinances is important and necessary, it should not be used to subvert the goals and policies of the Comprehensive Plan. He reported that the Florida Courts, in interpreting the Growth Management Law, have begun to apply a test which calls for strict scrutiny in applying the Council's responsibility of the Local Plan and what that means is it doesn't merely balance all of the goals and objectives of the Comprehensive Plan, but carefully and precisely makes the finding that the goals and objectives are consistent with the Comprehensive Plan. His organization believed that Mar-a-Lago was not about Ordinances, but was about the Comprehensive Plan and whatever the final complete application is, for eight or seven units, it must be consistent with the Comprehensive Plan.

Attorney Frank Chopin representing the Preservation Foundation as its attorney and as its Trustee, addressed the Council. He advised the Preservation Foundation represents many people in the Town who join with them in opposing the application. He stated a number of these people are in the audience and they are here today because they care about what is being done here today and what will happen to the Town today with respect to Mar-a-Lago. He believed the application should be denied and he will state his reasons why this should be denied, however, he would like to clear the air about some matters which he felt were not relative to this particular process.

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He advised the Preservation Foundation has never during this process opposed the development of Mar-a-Lago. He believed Nate Appleman set out the position in an article published in the Shiny Sheet six or eight months ago, stating that the issue is not who owns the property, as they don't care that Donald Trump owns it and they don't care to whom it may be sold; but the issue is whether the proposed development of the property complies with the Town's Ordinances and the Comprehensive Land Use Plan, and that is the issue. He didn't think it was their duty to decide whether their predecessors sitting on the Council in previous years made the right decision in granting approval of the Cerf Ross Plan, and actually the law has changed since this Plan was approved. He felt people were more aware today of preservation and the need for adequate regulation of the kind of development that takes place and he considers that granting history and if someone made a mistake, they are fortunate the property wasn't developed in the way it was presented then and now the Council has another opportunity not to repeat that mistake.

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Mr. Chopin pointed out the issue is not the Subdivision Plan, nor is it the Landmarks' Preservation Commission's decision or the decision the Council affirmed as the only issue before this Council today is whether the proposed development of the property complies with what the law requires and has complied with the Town's ordinances. He felt if he had, then the application should be granted; but if he hasn't, it should not be granted. He felt that in not granting the application, the Council should be aware that there is nothing that prohibits him from filing another application. He stated the Council only has to decide on the issue that is before them.

Mr. Chopin believed that all the people in this audience today would join with the Council in believing that a fundamental privilege and freedom of this country is that people should be able to do with their property what they want to do with it, and that is a fact. He stated that concept has been bantered about and made a red herring, but the fact is we share the concern that there not be an unnecessary abridgement of a person's right to use their property. He stated they no longer live in the world where they can cut back the rain forest and build their house as we now live in a world together and where people live together and share the common services and amenities and what one person does will have an effect on what someone else does, so it becomes the responsibility of government to balance the rights of the individual against the collective good.

Mr. Chopin recalled an observation was made that it is the function of government to regulate development, not to restrict it and that is what this is all about. He stated he was a little surprised to hear Mr. Broberg state there should be an Ordinance to deal with Mar-a-Lago as Mr. Chopin did not believe that was necessary, and if Mr. Broberg believes that is the way it should be, perhaps that is an option which should be considered.

Mr. Chopin felt the problem here is the applicant has just not done what he was supposed to do and that is why this application has been around since last January. He felt there was a resistance here that defies all reason and he didn't know why they just didn't do what they were supposed to do and then let the Council decide whether it makes sense or not. He didn't think they should have come in the day before this hearing, which was three months after the Zoning Hearings, and filed a thick package of paper which doesn't contain very much information. He stated the Ordinance states the applications can be filed in the months of July through September and that stipulation was not for Mr. Trump but was adopted so everyone had an opportunity to have proper consideration made of the application. He stated in this case Donald Trump filed an application on September 20, 1991 for a PUD-4 development of Mar-a-Lago and in November, two months after, he decided it was not a complete application and it was supplemented, noting it was not complete, but supplemented. He noted Mr. Trump tried to supplement it again yesterday with the filing of additional papers, but it still is not complete.

Mr. Chopin stated he will show the Council the application is not complete and he looked forward to answering any questions that Mr. Broberg will have of him, as he would like to have a focus on whether Mr. Broberg has filed what is required to be filed unequivocally by the Town Ordinances. He stated this application is opposed by him because it is not complete.

Mr. Chopin stated he felt this was an important issue and they can't sluff over it. He felt the reality of this is the slides which were shown this morning of the Mar-a-Lago property which were quite beautiful, but Mr. Chopin will show the Council if they would let him build in the zones, this property will be torn down. He asked to deal with what was missing and the first item would be the Preservation Plan. He recalled the applicant's attorney stated no Preservation Plan was required and he agreed that was right as the Ordinance does not say they must file a Preservation Plan, but what it says they must file a Plan which demonstrates how they are going to preserve the historic property and Mr. Broberg has argued for almost a year that that is not a Preservation Plan and he would concede they were all wrong in stating that was a Preservation Plan, but what has not been filed is a Plan which tells how they are going to preserve the historic structure and he hasn't provided that. He thought they had an opportunity to hear Mr. Bell, an expert from New York, on the development and preservation of properties who Mr. Trump hired and Mr. Bell came before the Landmarks Preservation Commission and stated what had to be done was to put together a Preservation Plan, but they never did it.

Mr. Chopin told the Council they didn't have to focus just on the question of whether there is a Preservation Plan to determine whether or not the application is complete, and in fact, he was not sure what the Council is supposed to do and he wasn't sure what the applicant was asking the Council to do and he was not sure if the applicant was asking for approval of the eleven, or eight houses. He recalled statements on the seven houses, but the only application before the Council is for one which allows them to develop ten houses on the property. He recalled Mr. Broberg stating they wanted to be upfront with the Council and exhibited a plan for the development of seven houses, instead of ten, and the fact of the matter is they never got to the merits of the seven lot plan.

Mr. Chopin stated that was not why they didn't get to it and he would like Mr. Broberg to understand why they didn't talk about the seven lots at the Zoning Commission Hearing. He advised they received the seven lot development plan, which was only one piece of paper, a few days before they went to the Zoning Commission and analyzed it and had their experts analyze it to understand why it was different from the previous plan submitted, and finally were all prepared to address what they felt were the deficiencies in the seven lot plan, but they didn't talk about that plan. Mrs. Leslie Smith stood up and asked the Commission what they were considering, the seven lot plan or the eleven lot plan. Mr. Chopin stated Mr. Broberg addressed the question indicating they have not modified their plan and that statement was in the press. He felt that was not true, as he thought it was specifically because the applicant before the Zoning Commission did not want anything else considered so it was not considered and frankly, the Zoning Commission went on to

consider what had been proposed by the applicant and to consider the ten lot plan on its merits and rejected that plan.

Mr. Chopin noted the seven lot plan is now before the Council as an Exhibit, as is the Preservation Plan and the problem is it hasn't been filed, which means it hasn't been reviewed by the staff, and Mr. Moore advises he has reviewed the Preservation Plan but it has not been reviewed by the consultants, Clarion. He stated he felt it was unfair to view this as an alternative to the filed application, and in fact if they believe seven lots are better than eleven, the appropriate process would be to file an application before the Zoning Commission for a PUD-4 based upon the new thinking. He did not think this new thinking was what the Clarion people have signed off on, as there is no report or analysis by the Clarion people who have been hired by the staff to review this. He recalled there was a meeting between Trump's people and some of the representatives of Clarion and they no doubt, discussed things that would make the plan better.

Mr. Chopin indicated he was not trying to nit pick when they say they are opposed to it, but there are serious problems with what has been presented and he can't go through all of the concerns they have, due to time limitation. He has prepared an outline of the objections they had showing why it doesn't meet the requirements and submitted a copy of the outline of their objections to the PUD-4 Plan. He stated they have enumerated in the packet the main items which have been omitted from the PUD-4 Plan, Special Exception Standards, Site Plan Standards, Zoning Requirements, Traffic Standards and have also a sheet in the packet which tells what the Town Council findings must be. He stated they arrived at this information by going through the Ordinance and making a comparison.

Mr. Chopin started with the page of his submission referring to the R-AA Zoning Standards:

He recalled reading in the press that Mr. Lawrence did state that the zoning requirements have been met. He advised the Council there is a minimum square foot requirement in the R-AA Zoning of 60,000 square feet and the proposal is to have some lots as small as 33,000 square feet, which is a reduction of 45%.

He stated the lot width is required to be 150' and they are asking for a variation of that requirement so the lot width in some cases would only be 70'.

He advised in the R-AA District, front yard setbacks are 35' and in some cases 20' is requested, so that too is a significant variation.

He noted on lot coverage, 25% is the maximum and they are asking for as much as 45%, which is a significant variation from what the zoning requirements are under R-AA zoning. He indicated on the view angle, which is 100 degrees maximum has been asked to be eliminated so there is no maximum at all.

He noted they are talking about a seventeen acre parcel of property and under R-AA, the density is not to be more than .67 per acre and they are asking for 1.208 units per acre.

Mr. Chopin noted all of what has been discussed thus far is for the eleven lot plan.

He stated he would now address the seven lot proposal although there is no application accompanying this proposed plan. He pointed out this property is large enough so that they could in fact not ask for any variances at all, and the development could be done in accordance with what the law required, but they haven't done so.

He advised the application from a Site Plan Review requires a properly prepared Site Plan showing the boundaries, the street, the buildings, the water courses and the easements, including the location of all structures. He heard Mr. Lawrence state he was not sitting the buildings on the property so the Council does not know the location of all of the buildings, nor access, or traffic flow as the applicant has not furnished that. He stated they have not shown where the off-street parking will be although they do state in their application there are three off street parking places. He advised there has been nothing furnished on recreation and refuse collection areas.

Mr. Chopin indicated a Special Exception application also has to be filed showing the project will be compatible with adjoining development, will not injure the value of the neighborhood property and will comply with zoning requirements and the Comprehensive Land Use Plan and will provide for traffic, parking and pedestrian safety.

He addressed the Traffic Element, noting roads are shown but what actually has been shown is a 20' street and they don't address the fact the Ordinance requires that street to be 30'. He advised they don't talk about the fact that some of the access roads to the lots are very narrow and there would be no opportunity for turnaround. He stated if there were a fire in this area, there would be no opportunity for a fire truck to get onto the property to deal with the public safety concern of putting out the fire. He believed they also did not address what this development would do to the adjoining properties. He believed they were to show through a table what the total growth acreage percentage of land devoted to various uses were, including the impervious surface coverage and the ground covered by structures, and they haven't done it.

Mr. Chopin stated a professionally prepared Impact Study has to be prepared with respect to the property showing the effect on utilities, drainage, sewers, and all Town services and that has never been filed.

He believed there should be filed a street lighting plan, a plan showing the location of utility lines and hook-ups for each lot and it has not been supplied. He noted another omission is the sanitary sewer plan and the drainage plan. He noted they are also required to file with the South Florida Water Management District, but their plans were rejected as incomplete and that has never been supplemented. He advised they are supposed to provide a typical floor plan and they have not. He advised they are supposed to provide a plan showing the architectural elevations of the proposed houses and the Council does not have that. He noted this is something that the PUD Ordinance does require as a part of the application. He stated they are to submit a plan showing the location, height and bulk of the proposed houses and the Council doesn't have that and doesn't know anything whatsoever with respect to what those houses will look like. He stated that is what he means when he says the application is incomplete.

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Mr. Chopin submitted a letter dated 12-31-91 by Mr. William E. Corley, III of his office to Mr. Zimmerman, confirming the items which were missing from the application.

Mr. Chopin recalled Mr. Lawrence's statements on topography and how it was a critical feature of what they are trying to achieve and he took the Council on a garden tour of the Mar-a-Lago property and it sounded like he was locating these houses under certain trees to preserve the property, but the fact of the matter is that it doesn't work that way and he presented an exhibit of the elevations and he superimposed where the houses would be on the property in the various areas where they propose to build the residences. He believed some of this property would have to be raised approximately two to three feet and he believed that would destroy the topography because they are elevating where the houses are being built. He thought more importantly would be the effect it has on the drainage of the property. He believed if when the houses are elevated, the surrounding areas will be three, four or five feet lower than the houses themselves, so when there is a rain, the water will run down in these catch basins. He felt it also showed something else about the drainage as the written material states they will be draining the east end of the property to the west and that causes a problem since that is an existing ridge twelve feet high and the problem is the property to the east is only six feet high. He reported it will be necessary, since water does not drain uphill, that the water will flow to the ridge and it will stop.

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Mr. Chopin advised with the seven house plan, the applicant has moved the roadway to the east so that it crosses over the twelve foot ridge, so there still is a problem in draining from the east and the topography would have to be destroyed as the road would have to be excavated out of the ridge. He believed they told the Council that the topography would remain unchanged, but that is not the case.

Mr. Chopin referred to the vegetation, which is also a critical feature which Mr. Lawrence singled out stating it should be preserved, and he wished to illustrate that the vegetation will be destroyed. He exhibited an aerial photograph of Mar-a-Lago and superimposed on the photograph where the building zones were to be located and what it shows that in every instance, the vegetation will be destroyed. He felt there was no way to build in the locations where they are building without destroying the trees and 90% of the vegetation will have to be destroyed in order to build the houses where they are proposing to build them. He believed the problem could be solved by addressing it and he didn't believe they did so as they took slides of what exists and talked about how wonderful this will be when the reality of going into there to build ten houses would be the vegetation was going to be ruined and there would have to be additional landscaping added. He believed that they were to furnish a landscape plan and they haven't done that. He believed they were supposed to give the Town a survey of the trees they would be saving and the Council doesn't have it.

Mr. Chopin felt the same thing was true of the seven lot plan and the vegetation will be destroyed on the southwest corner and the northwest corner and in each of the areas where they outlined the building zone for the seven houses. He didn't believe they were preserving an essential feature of this historic preservation, but they are destroying it as it would not be possible to build the houses they are proposing to build without destroying it.

He felt it needed to be considered in detail and the Zoning Commission had that opportunity and made a decision that what was presented was not in the interest of the preservation of that property as is required to grant the application and he felt there was enough demonstrated today to clearly establish they are not taking the property away from them without due process of law; secondly, they are not suggesting they should never be able to develop the property, but what they are suggesting is there is only one issue before them, which is this application and this plan and it is not complete and because it is not complete and it doesn't address reasonable and legitimate concerns about the preservation of the property, it should be denied.

Mr. Chopin felt if the applicant chooses to file another plan, one that is complete and one that the Zoning Commission can deal with as well as staff, it may well be that it is appropriate to grant such an application in the future.

Mr. Adrian Winterfield, 443 Brazilian Avenue, addressed the Council wishing to identify several legal problems: (1) Could there be a possible Sunshine Law problem? (2) Is a PUD a change in zoning, particularly so as to effect the majority required? (3) When is Council action on a PUD subject to referendum? (4) Does the Local Government Development Act apply? (5) Has Mr. Lawrence's presentation been reduced to writing so it can be studied?

Mr. Winterfield believed Mr. Broberg spoke as an advocate and put the spin on the facts to favor his position and as Mr. Chopin indicated, there is no relevance to the fact that a previous Council approved a plan submitted by Cerf Ross. He pointed out on Casa Apova, only the residence was landmarked, not the entire property. He felt zones must be reduced to lots on this plan. He advised the Council must assure itself that the mansion will be protected for the reasonable future, and if a plan of seven houses is approved, then it may well be that no-one would be interested in purchasing the mansion and perhaps in the future there would be an application to convert the mansion into a museum.

Mr. Winterfield suggested one thing that could be considered would be the requirement that a Trust Fund be established for the maintenance of the property for a period of a certain number of years to insure protection of the mansion for a restricted period. He thought it was appropriate to establish a setback not in the general use of the term, but a distance setback of 250' within which no new construction should be authorized from the present mansion.

Ms. Katherine Dickenson, 1240 Coconut Road, Boca Raton, a Trustee of the National Trust for Historic Preservation read a letter to the Town Council from Susan A. Kidd, Regional Director addressed to Mr. Heeke:

"On behalf of the National Trust for Historic Preservation, I am writing to reiterate our concerns about the Planned Unit Development (PUD) application for the National Historic Landmark Mar-a-Lago property, which is to be considered by the Town Council today.

The National Trust is a congressionally chartered nonprofit organization, whose mission is to foster an appreciation of the diverse character of our American cultural heritage, and to lead the nation in saving America's historic environments. On behalf of our 255,000 individual members nationwide, including more than 9000 members in the State of Florida, we have repeatedly expressed our concerns about the proposed Mar-a-Lago development in a number of letters to the Town Council

and the Landmarks Preservation Commission. Those concerns remain very strong in light of the current PUD proposal.

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The PUD application proposes the construction of seven new houses at Mar-a-Lago. Yet a similar subdivision proposal for eight new houses at Mar-a-Lago has already been unanimously rejected by the Landmarks Preservation Commission and the Town Council. The current PUD plan does not warrant any change in those earlier decisions by the Town of Palm Beach to protect the integrity of Mar-a-Lago.

The proposed development would be compatible with the overall historic character of Mar-a-Lago, because it would carve up into pieces the 17 acre historic landscape that surrounds the main house. This landscape is one of the most critical and significant features of the property. Yet little effort has been made to structure the proposed development so as to minimize its intrusion on this National Historic Landmark.

The Town's own Zoning regulations for Planned Unit Developments consistently emphasize the importance of historic preservation and retaining scenic open space. For example, one of the explicit purposes of the PUD mechanism is "to preserve the natural and scenic qualities of open areas." Palm Beach Zoning Reg. 7.10, more specifically, the PUD 4 category for Historical Preservation-Residential Development quote is 'intended to preserve structures and/or premises of significant historical or architectural value to the Town by allowing for low-density residential development.....' id. (end of quote). These purposes would be directly undermined, not furthered by the proposed PUD.

The report prepared by Clarion Associates in August 1991 concludes that some form of development could be appropriate for Mar-a-Lago in the future, if it is sensitively planned to minimize intrusion on the property. We agree. But the current PUD proposal is NOT the kind of sensitive development called for by this National Historic Landmark. On the contrary, it would destroy the critical historic landscape features of Mar-a-Lago.

In order to design a truly sensitive development, a detailed preservation plan needs to be prepared for the property. Such a plan should document and analyze the current state of the property and its historically significant features, and should include detailed design guidelines that will ensure protection of the most critical features and spatial relationships on the property. These design guidelines need to address site planning issues such as the location, alignment, density, and design of any new construction. Landscapes and view corridors should be preserved to the maximum extent possible. That has not been done here.

The purposes of the PUD mechanism is to allow "flexibility" in design, in order to enhance the preservation of historic homes and scenic open space. That flexibility, however, does not include the flexibility to subvert the Town's historic preservation policies, or to accomplish indirectly what could not be accomplished directly through the subdivision process. The PUD application proposes to bend the rules in favor of development, without any bending of the rules in favor of extra protection for historic resources. The national significance of Mar-a-Lago warrants a much higher standard of sensitivity in order to safeguard the integrity of this landmark.

Finally, we wish to emphasize that the Town of Palm Beach has acted well within its legal authority to regulate land use and restrict development in order to protect and preserve historic landmarks such as Mar-a-Lago. The United States Supreme Court has firmly upheld the regulatory power of local governments to limit or reject development proposals that will harm historic properties. Only if a property owner can show that he has been deprived of all economic use of the property is there a basis for waiving historic preservation restrictions in order to avoid a 'taking' of property. Obviously, this property owner has made no such showing. Accordingly, we urge you to reject the PUD application, and to require the preparation of a comprehensive preservation plan for Mar-a-Lago."

Attorney Ron Kolins representing the interest of Aileen Massey addressed the Council, stating there wouldn't be any other single individual who would be more impacted by the proposal before them than his client, who lives across the street from Mar-a-Lago. He noted they have heard from Commissions and Associations in groups and their points of opposition are very well made. He agrees with all of the comments made by Mr. Chopin. He felt to put this in perspective, every formal body has objected to it, the Landmarks Preservation Commission and the Zoning Commission have denied it. He believed the applicant has tried to come through another door with the same material, but a different ribbon tied around it to see if the Council will handle this in a different manner. He felt if he was sitting on the Council, he would be insulted because this process has gone on for a long time and three months ago, and in that time he has not heard Mr. Broberg or any other representative of Mr. Trump come up here today and tell the Council one single thing that they have done differently since they were before this Council the last time, except for one item, and that is that they filed a Preservation Plan.

He didn't know why it took them a year to file the Preservation Plan and if it is meritorious or not, why did they file it at a time when they knew it could not be subsequently considered for this hearing. He thought they were cheating the Town Council and his client because they are looking for every keyhole they can find to hide in, so they don't have to tell the Council what the regulations state they are supposed to tell the Council. He pointed out the rules here in this Town apply to everybody, whether they have a famous name or a lot of money or whether they don't, and those rules need to be applied across the board fairly and equally. He knows there is no Certificate of Approval from the Landmarks Commission and what is the Plan they are talking about today as they have filed a Plan for eleven units and yet they are talking today about something else that has never been filed within the time frame which the rules state they should be filed within and he doesn't know what they are talking about and asked the Council if they knew and if they didn't know, how could a decision be made in any event.

Attorney Kolins heard Mr. Broberg ask for tentative approval, as though this was a minor part on the head to encourage them to go forward and develop a plan. Mr. Kolins told them he has news for the Council and for Mr. Broberg, which he was sure Mr. Broberg knew very well, but under 7.30 of the Code, a tentative approval is very significant and in many cases, can virtually amount to a final approval, as in a tentative approval all types of information must be provided and that has not been provided by the applicant. He thought secondly, once they succeed in getting a tentative approval, this Town Council cannot change it and in order to get a final approval a hearing need not be held, if the applicant doesn't change the plan on which they got a tentative approval. He believed they could leap frog the process of getting a final hearing and full approval by the

granting of a tentative approval. He believed if they got a tentative approval, they would be about home free.

Mr. Kolins pointed out the PUD Ordinance sets forth a variety of things with which any applicant must comply. He stated they have heard and it is a basic tenet of law in Florida that in order to get one, you must - not almost - not maybe - you MUST fully comply with the Town's Comprehensive Plan and they have failed to comply with the Comprehensive Plan in many ways, but he wishes to talk about one, which is quite critical and has not yet been mentioned and that is the traffic matter. He pointed out the Council needs to understand that if any project in the Town cannot meet the traffic requirements, the Council cannot approve it - period. He advised the only thing they can do is to amend the Comprehensive Plan to change the rules so they can get an approval under new rules. He advised the roadway in front of this property is a very busy one and it's a hit and miss situation for those who live along this area. He pointed out that roadway exceeds today the maximum level of service which the Comprehensive Plan now allows and they cannot put one house in that area and add the trips that go with that house under the today's Comprehensive Plan. He introduced Frederick Schwartz, a traffic Engineer and a traffic expert, and he offered into evidence a resume of Mr. Schwartz and a copy of the traffic study entitled Transportation Impact Study - The Mansions at Mar-a-Lago.

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Mr. Moore advised President Heeke he had not had an opportunity to study this particular traffic report. Mrs. Peters administered the oath to Mr. Schwartz.

Mr. Frederick W. Schwartz, P. E., President of Traffic Engineering, Inc. addressed the Council, noting while performing the analysis, he did review the application and prepared the study in June of 1991 and reviewed other Town documents including the report of Frederick R. Harris for the Town dated Dec. 1990; various reports prepared by Adley, Brisson & Engman on behalf of the Town specifically analyzing the impacts of the proposal, dated June, 1991; and he reviewed the Town's Comprehensive Plan especially the Traffic Element, including the traffic conditions on State Road A-1-A - the concurrency requirements of the Town and the adopted level of service standards, and third, how those two elements relate to the ability for any project in this area to be approved and meet the provisions of the Town's Comprehensive Plan.

Mr. Schwartz focused on the Comprehensive Plan as it relates to the ability for the project to be approved. He referred to the Adley, Brisson, & Engman report addressing three issues:

1. The adopted level of service during the peak season and peak hours - Level of Service "E".

He reported "E" is equivalent to 1570 vehicles per hour and this is peak hour peak season.

2. Policy 2.2.b of the Comprehensive Plan.

He advised that policy limits issuance of a development order to projects that will not reduce the level of service.

3. Roadway capacity be calculated utilizing Fl. Dpt. of Transportation traffic counts or other available traffic counts.

He believed that what they meant there were the County traffic counts, which are done in this area twice a year.

Mr. Schwartz stated the Adley Brisson report states the intent of the Plan is to average the count on State Road A-1-A and Mr. Schwartz stated he cannot find that intent in the Comprehensive Plan as it states "to calculate existing peak hour level of service, B over C ratios (that is the volume divided by the capacity) were calculated and provided in two tables. Existing levels of service were based on the following B over C ranges:

Level of Service "E" - ratio is 1.00. He stated that means if you go over 1.00, they are no longer Level of Service "E" but would go to Level of Service "F". He advised the Comp Plan has a table which lists certain roadway segments on A-1-A and it shows that the roadway segment in front of the Mar-a-Lago property has a volume of 1593, which is greater than the 1570 and would give a ratio of greater than 1.00. He stated that roadway is already over capacity. He stated the Town's consultant has recommended three count stations along A-1-A be looked at and one would be north of County Road, one near the Mar-a-Lago site, and one south of Southern Boulevard. He noted the first count was 1161; second one is 1593; and the third one is 1135. He noted the second one is over capacity and that one is in front of Mar-a-Lago. He noted the other two are not and what the Town consultant has recommended is averaging those three together to get below the capacity figure. Mr. Schwartz did not believe that was appropriate according to the standards in the profession and the Florida Department of Transportation published guidelines. He stated they do recommend breaking the roadway segments at intersections which would add significant amounts of traffic to the roadway. He cited as an example, South County Road, where the volumes do change and at Southern Boulevard, so they should break the segments there but not average all three of those together.

Mr. Schwartz felt if that was done, the level of service on A-1-A in that area would be "F" and would not be acceptable under the Comprehensive Plan.

Mr. Schwartz realized this probably sounds like number crunching and may be difficult to grasp but what he was trying to state is Objective 2 from the Comprehensive Plan says that the Council can only approve projects when sufficient roadway capacity exists and he strongly believed that was not the case on this segment of A-1-A.

President Heeke asked Mr. Schwartz to read that into the record which Mr. Schwartz did: "Development permits for land uses provided for on the future Land Use Map shall be issued only where there is sufficient roadway capacity to ensure that roadways affected by the development will operate at not less than minimum level of service standards." Mr. Schwartz advised the minimum level of service standard here is "E" and that could be obtained if the volume on that roadway was 1570 trips per hour or less. He stated in 1986 the count was 1593, which is close but in 1991 the count was 1740 trips, which is over the Level of Service "E" and actually is Level of Service "F". Mr. Schwartz felt there was no latitude in this decision as the Comprehensive Plan says that if traffic is added to this segment of roadway, it cannot be approved.

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Attorney Kolins advised he and Mr. Chopin have presented exhibits for the record and also have had boards which they referred to and he would like them to be a matter of record, and the people who have control over the Boards will take responsibility as being custodians of them should they be needed in the future to which President Heeke agreed.

Mr. Kolins thought it was important to keep in mind that no matter what happens, this applicant is free to come in with any revised or a new application and have it considered and if the application before Council today should be denied, he always would have that option. He believed with that understanding and with the understanding that they have not submitted what they are required to submit so therefore there is not a viable application before the Council today; and secondly if there were a viable application, the Traffic Rules preclude the granting of this application and he urged the Council to just say no.

Luncheon break was taken. President Heeke called the meeting back to order at 1:38 PM.

President Heeke called the attention of the audience to the referendum on the ballot on March 10, 1992 and urged all to vote against the question No. 52. Mayor Marix urged all in the audience to tell their friends about it and also pointed out the polling location for Precinct 90, which usually takes place at the Fire Station in Town Hall has been changed, due to the construction in process, and the new polling location is at the Recreation Center.

Jane Volk, Chairman of the Landmarks Preservation Commission read into the record her remarks, stating when she wrote the comments, she had no idea they would be reviewing anything other than what had been presented to the Zoning Commission, however, most of the remarks are still relevant: "It is, as you know, one of 1994 National Historic Landmarks, in the category with Mr. Vernon, one of the nation's most important resources - both house and site are designated and in the National Historic Designation, the boundaries are the same.

I think we must pause, even those not sympathetic to landmarking, to really consider the historical importance and that it is apparently one of America's most unique historic monuments.

This is not just another house - not just another sub-division. And Mar-a-Lago was designated an historical monument and landmarked when Mr. Trump bought it. Any Preservation Plan must be considered with the most complete scrutiny possible.

In the Clarion Report, which was accepted as part of the Town record, it was noted that a distinctive approach was required when dealing with historic structures and sites. The Clarion Report states clearly, page twenty-five through thirty-two, the basic requirements for Preservation Plan. Mr. Trump's representatives say they had no direction. It seems to me that it is a direction that they have not wanted to take. That was the real problem. Even Mr. Bell, a notable architectural expert, who restored Ellis Island and was engaged by Mr. Trump agreed that a Preservation Plan was absolutely essential in dealing with Mar-a-Lago.

Those in the community not interested in preservation, I think everyone feels something nudging saying - 'this building and site must be dealt with - with the most careful and sensitive scrutiny.' Mr. Trump up until this time has not been interested in preservation - the first and only subdivision plan presented to the Landmarks was unacceptable from a preservation landmark point of view. Its' failures are a matter of record and I won't review them at this time.

But we did, when we denied the Certificate of Appropriateness, state that we would be glad to review a Preservation Plan. That was last August. And that's in the minutes of the August meeting. Instead, Mr. Trump returned to the Zoning Commission with a PUD that had ten houses. The one this morning has seven. I don't know if this is a Preservation Plan - I haven't seen it.

The Landmarks Commission is a review board exclusively - we do not redesign any of the projects that come before us. We offer guidance and review. It is the work of the architect to understand or not the Preservation guidelines. Many architectural firms have no real understanding or training in the historic preservation field. One often sees the brutal and absurd handling of historic forms in restoration and in new construction. It is indeed a challenge. But in this instance, Mar-a-Lago, the architect needs to be sympathetic to the spirit and character of both house and site. Must be concerned with a way to deal with such a site that it won't diminish its historic integrity. Our architectural past is a living force for the present. Officially, as I understand it, according to our Landmark Ordinance, we are required to protect our landmarks regardless of potential profit. In this case, a Preservation Plan is possible. We have said so. But this present review does not address, to my mind, or do justice to the significance of this historic estate as we know it."

President Heeke called for further public comments and there were none. President Heeke asked if anyone of the public wished to ask any questions of anyone who had spoken earlier and there was no response. President Heeke called on Mr. Lawrence for a summarization.

Architect Eugene Lawrence addressed the Council indicating he had made a list of some of the things that Mr. Chopin has brought up and he wished to address the completeness or sufficiency of the application:

IMPACT STUDY - Mr. Lawrence advised an impact study was transmitted by Attorney Peter Broberg prepared by Hutcheon Engineers concerning the storm water, sewer and impact items on the property on Dec. 13, 1991 to Mr. Moore.

SITE PLAN - Mr. Lawrence explained two site plans have been submitted, the first with the PUD application and entitled Site Plan prepared by the Lawrence Group, Architects, Sheet No. 2, dated September 20, 1991; and the second Site Plan was a statistical Site Plan prepared by Lawrence Group dated September 20, 1991; and subsequently a third Site Plan was filed for the seven unit proposal.

DENSITY STUDY - Mr. Lawrence referred to the PUD application with letter of transmittal signed by Peter S. Broberg addressed to Mr. Moore dated September 20, 1991, item 9.61 (E) (1 through 4), which gives all the square footages and the use of the property. He advised the seven unit plan has less density, of course, than the first plan submitted.

HEIGHT AND BULK OF NEW RESIDENCES - Mr. Lawrence advised this is listed under the Design Guidelines of the same document to which he referred to in the Density Study. He advised under the

section "History", they define the R-AA Code and define some modifications to the height and bulk requirements in the Code, but the height and bulk of the new houses were specified.

STORM WATER DRAINAGE PLAN - Mr. Lawrence believed there was not a requirement for a drainage plan or a sanitary plan but rather the PUD requirement calls for the feasibility of proposals for the disposition of sanitary waste and storm water, so there is no requirement for a sanitary plan or a storm water plan. He advised the PUD application itself and the Hutcheon Engineer Impact Study specifies the disposition of storm water waste and sanitary waste.

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OFF STREET PARKING - Mr. Lawrence commented that the application itself in Section 9.61 (f) (1) states that each site will provide for parking for a minimum of three automobiles within its own boundaries. He suggested they take into account that Section 9.61, the Site Plan Review, is written for many of the Zoning Districts and there might be a different computation if there was off-street loading or something of this nature, but that requirement is not for individual sites and would be the same as in other single family residential areas.

DIMENSIONS AND AREA OF EACH LOT - Mr. Lawrence invited the Mayor and Council's attention to the drawing filed with original application, which is the Statistical Site Plan which gives all lots dimensions and setbacks on all lots.

LANDSCAPE PLAN - Mr. Lawrence referred to the original submission which has a landscape plan called Schematic Landscaping Plan - Sheet Four - dated 9-20-91 prepared by Blakely & Associates, Landscape Architects and Planners, Inc.

PRESERVATION PLAN - Mr. Lawrence indicated Mr. Broberg will address this issue.

Mr. Lawrence noted in his handout, Mr. Chopin states the Plan violates Special Exception Standards, specifically 6.40 (b), which states the Plan failed to provide for safe traffic ingress and egress to South County Road. Mr. Lawrence announced their traffic engineer is here who can address that matter and Mr. Lawrence did not believe this was an unsafe entry onto the roadway. He noted they state it failed to provide for pedestrian safety inside the project and Mr. Lawrence did not believe none of the single family areas in the Town of Palm Beach have sidewalks.

Mr. Lawrence noted the handout refers to Section 6.40 (c) which they state says "the use must not devalue the neighboring property" and he did not believe that was what the Code actually states but it says: "that the use will not cause substantial injury to the value of other properties in the location where it is to be located." Mr. Lawrence stated this could only affect the properties to the immediate north where they do propose to install a solid wall and sufficient setbacks to ensure that no building is zoned into a nonconformity and he did not feel that was substantial injury.

Mr. Lawrence noted the handout refers to Item 4, which says the use must comply with zoning requirements. Mr. Lawrence did not agree with the handout and submitted the Use does comply with current zoning and invited the Council's attention to Schedule of Use Regulations, R-AA, Large Estate District, to the first listing which is Planned Unit Development P-4, so this does comply with current zoning regulations.

Mr. Lawrence stated he will have his traffic expert, Mr. Pollack address Item 5 on the traffic element.

Mr. Lawrence stated on the handout, Item 6, states the Use shall not have economic glare, noise or odor impact on the adjoining property. Mr. Lawrence stated the Code actually states: "the use shall not result in substantial economic, noise, glare, or odor impact on adjoining properties." He submitted that it does not have substantial impacts.

Mr. Lawrence stated Item 7 addresses traffic access and egress and he submitted it was not creating a hazard and the pedestrian issue is as was discussed before.

Mr. Lawrence stated Item 8 addressed signs and exterior lightings and states it shall be compatible with the properties in the District and he invited the Mayor and Council's attention to the application which states signs are discussed in Item 9.61 (j) which provide that the only signs that will be on the property will be directional signs.

Mr. Lawrence referred to utility location availability and capability is covered in the Impact Study and in the Report under Item 6.40 (h), noting the storm water is retained on site and the sanitary waste is exited from the property by the pumping station which currently is on the property.

Mr. Lawrence referred to Section 3 which states the Plan does not meet Site Plan Standards, with Item 1 stating a properly prepared Site Plan showing lots, streets, boundaries and traffic information and all of this is included in the Statistical Site Plan.

Mr. Lawrence referred to Section 2, tabulation of gross acreage and percentages devoted to various uses, noting this was discussed before and this is included in the PUD-4 application under Density, which is 9.61 (e) which covers all the acreages and uses of the property.

Mr. Lawrence referred to Storm water and Sanitary Sewer Plans and recalled he had told them earlier no plan is required as the PUD spells out the feasibility of disposal of storm water and sanitary sewage.

Mr. Lawrence referred to Item 6, about architectural information on the proposed houses. He advised their application does state clearly that they are not asking for approval for the individual houses as they are trying to develop a Site Plan and individual houses will come at a later date to both the Architectural Review Commission for the neighborhood and then to the Landmarks Preservation Commission. He referred them to 9.61 of the Code which states the application shall include those of the following items, deemed to be applicable by the Building Official. He stated this was reviewed with the Building Official for sufficiency as they were not presenting plans for the elevations of the existing houses, and that will come later. He felt the application was complete on that matter.

Mr. Lawrence referred to the landscape plan and inventory and a plan for size have all been covered.

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Mr. Lawrence then went to the handout entitled "Plan does not meet Zoning Standards". He stated they state there is a reduction of the lot size from 60,000 square feet to an unknown amount and they have eight other items on this handout. He wished to review what a PUD actually is as it is a process of approval in which a Plan is submitted and the Plan contains the substance of what that will be, and that is reviewed, discussed, modified, and then a final PUD is prepared which is voted on. He believed one of the issues within the PUD is a statement which states the applicant must list those items which deviate from the zoned criteria, but the intent of the PUD is to give flexibility in the lay-out and is not an overlay on bulk zoning requirements, and he submitted again the PUD is in accordance with the established Code as they have identified those areas which are different to the height and bulk requirements. He believed that would cover all these items which involve design criteria.

Mr. Lawrence stated this Plan is complete in its application and they have reviewed Sections 6, 7, and 9 which apply and went through it in depth, met with the Town staff to ensure that it does and he felt it does comply and it is complete.

Mr. Joseph Pollack of Kinley-Horn addressed the Mayor and Council, indicating he is a traffic engineering professional. He recalled in June of 1991, Mr. Brisson and his firm issued a report which outlined the foundation of how the Town established a Level of Service "E" standards for A-1-A, specifically the area immediately adjacent to the Mar-a-Lago property. He thought it was clear after consulting the Town's Comprehensive Plan that that section of A-1-A was over-capacity at the time when the Town adopted its Comprehensive Plan and the volume shown on that section was 1593 and the standard adopted was 1570, so it was clear to him in adopting the Plan and setting Level of Service Standard "E" that the Town staff and the Council had to have used an averaging method to establish this standard.

He believed by using the averaging method, the roadway section was not failing and in 1988 when the Plan was adopted and the Council has relied upon that since that point in time, they have been through a number of rezoning and PUD applications and modifications, which have been approved. He believed those projects approved would add one or two trips during the peak hours to this section of A-1-A also. He indicated traffic professionals quite often do disagree as there are many ways to analyze a particular issue or problem and the Town has chosen this method to address the level of service standards for A-1-A. He stated Mr. Schwartz and others may not agree with that method but the Town has chosen that method. He advised the Town's Comprehensive Plan was structured to allow limited developments on the Island and he read from the Comprehensive Plan which specifically addresses A-1-A: "In order to recognize the limited development potential of the little remaining vacant land in Palm Beach, the Town will adopt a level of service for A-1-A of 'E' for the peak season, peak hours. This is believed to be sufficient to accommodate the limited amount of residential growth expected during the planning period and should still result in a Level of Service 'C' for all roadways in the Town during the off-season."

Mr. Pollack felt everything was consistent - the Comprehensive Plan has the documentation and clearly the road met the standards in 1988 and he felt it meets it today. He has reviewed the Town staff's evaluation and determination on this issue and agrees with them that the project as proposed, whether it be seven or nine, ten or eleven units, does meet the Town's traffic circulation element of the Comprehensive Plan. He thought also it met Palm Beach County's Countywide Traffic Performance Standards which has a specific provision in that Ordinance which addressed the roadways which were over-capacity when the Comprehensive Plan was adopted. He felt this project as proposed, whether it be seven, ten, or twelve units meets the County's Traffic Performance Standards and added that even Mr. Schwartz agrees with that. He concluded that the project as proposed is consistent with the Town's Comprehensive Plan and is also consistent with the traffic standards of Palm Beach County.

Mr. Lawrence stated he had two other items to mention and that is in terms of the Preservation Plan, the statement was made that 7.30 (b) (10) states for a PUD-A, a complete description of the Historical and/or Architecturally significant structures and/or premises and provisions for their preservation, the portion of the property to be devoted to said preservation should be delineated. He invited the Mayor and Council's attention to their application which states that a complete description of the historically significant structure is enclosed and is a copy of the application for the Historical Building Nomination on file with the National Register and designates a portion of the property devoted to that landmark. He invited their attention to the Outline for Presentation Plan also in this application which is significantly different from the requirement of the Code in Section 7.31.10 and finally, two additional items came up earlier with regards to the water running uphill and getting rid of "90%" of the vegetation. He advised one of the cornerstones of the plans they have presented for the applicant was the preservation of the trees and the slides shown this morning showing the vegetation along the roadway specifically preserves the vegetation and they are noted on the plan and designated on the landscape plan. He stated the statement that they're totally destroying the property of vegetation is totally false. He recalled the Clarion Report suggested that 40 to 50 percent of the vegetation is preserved and he believed they were far beyond that. Mr. Lawrence recalled one of the methods they used to preserve the landscaping was to shoot up into the overhanging canopy to see what areas were open that could be used down below. He thought some of the exhibits submitted today by Mr. Chopin do not comply with any codes and it could not be done. He stated they're not going to go around and chop down all the trees as that was not their intention and their Plans specially show this is not happening. He believed their drawings do indicate on storm water retention that there are sufficient areas to percolate the storm waters on site.

Attorney Peter Broberg then addressed the Council, indicating he will summarize by addressing the questions raised by each speaker. He referred to James Murley, President of the organization One Thousand Friends of Florida who advocated the Town Council must comply with the Comprehensive Plan to which he agreed and submitted that he believed that he had complied.

Attorney Broberg noted that the Adley, Brisson & Engman report dated 11-22-91 stated they did comply so their own consultants were telling Council one thing and people in the audience are telling them something else, and he hoped they would believe their paid consultants.

Attorney Broberg recalled Mr. Chopin's statement that he had never stated that no development should go on Mar-a-Lago and if his memory serves him correctly, that is not the case. Mr. Broberg stated before they filed the first document with the Town, they went to the Preservation Foundation and had a conference with Polly Earl and Mr. Mashek and showed them their plans and asked what they thought of them and there was no response. Mr. Broberg advised he has made numerous calls to Mr. Chopin asking for a meeting and finally was able to set up an appointment and Mr. Broberg stated he

went to Mr. Chopin's office and showed him the seven lot plan, and asked what they could do to make this work and Mr. Chopin told him he would get back to him, but he never has.

Mr. Broberg recalled Mr. Chopin's comments about a statement made by Mr. Broberg about their being a special Ordinance for just Mar-a-Lago by itself. Mr. Broberg stated he did not state there should be but stated they should have. He was not saying a new Ordinance should be created and they should come back and apply under that particular Ordinance, but what he was saying that none of the Ordinances fit Mar-a-Lago and to try and put a square peg into a round hole, they are trying to be more restrictive than what is written in the Code and he was saying the applicant has the right to follow the Code and be granted his relief if he follows the Code and they can't change the rules. He stated at the break he looked at the models that were presented by Mr. Chopin and recalled at a previous meeting there was a model called Mar-a-Lago and now there is this papier mache model and he asked them if it was made to scale to which they answered negatively. He thought it was not representative of the subdivision and he viewed this as a trick to deceive the Council that something bigger could be put there than can actually be put on there. He advised they built the models to go with the contour of the land and the height of the building and Mr. Broberg did not know how they could do that as they didn't bring any architect here today to refute anything that was said by Mr. Lawrence.

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Mr. Broberg recalled the statements have been made today that they wanted to see what the buildings would look like on the property, and they didn't know how the Council could approve something which they haven't seen. Mr. Broberg reminded the Council that anything built there would have to be done by Code, and they have showed them two story zones and one story zones and footprints of where they would go. He recalled the Council was shown what trees and landscaping would be preserved and pictures of the canopies were shown which the Clarion Group asked them to look at and build beneath. He knows a Site Plan is required and Mr. Lawrence pointed out the application for the Site Plan shall include only the items which the Building Department deems applicable. Mr. Broberg recalled he went to the Building Department a number of times and asked them over and over if it was complete. He stated it was complete and if the Building Department did not ask what the buildings were going to look like, they didn't provide it. He agreed that not all of the departments have signed off on this and that is true as they have submitted an eight lot plan, which was signed off on. He submitted a ten lot plan which they did sign off on but the seven lot plan is thirty per cent less than the ten lot plan and he thought it would comply, but that was something that could be a condition of the tentative approval.

Mr. Broberg addressed the remarks of Mrs. Dickinson who read that a much higher standard for Mar-a-Lago should be used. He noted there is an Ordinance which says one thing and she is stating they should be doing something else because it is Mar-a-Lago? He stated they have to play by the rules across-the-board.

Mr. Broberg addressed the remarks of Attorney Kolins who states the applicant continues to refuse to do certain things, but Mr. Broberg did not agree as they have complied with every single request that has been made of them.

He did not believe that tentative approval was as final as the other attorneys have said it was, although it is true if they comply with everything that has been a condition of the tentative approval, they do not have to come back for the final approval, but there is nothing that says the Council cannot make them come back for another hearing as part of the tentative approval.

Mr. Broberg heard the criticism about filing things late, specifically the Preservation Plan which was submitted yesterday and pointed out there was a Traffic Report dated June of 1991 which he has never seen before today which was prepared for the Preservation Foundation. He also pointed out there was a letter written to Mr. Zimmerman confirming what was talked about from Mr. Chopin's office, which he never saw before today, so he thought they should note who is calling the kettle black?

Mr. Broberg commented that the PUB-4 application process is not something that is cast in stone and the Code states there should be flexibility in developing its most appropriate use, Section 7.10. He noted the document is designed to be changed and they have the basics to grant a tentative approval and if there is something they want, they should just tack it on, as they have never ducked anything that has been asked of them. He knows they have gone around and around and now they need to know that they can do something.

Mr. Broberg felt if they came in and have complied with the Ordinances, they need to know that they can do something and he hoped that something is to grant a seven lot tentative approval conditioned on, if they want - another public hearing - time to review the Preservation Plan - whatever other requirements Mr. Brisson and the Building Department wanted, and he believed everything has been given to them and he hoped they could hang their hat on it.

Attorney Kolins asked if he could ask a question of Mr. Pollack to which President Heeke agreed. Mr. Kolins asked when was the last time he had used the averaging method which Mr. Brisson had used in his report? Mr. Pollack responded he has not done it on anything other than this particular project, since this is the place where that rule applies.

Mr. Kolins asked about its' applicability to this project as he heard Mr. Pollack state he thought that in the first place when the Comprehensive Plan was being developed that that was the method that was used to which Mr. Pollack responded that all he can go on is what the Town's staff has stated.

Mr. Kolins referred to the Comprehensive Plan itself asking that at Table 2 - 3 of the Town of Palm Beach's Comprehensive Plan, it states the 1988 peak hourly volume for the three segments of road here which were supposedly averaged, State Road A-1-A north of Via Del Lago; State Road A-1-A south of Via Pelicano; and Ocean Boulevard north of El Vedado and he noted the three peak hour volumes for those three segments are: 1993 - 1235 - 1161. Mr. Pollack agreed. Mr. Kolins asked him to average those together and tell him the results. Mr. Pollack responded he doesn't know what that number averages out to be but the Town staff outlined what the numbers are that they used. Mr. Kolins stated he wished to go by the numbers which are already in the Plan and he believed they averaged out to twelve or thirteen hundred, to which Mr. Pollack responded that was about right. Mr. Kolins asked where in the Comprehensive Plan are these numbers shown? Mr. Pollack stated they are nowhere but what they have outlined is the basis of how they established a Level of Service "E" standard for this section of A-1-A.

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Mr. Kolins showed Mr. Pollack the Adley, Brisson, Engman report dated 6-3-91 entitled The Mansions at Mar-a-Lago Traffic Concurrence Assessment which states that in reviewing this information, the peak hour peak season count on Ocean Boulevard in the vicinity of the subject property in Feb. 1990 was 1698 vehicles and in 1991 it was 1740 vehicles. The upper threshold of Level of Service "E" for A-1-A is 1570 vehicles. The Town was concerned that traffic levels on A-1-A at this location exceeded the adopted level of service and any development creating additional traffic during the peak hour/peak season could not be approved since it would further degrade the roadway's level of service to which Mr. Pollack agreed that is what it said. Mr. Kolins felt the averaging was done in this report to get around that problem. Mr. Pollack responded he would never say that, since he wasn't there when the Town's Comprehensive Plan was developed, but clearly as he stated in his presentation, the Town had to take into account that this particular road segment was at 1593, which exceeded the 1570 standard and if they had not recognized that and set up some type of procedure to deal with that, they could not have adopted the Comprehensive Plan. Mr. Kolins stated he appreciated Mr. Pollack's honesty that he was not telling them that that was a method in developing the Comprehensive Plan but that was the method used for this report to get around this problem in 1991. Mr. Heeke interrupted stating he was not sure that that was Mr. Pollack's answer. Mrs. Wiener agreed. Mr. Heeke asked him to state the question simply so Mr. Pollack can respond. Mr. Kolins apologized stating he didn't think it was ridiculous. Mrs. Wiener stated she stated it was out of line. Mr. Kolins did not agree it was out of line but he wished to pursue this as he understood Mr. Pollack to state that he didn't know what the Town did in 1988 when it developed its Comprehensive Plan and he is making an assumption there. Mr. Pollack stated he did not know because he was not involved directly and he has been told by staff that is what they did in 1988. Mr. Kolins noted they have an averaged number in the Comprehensive Plan to which Mr. Pollack agreed. Mr. Kolins noted the standard for Level of Service "E" is 1570 trips. Mr. Pollack responded that is what the Town has said is the standard. Mr. Kolins noted the last time it was taken in 1991, it was 1740 trips to which Mr. Pollack agreed.

President Heeke announced they were now in Executive Session and asked for questions by the Council for anyone who has addressed the Council during this hearing. Mr. Gubelman asked if he could make one quick comment to which President Heeke responded he didn't mean to be rude but the rules were laid out for everyone to follow this morning and he would have to stick by them and now they are in Executive Session and no further comments will be received from the public.

Mrs. Douthit asked Mr. Moore if DOT had been consulted on this project and if an entrance/exit had been investigated on Southern Blvd. as opposed to Ocean Blvd. and she asked this question in order to spare the residents of Woodbridge Road, who would be severely impacted by this. Mr. Moore responded he was not aware of a possible entrance off of Southern Blvd., other than the Cerf Ross plan which indicated an entrance west of the existing traffic circle and involved a modification of the traffic circle and that was approved by DOT, but nothing has been approved for this particular application.

Mrs. Douthit referred to the lot on the corner of Southern Blvd. and wondered how they could get concrete mixers and other construction vehicles in there without destroying the trees and landscaping. Mr. Lawrence responded if they would look at the approach drive that goes there, the wall is very high there but the grade at this site is much higher than the street, so the wall is three feet high but at this level it may be ten or twelve feet high from the street itself, so they are above that and looking across the Beach Club structure. Mrs. Douthit referred to the lot by the Lake. Mr. Lawrence stated there is a four and five contour working through there so it would be at elevation four and elevation five. Mrs. Douthit stated another two feet of fill would have to go in. Mr. Lawrence responded the floor elevation would have to be two feet above that. Mrs. Douthit referred to the fact the road is at a twelve foot elevation and with drainage and plumbing and electric installed, suppose that something unforeseen happens and it would just sit there, all torn up and a total mess and wondered if there should be some sort of bond posted? Mr. Moore responded in the Subdivision process, there is a provision which provides for bonding and under the PUD Ordinance, although it is not written directly in the Ordinance, it may be applied in his opinion and he would suggest the applicant forward a bond in the amount of 13% of the estimated cost of improvements, which would have to be determined by our engineer and in the event there was a default, the Town would either complete the work or restore the property.

Mr. Weinberg asked if Mr. Moore considered the seven unit application complete and comprehensive? Mr. Moore responded the application for ten lots was reviewed by Mr. Zimmerman for all aspects of the issues, however, the seven units is a modification of the ten and they have not reviewed all aspects of what was submitted as far as the Preservation Plan is concerned. He stated it was their position that there was enough information submitted by the applicant to move forward with the Zoning Commission and so his answer would be for the ten units, yes they have reviewed it but for the seven units, they have not reviewed enough of it to go into detail other than the fact that it needs to be sent to Clarion.

Mr. Weinberg asked with the current knowledge Mr. Moore had on the seven unit plan, would it be his opinion that it was consistent with the Comprehensive Plan? Mr. Moore responded affirmatively. Mr. Weinberg asked if the seven unit plan complied with the Town Ordinances? Mr. Moore responded it complies with the PUD application which is a give and take but they have not established any building sites with the applicant and the Council has not gone that far into the process to negotiate the actual placement of potential structures on the property so it complies with the PUD aspect, which is the negotiation aspect.

Mr. Weinberg noted they haven't got all of the information the staff needs as yet, but in order to get it so that the Council may have input from staff, how long would it take to get the full picture of the seven unit plan? Mr. Moore responded it would take about three or four weeks.

President Heeke directed a question to Mr. Brisson indicating the last subject of discussion was on the traffic impact and stated his concern about using the area south of the traffic circle for part of the monitoring because clearly when traffic going south on South Ocean Blvd. goes to the traffic circle, not all of the traffic would go south and some will go west across Southern Blvd. and it may not be a true measure of what flows in front of Mar-a-Lago. He stated the 1991 figures give him some concern and he thought perhaps an entrance on the south side of Mar-a-Lago on the Southern Boulevard side maybe even further to the west may be a way to get them out of the traffic dilemma.

Mr. Brisson responded that the opponents are stating they are already over the traffic concurrency level, which he disagrees with, then any entranceway onto State Road 80 would also distribute at least one trip onto the South Ocean Blvd. portion and they would have to declare that

to not be concurrent. He explained the entranceway won't change the ultimate decision although it may lessen it, and instead of nine or ten trips, there may be one or two or three.

Mr. Heeke stated his point is that there are two proposed lots under the seven unit plan on the north side of the property and the balance is on the south side and perhaps they could be served by the entrance on Southern.

Mr. Brisson recalled the Preservation Foundation was saying that even one trip would be beyond what is allowed for the Town to issue a development order. He stated they are saying if even one trip is generated onto that roadway, it will be an over-capacity by the Town's standards, however he does not agree and he would like to tell them why. He is very sure of this and recalled that almost everyone here was on the Council in 1988 when he worked on the Traffic Element of the Plan and there was a meeting here in these Chambers to discuss that element of the Plan. He recalled Mr. Moore was very emphatic about not wanting the traffic element to stop the Town from allowing vacant single family lots in this particular area to be developed and asked him specifically to make sure that the Plan would not do this. He recalled making the statement that the Comprehensive Plan would not prevent the normal slight amount of residential development that would be expected to occur in the Town. He recalled saying that in one of the public hearings and it was just a matter of fact, because it was a policy and he believed it was the desire of the Town to allow the normally expected development to occur in this Town. He recalled Mr. Frank and he counted up the number of single family homes generally in the vicinity and there were 21, give or take. He recalled they were aware that at one time there was an application before the Council to subdivide the property for eight years some years ago and when they were doing the Comprehensive Plan they ensured that they could allow for normal development in this area. Mr. Brisson stated he had written down there would be probably be about 200 trips available over the planning period which is usually figures as a ten year period, and it was mentioned in the Comprehensive Plan they expected Level of Service "E" would allow for the continued limited residential development in the Town. He recalled it was pointed out that the traffic count at Via Del Lago and South Ocean Blvd. was 1998 at that time and Mr. Dudack who was the engineer at that time identified that they were at "E" when in reality, they were at 1.01 which would have been "F". He recalled discussing this with the engineer and with regards to that one location, it was simply a statement of what the traffic is at that location. Mr. Dudack determined at that time and told him that he would prefer to list this as "E" because it was so close and the measurements are really not that exact and "E" would be more appropriate. He had talked with other traffic engineers and in some cases they would list it as an "E/F", but he didn't feel it made any difference to allow the Level of Service "E" as this would allow the continued limited residential development. He recalled there were three points where the traffic was taken, one at Via Pelicano, one at Via Del Lago and one further north. He stated Department of Transportation recognizes that you can set a level of service on a system or a long strip or stretch of roadway. He knows traffic engineers do not prefer to pick a strip of road the way one is set up with the two intersecting State Road 80 where it changes to South County Road and they wouldn't pick that by preference but would prefer to have it a segment which is not interfered with in this manner, however, this is the Town's policy and what he proposed and he never did mention averaging as that is not his technique. He advised it is important to realize that when he reached this opinion in his June 3 memo, he didn't care whether this development was concurrent or not, he was simply the consultant asked to let the Council know in his best judgment, as he has written the Plan and worked with the Town on it, whether or not that particular project would meet the concurrency requirements of the Town.

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Mr. Brisson commented on Attorney Kolins reciting the points to Mr. Pollack which Mr. Brisson made in his memorandum to the Town in May of 1991 that this project would meet the Town's concurrency requirements. Mr. Brisson advised after the Building Department had received this memorandum, the staff did ask him to make sure that it was in good order as the staff was concerned about the traffic count. Mr. Brisson recalled he restated this matter quite thoroughly and reminded the Mayor and Council that the Town of Palm Beach was one of the first coastal communities to prepare a Comprehensive Plan and before the Plan was prepared, there was no concurrency requirements. He stated that in retrospect, he wished he would have said that concurrency would be measured by the average of these three counts, but he didn't and that isn't in the Comprehensive Plan. He stated that when and without interpretation, they could not have allowed any development, then this entire situation could not have occurred, without recognizing another method had to be used. He advised he had used averaging in his initial computations and in speaking with Mr. Frank and with Mr. Moore, he informed them that with about 200 trips in that general vicinity and only twenty-one single family homes in that area, plus some redevelopment, Mar-a-Lago and perhaps a couple of others, he could see no way that this Level of Service "E" will be violated within the planning period. He noted now as it turns out, it is a little closer than what he had expected and what has happened is the traffic along this section was flat as there really wasn't any growth, at least he thought there wasn't any growth but as it turned out, he finds it is about two per cent a year, when the limits are fairly low and the growth has been higher than that, so it got them a little closer but even now, he still thinks that there is room with the averaging, which is the only way that he believed this section should be looked at. He stated with the averaging, there is still room for modest growth which was anticipated for this area when he did the Comprehensive Plan. He stated he has no doubt about it. He stated this is exactly the way it was done and while any given traffic engineer may prefer to have done it their way, the Town does have the right to choose its own method to achieve the objectives and he believed the traffic engineers would not see this method chosen by the Town was not wrong, it just may not be as preferred as some others might like, but the Town Council does have the right to choose something that works for this community.

Mr. Weinberg asked how many months a year did he hit the maximum number of trips? Mr. Brisson responded it was supposed to be the highest hour of the peak season. He stated he does suspect that actually the peak hour in the peak season occurs more than once, but he added about nine trips and he believed Mr. Schwartz used a little higher traffic generation, as he was up to twelve or fifteen trips. He stated when the level is around 1 trip and they add nine, or twelve or thirteen, it is a very minimal number. Mr. Weinberg asked if a trip was a single trip or a round trip to which Mr. Brisson responded he believed each trip in and out was counted as one.

Mr. Weinberg asked if it would be possible to put a one way road there and they would only exit onto Southern Boulevard. Mr. Brisson didn't think that was necessary if they accepted his opinion. He noted if they didn't accept his opinion, it wouldn't make any difference. He stated if the other side is right, they wouldn't be able to build anything there, but he didn't agree with that theory. He knows how the Comprehensive Plan was set up and he knows how it was computed and it was not computed to prepare this report, it was done first for the Comprehensive Plan. He asked them to bear in mind, he wasn't hired by the Town to tell them one way or other other, he

simply wanted to be able to testify for the Town, whichever way it went, and to be able to back up that testimony. He stated then they can make the decision as to whether it was concurrent or not concurrent, as that doesn't matter to him but was does matter is that he can testify with honesty, with support, with data and information and knowledge that what he has said is correct.

Mrs. Wiener asked Mr. Randolph whether the seven unit plan was properly before the Council today? Mr. Randolph responded he believed that the PUD process is a negotiating process and any Plan that comes out of that process that the Council chooses to give consideration to, is appropriate. He believed they came in with an application for ten lots and then showed alternative proposals and that is within the Council's discretion to give consideration to any of those other plans.

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Mrs. Wiener commented they've been talking about this for a considerable period of time and she finds herself with the problem she had originally and that was with the traffic and the Comprehensive Plan and asked Mr. Moore quite some time ago if the traffic component was in order and was assured by Mr. Moore that it was. She stated after hearing what Mr. Brisson had to say about this today it is not clear in her mind and asked where are these other facts and figures coming from - are they in fact the correct and true ones or are we jiggling and saying it will be good for the community, therefore we are going to permit this extra traffic or, is it a fact as stated by Mr. Brisson that this was planned for and that we are not in violation or circumventing the Comprehensive Plan?

Mr. Brisson responded that the Town Council at the time the Comprehensive Plan was being prepared, or anytime, there was never any rule that says that the Level of Service on the roadway is determined by that one point on the road. He asked them to bear in mind the numbers that the Preservation Foundation and Mr. Schwartz and the others have proposed today are correct numbers, but they're trying to say that they had determined that the Level of Service must be identified at one traffic point location on that roadway and because that one spot where a traffic count is taken exceeds the Level of Service, that the roadway is above the Level of Service and not concurrent. He is saying that one point is not appropriate. He is saying that was not envisioned in the beginning that a given point on that roadway would determine the fact that no development could occur elsewhere anywhere that would generate a trip on that road.

Mrs. Wiener addressed her next question to Mr. Chopin recalling he has stated a number of times that it has never been the desire of the Preservation Foundation to have no development at Mar-a-Lago. She stated if the Council finds this Plan for Mar-a-Lago is in contravention with its own Comprehensive Plan, she would be opposed to it and asked Mr. Chopin why they would consider any development on that piece of property if that is the case? Mr. Chopin responded asking to make one point before he answered the question and that is when the Comprehensive Plan's Traffic Element was being prepared, they hit an average and the average wasn't 1570, but 1300, but 1570 was put in and he thought the Town should be worried about that. He stated what the Preservation Foundation has said from day one is that they believe it's incumbent on an applicant to present a Plan and for that Plan to be reviewed on its own terms and that is what he told Mr. Broberg when he came to see him, that if Broberg would tell him what he wanted to do, he'd sit down and cooperate with him and he's waiting for Mr. Broberg to get back to him. He felt what he had been saying is consistent with the point that Mrs. Wiener raised, and that is the Preservation Foundation does not have an inherent bias against development, but what they want to do is look at the Plan. He pointed out that until the Zoning Commission met to consider the PUD, there were only landmark issues. He indicated traffic was not an issue at that time but he wished to advise the Council that unless they amended their Comprehensive Land Use Plan, they couldn't add a single unit of traffic to that road and if they granted this petition, they will be in violation of their Comprehensive Land Use Plan with all of the consequences.

Mrs. Wiener stated her question to Mr. Chopin was why Mr. Chopin as attorney for the Preservation Foundation got up this morning and stated they were not against some form of development there, when in fact, they believe there is a problem with the traffic component in the Comprehensive Plan. Mr. Chopin stated perhaps he has not been able to make himself clear as the fact is there is a procedure for amending the Comprehensive Plan which takes about six months, so theoretically, there's nothing to prohibit the Council from going through the proper legal procedures to amend the Plan so as to allow for the development of Mar-a-Lago, however, they have been focusing on Landmarks and when the preservation issues were relevant, they were focusing on landmark issues. He indicated when they went to Zoning, they hired experts to evaluate the traffic question and he has no doubt whatsoever that when this goes to court, that somebody will be sorry they said they had absolutely no doubt they were right about what they said. He believed they could not allow the development of Mar-a-Lago under the Land Use Plan as it exists today but this shouldn't stop them from changing the Land Use Plan and then consider the application for development. He stated they have been extremely sensitive to the suggestion that they were opposed to everything as all they have been trying to do is deal with the issues as they come up.

Mrs. Wiener asked Mr. Chopin if his organization felt it would be in the best interest of the Town to amend the traffic component of the Comprehensive Plan in order to have development on Mar-a-Lago? Mr. Chopin responded it would be in the best interest of the Town, if they wanted to have development of Mar-a-Lago to amend the Plan as when they begin to deviate from their own rules to fit a situation they otherwise believe is appropriate, then he thought they were creating havoc with the rules and regulations that they have created. He believed they could agree or disagree about what they have been told about the application. He stated he has worked very hard on it personally and in spite of that work, he doesn't know enough about the Plan to tell them if it is a good Plan. He stated the Town Council is the one that gets to make the judgment because they sit on the Council and if they judge that it ought to be granted, then there's a right way to do it and that is to amend the rules so as to make it permissible, not to bend or break the rules.

Mrs. Wiener asked Mr. Brisson to comment on this matter. Mr. Brisson stated the only reason that the Council would want to amend the Comprehensive Plan is to simply put in a point of clarification to make it more clear as to what was intended, but what he has stated before was the intent at the time the Comprehensive Plan was written and adopted, and in retrospect he wished he had mentioned there was averaging, but you don't always catch every little thing, however, he would have made it more clearer.

Mr. Haeke asked Mr. Chopin if there was an entrance on the south side of Mar-a-Lago that was closer to Southern Boulevard Bridge, perhaps with a turning lane, would there still be a problem with the traffic element? Mr. Chopin responded that if this is granted, the Council better hope that Mr. Brisson is absolutely right, because they were going to lose in court. He commented that

any development of Mar-a-Lago irrespective of the entrance is going to contravene the Land Use Plan and if it does, they would lose in court. He believed there was an easier way to deal with this and that would be to amend the Comprehensive Land Use Plan.

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Mayor Marix indicated she would like to ask some questions of Mr. Chopin and although the traffic matter is very important, she wanted answers on whether or not the Plan does meet the regulations for the Site Plan Review as both Mr. Lawrence and Mr. Broberg stated some of the statements made by Mr. Chopin were a little bit incorrect. Mr. Chopin stated he would like to make another comment and then he would get his notes and respond and that comment is Mr. Lawrence was very specific but very soft spoken when he told the Council that a lot of the materials were submitted in late December and he wished to point out that was after the Zoning Commission had met, and secondly, Mr. Zimmerman met with Mr. Corley of his office and did not disagree with Mr. Corley on the fact there were some items which were not supplied.

Mayor Marix asked Mr. Lawrence for more details on the off-street parking. Mr. Lawrence responded they do not have parking lots provided in this Plan for guest parking, and he didn't believe that was the case anywhere in Town. He did provide a designated area for additional parking to be shared by the neighborhood immediately west of the service wing of Mar-a-Lago.

Mayor Marix stated she wasn't referring to parking lots but what she was saying is most areas have many more or wider streets on which people can park with permission but this development has only one narrow road and perhaps they should be a little wider with no sidewalks as they shouldn't be parking on sidewalks. Mr. Lawrence responded he believed there could be areas designated and one of the reasons the street has been made narrow was to preserve the vegetation, but there can be areas that can be designated for off-street parking, although they hadn't contemplated parking lots within the area. Mayor Marix responded no-one asked them to do that. She asked about the vegetation realizing they were going to try to make a great deal of effort to preserve it, but she knows what happens when people build and it might end up by taking a lot of the lovely greenery.

Mr. Lawrence advised one of the components of the Preservation Plan is a Construction Plan and it provides that for the issues that were being discussed and each individual house, as it is presented, will do a construction plan and this plan provides for vegetation to be saved and addresses the issues the Mayor is concerned about. Mayor Marix stated her concern about eight developments going on there at the same time which is tough on vegetation. Mr. Lawrence responded that it was probably highly unlikely that all eight or seven would be built at once, but that issue has been addressed with a construction plan which was discussed with the consultants as to how they would protect the vegetation. He wanted to point out that there is always a possibility that a crane could fall over and hit a tree, but the issue that the Mayor is discussing has been addressed to what they consider the maximum extent.

Mrs. Wiener stated she had a concern with the lack of distance between the project itself and the next street and even though they have moved the roadway, she is concerned about the noise and the fumes and wondered if there was any other way they could handle this matter? Mr. Lawrence responded there are many factors that have to be taken into account and the roadway has probably been moved a hundred feet away from the northern property line. Mrs. Wiener asked how many houses are there immediately north in that area where the road hasn't been moved? Mr. Lawrence responded there were two, however they will be putting in a solid wall and then place planting in front of that to soften it.

A short break was taken.

Meeting reconvened.

Mr. Heeke asked Mr. Lawrence about the entrance on Southern Boulevard stating that it seemed to him that if that were to take place, then they would not need a roadway going completely north and south across the Mar-a-Lago property. He stated another point he would like to make is the effect of the building in Zone 4, which is at the corner as when one drives into the driveway there, out of the corner of your eye, they would be seeing this building in Zone 8, and he was troubled about that when he thought about the significance of the Mar-a-Lago mansion itself and asked Mr. Lawrence to consider this as a suggestion for him to think about. Mr. Lawrence thanked him for the comment stating he would address it and see where they could go from there.

Mr. Chopin addressed the Council on the questions raised by the Mayor and put up an exhibit asking to be able to talk about the drainage, recalling Mr. Lawrence's comment that he didn't furnish drainage calculations because he wasn't supposed to as the PUD doesn't require it. He pointed out the fact that what needed to be submitted with the PUD application was a Site Plan Review and he read from the Ordinance, Section 9.61 (h) which requires a storm drainage and sanitary sewerage plan to be submitted. He recalled on the Subdivision Plan this information was submitted but when the revised plan for seven units and the ten units were submitted, he didn't deal with it.

Mr. Chopin recalled there were statements made about the typical floor plan for the houses, and the statement was made that he didn't have to furnish it as the Building Department didn't want it. Mr. Chopin believed the Building Department didn't have any choice as the Code states it should be submitted and he read from Section 9.61 (i) which states architectural elevations for buildings in the development, exact number of dwelling units, size and types together with typical floor plan for each type. He recalled Mr. Lawrence stating he didn't have to submit it but the Ordinance states it should be submitted.

Mr. Chopin addressed density. He stated no application has been filed on the seven unit plan and he and Mr. Randolph have talked about this as Mr. Randolph feels it is an extension of the application with the seven unit plan but the fact of the matter is the seven units were never considered by the Zoning Commission and it should have been. He stated what has been provided are building zones and he laid down a challenge to Mr. Lawrence to show how they calculated any particular aspect of the density of those building zones. He stated it's not just how big those zones are, as we can all calculate that, but the Code requires the density of each element of the development. He believed this meant what would the size of the house be, what would the density would be, and swimming pools and tennis courts and the garage and other outbuildings, all of which affects the ability of a property to drain properly, and none of this has been done and the Council doesn't know anything at all about these matters. He felt it wasn't all Mr. Lawrence's fault, as it relates to the ten units but the fact is that the reality that the Planned Unit Development does anticipate that there will be variations in zoning and that fact is acknowledged, and all of these

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things have been listed for the ten unit plan. He pointed out the Council doesn't have enough of that information with regards to the seven unit plan, such as, what's the side setback of any lot, noting Mr. Lawrence didn't tell them; or what is the front setback, or the building plane, or the lot density or lot coverage, or building coverage - all of this information is not there, he just didn't do it. He stated earlier that they didn't furnish an impact study with respect to the project to the Zoning Commission, as Mr. Lawrence stated he filed it December after the Zoning Hearings, although the application itself was filed in September. He pointed out the Preservation Plan was just filed yesterday, which is three and one half months after the Zoning Commission heard the application and he assured the Council that everything he has said is missing is missing.

Attorney Louis Mrachek addressed the Council noting Mr. Chopin has explained to them there are a long list of documents which he says are missing, and goes on to say they are required to be there as part of the application. He recalled Mr. Chopin stating he sent an associate over to Mr. Zimmerman in December and then they wrote a letter to say a list of documents are not in the files, noting they don't say that they should be part of the application, the letter simply says the documents aren't in the files and that's a fact and the reason they are not in the files is because they are not a part of the application. He pointed out the Code states that the application shall include an enumeration of items "deemed to be applicable by the Building Official" and he didn't think that was complicated. He reported that Mr. Lawrence went to the Building Department and asked them what they wanted and the Building Department told him and he submits it. He knows a lot of the things enumerated are not there, but Mr. Chopin is dead solid one hundred per cent wrong about whether or not they are required, just as he is wrong in his ongoing debate with Mr. Brisson. Mr. Mrachek stated the application is not incomplete, it is complete and is there to be acted upon.

Mr. Heeke stated he would like to explore further with Mr. Randolph the question raised by Mrs. Wiener on compliance with Ordinances. Mr. Randolph recalled the question was raised by Mr. Weinberg as to whether or not the Zoning Ordinance had been complied with in regard to this application and for the record, he wanted to make sure that Mr. Moore was not intending to say that he had made the decision as the Building Official that each and all of the criteria set forth in the Ordinance have been met to the satisfaction of the Town. Mr. Moore responded the question as he understood it was, did they submit the information or the criteria that was required. Mr. Randolph asked if he meant the question was "Was the application in accordance with the Ordinance" to which Mr. Moore responded affirmatively. Mr. Randolph stated he wished to clarify the record in that regard. He stated he also would like to make one other point and that the Building Department makes the decision that everything is in as far as they are concerned in order to process an application doesn't mean that the Council cannot request further information which they deem relevant to the application. He stated they are now hearing what is before them and it is up to the Council to make a determination as to whether they have enough information or whether they want more and that's not a final decision of the Building Department to make as to whether or not everything is before that Council that they need in order to make an intelligent decision.

Mr. Heeke asked if Mr. Randolph was saying is that this is an ongoing process where the Council can continue to discover that they needed additional information and some of it may not be as significant as others but the Council could inquire for it while this process is still ongoing to which Mr. Randolph agreed.

Mrs. Wiener noted the Preservation Plan has been submitted as of yesterday and the various Town Departments have not had an opportunity to look at it and review it thoroughly. She felt without the Landmarks Commission and the Zoning Commission, the Council wouldn't be as far ahead and be seeing as good a Plan as they are now seeing at this point, and she thought this needed to be gone through very carefully.

Mr. Weinberg recalled Mr. Moore stated it would take three or four weeks to have a more complete study of this application. Mr. Moore stated actually it would be two to three weeks. Mr. Heeke asked if Mr. Moore contemplated sending the Preservation Plan to Clarion to which Mr. Moore responded affirmatively.

Mayor Marix asked who would be helping with the traffic standards and what would they be doing about it? Mr. Heeke responded he wished he had an answer as he knew it was a lot of effort to amend one's Comprehensive Plan. Mayor Marix agreed noting there would have to be other things amended also. Mayor Marix asked Attorney Randolph if he had any suggestions as for years the Town has paid experts to do our zoning work and the question is can their word now be relied upon legally and if the answer is yes, the problem is solved but if the answer is no, then we're in deep trouble in a lot of matters. Mr. Randolph responded the reason experts are hired is to look into a situation and give advice, but that doesn't necessarily mean the Council has to agree with the experts. He stated that is the purpose of these public hearings, to allow the Council to hear from other experts other than their own. He believed they paid their experts in order to be able to rely upon them, but he didn't think the question is as easy as that. He thought the Council has to analyze everything they have heard in regard to the Comprehensive Plan, and perhaps he could offer some advice in regard to it as this is reviewed, but ultimately, the decision will have to be made and they should look on how a Court would look at this and he didn't think there was a clear-cut answer to the problem. He stated they would have to weigh it and then make an ultimate determination as to whether or not this is in contravention of the Comprehensive Plan or if it is not. He stated he could not tell them that today and he didn't think there was anyone here who could tell them whether it is or it is not and they needed to examine that and ultimately make their decision. He thought they had heard almost everything they are going to be able to hear in that regard at this point and he didn't know if they were planning to take final action on this today but he wouldn't think so, as that is not what is contemplated under Article VII of the Ordinance, but he thought it was one of the things they had to further examine as they looked at this matter.

Mr. Heeke asked Mr. Randolph to give them the requirements as set out in Article VII and what actions the Council would ultimately have to take? Mr. Randolph advised Planned Unit Developments, when they are a Special Exception as this one is shall be subject to approval of the Town Council after a review and report by the Zoning Commission and after a Public Hearing of the Town Council. He recalled this has had review by the Zoning Commission and there need not be a subsequent review in his opinion as negotiations subsequent to the Zoning Commission are within the Council's jurisdiction and their prerogative. He stated on the same hand, if the Council feels that on the basis of new information that has been supplied that they need the review and advice of the Zoning Commission, they could refer it back to the Zoning Commission, however, he would recommend that be done immediately as the public hearings must be concluded by the end of April. He stated he didn't

have an opinion as to which of these suggestions are best, and reiterated they need not send it back to the Zoning Commission in his opinion, but they can if the Council felt that more advice was necessary in regards to information that was presented after it went to them.

Mr. Randolph advised that after the public hearings are concluded the Town Council within sixty days after the conclusion of the Public Hearing by written Resolution must either:

1. Grant tentative approval of the plan as submitted.
2. Grant tentative approval subject to specified conditions not included in the Plan as submitted.
3. Deny tentative approval to the Plan.

He advised failure of the Town Council to act within the required time would be a grant of the tentative approval of the Plan as submitted.

Mr. Randolph advised the findings and conclusions must be done on seven factors and they are:

1. In what respects the Plan is or not consistent with the Purpose of a Planned Unit Development.
2. The extent to which the Plan departs from the Zoning and Sub-division regulations, otherwise applicable to the property.
3. The purpose, location, and amount of the common open space in the PUD, and the reliability of the proposals for maintenance and conservation of common open space.
4. The physical design of the Plan and the manner in which said design does or does not make adequate provision for public services, provide adequate control over the vehicular traffic; and further the amenities of light, air, recreation and visual enjoyment.
5. The relationship beneficial or adverse to the proposed PUD to the neighborhood in which it is proposed to be established.
6. In the case of a plan which proposes development over a period of years, the sufficiency in the terms and conditions intended to protect the interest of the public and of the residents and owners of the Planned Unit Development and the integrity of the Plan.
7. The historical or architectural significance of any structure and/or premises and the adequacy of provisions for its preservation.

Mr. Heeke asked Mr. Lawrence if there was going to be a Homeowner's Association and if so, would it be solely responsible for maintenance in order to hold down the number of gardeners and service personnel coming onto the property? He asked if the houses would be developed by a developer or will the purchaser of a lot be building their own, pursuant to an architectural scheme? He also wondered how long it would take to develop the project and would there be some type of protection that Mrs. Douthitt talked about?

Mrs. Douthitt asked if the roadway was going to be public or private to which Mr. Lawrence responded private. Mayor Marix asked who would police the road? Mrs. Douthitt asked how would the pick-up of refuse and garbage be handled?

Mr. Lawrence stated some of the issues brought up they have already dealt with and stated if the Council had any other questions, they were more than willing to address them as they would be more than willing to do whatever they can to accommodate.

Mayor Marix wondered why the seven points brought out by Mr. Randolph were not asked sooner as they are points that have to be considered. Mr. Heeke stated they weren't asked. Mayor Marix responded they are in the Code Book. Mayor Marix stated it seemed to her that all of these conditions and things they have to know about and she wondered why the answers to them were not given to them today as the sooner the matter is settled, the better, as it does seem a shame that those seven items were not answered today. Mr. Lawrence responded the substance of those items, the material they have already submitted brings you to those conclusions. He thought what those conclusions are - not some words that are put into their mouths, but rather they are the result of the work product that has been provided. He reported that a Homeowners Association will be established. Mr. Randolph concurred that the ultimate authority in making the conclusions and the findings in regard to those items will be made by the Council and the applicant will provide you with what he feels you need or anything else they ask for in order that the Council may get to that point.

Mayor Marix thought perhaps they should have started the meeting with the reading of these seven points.

Mr. Ilyinsky asked why the seven unit plan was never shown to the Zoning Commission. Mr. Lawrence responded the Plan was filed with the Town. Mr. Ilyinsky asked why it wasn't filed for the Zoning Commission. Attorney Peter Broberg stated when they filed the PUD application in September, which had to be reviewed by the Zoning Commission, the seven unit lot plan did not exist as it came about in November when Clarion came down and met with them and as soon as the notes were extrapolated and information crunched, the seven unit plan was created and submitted to the Town and was in the Zoning Commission's packet. He stated they were presenting the ten lot plan in accordance with their application and at the give and take which they thought was going to take place, they were going to present the seven unit plan but it was found out the Zoning Commission had their own agenda and didn't want to talk about it. He stated they didn't want to talk about the merits of the old plan, they wanted to talk about nothing happening to Mar-a-Lago and suggested it be sold and if we couldn't sell it, then we come back and see them and that's why they are here today.

Mr. Ilyinsky asked if he was tossed out along with the seven building plan to which Mr. Broberg responded affirmatively. Mr. Heeke stated he was not sure he heard this same story from other people noting the plan was submitted on November 26th to which Mr. Broberg responded it was

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the 25th. Mr. Heeke noted this was Thanksgiving weekend and the Zoning Commission met on Dec. 3rd. Mr. Heeke stated he was even a bit confused today whether they were talking about a ten unit plan or a seven unit plan. Mr. Broberg commented the whole PUD process is a give and take and he didn't think anyone had presented a PUD-4 application before. He stated they were showing what can happen on the property and it could be something in between or even less, but they are showing the parameters and they submitted the seven lot plan as soon as it was created and he didn't believe they could give them anything that they didn't have. Mr. Heeke noted the other process still available is the Landmarks Commission and they wouldn't have to make any reapplication there or pay additional fees.

Mrs. Wiener recalled the Zoning Commission and its Chairman worked hard on this matter and the buck stops here and the decisions have to be made here and sending it back and forth is not really the way to handle this, stating she thought the Council has to deal with this one way or the other. She stated she was sure there other things that they needed, things that the staff has to look at and questions that needed to be answered, and she didn't see any reasons to start sending this around again.

Mr. Heeke agreed it should not be sent back to the Zoning Commission, however Landmarks is still available to the applicant if they want to pursue that course. He didn't think there should be any additional costs or fees but he knew the Preservation Plan had to be studied further and there were a lot of things said today that might give the applicant some ideas for refining and providing more explicit information upon which a decision can be reached and he believed it had to be done before the end of April. Mr. Randolph suggested the time be set for the public hearing which would allow them to have another meeting before the end of April in the event they have a full agenda with various reports to analyze. He stated it makes a difference if they are going to send it back to the Zoning Commission as they have to meet advertising requirements but it would be his suggestion to look at his sometime in mid-April.

After discussion, it was decided to hold the next public hearing on April 16, 1992.

Mr. Heeke stated he personally would like to see more details on what type of housing would be proposed on the various lots and what the setbacks would be and he has already put forth his thought about not having a roadway traverse north and south.

Mrs. Douthit suggested they needed to look at the Comprehensive Plan Traffic Element problem and also she would like to see a more southerly exit, perhaps on Southern Boulevard.

Mayor Marix suggested the applicant address two or three other things along the lines she was talking about, such as parking, and she didn't mean parking lots. She stated she meant the kind of normal concerns one has with the kind of cars that one has, whether it be for service or help or visitors or guests and parties, so there is no problem with that. She also wanted to know how they proposed to handle the devastation that happens when there is construction. She was also concerned about the comments made by Mr. Chopin on the drainage and the lakes, although lakes are very nice, they do kill vegetation. She would like to see how this program could proceed in an orderly fashion that will keep the main house beautiful at all times, otherwise, no-one would want to live there and keep it up.

Mrs. Douthit stated her concern over public safety as with slightly narrower roads and the cul de sacs, she would like to have assurances from the Fire Department that emergency vehicles can turn around safely.

Mr. Ilyinsky believed more detailed drawings needed to be provided on the proposed houses.

Mrs. Wiener hoped they did not intend to build seven spec houses all at one time and imagined people would be building individual homes, which eventually would be landmarked, therefore, she would like to see the size of the lots and she visualized that each person who buys a lot there will be coming to Landmarks for their guidance and she would like to have a very clear-cut definition of each one of the lots, with perhaps some kind of decision-making process as to what would be one story and two stories. She knew in other subdivisions there are no houses there because whomever buys the lot needs to come either to ARCOM or Landmarks and then they come to an agreement as to what the house will look like, but she would definitely like to see the lots clearly defined.

Mr. Heeke stated he also would like to see the limitations that would be proposed by the Homeowner's Association as to the maximum size home which would be allowed to be built on the lots or zones, with height elevations. He stated he didn't think anything should be in the front of the mansion and if that means giving up a lot, he felt very strongly that there is a grandeur about Mar-a-Lago and a magnificence about it that would be immediately lost if something tended to compete with it when you come in the main entrance. Mrs. Wiener agreed stating this lot looks like it would only accommodate a very small house. Mr. Moore pointed out the elevation there is 18' Mrs. Wiener reiterated she didn't think it was realistic to spend the money to build a house there as something is out of whack there as the lot is approximately only 7800 feet. Mr. Lawrence advised it was 7800 square feet. Mrs. Wiener didn't believe anyone would be spending that kind of money to build a two thousand square foot home. Mr. Lawrence stated he didn't anticipate it to be at 25%.

Mrs. Douthit stated she was equally concerned over the southwesterly house and the height of same, as all of the lots would have to come up a couple of feet and then to put a house on top of a high elevation, she didn't think it would do well there.

Mayor Marix asked Mr. Randolph if the both the mansion and the property at Mar-a-Lago were landmarked to which Mr. Randolph responded the entire property is landmarked. Mayor Marix asked if it didn't have to go back to Landmarks as if they decided they could have a lot which is only 7000 square feet, would that portion have to be de-landmarked so the Council can make the decision. Mr. Randolph advised it doesn't have to go back to Landmarks for the Council to make a decision as it is a Planned Unit Development, however, it will ultimately have to go back to them for a Certificate of Appropriateness, after the Council makes its decision. Mayor Marix asked what would happen if Landmarks didn't think it was appropriate? Mr. Randolph stated it would be appealed to the Council and ultimately they would make the decision.

Mrs. Wiener moved that the Council meet again on the 16th of April, 1992 at 9:30 AM to continue this Public Hearing. Seconded by Mr. Ilyinsky. On roll call, the motion carried unanimously.

V. ANY OTHER MATTERS. None.

VI. ADJOURNMENT. There being no further business, the meeting was adjourned at 4:45 PM.

Adjournment

Grace T. Peters
Town Clerk