

TOWN COUNCIL MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD

ON JUNE 1, 1993

I. CALL TO ORDER AND ROLL CALL: President Weinberg called a Special Town Council meeting to order on June 1, 1993 in the Town Hall Council Chambers at 10:00 AM. He explained this is a special hearing on the Special Exception Application No. 11-93 on Mar-a-Lago. On roll call, the following Elected Officials were found to be in attendance: Mayor Ilyinsky, President Weinberg, President Pro Tem Wiener, Councilwomen Douthit, Smith and Royal. Also in attendance were Town Manager Doney, Mr. Randolph, Mr. Moore, Mr. Zimmerman, Mr. Dusey, Mr. Frank, Chief Terlizzese, Chief Elmore, Mr. Wandell and Mrs. Peters. Consultants attending were A. Jeffrey Weidner from Frederic R. Harris, Inc., Traffic Engineers and Mr. William Brisson from Adley, Brisson & Engman.

Roll Call

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

Invocation

III. APPROVAL OF AGENDA: Agenda was approved as printed on motion of Wiener/Smith. On roll call, the motion carried unanimously.

Approval of Agenda

IV. COMMENTS OF THE MAYOR: None.

V. SPECIAL EXCEPTION APPLICATION NO. 11-93 - The Mar-a-Lago Club, Inc., 1100 South Ocean Blvd. - To allow applicant to convert existing single family dwelling pursuant to Special Exception Use No. 5 (private social swimming, golf tennis and yacht clubs) of the Town Zoning Ordinance. R-AA District - AS CONTINUED FROM MAY 13, 1993 SPECIAL TOWN COUNCIL MEETING. - Mr. Weinberg explained this is a continuation of the meeting held on May 13, 1993 at which time it was adjourned, the Council was in executive session and this meeting will be continued in executive session. He noted this is a Council business session and he reserves the right to limit discussion on any issues. He recalled at the last meeting, the Council did give the applicant conditional approval subject to various conditions and other conditions which the Council may subsequently pass.

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He advised the order for this meeting will be a staff review of the conditions; the applicant's reaffirmation and acceptance of the conditions; and the Town Attorney's legal confirmation of the applicant's acceptance of the conditions as stated in the Agreement. He stated that during this executive session, only Council members may participate and subsequent to the Council's deliberation, the public may be afforded an opportunity to speak.

Mrs. Douthit clarified the statement of the President asking if he was saying the public will have to wait until all the items are discussed before they will be allowed to speak, and asked if the Council would be allowed to ask questions of the public. Mr. Weinberg confirmed the Council may ask questions of the public.

Mr. Moore reported his staff has seen and reviewed the copy of the Declaration of Use Agreement which contained several conditions which were discussed both by the applicant and the Town at the previous meetings. He recalled a memorandum was sent to the Mayor and Council dated 5-25-93 which contained the issues and conditions and correspondence related to the application from the traffic engineer.

Mr. Moore advised a modification of the Declaration of Use Agreement has been distributed by the Town Attorney together with a list of items that were not addressed in the Agreement. Mr. Moore requested that A. Jeffrey Weidner of Frederic R. Harris, Inc. be allowed to give his report as he has a flight to catch to Washington, D. C.

Mr. Weidner addressed the Council indicating Frederic R. Harris has initially reviewed the applicant's analysis and a traffic study from Tipton Associates, Inc. and he has revised his letter and the conditions and he enumerated them:

1. Club facilities are limited to those contained in the proposal.
2. No reciprocal use of the Bath & Tennis facilities.
3. Prohibition of Woodbridge Road residents and guests from parking on site.
4. Employee's shuttle and dining room seating will be implemented to reduce traffic.
5. Average daily traffic will be limited to 313 vehicles per day. This will be monitored annually based on traffic counts taken during the peak and off-peak seasons of the year.
6. Meet County requirements by providing assurance of the trip reduction plan in conformance with the Countywide Traffic Performance Standards Ordinance.
7. Restrict Special Event attendance to 390 persons in a manner enforceable by the Town.
8. Limit Special Events to weekends and after 6 PM on weekdays and to 390 persons.
9. Special Events will be coordinated with the Bath & Tennis Clubs so that the peak periods will not overlap.
10. Provide an off-site turn lane on Ocean Blvd. or Southern Blvd.
11. Provide an experienced traffic control officer to control access for Special Events.
12. Provide a paved path on site to serve the parking areas.
13. On the Southern Boulevard access drive - this will not allow for safe movement of eastbound left turn without revised geometrics.

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Mr. Moore reported the Police Department requested that the southbound lane between the existing service drive and the main entrance be explored and used as a turn lane for southbound traffic, which is not contained in Mr. Weidner's report.

Mrs. Douthit noted the recommendation for Special Events is 390 maximum and asked if this included just the guests or does it include the caterers as well? Mr. Weidner responded the 390 would be the number of guests and did not include service people.

Mrs. Douthit believed the traffic averaging was out of the question as it looks to her like it would be a license to steal as they wish to take the count in the peak season and then in the summer months. She referred to Article VII on Page 5, in the second sentence where it states: "traffic monitoring by a method approved by the Town shall consist of devices in each entrance" which can be read at anytime by the Town at its discretion. She noted the maintenance will be at the Club's expense and she asked why it couldn't be geared on a year round basis rather than the two quarters and this would allow people to go look at it anytime. Mr. Weidner explained the first and third quarter method is consistent with the Palm Beach County requirements and what they normally place on applicants. He has spoken with the Palm Beach County traffic engineering and the Public Works Department and that is what is acceptable to them.

Mr. Moore pointed out in any of these conditions, this is tied to the County's concurrency requirements, but there is nothing that would prevent the Council from modifying them and making them more rigid.

Mrs. Douthit asked if the equipment could be put in to monitor it at the Club expense.

Mrs. Wiener asked since this is a new use, would the Town have any problem with this, since the Town attorney has advised the Council many times that they must treat people in the same business equally? Mr. Randolph responded this would apply but it would not preclude the Council from placing any conditions which they determine to be reasonable. He stated if they were to do that in this instance and someone else applied for a like use, then they would have to be consistent with what is required in that particular instance. He wasn't sure if there was another application similar to this one so there probably isn't any precedent they can follow.

Mrs. Wiener recalled one of the Clubs in the Town has a cap on membership and wondered if others had a cap and if they do, are they monitored. Mr. Randolph did not believe the Town monitored the traffic at other clubs in the Town. Mr. Moore stated they do not. He recalled the existing clubs do not have membership caps per agreement with the Town, although the Palm Beach Country Club has one which is hinged to parking. Mrs. Smith asked if that was monitored by the Town to which Mr. Moore responded negatively.

Mrs. Douthit stated she would like to see the equipment be installed at every entrance and exit, so they can be properly monitored and the Club pay for it.

Mr. Rampell responded the daily monitoring is acceptable to them and they would be willing to install monitoring devices subject to the Town's requirements and which could be read at any time. Mrs. Wiener thought many of the members of the Council will have other suggestions and a list can be made but they will need to vote on them.

Mrs. Smith believed each condition should be considered individually as she is sitting here today as an elected official with a major responsibility to the people in Palm Beach and has to make the determination that this application is not adverse to the public interest. She felt the agreement needed to be carefully drafted as this Special Exception will have long range impact on the Town and she felt it needed to receive careful and diligent study. She was disturbed by the unseemly haste to conclude this matter today. She received the copy of the Deed of Conservation and Preservation Easement yesterday, along with the revised draft as prepared by Mr. Rampell and was perfectly happy to go along with the conditions listed in Mr. Rampell's agreement, but hoped that the conditions that were proposed had been written down as that was the problem at the last meeting.

She noted they are now sitting here asking for the list to be prepared and she would not be prepared to vote on the list, except for the one prepared by Mr. Rampell.

Mr. Randolph advised he was prepared to relate to the Council what is contained in the Agreement before them and in addition, he has prepared a list of items that are not contained therein that he recalled as having been brought up either by the staff, members of the public or by the Council and he suggested they go over that list in an effort to determine if this agreement should be modified to incorporate any of those items and any others which may come up today. He distributed a list from his file of those things that were discussed but which had not been agreed to between the parties. He cautioned the Council and Mayor that this is not a list of what he thinks should be incorporated in the Agreement, but a compilation of what has been discussed in the past. He pointed out the Declaration of Use Agreement was first prepared by Mr. Ciklin and Mr. Rampell to incorporate all of the conditions which had been discussed at the previous meeting. He has had a meeting with Mr. Ciklin and Mr. Rampell which he discussed the incorporation of certain other items which were incorporated by them and subsequently, he had another discussion in which he made some amendments to the Agreement and they are shaded on the Agreement they have before them. He advised when the agreement is finally signed, it will be recorded and there is a consent and joinder of mortgagee attached which means that anyone having an interest in the property has to also agree to the conditions.

Mr. Weinberg suggested Mr. Randolph take them through the Agreement. Mrs. Smith asked if the Council will have an opportunity to discuss the traffic with Mr. Weidner as she knew he had to leave to catch a plane. Mr. Weidner stated he will be available as he has several flights scheduled.

Mr. Randolph advised the Agreement is between the Mar-a-Lago Club, Donald Trump and the Town and the first Whereas clause reflects the uniqueness of Mar-a-Lago and the Special Exception is subject to the approval of the Council. He stated the Council will approve the Special Exception subject to the conditions set forth herein in the event it is found it is not adverse to the public interest and will additionally approve the Site Plan in the event there is a specific finding that the conditions of the Code are met.

Mr. Randolph noted Article I deals with Club use and that incorporates all of the information supplied by the applicant and states the applicant shall be bound to all that information which is not inconsistent with the terms set forth in the Agreement. He noted there will be changes to the conditions in the application and those would be reflected in the Agreement, so what is picked up in the Agreement is all of the representations made, plus any other conditions imposed.

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Mr. Randolph stated that although the Code does not require them to list things that cannot be done if the Plan doesn't show them, the applicant has agreed to a list of things which will not be incorporated in the Agreement. He has stated this because the Ordinance specifically states that nothing shall be granted which is not in the application, so if he doesn't show a helicopter landing pad on the property, he is precluded from having it. He pointed out the agreement does specifically prohibit, without limitation, docks, cabanas, gambling, helicopter operations and landings, and animal circuses.

Mr. Randolph noted there is a provision which states Chapter 2, 3, 10 and 11 of the application are incorporated and that is the meat of the application. He stated there is a provision which talks about the guest rooms as set forth in the Plan and a prohibition that they should be club members only and not be open to the public, they shall not be advertised, they shall not contain kitchen or food preparation facilities. He stated there is also a statement that the Club shall not be a nuisance. He reported at Article II, there is a provision for the Unity of Title, which means that the property, including the beachfront property will be unified and that it can never be sold off separate and apart from the main property. He commented there is a provision that the property will never be condominiumized and the only exception is in the event of a dedication of a right-of-way which is required for road improvement, as if it is found if there is going to be a stacking lane, and a portion of the property needs to be provided, that would be excluded from the Unity of Title.

He noted the next section relates to Building Codes, Fire Protection and Utilities and this is intended to pick up the comments by the Public Works Department and Building Department relating to the various considerations suggested by them. He noted initially there was a statement that they should be taken care of prior to Club operations and he has stricken that and incorporated a phrase at the end which states: "All conditions herein are required to be met prior to commencement of Club operations and prior to the issuance of a Certificate of Occupancy for operation of Club Use."

He recalled a request was made that the Town receive a Hold Harmless in regard to the tunnel and that has been incorporated in the Agreement.

He stated things missing in the agreement are those items which the Town and applicant have not come to a full agreement on and the items incorporated are items which have full agreement between the parties.

He stated Article IV deals with principals of preservation and critical features and adopts Chapter 2 and 3 on preservation and critical features, which is an important part of this agreement. He noted this does not include a provision relating to a preservation of the easement relating to the exterior and interior and the reason is because the applicant has already voluntarily prepared such an agreement and has agreed to give it to an organization acceptable to the Town and to the applicant.

Mr. Randolph referred to the section which refers to the Woodbridge Road property and that is the mitigation of Article V on the north boundary. He stated this includes specifics to the height of the wall and the hedge which is to be installed, with no additional lighting installed in the parking area on the north side of the property and no accumulation of kitchen refuse shall be allowed to be held in this area.

Mr. Randolph commented on Section VI on Club membership limitations which picks up the application language which indicates 50% of the members shall be Town persons and the membership in the Club will be limited to 611, and the Club will not discriminate and all club facilities shall require advance reservations, with the residents of Woodbridge Road having guest privileges and the members of the Bath and Tennis shall not. He didn't believe it was necessary to include in the agreement the Bath and Tennis sentence, although that was mentioned in the original application.

Mr. Randolph indicated the next section relates to traffic and to all events, and shows the total trips generated to the Club shall be limited to 313 daily trips based on an annual average. He stated this does specify the method of traffic monitoring which has already been discussed. He stated the Club will install, prior to commencement of Club operations and prior to issuance of the Certificate of Occupancy, a northbound left turn storage lane to serve the Club's entrance drive on Ocean Blvd, subject to obtaining the permit for same from Florida DOT. He stated the Town, owner and Club shall obtain the permit at the sole expense of the owner and the Club.

Mr. Randolph stated there is a provision for a shuttle van which will transport 40% of the Club's staff in order to comply with the daily trips.

He noted the dining area shall be limited to 75 seats.

He commented that Special Events shall be limited to 390 individuals and shall occur strictly on weekends or after 6 PM on weekdays, with no more than one Special Event at the same time and the events shall be coordinated with the Bath and Tennis Club. He indicated tents would only be used for Special Events with approval of the Town's Building and Zoning Director, after presentation of satisfactory assurance that the people attending would not exceed the maximum of 390 people.

He recalled initially there were to be no tents as the Council was afraid it would increase the capacity of the Club, but the point was made that if an individual wanted to use just the tent and not the dining room, it was suggested the provision could be amended and the final approval will be left to the discretion of the Town.

He referred to Site Ingress and Egress pointing out this will be as proposed in the Plan and a listing of how the main entrances will be used. He noted the existing main entrance on Ocean Blvd. shall be used as an entrance only for both regular and special events of the Club. He stated two lanes of ingress will exist on the entrance drive and the existing service access on Ocean Blvd. shall be used as an exit only for both regular activities and for special events. He advised two lanes of egress shall exist on this drive, with an exit only gate west of the existing Southern

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Boulevard gate shall be provided and shall be aesthetically identical to the main gate, with the Southern Boulevard gates serving as the primary entrance and exit for staff service vehicles.

He believed that a provision should be included that this shall be accomplished prior to the issuance of a Certificate of Occupancy and prior to Club operations.

He stated the use of valet services has been addressed and the use of off-duty police and the limitation on parking with 252 spaces and that any grass area used for parking shall be stabilized.

Mr. Randolph stated the next section deals with liability and abandonment of Club use and provides that the owner shall guarantee the real estate taxes, maintenance costs, and similar expenses of the Club until the Club gets on its feet, and talks about three consecutive years.

He advised a separate fiduciary account will be established with ten per cent of all gross revenues from the guest rooms be deposited in this account and used exclusively for maintenance and restoration purposes. He indicated if the Club is unintentionally abandoned for a period of a year or is intentionally abandoned at any time, the Club shall revert to a single family residence and the ownership of the owner. He advised a provision has been included which reads: "Bylaws and/or documents relating to Club membership shall include an agreement to be executed by Club members acknowledging their understanding of the terms of this Agreement, specifically agreeing to the reversion of the Club to owner and its' return to use as a single family residence in the event of the abandonment of the Club use. Club members shall hold the Town harmless from any liability or claim against the Town resulting from the enforcement of the terms of this Agreement reversion to single family use or any other claims resulting therefrom." He has discussed with the applicant's representative that that type of language would have to be incorporated in the Club documents when the Club members sign on, when they become a member.

He referred to the section entitled "Remedies for Violation" noting that would include the Code Enforcement procedures, all remedies allowed in the Zoning Code, injunctions, specific performance and any other equitable relief.

He stated a provision has been incorporated, as one of the things needed to get injunction relief, is to show irreparable harm to secure an injunction to enforce the terms of this Agreement. He stated if there is a breach, default or nonperformance of this Agreement or any of its covenants, the Town shall be entitled to recover its costs expenses and reasonable attorney's fees, insofar as the Town prevails. He noted there is a section which indicates all of these provisions run with the land, so they will be binding upon the land and not a particular individual. He stated there is boiler plate language that the Agreement shall be binding upon the parties, their assigns, heirs and personal representatives. He advised these were discussed and he believed they were agreed to.

Mrs. Smith noted the Agreement states there can be 313 daily trips and Mr. Weidner equates that to 339 members, but Mr. Rampell wants 611 members and it did go back and forth at a previous meeting and she did not believe the Council agreed to 611 members. Mr. Weinberg believed they did. Mrs. Douthit stated she didn't agree to that number. Mrs. Wiener recalled there was a choice of whether they set a membership number or go by the trips and the decision was they would be safest with the trips and that's how they came to the number. Mrs. Smith did not agree, referring to the transcript of the meeting of May 13, 1993 noting they never came to a decision, quoting Mr. Randolph's statement: "I don't know if you have discussed tonight all of the conditions incorporated into the Agreement, therefore, I think it is a little bit dangerous and a little bit too broad to give conditional approval when you don't have the conditions agreed upon." Mr. Randolph responded this Agreement is not intended to state that these are things that the Council agreed to or to be bound to, but is simply a recap of those things which were discussed and it is believed there is some sort of understanding, but he didn't think the applicant or anyone else will contend that whatever is incorporated is the Agreement and that would be something they would do subsequent to this meeting.

Mrs. Smith hoped that in order to ensure the Agreement that is decided upon includes all of the conditions they have discussed and is acceptable and clear to everyone, she believed the Agreement should be discussed condition by condition.

Mr. Rampell advised they were given a choice by the Town's traffic engineer of either having a cap on membership or a cap on the number of traffic trips and they elected to cap on the traffic trips, believing that traffic is the main concern and if they can meet that number, many other issues become far less significant and it is thought and it is the opinion of their two traffic experts and perhaps even the Town's traffic expert would agree that the correlation between membership and traffic trips is weak. He recalled at the last meeting he reported the Palm Beach Yacht Club has 3500 square feet and serves 80 or 90 meals and has 1500 members. He stated they will meet 313 daily trips and will limit membership to 611 individuals.

Mr. Moore stated Mr. Weidner has a comment on the membership figure of 611. Mr. Weidner addressed the Council clarifying that when Mr. Rampell stated the membership was 611 at a previous meeting, Mr. Weidner told Mr. Rampell that was not the number and that number should not be utilized.

Mr. Weidner stated the 611 number was the number that was derived from the information provided in the initial Kimley-Horn Report, which was the first set of traffic counts at the Bath and Tennis Club. He recalled the evening before the last meeting of the Town Council, he was provided with another set of traffic counts performed by Tipton & Assoc. that were more comprehensive and in stark contrast to those performed by the Kimley-Horn report, so he revised his analysis indicating that based on the Tipton counts, membership should be limited to 339 persons, but offered the option of limiting the Club to 313 traffic trips to be consistent with the Palm Beach County Traffic Performance Standards Ordinance which would be measurable and more reliable than the 339 membership limit. He recalled it was mentioned that the Tipton counts were not adjusted because they were taken during the peak season. He clarified that that was correct and thought perhaps the figure could be adjusted up to ten per cent more, however, the 313 trips should be the guide to monitor the Club. He believed the 611 number referred to an earlier analysis and is based on earlier information which is not as accurate as the Tipton report.

Mr. Rampell responded they would be glad to eliminate the membership cap altogether if that is what the Council would like.



Mr. Weidner advised if the Council wishes to include a membership number and correlate it to traffic, and he has performed another analysis utilizing the both sets of information and that figure would be 492 which is close to the 500 originally requested.

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Mr. Rampell pointed out the exact language in the agreement states the membership in the Club should be limited to 611 individuals, provided however, this number may be adjusted within the reasonable discretion of the Town. He stated if it turns out the 611 number is unacceptable, they can adjust it after a period of time.

Mrs. Smith responded she didn't believe they could discharge members after they have been taken into the Club. Mr. Rampell responded there would be natural attrition on all of the membership.

Mrs. Wiener stated there is a balance between wanting the Club to succeed financially and still assuring there will be no problems with the traffic. She thought if people join the Club and then they find out they can't come, that will also be a problem, and she believed what they are trying to do is if this should come to pass that it should work as smoothly as possible for everybody concerned, and it would seem that they might take the direction of Mr. Weidner and talk about lowering the membership of the Club from the 611 figure. Mr. Rampell asked what did she have in mind to which Mrs. Wiener responded recalling some time ago she mentioned the number of 475. Mr. Rampell believed that was her starting offer and asked to come back to this issue later.

Attorney Ron Kolins asked to be heard to which Mr. Weinberg responded the Council is in executive session. Mrs. Smith believed he should have the opportunity to voice his views and after discussion, Mrs. Smith was authorized to ask Mr. Kolins what was his question.

Attorney Ron Kolins representing Mrs. Massey advised the Mayor and Council that his client received a notice from the Town announcing this was a public hearing and that being the case, he hoped the public would have input and his question as to procedure is when and how that will happen, as he was distressed there appears to be an ongoing negotiation between the Council and the applicant as to conditions for a Club which has not been approved and public comments have not been provided for, so he asked that they have equal time as he believed the Council does think the public views do count and he represents some of the members of the public and he wishes to have that opportunity and asked how the public comments were to be accommodated today.

Mr. Randolph advised this meeting was advertised as a public hearing, however, he understood the Council wanted to continue this meeting in the way it had left it, and that was in Executive Session to give consideration to the conditions. He understood the procedures as outlined by the President, the public will, after the Council has discussed this in executive session, have an opportunity to address those matters which are discussed today.

Mrs. Smith asked Mr. Moore when he sent out the notice that this was a public hearing? Mr. Moore responded it was prior to this meeting. Mr. Weinberg explained this is a continuation of the Executive Session continued from May 13, 1993 and in his opening remarks, he made the statement that subsequent to the Council deliberation, the public may be afforded an opportunity to speak, however, if members of the Council wish to speak to a member of the public, they may do so by asking their questions.

Mrs. Wiener stated she read the advertisement for this meeting in the Palm Beach Daily News and she had the same feeling as Mr. Kolins and she called the Town Manager concerning it as the advertisement was not totally correct as the Council was going to continue with the Executive Session. She stated she was told it was strictly boiler plate and everybody knew what it was all about and perhaps the ad should have indicated exactly where they were. She indicated she didn't believe they continually should discuss the same subjects over and over in order to please certain people who appear before the Council.

Mrs. Smith did not feel it was a loophole but on a matter this important to the Town of Palm Beach to close out public discussion and say we are in Executive Session is wrong, as obviously they would not be sitting here today and discuss the various figures which members of the Council thought was agreed upon, if there was an agreement at the last meeting.

Mr. Randolph commented he will take the responsibility for the advertising which he thought was appropriate as all of these hearings relating to the Special Exception are public hearings, but what they are discussing here is the order of business and they are getting caught up in something they really don't need to and the first order of business is the Executive Session and then the public will have an opportunity to have their say.

Mr. Weidner reported previously he had read his conditions to be included in the approval and Mr. Randolph read what has been put in front of the Council and he wanted to discuss the areas that are in disagreement. He noted in the Agreement on page 6, the second paragraph from the bottom, the text discusses two lanes of ingress and two lanes of egress. He stated the Plan indicates there will be two lanes of stacking for ingress and egress and there will only be room for one vehicle to enter and exit. He noted there is also a provision which states the Southern Blvd. gates shall serve as the primary entry and exit for staff and service vehicles and he believed the existing gate on Southern Blvd. does not have appropriate geometrics for east bound entering left turns and should not be used for that reason unless it is realigned or refigured or a new gate is provided that will allow for entrances.

Mrs. Douthit asked about the double entrance, noting the gate is 14' wide and two cars cannot get through that gate. Mrs. Douthit asked if the driveway needed to be widened as that would be a change to the facade. Mr. Weidner responded there will be only one lane of entry and exit onto the property and the interior of the property would be used for two lanes of stacking for vehicles during special events. Mrs. Douthit asked if that driveway was wide enough to which Mr. Rampell responded affirmatively, noting they have tested it and there is no difficulty.

Mrs. Wiener asked if Mr. Lawrence could clarify this point? Mr. Lawrence noted the drawings show between 36 and 38 feet which is quite sufficient for two lanes. Mrs. Royal asked Mr. Weidner to clarify his statement about the east bound traffic on Southern Blvd. to which Mr. Widener responded if a car is heading east on Southern Blvd. and they wanted to turn left into the existing gate, they would have to cross the yellow stripes on the east side which would not be allowed, and that intersection would have to be realigned if they want traffic to enter that particular entrance.

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Mrs. Douthit asked how wide was that driveway to which Mr. Lawrence responded the existing gravel is now 17' and he thought it would have to be increased a little bit.

Attorney Ciklin addressed the Council noting they are not traffic engineers and there have been conflicting reports from the traffic engineers involved. He basically put the draft conditions in the hands of the Town's expert and asked him what the conditions should be in this Agreement to satisfactorily mitigate traffic to comply with the Town's Comprehensive Plan and the County's Traffic Performance Standards. He stated what has been put into the Agreement is what the Town's traffic expert told them to include.

He referred to the 611 figure on membership, which he stated was a buffer, and all of them know the 313 daily trips is what really counts. He stated they also put in that they would not exceed the 611 membership, even if they are below the daily trip figures, so they have given them two buffers. He stated the 611 figure is meaningless as it all goes back to the daily trip figure of 313, but the important thing is Mr. Weidner told them what to include and that is what they have included in the agreement.

Mrs. Douthit noted with the change in the figures and the reduction from the 611 and the 313 daily trips remaining, she would like to ask Attorney Kolins what his feelings are with the possible reduced figure.

Attorney Kolins believed when they talk about traffic, they need to talk about the natural implications for the road systems and the road capacity and safety. He stated the 313 trip limitation is a legal limitation as they have come up with the number since 113 trips were accountable now with the present use of Mar-a-Lago. He thought in order for the Council to not approve anything that would be unlawful, they must have various ways of limiting the use of the Club to assure that and one of the ways is to monitor the traffic at the entrances and exits of the property; and secondly suggest what the sanctions will be in the event they would exceed the daily count. He stated they need to approve a membership cap which the Council and the Traffic Engineer believe will be a reasonable number, which when translated into trips will keep the membership under the legal limit. He believed the traffic engineer stated that number was 339 plus ten per cent.

Mrs. Wiener asked Mr. Weidner what was the actual membership number he was recommending?. Mr. Weidner responded if they decide to use membership as a cap on traffic, they would utilize the information provided by both the applicant and Tipton at 492. Mrs. Wiener thought she heard 339? Mr. Kolins stated he understood Mr. Weidner stated earlier that was the figure he was recommending and he upped it by ten per cent for seasonal differences, and he wanted it to be clear there should be a cap, and he thought it should be 375 or so. Mrs. Wiener stated she didn't make up the figure but she doesn't appreciate them getting before the Council and quoting misinformation. She stated this whole issue is of great concern to everyone and there is a lot of emotion attached to it and we all need be as accurate as they know how. Mr. Kolins agreed and because of the importance of this matter, he was sure all would want to hear fully from everyone and if he quoted wrong figures, he believed Mr. Weidner was the one that offered numbers - 375 at first. Mrs. Wiener stated Mr. Kolins was wrong. Mrs. Smith asked if they could have a recap of the numbers from the very beginning. Mrs. Wiener did not believe they needed to go back, noting there is a change today and she would like Mr. Weidner to state the figure he quoted for Mr. Kolins' benefit.

Mr. Weidner responded based on all the information that he has obtained in the analysis he has performed, to maintain concurrency with the Palm Beach County Traffic Performance standards, which is the strictest monitor seen, which is 313 trips, if they want to correlate trips to numbers of members, the best number to go with is 492. He clarified that they performed two types of analyses and one was the concurrency requirement. He stated in addition to that to meet the requirements under the Special Exception, they also looked at the safety issue and for Special Events, they are recommending the maximum be 390 guests. He noted also they felt to have a safe operation, there should be a left turn lane required so their conditions are not only based on meeting the legal requirement of the County, but also include the requirement for a left turn lane to meet the safety requirements of the Special Exception.

Mr. Kolins indicated he then wished to suggest two things - there should be two standards, one a trip limitation and secondly, membership should be limited to a number that more reasonably translates into the traffic figure.

Mrs. Smith noted the Tipton report is being quoted and was accepted into the record and was studied as a part of the presentation, she wondered if Mr. Chopin had anything to add on behalf of Mr. Tipton? Mr. Chopin responded the 492 figure was the correct figure and resulted from averaging what was considered to be the more comprehensive traffic study made by Tipton with the application. He pointed out the Tipton Report is the more comprehensive and the Preservation Foundation believes there are two ways to try and deal with the traffic and one is the number of trips and the other to put a limitation on the membership. He has looked at the agreement and he thought it would be important that the membership figure means individuals, however it is comprised which will include spouses, children, etc.

He pointed out the problem in dealing with traffic counts is the only way they are going to know what the count is to have it over a long period of time with someone counting it. He believed if a limitation was placed on the membership, that would put the onus back on the applicant. He thought instead of the Town assuming what could be an expensive obligation, it can immediately start out with the membership limitation and then have the discretion to change that membership count, and while the applicant's attorneys would argue for the daily trip use, he would suggest there be a limitation on the number of individuals who could use it, as that way there would be an effective way of controlling the traffic and if they can demonstrate later on that they are not exceeding the daily trip figure, they can change it.

Mrs. Smith noted the Agreement now states the membership figure is 611 and she asked if that was people, to which Mr. Rampell responded affirmatively.

Mrs. Douthit suggested there be language that the memberships would be individuals and there would be no corporate members or private corporations.

Mr. Weidner clarified that in the application the applicant identified membership would be the same as in the Bath and Tennis Club and both of the traffic counts were performed at the Bath and Tennis Club. Mrs. Douthit wanted to ensure the Club be limited to individuals and not corporate or

business members. Mrs. Wiener believed there was a law preventing corporate memberships in private clubs over two hundred members.

Mr. Weinberg indicated he now would like Mr. Randolph to go over the items he has enumerated.

Mr. Randolph advised the purpose of him preparing these items was to provide some order. He referred to Item One, noting a staff member suggested one of the enforcement provisions could be that the Occupational License for club operation would be rescinded in the event the Agreement is breached.

Mrs. Smith asked if the attorneys for the applicant have seen this list to which Mr. Ciklin responded he has seen them and has discussed several of the items with Mr. Moore and Mr. Randolph. Mrs. Smith asked if it is implied that he does not accept these items since they are not in the draft Agreement. Mr. Ciklin responded affirmatively indicating the reason being they didn't believe they were necessary as they were covered in other areas of the Agreement; and secondly, they thought they were not required; and thirdly, they couldn't be accomplished. Mrs. Smith stated she had gone over the paper work on Mar-a-Lago all weekend and since this list has just been furnished them and she hasn't had an opportunity to study them, she hoped the attorney would go through each one very carefully.

Mr. Moore advised in order to have a tool for enforcement, staff felt the suspension of the Occupational License would be a tool to suspend the operations until the issues were worked out to the Council's satisfaction.

Mr. Ciklin reported there were several reasons he didn't agree to this stipulation, as one is the enforcement provision of the Agreement grants more enforcement rights than the Town would have against any other Club or business in the Town. He recalled it can be brought before the Code Enforcement Board; or injunctive relief with the applicant paying the legal fees if the Town should prevail; and it also limits what they have to prove to a court in order to get the injunction, so it was their feeling that the Town had more than anybody else.

He reported the second reason was they thought that this type of thing was risky business, as for example if they held a Special Event, and someone counts the number of people and turns in a complaint that there were 410 people in attendance and this person would insist the Occupational License be pulled, and he viewed this as a very risky procedure.

Attorney Randolph indicated it was discussed that if this was incorporated, a public hearing would have to be held as he didn't think it was appropriate to simply suspend an Occupational License on the basis of some allegation by the Building Official that the Agreement has been breached, so in the event this is incorporated, language should be included which will provide that the Occupational License would finally be pulled after a public hearing. Mrs. Smith noted this would be something that would be determined by the Town Council and in fact she didn't think anything in this application shall be left up to the staff. Mr. Ciklin responded the unfortunate part of this is that Town Councils do change and what may be a fair and reasonable Town Council now may not be the case in the future. He stated because of the membership composition of the Club, they are very concerned about throwing themselves on the mercy of a Town Council. Mrs. Smith asked for a clarification of the membership composition. Mr. Ciklin stated he was concerned that someone may not like the membership composition of the Club. Mrs. Smith asked if he meant a member of the Town Council to which Mr. Ciklin responded affirmatively. Mrs. Smith thought that was quite extraordinary as if anyone on the Council had a problem with the composition of the membership of the Club, they shouldn't be holding office. She heard them state earlier they were forming a Club open to all and she thought the conditions in the Agreement should also be a part of the By-Laws of the Club, so there would be no question that the Club is open to all. She noticed that was not a part of the By-Laws and recommended that be put into the By-Laws to which Mr. Ciklin agreed. He advised he would be agreeable to however the suspension of occupational licenses are handled for whatever other businesses and Clubs in the Town, he will agree to be treated similarly.

Mr. Moore stated that for cause, an Occupational License can be removed and the definition of "cause" is open ended. Mrs. Smith thought this might be a good time to define it and make it specific, so all businesses and Clubs would be handled equally. Mr. Moore stated the hearing procedure is in place now. Mr. Ciklin stated they don't want any preferential treatment and this procedure is acceptable to them.

Mr. Randolph stated Item Two is a stacking lane for southbound traffic on Ocean Boulevard to turn right was suggested by Chief Terlizzese, but the traffic engineer does not think this is necessary.

Chief Terlizzese addressed the Council stating the Police Department believed this would be a very good idea, especially during rush hours or when cars tend to back out in the moving lane. He believed a similar situation was at Charley's Crab as there were a lot of problems there with back-up traffic and rear end collisions until that extra lane was installed and it has alleviated a lot of the problems. He stated a stacking lane for vehicles turning left was recommended as well. He stated at Charley's Crab the bulk of their traffic arrives during the rush hour and supposedly that will not be a problem at the Mar-a-Lago Club as they wouldn't start arriving until after 6 PM. Mrs. Wiener suggested that the Charley's Crab situation be looked at once again as there is no stacking as there is no room inside the premises for the cars.

Mrs. Douthit commented at Mar-a-Lago, she thought both lanes were very necessary and if humanely possible, they should be installed. Mrs. Smith asked if this would take a DOT Permit, to which Chief Terlizzese responded affirmatively since it is State Road A-1-A.

Mr. Doney thought it was important to make a comment about staff review at this hearing as the documents which have been distributed this morning to the Department Heads and himself specifically list the items which have not been addressed in the Agreement, and the letter from Mr. Rampell dated 5-28-93 to Mr. Randolph and he asked the Town Council that since comments should evolve spontaneously and there has not been a collective staff review on these items, that each Department Head be encouraged to comment on these items as they are being discussed today.

He stated he had a comment on the right turn stacking lane. He commented if this lane cannot be provided between the main gate and the current service entrance, he believed it should be the responsibility of the Club to provide for on-site stacking which must be approved in advance by the Town to ensure that oncoming traffic would not back up onto the State Road A-1-A. Mr. Weidner

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responded that Frederic R. Harris did perform an analysis both on existing conditions and what it would take to make the main gate operate safely and the analysis indicated that during a Special Event, there would be one incident during a peak hour where traffic backed up through the gate and would hold up traffic on State Road A-1-A and that was a left turning vehicle. He stated they looked at two possible improvements, one being a left bound storage lane and the other, a right turn lane. He believed the left bound storage lane would be effective, but the right turn lane would make the operations better, but it was not necessary. He stated their recommendation is to require the north bound turn lane.

Mrs. Douthit wondered if they could get the DOT Permits for the northbound lane and the southbound in hand so if a decision is made that they both are necessary, they would be ready to go.

Mr. Ciklin understood that in addition to the fact that it isn't a "must", it doesn't fit in the right-of-way that is there and that is another reason they agreed to the left turn lane and not the right turn lane.

Mrs. Smith asked if one of the traffic experts could tell the Council why the right turn lane is not possible? Mr. Pollack reported the existing right-of-way is approximately 40' in width, which will accommodate the northbound left turn lane, but not the southbound lane. He stated additional right-of-way would be required and it would also require the removal and relocation of the wall. Mrs. Smith asked what the distance was from the wall to that area? Mr. Pollack responded it is ten feet. Mrs. Douthit asked if that was the DOT right-of-way to which Mr. Pollack responded affirmatively, indicating it was 40'. Mrs. Douthit asked if the wall was built up to the edge of the right-of-way to which Mr. Pollack responded it was approximately ten feet or so from the right-of-way line. Mrs. Douthit realized this was landmarked. Mrs. Smith believed it was just landmarked to the wall and not beyond. Mr. Ciklin stated there wouldn't be enough room for both of the lanes as it would have to intrude beyond the walled area and the wall would have to be removed.

Item 3. Mr. Randolph explained there are no requirements included for bonding, as normally, when they do a sub-division approval, a bond would be required and this was discussed and it was decided that the typical sub-division requirements should not be a part of this. He recalled there will be right-of-way improvements and the Council may want to discuss this further with regards to bonding requirements in that area. He wanted to be sure that the Town staff will not require a bond for some of the improvements, such as the sewage improvement. He understood that the Certificate of Occupancy would not be issued until these items are completed. Mr. Moore indicated the bonding issue involved the public works improvement and the landscaping along the north property wall, but these items would have to be in place before they would be permitted to open.

Mrs. Douthit realized a bond may not be necessary in this instance, but she wouldn't want to do anything here that would be precedent-setting in the future. Mr. Randolph did not believe if they did not require a bond, that it would establish a precedent for other applications, because of the unique nature of this application. He advised the bond ensures the Town that the work is going to be completed and in the event it is not by the applicant, and if the Town has to complete the work, the money is there to do it and normally that is 125% of the cost of the improvement. He reported if the project was abandoned, the Town would have the right to have the work completed.

Mrs. Wiener believed this was a little different as if the Club is not going to come into being, things would be as they were, a single family residence, so there would be no reason to require a bond. Mr. Randolph advised the use would be the same, but the property would not be the same, for instance, a wall may be built but the landscaping may not be completed.

Mrs. Smith asked what type of bonding would be required on other projects. Mr. Randolph stated an estimate is made of the cost of the improvements and the Town requires 135% of the cost and what they would have to do in this particular instance, if they were going to have a bond, is to specify those areas of improvements where the Council believed a bond would be necessary, as obviously, they wouldn't need it in all instances.

Mrs. Douthit believed there were many expenses connected with this project, such as the sprinkler system. Mrs. Smith believed things like this would be covered by Landmarks. Mr. Randolph explained they wouldn't require a bond from a single family resident who was installing a sprinkler system and he believed if a bond is required, it would be for the benefit of the Town or third parties, such as the neighboring Woodbridge residents, which would not be completed and which could be a detriment to the Town or the third parties, if not completed.

Mr. Moore commented perhaps this could apply to the fire sprinkler system, but a Certificate of Occupancy would be issued without the fire sprinkler system installed.

Mrs. Smith asked if the third parties involved on Woodbridge would be the only reason they might need to have a bond? Mr. Randolph responded he hasn't done that review so he really couldn't answer that question. He believed the DOT would bond the cost of the right-of-way and that should be no concern and language could be incorporated to reflect that fact, but perhaps staff would like to speak to this.

Mr. Doney believed there may be some concerns on the sanitary sewage and other utilities, but he didn't believe it had progressed far enough along to make the identification as to what would be acceptable to the Town engineers and those representing Mr. Trump and it may be able to be done without the bonding.

Mr. Moore believed any improvements to the infrastructure would not require a bond by another agency, such as DOT, and other work that was done on site would have to be completed before the Certificate of Occupancy would be issued. He felt that the areas of concern would be the Woodbridge Road area and that is why it was identified, and he would suggest it be 135% of the improvement.

Mrs. Wiener asked Attorney Ciklin if they would furnish a bond which would apply only to the wall and hedge on the north side of the property adjoining Woodbridge Road? Mr. Ciklin did not think it was a major item and he would agree, in order to move this along.

Mrs. Smith asked if the Department Heads during the lunch break would look at these items and be prepared for discussion later in the meeting, so we don't bog down. Mr. Weinberg believed they would be able to make their comments now. Mrs. Smith did not believe the Department Heads had seen



these items. Mrs. Wiener believed they would know if something was not in order and would be able to offer their comments.

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Item 4 - Mr. Randolph noted requests had been made, specifically from the people along Woodbridge Road, that more details be provided in regard to the landscaping of the wall and the parking. Mrs. Douthit asked Attorney Burden what her comments were on this. Mr. Ciklin reported his office had received a letter from Attorney Burden on the details of the landscaping and in essence, have agreed to the details, but have not agreed to the landscaping at the north of the wall because they had a concern about trespassing liability.

Attorney Burden addressed the Council representing Mrs. Lillian Loomis, noting there were three issues raised, one of which was the wall and vegetation. She would like to have more specific assurances to protect her client and has asked Mr. Winston Lee, their Landscape Architect, to coordinate with Mr. Blakely, the applicant's landscape architect, to make some specific recommendations. She believed the landscape architects have agreed to the specifics in her letter and she would greatly appreciate having that made a part of the approval, particularly since the applicant has agreed to the items.

She stated there is an existing hedge and fence, both which need to be removed in order to accommodate what has been proposed.

Mr. Ciklin advised he does agree to the items outlined in Miss Burden's letter, with the exception of the landscaping on the north side of the wall as they would have to trespass on the property and actually have no objection to doing what was requested on the Loomis property, but do not wish to get the 14 other approvals of the other property owners.

Mrs. Smith agreed as not all of the residents would agree to the types of planting that should be placed there. She asked if there was a landscape plan submitted for the north and the south sides of the wall? Miss Burden explained the north and south side of the wall were both addressed in their landscape architect's report and Mr. Trump's landscape architect report. Mr. Ciklin stated they have a plan and have agreed to that and also have agreed to the wall. Mrs. Smith thought it was inconceivable to do the individual landscaping on the north side of the wall on someone else's property and thought it would be nice if the applicant decided to landscape their property but it should be a consideration and not a condition.

Miss Burden advised she has no problem with arranging to take care of the north side landscaping on her client's property, provided it would be at the applicant's expense as this has come about as a result of the Club and they have agreed to do that. Mrs. Smith recalled this has happened in other cases where a neighbor's property was landscaped so there would be no objections to a particular project, and she didn't believe this could be made a condition of this Agreement. Mrs. Wiener agreed but did not think the landscaping of these neighbors should have to be maintained in perpetuity. Miss Burden stated this was included in the recommendation of the landscape architect and that is why it is before them today. Mrs. Smith did not believe that should be a condition as if they do it for Attorney Burden's client, it would have to be done for all of the other neighbors which would be a little much.

Mr. Ciklin agreed to the landscaping on the south side of the wall as Mr. Blakely and Mr. Lee have agreed. Miss Burden stated she agrees as long as all of the specifics in Mr. Blakeley's letter are incorporated in the Agreement.

Lunch break was taken.

Meeting reconvened by President Weinberg.

Attorney Kevin Hennessey asked for permission to address the Council indicating he was representing Mrs. Elizabeth Fox of Woodbridge Road, indicating his client supports the plan which was worked out with the Loomis Estate regarding to the landscaping, but had some questions. He believed by representations made today, he understood that access by the Woodbridge Road residents, although they would be granted a membership that the access to the Club could not be made by vehicle and they would have to walk there. He asked if an access could be provided through the wall for safe ingress and egress as he didn't believe there was a sidewalk there to provide safe access. He stated if the Council is not going to allow them the opportunity to drive to the Club, a safe access needs to be provided for these residents.

Atty. Kevin  
Hennessey

Mr. Hennessey did not believe it was clear in the document that the membership will run with the property, rather than the individuals presently residing there.

Mr. Hennessey asked if there would be access to the property for the handicapped? Mr. Ciklin responded the Agreement does state "residents" so that means anyone who would be a resident at any time and does run with the land in perpetuity. He advised they have agreed to comply with all building codes and whatever the handicapped provisions are, they will comply. He advised on the access, some of the residents want it and some don't, so they think for security purposes, they will not be providing access through the north wall.

Mrs. Douthit questioned whether or not access could be by the lot owned by the applicant on Woodbridge Road? Mr. Ciklin recalled this was discussed but no decision has been made and he thought because of the differing opinions as to whether it should be or not be, and for security purposes, they have decided not to have access from that lot. Mrs. Douthit thought a gate with a padlock might be more secure than having the people access the property on foot from Ocean Boulevard. Mrs. Smith asked how many residents are they talking about to which Mr. Ciklin responded there are fourteen homes. Mrs. Smith believed if it was bad weather, they would probably drive over and she didn't believe fourteen trips would make any difference. Mr. Hennessey believed there was a prohibition for the residents on Woodbridge to drive to the Club. Mrs. Wiener noted in everything she has read about guest privileges for the people who live on Woodbridge and she heard someone state today that these people will be members and she would like this to be straightened out. Mrs. Smith asked if they had guest privileges that to her would mean they wouldn't have to pay the initiation fee, but they would have to pay dues. Mr. Ciklin responded they would not have to pay initiation fees nor membership fees, but would have to pay for their meals.

Item 5 - Mr. Randolph noted it had been suggested that there be consideration of alternate proposals for traffic in the event problems would exist with the Club to pay for the costs for the studies and the solutions.

Mrs. Royal stated that perhaps this could be included in Article 8, Paragraph 2 on Page 7 which is the Fiduciary Account, then it would be covered. Mrs. Douthit recalled she also wanted to see ten per cent of the initiation fees to be put into this same account.

Mrs. Smith asked what exactly would be the alternate proposal for traffic? Mr. Weidner responded he was not quite sure where this came from. Mr. Randolph advised there was discussion on this and in the event it was not possible to do the right turn lane now for the southbound traffic, as this was one of the things that could be a problem later and a determination was made to incorporate that in the Agreement. He thought another example would be the gates on Southern Boulevard.

Mrs. Wiener thought they were very clear about what would happen if there are traffic problems, and she didn't believe this was needed. Mr. Randolph believed they could get injunctive relief. Mrs. Wiener commented that was one of the ways they could handle it but it has been discussed over and over. Mr. Ciklin thought on Item 5, that would go without saying as if when they approach the 313 average trip level, if they wish to go above that or if they were at their membership level, they would have to supply a traffic study at their expense and if they can't do that, they wouldn't be able to exceed those numbers. Mrs. Wiener did not agree, noting they cannot exceed the traffic count. Mrs. Smith knew that was in the agreement but if a determination had been made that they have gone over the traffic count, or wish to increase the membership, then they will come in with a traffic study to show that it is not problem.

Mr. Ciklin advised they will monitor the traffic on a regular basis, and they also will have a membership limitation, but perhaps the time will come when they are at 280 trips and at that time they will take some action which will reduce the number of daily trips. He will submit a report on how they propose to do that to the Town's traffic expert. He stated this could be done in many ways, such as more shuttles for employees, no new members, eliminating dinners several times a week, valet pick-up, etc. He advised they will pay for the plan and submit it and then it would be reviewed by the Town's traffic expert.

Mr. Moore believed this item addressed the fact that the applicant will pay for the review process in the event they wish to exceed the daily trip count. He believed that was addressed in Item 9 and it is also addressed in the Zoning Ordinance.

Mr. Randolph disagreed noting Item 9 was to deal with all of the costs related to studies, prior to their incorporating as a Club, and did not deal with the studies which may have to be done after-the-fact.

Mr. Ciklin advised they will agree to pay for the costs of a consultant, such as Mr. Weidner, to review and obviously do not believe they should pay for the staff review, however, if there is an outside consultant review necessary, they will agree to that.

Attorney Frank Chopin addressed the Council, noting he believed they were going to call for public comment, but if they are going to be voting on these items, he didn't understand why comments would be made after the items are already voted upon. Mayor Ilyinsky believed there was some confusion here as to how the meeting is going to be run. Attorney Randolph commented he did not believe they had varied from the procedure established as they are to be in Executive Session to discuss these items and at some point, they will call on people to have an opportunity to speak, and subsequent to that the public will have an opportunity to speak and then a final determination will be made on the items.

Attorney Ron Kolins believed they were talking about voting on these items on an issue by issue basis and this would be before the public had an opportunity to speak on these issues, which would make the public input a sham. Mr. Weinberg responded he doesn't wish to make a sham of anything but the procedure was to go through the items and get a consensus on them, and before a vote is taken, public input will be received.

Mrs. Smith found it difficulty to bounce back to the items after they have discussed the 21 issues and the questions that may be presented by members of the public on items that have been discussed an hour ago. She thought it would be easier for her to follow it if the input from the public occurs as they are discussing the issues. Mr. Weinberg stated he will do just that.

Item 6. Mr. Randolph noted there was a suggestion made that there be a limit on Special Events. Mrs. Douthit thought that would be difficult and since they have already indicated they will cooperate with the Bath and Tennis. Mrs. Wiener agreed noting it should be the average of whatever is done at other clubs in the Town. Mrs. Smith asked if there were restrictions on other clubs with regards to Special Events to which Mr. Randolph responded negatively. Mrs. Smith stated she could see no reason to have that restriction for this Club. Mr. Weinberg called for public comment on this item and there were none.

Item 7. Mr. Randolph noted a suggestion was made that there should be an increase in frequency of the traffic counts and he believed that had been discussed earlier in the meeting and that has been handled to which Mr. Ciklin agreed.

Item 8. Mr. Randolph stated this was the width of grasscrete be expanded from 10' to 18' to which Mr. Ciklin agreed. Mrs. Smith asked what kind of drainage would they be providing? Mr. Lawrence responded their engineer stated they will be using exfiltration trenches which will be buried under the ground and any additional run-off would be let loose in the drywater table. Mr. Dusey stated that would be satisfactory. Mr. Ciklin noted it is in the Agreement.

Item 9. Mr. Randolph stated the applicant will bear the costs of studies, surveys, etc. to bring Club into initial compliance with all conditions. Mr. Ciklin believed that was discussed and they have agreed to pay the costs of outside consultants, such as Mr. Weidner, but not the Town staff. Mrs. Smith clarified that this would be consultants chosen by the Town to which Mr. Ciklin agreed. Mr. Weinberg called for public comment and there was none.

Item 10. Mr. Randolph stated this was an item on noise levels from airport noise. Mr. Ciklin agreed to this item. Mr. Doney recalled it is necessary to have it known the Town does not have jurisdiction over the direct airport noise and that needs to be disclosed to their potential membership. Mayor Ilyinsky wanted to know if that is done at the Bath & Tennis to which Mr. Doney responded it is not done, but this application before the Council is based on today's conditions,

as there was no Comprehensive Plan in place when the Bath and Tennis Club was developed. He stated it is based on today's conditions and circumstances which make it relevant.

Mrs. Wiener asked if the Town requires real estate people who sell property in that area of Town make this part of the papers for the prospective buyers? Mr. Doney responded negatively. Mrs. Wiener did not think this was the Town's business. Mrs. Douthit believed it was but wasn't sure the realtors abided by it. She wondered if they had listening devices for the airport noise on their property, recalling Mayor Ilyinsky did have one on his property. Mr. Weinberg believed that should be between the Club and its membership. Mrs. Wiener disagreed with this item being a part of the Agreement. Mrs. Douthit wondered if a hold harmless agreement for the Town would be sufficient.

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Attorney Ciklin thought it was not the Town's business, but will agree to it to move it along. Mrs. Douthit asked about the hold harmless. Mr. Ciklin stated if the Town Council wanted him to put into the agreement a disclosure that there is an airport there and there will be noise, he would be agreeable so this can be moved along.

Mr. Doney explained there are continuing concerns with the airport noise and there is ongoing representation of Mr. Trump at the airport noise meetings, and perhaps prospective members should be made aware of it but that is up to the Council. Mrs. Royal did not believe it should be in the Agreement as perhaps they would want to have a hold harmless because we live in an area where hurricanes may strike. She believed they wanted conditions in the Agreement that will protect the Town and she doesn't agree with this one. Mrs. Smith noted Mr. Ciklin has indicated he will agree to this. Mrs. Wiener did not agree. Mr. Ciklin advised the Mayor and Town Council they really do not think this is necessary but will agree to move this along, however, it has nothing to do with the Town and people will not actually be living there as it would have been in a subdivision, so there is a difference. Mr. Weinberg asked for a consensus and three members of the Council did not want it in the Agreement.

Item 11. Mr. Randolph stated a request was made to specifically exclude use of pools and/or cabanas on the east side of the property. Mr. Ciklin recalled this provision was already in the Agreement. Mrs. Douthit asked if this included toilets and showers? Mr. Ciklin responded they have not made a request for toilets and showers, although there may be water to rinse their feet off. Mr. Randolph stated this came about because there is an abandoned pool on the east side and they wanted to make sure there would be no pool presumed to be put there. Mrs. Smith asked if there was existing facilities on that side to which Mr. Ciklin responded he would imagine so. Mrs. Smith asked if there were showers or toilets or do those swimming in the ocean have to go back through the tunnel to wash off? Mr. Ciklin responded there won't be cabanas there but there may be water to rinse off their feet.

Attorney Kolins believed that in their discussion, they are stating the members of the Club would be allowed to use the beach, and he felt as a matter of law, they cannot include the beach as has been earlier acknowledged, in order to be lawful this Club must meet the County's traffic concurrency requirement and the County states it doesn't include the beach because if it does, it doesn't meet the traffic concurrency requirement. He referred to the May 12, 1993 letter from the County Traffic Engineer Charles Walker to Mr. Robert Moore and among other things, it says: "The traffic performance standards would not be met if conditions placed on the Club are different than the assumptions made in the Kimley-Horn study." Mr. Kolins stated in another paragraph: "The Kimley-Horn study also did not address traffic generated by the golf course and the beach." He stated they could not have concurrency with the County traffic performance standards. He told of his client's property immediately adjacent to the beach so if this Club is approved, they should preclude use of the beach. He will be offering comments on some other of these items but wanted them to know he does not waive his position on behalf of his client that there should not be a Club approval at all and will discuss this later.

Mr. Weidner responded the County traffic standards will be met if the Club is limited to 313 trips per day no matter for what those trips are utilized.

Mrs. Wiener commented there is in the law that there is no such thing as a private beach and if someone wanders from the Club to the beach, can they be prohibited from walking on the beach? Mr. Randolph responded negatively. Mrs. Smith believed this is the Mar-a-Lago beach property as Mr. Trump purchased it. Attorney Kolins commented with all respect to the traffic engineer's comments, in order for any use to have approval, they must get a concurrency exemption or reservation from the County, and the one given by the County for this project, precludes the beach use and taking the point by Mrs. Wiener that anyone can wander onto the beach, that is true, but it seems to him that the Club shall make clear in its literature that there is no beach use and the tunnel should be sealed off.

Mrs. Wiener thought if the Club were to put on the beach cabanas, etc on the beach, she couldn't agree with Mr. Kolins more, however, for people to wander onto the beach with no place to be comfortable, she didn't believe that would be a problem. She didn't think most of the people who belong to this Club would be going to the beach since it will have none of the facilities that the Bath and Tennis does have. Attorney Kolins stated the County states there should be no beach use as they don't believe the requirements of the County can be met.

Mr. Weidner responded he is reading the County's letter and he doesn't see where Mr. Walker specifically states they can't have the beach. He stated it does state the Kimley Horn Study did not address traffic generated by the beach, and he thought the intent was to indicate that there were several factors here that were ambiguous and if there were some small increase in traffic, it would exceed the County's performance standards. He stated Mr. Walker states it is strongly recommended that the Town place conditions on the development and restrict those uses identified in the Kimley-Horn Study and what is recommended by the Town's traffic consultant, Jeffrey Weidner of Frederic R. Harris. He noted the application shows the tunnel and the beach and the golf course, stating the golf course will be a use.

Attorney Kolins did not agree as he thought the letter talked about the limitations the Club would have to meet in order to meet the County's traffic performance standards and if they wanted to ignore them, that was the Council's choice.

Mr. Weinberg asked Mr. Weidner if he was reading the same letter as Mr. Kolins to which Mr. Weidner responded he was and his previous comments still stand, and he could not see the statement that if the beach was used, they could not meet the County's traffic standards.

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Mrs. Smith stated the beach and the golf course have not been addressed in the Kimley-Horn study and they will obviously generate more use of the property and that is why they are discussing this. Mr. Weidner commented they would have to meet the 313 trips per day limit, the County's performance traffic standards will be met and he has discussed this with the County.

Mr. Moore indicated the Tipton report was not received by him from the applicant and was furnished him by the County and then analyzed by the Town's traffic engineer, Mr. Weidner, prior to the May 13th meeting. He stated with Mr. Weidner having discussions with Mr. Walker, the author of this letter, he would defer to Mr. Weidner for his opinion of what he and Mr. Walker discussed regarding the traffic concurrency issue with the County.

Mr. Weinberg asked Mr. Randolph to continue with Item No. 12.

Item 12

Item 12. Mr. Randolph stated this item is that memberships be frozen in the event traffic counts exceed the required maximum. He commented that if in a particular year, they are up to 300 members and they have 313 trips, the suggestion would be that until that was resolved, new memberships be frozen. Mr. Ciklin stated that already is implicit in the Agreement and they would have to do that. He didn't think it didn't make any difference what the uses are, such as the golf course and the beach, as long as they don't exceed the 313 daily trips. He felt if they got to the 313 number, they would not offer another membership.

Attorney Kolins recalled earlier today he thought there was a statement that rather than there be too high a level of membership, and they would have to try and take some away, they needed to start at a lower level and if the results proved the trips are lower and there was room for more members, they could increase that membership and that would be much easier and less offensive to increase than to decrease. He thought that whatever that number is, there should be a number of limitations from which they can rise rather than to start at the top and hope they could go down. He stated he has a problem in using the information of Mr. Weidner. Mrs. Wiener called for a point of order noting they are discussing Item 12 that membership should be frozen in the event the traffic count exceeds the required maximum and she didn't think Mr. Kolins was on that subject.

Attorney Frank Chopin addressed the Council, pointing out they are not going to sell all of the memberships at one time, and they will be doing this early on, so he didn't understand how will they know when they are selling memberships ahead of time, when they are getting to the 313 number before anyone uses the Club. He felt if they didn't do something to freeze the membership unrelated to traffic usage, they will have a problem as there won't be any traffic usage to control that process.

Mrs. Wiener stated they talked about the membership figure and they decided to put it off until later in the meeting, so they haven't arrived at a number on membership. She pointed out they are talking about Item 12. Mrs. Smith suggested they put Item 12 on the back burner until that decision is made.

Mr. Randolph indicated the point that is being made is it may well be a year before they have a traffic count, as it will be an average annual count, and if they waited an entire year and then tried to freeze the membership, it would be meaningless at that point.

Mrs. Smith asked if the Agreement were to be worked out, how long would it be for this Club to be set up and ready to go to which Mr. Rampell responded it would be about one year. Mrs. Smith believed that prior to that time, the memberships would be sold. Mr. Rampell indicated the Club could be shut down if they exceed the traffic count. Mrs. Smith stated what her point was she wanted to know how long it would take to have the members in place they would need to start with prior to the opening of the Club.

Mr. Weinberg asked to go on to Item 13 and Mr. Randolph stated this is more specific attention should be given to Chapter 8 which includes rules of the Club, as there is reference in the rules that the rooms will be hotel rooms and in the application, they are referred to as guest rooms. He stated another is that there should be no rental of facilities to other than Club members and no commercial or quasi commercial events.

Mrs. Smith stated she was not aware of the fact that they had approved the guest rooms as the Zoning Code specifically prohibits guest rooms in a Club in a residential area. Mr. Randolph recalled he did say earlier that the Council has not agreed to these items and this is merely a list of comments that came from staff and others on restrictions they would like to see imposed.

Mrs. Wiener commented on the one hand, if the bedrooms remain as they are and can have no change of usage and on the other hand, there is a statement they can't have anyone sleep in those rooms, she felt they should either permit a different use for those rooms to make it a viable situation for the membership or restrictions be put on the guest rooms. She didn't think it could be had both ways and felt it was unreasonable.

Mrs. Douthit asked if any use of those rooms, no matter how they are termed would require a variance? Mr. Randolph indicated this has been discussed among staff and it has been debated. He recalled there is a provision in the Code which talks about living quarters are not allowed except in the commercial district. He indicated the initial impression in looking at this by the definition of "Club" itself that if a Club would not be allowed living quarters if it was not located in a commercial district. He stated Mr. Brisson has looked at this matter and has differentiated in his explanation of the living quarters which were defined as a result of the Everglades Club to change the zoning ordinance and the guest quarters which are addressed in this application.

Mr. Weinberg called on Mr. Brisson for his remarks on this subject. Mr. Brisson recalled at the last meeting he reported to the Council he had looked into the method in which this particular aspect of the private club was modified back in 1983 and 1984, and at that time that entire question with regard to living quarters related to multi-family use of the quarters at the Everglades Club and did not deal with temporary accommodations or rooms for members but simply stated there should be no living quarters for anyone other than employees if they are in the residential district.

He understood that a decision may have to be made by Town Council as to whether they are living quarters or guest accommodations, but it is his interpretation that these are not living quarters and will not be occupied as defined in the residential use in the Code and will



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essentially be temporary accommodations and in the Agreement it states they are for use by Club members. He stated it was his feeling that these were temporary accommodations for Club members and they would not qualify as residential units and would not fall under the definition for a Private Club which refers to living quarters. He believed they fell under another section of the definition, where they are talking about accessory uses which are otherwise allowable under a private club.

Mrs. Wiener believed that if that were the case, it could only be used by Club members. Mr. Brisson believed they could be used by Club members and their guests and the Agreement doesn't refer to guests but to "club members". He believed they have limited the use of these rooms to club members and they would not qualify as living quarters unless those club members were living there for a long enough time to qualify under the code as a residential use which he was sure was not the case.

Mrs. Wiener asked what would the cut-off be? Mr. Brisson responded it would be for a period over three months, as that was the definition in the Code, which he summarized. He thought if someone lived in the rooms for a longer period than three months, it might then be termed a residential use and might then be a living quarters and that would not be allowed. Mrs. Wiener thought three months was much too long to which Mrs. Smith agreed.

Mr. Brisson stated the Council did have the right to limit that to a shorter time. Mrs. Smith noted Mr. Brisson wrote this particular part of the Code and asked him if he made a mistake when it was written in this way? Mr. Brisson stated he did not believe so. Mrs. Smith noted it states specifically "within residential zoning districts, a private club may provide living quarters for its bona fide employees only." She interpreted that he was concerned about clubs in residential areas and that is why this language was included in the Zoning Code, and now she thought that he was saying something different. Mr. Brisson responded he has not changed his thinking because at the time this was adopted the concern was for multi-family use of a private club, and it had nothing to do with short term occupancy. He noted this was for employees only and it addresses that but it does not address the use they are now talking about and he did not think that was a mistake, although it may not have been contemplated.

Mr. Randolph believed this provision was in existence prior to the Everglades Club change and it simply stated that clubs should not have living quarters. He recalled the Everglades Club wanted that changed and the basis was because they were in a commercial district anyway and they didn't think it would hurt anything to have the living quarters in a commercial district as opposed to a private residential district and that is why this change was made. He wished it to be clear that this provision prohibiting living quarters within single family zoning districts was in existence prior to the subject coming up about the Everglades Club. He believed Mr. Brisson was telling the Mayor and Council is it is his interpretation that when this provision was first put into the Code, it did mean living quarters, not a guest accommodation or something that would be of a transient nature.

Mrs. Wiener asked when they talked of living quarters were they talking about something longer than a three months stay? Mr. Brisson responded affirmatively noting it is something that would qualify as a residential use and also in that case, they were dealing with multi-family residential use and in the Code the use of those rooms does not qualify as a multi-family residential unit. Mrs. Wiener asked if the basic difference was a transient use versus a residential use? Mr. Brisson agreed and also the provision of kitchen facilities, pointing out these do not have them as they do not qualify as residential uses. Mrs. Wiener asked if the Everglades Club had kitchen facilities to which Mr. Brisson responded affirmatively.

Mr. Moore reported at the time the Ordinance was changed, there was a fire in the Everglades Club and there were four apartments on the second floor over the area that was burned and two were going back, and this change permitted that as the apartments were completely destroyed.

Mrs. Douthit asked how would this apply if this is strictly transient, would it not be more like a hotel use? Mrs. Wiener responded a hotel would be public and a Club is private.

Mr. Brisson advised there would be no outside advertising and it would not be open to the public and it would be limited to the club members. Mrs. Smith asked if under three months would be a transient? Mr. Brisson explained the Code states over three times for less than three months is considered a transient or non-residential. Mrs. Wiener believed the three month period would be too long and it should be reduced for a private Club. Mrs. Douthit believed it should not be more than three or four nights.

Mr. Randolph did not believe Mr. Brisson was telling them that they did not have the authority to limit the time to a period of less than three months if that is a condition they wish to impose. Mr. Randolph stated Mr. Brisson was giving them the definition of "living quarters" as opposed to "guest accommodations". He stated with regards to the kitchen facilities, the three month time period, the no advertising regulation and members only are things which would lend credence.

Mrs. Dorothy dePeyster addressed the Council indicating her concern on the zoning in this matter, and she has served on the Zoning Commission and knows that the living quarters was to be for bona fide employees only; and there are other things in the Zoning Ordinance which they should be taking into consideration, such as the public health, safety, welfare and morals. She stated they also should consider the potential adverse impact on the adjacent area, or neighborhood and the Town must ensure that such uses are located, sited and designed to result in a positive contribution to the Town. She asked if the spa would be restricted to members only? She thought that Mr. Trump should have applied for a Zoning Variance also.

Mrs. Wiener did not believe that anyone from the outside could use any of the facilities as it is to be for members only to which Mr. Moore agreed.

Attorney Chopin advised the Council they should look at the application in the way it has been defined, there are all kinds of members, and asked them to ask Mr. Trump if he has not offered honorary memberships to people already, so anyone can be made a member for a day, a week or a month, so he didn't believe when they state it was limited to members only, they were placing any great limitation on it.

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He wished to address the use of the bedrooms as living quarters. He stated their Town Attorney is the one to advise them on the interpretation of the Code as Mr. Brisson is not a lawyer.

He recalled there was a fire at the Everglades as Mr. Randolph had related and there was a question about whether or not the apartments could be rebuilt, but there was a clarification in the Code that they were going to have apartments with living facilities and they wanted to be absolutely clear that this would not extend into residential sections. He thought they would have to examine the language in the Code which deals with accessory use of a Club, and if it is concluded within a residential use, there cannot be living facilities for anybody but staff members really means what it says, it may be permissible but only if it is an accessory use.

He believed that every private club in the Town in a residential area does not have such rooms in use, with the exception of the Everglades Club, which is in a commercial zone. He stated it is their view if they look at the application, the applicant is indicating what he wants to do and that is to rent out the rooms just like a hotel, and that is why it states in the application "hotel use". He did not believe they had the right to do that with this Special Exception application, but needed to file a zoning variance application. He didn't know if anyone had suggested that they be limited in the use of these rooms for any other purpose that would be consistent as an accessory use with a private social club. He stated that would not be the position of the Preservation Foundation, who stated they should not have hotel accommodations or hotel type rooms and if the Council can distinguish between renting a room at Mar-a-Lago and renting a room at the Breakers, then they could make some sense out of Mr. Brisson's remarks, but he can't as they don't have kitchen facilities in the rooms at the Breakers.

He pointed out Mar-a-Lago is a residential neighborhood and he could become a weekend neighbor by living there by renting a room, just like he would a hotel room and he believed that is what the Council was trying to protect with that provision so as to continue the integrity of a residential neighborhood and prevent a hotel use.

Mrs. Royal raised the question if the Council limited the use of the guest rooms, how would this preserve Mar-a-Lago anymore than allowing people to sleep in them? Mr. Chopin stated that is a hard differentiation to make, but what he wanted to say is they wanted to preserve Mar-a-Lago and he could argue as a preservationist, that it is not persistent with using the rooms as bedrooms that they be preserved in their current state, but he could guarantee the Council they wouldn't be preserved, because the various agencies will require there be substantial overwhelming changes to meet fire and safety codes to use these rooms as a hotel. He thought that was a valid objection, but it is not the one he is making, as he thought they had to look at what is the greater good and his view is the preservation of Mar-a-Lago is the greater good and if they have to give up something in the process from a preservationist point of view, they should be prepared to do that. He argued with respect to the hotel use of this property is a different one, but it has a preservation overtone, and that is what we are all concerned about - preserving the character and integrity of Palm Beach, which is basically a residential community. He thought once they began to open up the residential sections of Town for a different use, particular a highly intensive commercial use as a hotel, then they destroy the integrity of their basic zoning code itself. He could tell them they are going to desegregate the rooms but what he wants to tell them is they need to preserve the integrity of the Zoning laws, which prohibit a multifaceted use of this sort with limited exceptions. He reported the fact of the matter is the Council should be aware that there are other RAA zoned properties and they would be able to be used in the same way. He thought they had a precedental value issue here.

Attorney Kolins addressed the Council indicating if they assume as the staff does, that there is a distinction to be made between a guest room and living quarters, he thought they needed to state what the purpose is to have these guest rooms in the proposed Club and think of the context of having a Club in this neighborhood and he cannot believe the intended use was for anything that would be considered as long term and if they are going to have the rooms at all, they should be for a couple of days for someone who is a true member who comes from out of town to spend a weekend and then leaves. He cannot believe the purpose is that someone would want to come in and use the guest room for one, two or three months. He reminded all this is a seasonal Town and people do come and spend time during the season and to state that people could come and spend that time in one of these rooms at Mar-a-Lago is not near what was conceivably intended, and urged the Council if they accept the staff's differentiation between guest quarters and living quarters that they do make it truly guest quarters, with a limit on the time, perhaps three days and no more than once per month per member, so it will take away the opportunity to misuse these rooms based on what has been represented to them.

Attorney Ciklin responded these issues are troublesome and he has not understood the discussion on this topic, particularly Mrs. Royal's question. He heard the Preservation Foundation's representative violently oppose the guest rooms. He stated what is going to happen would be the guest rooms would be allowed to be used for guest rooms, these historic rooms which have been used for generations for historic personages will continue to be used as guest rooms, which they are today with the antiques and historic tradition and the preservation in mind. He commented if the Council states they don't want guest rooms, the rooms would not be used as guest rooms but for something else. He stated in a Club they would be used for bridge, a billiard parlor, or a library. He thought that would be so opposite of what preservation is all about and it doesn't make any sense at all. He pointed out if this is approved, these rooms will continue to be used as guest rooms and it does not require a variance, a zoning change, and it is not living quarters and all it requires is a finding by the Town Council that this is an accessory use. He advised locally guest rooms are contained in Admiral Cove Country Club and the Jupiter Island Club. He thought there was a lot to be gained from guest rooms and it would be in the best interest of the Town.

Mr. Rampell pointed out other clubs who do have these guests rooms are located in residential neighborhoods. Mr. Weinberg pointed out the rooms would be available to members only. Mrs. Royal asked if Mrs. Volk could address this from a preservation standpoint. Mrs. Volk recalled when the old Coral Beach Club was torn down, there were rooms in that Club and the request was made to put rooms of this type in the new Beach Club, which took its place, which was denied, so she thought they should have some consistency with the precedent.

Mr. Jack Callahan, who explained he lives on the corner of Via Vizcaya and Ocean Blvd., for approximately 20 years and is seven or eight blocks north of Mar-a-Lago and he couldn't agree more that to allow rooms to be rented out in a residential area as fine as this would not be for the best interest of the Town, and he urged them to not do that.

He wanted to say something about the traffic as he has listened to the traffic experts who have given their statements on this matter today and concluded that they spent little or no time on South County and South Ocean Blvd., as many days, the traffic is stopped all the way north to Charley's Crab and one more car would be too many. He felt on the basis of traffic alone, this Club use should not be permitted.

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Mrs. Smith asked Mr. Ciklin noting her concern is with regards to the zoning, and asked if they would consider going through the Variance process for these guest rooms? Mr. Ciklin responded he did not think so, as he didn't think that was the appropriate forum. He announced this is an important issue to Mr. Trump in the success of the Club. Mr. Weinberg asked if they had any contemplated procedure for the rental of these rooms, and is three months the time they would want? Mr. Ciklin understood that this three month period was the difference in the Code between residents and transient guests and they anticipated complying with the Zoning Code, and doubts if they would have guests who would want to stay a three month period, but it is possible. Mr. Weinberg asked what actual time limit would they consider, minimum and maximum, to which Mr. Ciklin responded, after conferring with Mr. Trump, a three month maximum and no minimum unless there was a reason to have a minimum.

Mrs. Smith commented her feeling on the three months was that it was more like a condominium rental, which she viewed as an excessively long time and she already stated she had a problem with this without the Variance process.

Mr. Wes Blackman, local professional planner, addressed the Council, residing in Lake Worth, a member of the public who is interested in the future of Mar-a-Lago and the preservation of the structure. Mrs. Douthit asked who he represented. Mrs. Smith recalled from the last meeting, he stated he had met with Mr. Rampell. Mr. Blackman responded he has met with Mr. Rampell but he doesn't represent him. He pointed out he is concerned with the preservation of the structure and sees the availability being an integral part of the preservation mechanism. He stated they will generate revenue and ten per cent is one of the conditions in the Agreement is to have this go towards the maintenance and without that, they would not have this revenue. He concurred with the statement by the applicant's attorney that guest rooms do not need a variance and are permissible as part of this Special Exception request and will not denigrate the historical value of the rooms. He stated these guest rooms are not living quarters and do not have cooking facilities. He commented the guest rooms are clearly incidental to the use as a private club and will be not be advertised separately and is consistent with the historic use of the property. He believed to a minimum extent, it would also keep the number of trips down. He felt it was an important part of the request and should be favorably considered by the Council.

Allen S. Wyett addressed the Council stating it was his belief this was blatantly being designed as a private hotel. He thought the definition of membership was ambiguous, as it could be a member, his children, grandchildren, cousins, aunts, etc., and it seems to be a back door to establishing a private spa with membership upstairs. He felt all it means that through word of mouth, if a membership is bought, they can come into Town and spend up to three months and they are here for the best part of the season. He recalled many people are only in this Town for three months a year, or one month, and if he didn't have any reason to be in Town year round, he would probably join the Club in order to use these facilities for the prime time of the year. He asked them to recognize what is really being requested, is that they want a Club, local residents to support it, and in essence, they want a private hotel and a private spa, which could probably be written up as being something very exclusive.

Mrs. Wiener asked how many guest rooms would there actually be to which Mr. Rampell responded their application states ten historic guest rooms. Mrs. Wiener asked if there would be no more than ten? Mr. Rampell responded he believed the density for this would be 28 and asked Mr. Brisson to clarify. Mr. Brisson responded this would be the density for the property. Mrs. Wiener asked again how many guest bedrooms would they be having? Mr. Rampell responded the answer is ten.

Attorney Chopin stated that was not true as when Mr. Trump came to the Preservation Foundation, he told them they had nine or ten rooms which were listed as historic rooms. He thought the question needed to be answered as to how many bedrooms were actually in Mar-a-Lago, and asked Mrs. Wiener to ask that question of the applicant's attorney. Mrs. Wiener stated she asked the question, how many guest bedrooms. Mr. Chopin responded when Mr. Trump made his presentation to the Preservation Foundation, he stated there would be other rooms to rent out. Mr. Rampell advised the members of the Preservation Foundation told them they were in favor of the guest rooms at this very same meeting to which Mr. Chopin has referred. Mr. Rampell again stated the answer is ten guest rooms. Mr. Moore clarified that is the number in the application. Mrs. Smith noted there are numerous staff rooms at Mar-a-Lago and asked if any of the existing staff rooms were contemplated to be used for guest purposes. Mr. Rampell responded negatively.

Mrs. Smith asked if the guest rooms they are talking about are the rooms being covered by the interior preservation easement and listed under the critical features? Mr. Rampell responded affirmatively. Mrs. Smith asked if they were going to have staff living on site to which Mr. Rampell responded not necessarily. Mrs. Smith wondered how the people who would be sleeping there would be accommodated if there are no staff living on the premises. Mr. Rampell stated that is possible. Mrs. Smith asked if they had any idea what the number would be of staff living there to which Mr. Rampell responded they had not anticipated that figure as yet.

Mrs. Wiener suggested that somewhere in the agreement there should be a condition that at no time would there be more than ten guest rooms available, if they get to that point, as she thought that was a critical point.

Mrs. Douthit thought if the guest rooms are approved, the time that they could be utilized should be limited to four nights in succession for any individual, couple or family, but those people would not be able to rent the rooms for at least one month, and there would be no corporate or business venture people allowed to rent the guest rooms.

Mrs. Wiener wondered if they should put the time on the basis of cumulative, that there would be a maximum number of days at one time and then a cumulative number. Mrs. Douthit stated she was saying "nights" as she thought that was clearer. Mrs. Wiener commented this could be a maximum of nights consecutively for a maximum period as there may be people coming a few times during the season. She noted they have agreed to the Town-serving and they would have to have a minimum of members actually living in the Town. She thought a two month or three month stay was way beyond what should be permitted. Mrs. Douthit stated if these guest rooms are approved, she would like to

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see it limited to four nights. Mrs. Douthit stated she would agree to no more than eight nights during a season. Mrs. Wiener thought perhaps it should be changed to three seven day periods tops during a year.

Mrs. Royal commented she doesn't care if one person would rent the ten rooms or a variety of people would rent them and use them, and wondered if that would affect how the Town is affected by the use of Mar-a-Lago. She wondered if it really mattered as they are looking at protecting the Town and do they care if the rooms are occupied how long they are occupied by any one person. Mrs. Wiener believed it had to be less than three months. Mrs. Smith noted the guest rooms will be an accessory use to the Club so they will be providing a place to stay for members who are not Town residents. She stated they have to make a decision as to whether or not they are an accessory use to the Club and whether they are legal or illegal and the number of the guest rooms allowed would be ten. Mrs. Douthit gave as an example that if she were a member of the Club and had three children visiting and only had room in her house for two children, so the third one would be able to stay at the Club.

A short break was taken. President Weinberg reconvened the meeting.

Mr. Weinberg asked Mr. Randolph to resume at Item 14. Mr. Randolph noted the Agreement incorporated Chapters 2, 3, 10 and 11 of the Plan and they may need to incorporate Chapters 5 and 6 which includes the inventory of the buildings and the landscaping. He recalled their intent was to incorporate the meat of the Agreement, which had an inventory analysis of the landscaping and the building and he wanted to be sure those provisions were incorporated. Mr. Ciklin asked if the inventory included the furnishings to which Mr. Randolph responded it is very specific, as it talks about the Gothic stair, etc. Mr. Ciklin stated he agreed to Item 14 as well as Item 15. Mr. Randolph stated 15 was to include the waiver by club members in the event of reversion to single family use.

Attorney Kolins addressed the Council and stated that if it assumed the conditions and the deed and other things can all be done legally, and if this Club is approved and one or two or five years down the road, something were to happen, this would become Mr. Trump's single family property again. He assumed that could be done and if it could be done, his question is that if this all moves forward, Mr. Trump is going to be selling shares to shareholders of the Club who will be members of the Club, so he assumed that as people buy shares in the Club, Mr. Trump keeps that money, and that could accumulate to a rather tidy sum, which goes into his pocket. He stated now two years down the road, the Club fails and pursuant to the reverter, Mr. Trump owns the property again and it is a single family residence and asked if he could keep the money, the benefit of the taxbreaks from the Preservation Easements and that he gets the property back as well? Mrs. Douthit commented she can't answer the question but recalled at the beginning she had suggested the monies paid for the share of stock or the initiation fee, all be put in the preservation fund, along with the revenue of ten per cent which would be charged for the guest rooms. She recalled the only thing they would agree to was the ten per cent figure would go into this fund and not the other.

Mrs. Wiener believed the only thing that concerns them as a Town Council is the preservation of Mar-a-Lago and the way this is structured, Mr. Trump is selling the use of Mar-a-Lago. She stated her concern is that the Town is held harmless in the event the Club fails, as there is no actual ownership of shares in the way it is normally understood in a Club, which is why they have put into the Agreement the Hold Harmless Agreement, so there wouldn't be a situation where there would be 500 people suing the Town because they don't have a share of the Club. She felt as far as the internal workings were concerned, such as the price of a drink, the price of a room, the price of membership is really not the Town's business. She stated the business practices are between the buyer and the user and the person who provides the use and her concern is that there be a preservation easement and any governmental rights that the Town may have and nothing further.

Attorney Kolins cautioned that if that is true, then so be it, but it is his understanding is that the applicant is not Donald Trump but Mar-a-Lago Club, Inc. who will hold the title to Mar-a-Lago and that will be its asset once the shares are sold and if he is right, then they needed to consider that they are the guardians of this Trust for the Town, as if this can be sold to the Club and the monies for same go to Mr. Trump and then the Club fails, for whatever reason, half of the members will be residents or people of the Town who will have lost their initiation fees into a Club, which is no longer in existence and it reverts back to Mr. Trump.

Mrs. Wiener assumed that a Declaration of Use Agreement would be read by the members, and if they read Article 8, it says that the By-laws and Documents relating to Club Membership shall include an Agreement be executed by Club members acknowledging their understanding of the terms of this Agreement and specifically, agreeing to the reversion of the Club to the owner and its return to use as a single family residence, in the event the Club Use is abandoned. She noted it goes further on to state that Club members shall hold the Town harmless from any liability or claim against the Town resulting in the enforcement of the terms of this Agreement and the reversion to single family use or any other claims resulting therefrom.

Mr. Kolins suggested the Council ask the applicant's attorneys how this will work. He stated it could be no problem but they needed to find out exactly what it said. Mrs. Wiener pointed out Mr. Ciklin agreed to this provision which she just read. Mr. Kolins did not believe they knew what they were agreeing to, and the reason he is raising this is not as an accusation but as a question and he thought the Council probably would like to have this answered. Mrs. Wiener stated the Council is here to protect the Town and this agreement is a result of that. Mr. Kolins wondered if someone came to her and told her that he was thinking about joining the Club and asked if she knew how it worked? Mrs. Wiener responded she thought he was wrong. Mrs. Douthit commented that maybe she thought he was wrong in her mind but that was not everybody's opinion. Mrs. Wiener felt that anyone who had an understanding of the law at all should have an understanding of this.

Mrs. Smith referred to page 4 of the Addendum to the application for the Special Exception, it states: "The Club will be a corporate entity and will own the real property and its improvements." She asked if the shareholders in the Club anticipate they are buying a part of the real property, why would they not feel justified in believing that if the Club was unintentionally abandoned or intentionally abandoned at any time, it would not return to them, regardless of any agreement that it will return to Mr. Trump.

Mr. Ciklin responded the way the transfer will work is that if the Club is abandoned for any reason, the membership documents will state the Club goes back to Mr. Trump and it will be a single family residence. He stated Mr. Trump will have some sort of a contract with these members to deal



with them financially, if that does happen. Mrs. Smith asked if he was saying this would be incorporated into the By-Laws of the Club and any shareholder would understand he is buying a piece of paper and not any real interest in the Mar-a-Lago property. Mr. Ciklin responded the member would be buying a membership in the Club and the Club, Inc., when it is all said and done ten years from now, there will be the Mar-a-Lago Club, Inc., and its' members will own it, just like the Sailfish Club or the Bath and Tennis Club and that is the way it will be and they will own the property and the buildings and everything else.

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Mrs. Smith stated her concern is that in addition to the Town being responsible for this, she was concerned for Mar-a-Lago and if the shareholders should get into an argument with the owner and feel that they own part of the property and there is a lawsuit involving the real estate of Mar-a-Lago between the shareholder and the applicant, Mar-a-Lago may become abandoned and neglected and deteriorated, through no fault of the Town Council and her question is how can the property itself be protected from that type of litigation. Mr. Ciklin answered one is that Mr. Trump has guaranteed the maintenance of the property for a period of time; and once the Club becomes financially viable, the Club will maintain their property.

Mrs. Smith asked what will happen if neither party is able to maintain the property. Mr. Ciklin responded he did not know how that would happen. Mrs. Smith asked if neither Mr. Trump or the Club were financially able to take care of the property, then what would happen? Mr. Ciklin responded he couldn't answer that question but suspected it would be no different than any other business where the owner and the contract purchaser were able to maintain a piece of property. He didn't believe that this should be part of a land use decision. Mrs. Smith responded she is concerned about the property itself and was following up on the fact that the By-laws and documents relating to the Club membership shall be included to be executed by the Club and its members. She wanted to be sure the members were aware of the reversion to Mr. Trump and that all of these people didn't think they owned a part of Mar-a-Lago.

Mr. Ciklin stated that was correct and it will be clear. He noted another thing is if the use of the Special Exception fails, the underlying zoning does come back into place and that is a single family residence, and it could never be multi-family.

Mrs. Smith reiterated that is the point she is making that the members don't think they own a piece of the rock. Mr. Ciklin commented he was sure all of them would have lawyers interpreting this.

Attorney Frank Chopin addressed the Council noting this is one of the most important issues they are confronting, and suggested that the Council knows more than anybody else. He indicated he did read the application and it says that he was going to transfer the property to Mar-a-Lago Club, which was confirmed by Mr. Ciklin, and that in fact the corporation will own the real estate, land, building, easements, accoutrements, everything, but it also states in the Article of Incorporation that this is a company already formed and it says that on liquidation, the property goes back to the shareholders. He recalled he asked Mr. Trump and Mr. Rampell when they appeared before the Preservation Foundation, where was the agreement pursuant to which Mar-a-Lago is transferred to Mar-a-Lago Club, Inc. and they have been cooperative on everything except on this one issue and he is now suggesting that for the first time the public is hearing that what is in the application and the article of incorporation are not accurate, because he raised the issue and told Mr. Randolph that what will be created will be a nightmare and in the event of financial failure of the Club, they will have multiple ownership of the single family residence with each of them having exactly the same right to occupy it concurrently, which is a violation of the Zoning Ordinance.

Mr. Chopin stated they may have good lawyers and they may good legal advice, but maybe they won't. He thought the point is this is part of the hoodwinking process that has been going on and he uses that word consciously and considerably as the application that has been filed stated the property was going to be transferred to the Corporation and subject to the mortgagee's approval. He recalled there is a copy of the mortgagee's consent to the assignment. He stated this corporation will own Mar-a-Lago and have a twelve million dollar obligation. He recalled Mr. Rampell told the Council he didn't know how this will work. Mr. Chopin explained he knew how it works and Mr. Trump will take the shares and sell them and that is the American way, which will be perfectly legitimate. He stated what they never told the Council they were going to do is that if the Club fails, Mr. Trump will get it all back and keep the money in his pocket, and that is not what the application says.

Mr. Chopin thought this was a legitimate question as there is going to be some kind of an agreement between Mr. Trump and the shareholders and he thought they needed to know what kind of an agreement that will be, as these folks will own the property.

Mr. Chopin pointed out in a Site Plan Review, the Council is specifically supposed to have a clear understanding of the ownership and the terms and provisions of the contract. He couldn't understand what was going to happen and now he does - there will be a corporation that assumes an obligation to pay twelve million dollars, and assumes the obligation to provide for the maintenance of the property and for the first time, they are hearing that Mr. Trump is transferring the property to the corporation and to its shareholders but Mr. Chopin did not think that was what Mr. Trump was doing. He thought he was only allowing the shareholders to use the property. He thought the Council needed to examine if that fits in with what the Zoning allows and the terms of this Special Exception. He stated there is a kicker, as if he bought one of those shares for whatever price.... Mrs. Wiener interrupted noting that is none of the Council's business. Mr. Chopin agreed it may not be their business, but to get to the question, they needed to know how will the Club be viable and what the future consequences will be. Mrs. Wiener asked him to get to the point. Mr. Chopin told the Mayor and Council it was important for them to know they are now an active and willing participant and in fact, an initiator of something that is not in the application.

Mr. Chopin stated the Council is requiring that the property revert to Donald Trump and are initiating that reversion and that is not in the application nor the documents submitted. He didn't know that he would take such total comfort in the Hold Harmless Agreement and he didn't know how that would be enforced when they sell memberships or when they give memberships away, but the fact of the matter, the Council is requiring someone who takes a piece of paper which is a public record and buys a document which promises them they are going to own a piece of the rock and now they are saying if the Club fails, they are going to give it back to Donald Trump.

Mar-a-Lago

Mrs. Wiener asked if Mr. Chopin recalled the date of the incorporating papers? Mr. Ciklin responded the date was February 1st. Mrs. Wiener noted the date of the Declaration of Use Agreement has not been determined and the draft came out about two weeks ago. Mrs. Wiener asked if papers of incorporation could be amended? Mr. Chopin responded they could amend the application as they have a couple of amendments to the application, but what they didn't get is an amended application which told what this property would be used for. Mrs. Wiener commented she didn't want to argue with him, but is trying to point something out as if they are working in good faith and want to understand each other, and if they are not, they will never get through this. She believed this document, the Declaration of Use Agreement has been an involvement from the time the original incorporating papers were put together and there was no question that as a result of some of this, the papers of incorporation will have to be amended. Mr. Chopin responded it is not in the Declaration of Use that it has to be amended.

Mrs. Wiener retorted that doesn't mean they are not going to require it. Mr. Chopin stated it is kind of hard to address something which is not before the Town Council and he viewed that as exactly what is going on in this process as they have filed an application saying one thing, then they filed amendments to the application which did not include this particular point and he is telling them that that Agreement, unless it does in fact require an amendment to the Articles of Incorporation would not be a legally binding document. Mrs. Wiener responded there are certain things that will come out of this as a result of these discussions, but one doesn't amend the Articles of Incorporation everything there is a meeting and some things are changed. She believed that was done after there has been a meeting of the minds, that's when things like that are done because there may be other things that would need to be changed, after all of this has been discussed, then it will be done properly.

Mr. Chopin responded it may be when they are caught with something like this, then they might have to cover it up, but his point is it would be inappropriate for him to poll the Council but if Mrs. Wiener were to do so, she would not find unanimity that everyone here knew this was going to be a Use and there would be a reversion to Donald Trump. He asked why the applicant and his attorney didn't want them to see this Agreement and where's the beef? He felt the beef was there was an agreement out there as the attorney for the applicant stated there would be an agreement to compensate the shareholders and instead of revealing it, it gets brushed aside. Mrs. Wiener felt as long as the Town Council's wishes are taken care of, she thought their agreement with their shareholders were their business. Mr. Chopin did not agree stating it is not a question of what they are going to give their shareholders, it is a question of what they are prepared to take and they own it and they don't have to sell it. Mrs. Wiener did not believe that was the case.

Mr. Ciklin addressed the Council noting this is a classic red herring as Mr. Chopin is raising consumer affairs issues in a zoning hearing and he would like to get back where they are supposed to be which is they applied for a Special Exception and Mr. Randolph has explained that is a Use to which the applicant is entitled, providing there is no adverse interest. He has received a conditional approval and now is talking about the conditions they are trying to mitigate, land use impacts, not how they sell the club memberships, or how they would get the property back, and as a matter of fact, they agreed to the reversionary interest to protect everyone. He thought that the pattern they were seeing now is confusion and he asked to get back to the issues so they can get through this.

Attorney Kolins asked to make two points, one, Mr. Ciklin is wrong as they are precisely where they ought to be and he referred to the Code, Section 9.63 (a) where it states that before a Site Plan can be approved relating to a Special Exception, the Town Council must certify that they have made satisfactory provision and arrangement concerning:

(a) sufficiency of statements on ownership and control of the subject property and sufficiency of conditions of ownership which will control use and permanent maintenance of common space, etc.

He felt this was a perfectly valid and unavoidable issue for the Council. He believed had they not raised this issue, the applicant would not have raised the issue. He felt if the point had not been raised with regards to the Articles of Incorporation, it wouldn't have been done.

He recalled at the last hearing when Mr. Rampell asked for an approval stating if it was given, the pending litigation would be dismissed. He asked if that has been dismissed?

Attorney Randolph didn't think they should get confused about the ownership issue as opposed to the use issue and this may be a good point to bring up for discussion, as apparently there has been a concern as to what happens to the club members when this reverts to Donald Trump. He stated Mr. Ciklin is correct as the only reason the reversion came up was because the Council wanted to be assured if the Club failed, it would go back into single family ownership, so provisions in that regard were included in the Agreement. He was not sure from the Council's standpoint how important that is that it reverts to an individual as he thought the important thing is that it does go back to single family use, as that is the important provision. He stated if the concern is what is being done to the shareholders of the Club by stating this will revert back to an individual, perhaps that is not important and what is important is that it reverts to single family use. He thought if several owners end up owning the property and it has to go to single family use, that doesn't mean that the several owners get to use it. He didn't agree that this Council should be involved in the Club's financial affairs, but perhaps that would be a way to entangle the web to exclude any provision that it will revert to any particular single family owner, but it should revert to a single family use.

Mrs. Wiener did not agree as there is a responsible party and they needed to keep that party responsible. She stated the applicant has agreed to this and she didn't see why they were going backwards as they have discussed this ad infinitum.

Mr. Randolph noted Item 15 has been agreed to as proposed.

Item 16

ITEM 16. Mr. Randolph stated this suggestion is that perhaps the deed from Mr. Trump to the Club should include a reverter provision. Mr. Ciklin responded the document itself which will be recorded and be a deed restriction includes the reverter provision. He stated if there was something else they wanted in there, that was fine but he thought this took care of it.

Item 17

ITEM 17. Mr. Randolph stated there should be a clear understanding as to the number of members and he wanted to make sure they were aware of the different definitions which are active members; guest card holders, day guests, house guests and seasonal subscribers. Mrs. Douthit

recalled the number they came up with is 492. Mr. Randolph was not sure that day guests were included in that number. Mrs. Douthit believed they all needed to be counted together and all of these have to fit within the 492 membership number and come within the number of allotted daily trips, the 313 number.

Mar-a-Lago

She believed the guest card holders could be for a week or so; the day guests would be those who are invited to lunch; and house guests would be living at a resident's house and go to the Club for dinner. Mr. Rampell recalled there was a discussion earlier about a cap on the number of individual members and they deferred that matter. He felt as far as the different categories were concerned, they can be clearly understood by the practices at the Bath and Tennis Club. He stated they have used the definition of the Bath and Tennis Club in their document and he believed if they were acceptable for the Bath and Tennis Club, they should be acceptable for the Mar-a-Lago Club as it is the same exact terms and privileges. Mrs. Wiener asked him to illuminate a little bit on this subject. Mr. Rampell explained there are different privileges associated with each of the use categories. Mrs. Wiener noted they are talking about numbers. Mr. Rampell advised they have not imposed any limits on any of the categories. He believed there could be only a limited number of house guests, day guests and guest card holders but he didn't recall the numbers. Mrs. Wiener stated she had heard there may be huge numbers and what she is trying to do is to find out if that is true or gain some measure of comfort that these numbers would be limited.

Mr. Rampell stated they would be limited the same way the Bath and Tennis Club would be limited but it all comes back to the daily trip traffic count, however they are described. Mrs. Smith asked if Mr. Rampell could explain what would the limitation on the number of day guests at the Bath and Tennis Club on any given day, considering they have 760 members and wondered if it was not possible that every member of the Club could bring in a day guest on the same day?

Mr. Rampell stated if they liked he could go over the definitions which were taken from the corporate documents of the Bath and Tennis Club verbatim. Mrs. Smith thought that was a good idea. Mr. Rampell referred to the active members who would own certificates. Mrs. Smith asked if the active members would be limited to 500 people? Mr. Rampell responded this would be whatever figure they have agreed to. He recalled there were 500 shares authorized to be issued under the Articles of Incorporation and those could be increased or decreased by amendment.

He referred to the weekly guest card holders who will be those persons who would be sponsored by an active member subject to the approval of the Committee on Admissions, and these cards are limited to a two week period per season and are available for those who reside in Florida for all or a part of the Season, or to any individual whose parents or grandparents reside in Palm Beach County and are not members of the Club.

He referred to day guests who will be such persons who are introduced and accompanied by active members or seasonal subscribers.

Mr. Rampell stated house guests would be such persons as guests residing with active members or seasonal subscribers and residents in their Florida homes, and they would receive house guest cards with a limit of two weeks per season.

Mr. Rampell referred to seasonal subscribers who would be such persons regularly elected as such and would include husbands and wives and their unmarried children up to the age of 26. He stated these seasonal subscribers would have all the privileges of active membership, to introduce day guests, tennis guests, luncheon guests, dinner guests and houseguests.

Mrs. Smith asked if the membership number had been decided upon. Mrs. Wiener believed it was 500. Mr. Ciklin indicated the number he has come up with is 492 members which would be reflective of the 313 trips.

Item 18. Mr. Randolph advised because the application and documents in support thereof will be folded into the agreement, staff should be certain there is nothing included therein which is contrary to the intent of the conditions imposed by Council.

Item 18.

Item 19. Mr. Randolph stated this item is that preservation easements shall be structured in a manner that they are not in conflict with conditions imposed by Town Council. He explained the only reason that point is raised is preservation easements, which he thought were quite complete, had a provision which indicated, which he supposed was for tax purposes, that the Club shall be open one day to the public. He noted that particular provision would be in conflict with other provisions that have been agreed to that the Club would be open only to members and guests.

Item 19

Mr. Ciklin advised "open to the public" in that context means that a group of twenty are allowed to have a tour of the premises. Mr. Weinberg asked if this was one day a year to which Mr. Ciklin responded affirmatively. Mrs. Smith reported it should be two days - one day open to the public on the outside and one day to a chosen group of twenty or twenty-two on the inside. Mr. Ciklin stated this was not for any other purpose than to tour the property.

Mrs. Smith asked if there was anything to preclude the applicant from giving the preservation easements at this time, whether there is a Club or not? Mr. Ciklin responded there is not. Mrs. Smith recalled this is a tax benefit to any property owner and a wonderful preservation tool and that is appreciated. Mr. Rampell reported this does depend upon the person's taxable income as to whether any deduction is realized. Mrs. Smith noted they have to have an income to get the deduction and her main point is it is a wonderful preservation tool for the interior and exterior, but it should result in a multi-million dollar tax break for any property owner giving an easement of that type.

Item 20. Mr. Randolph stated it has been suggested that the capital reserve fund be expanded and that terms be more specific relating to purpose for which said funds can be used. He thought Mrs. Douthit would have liked to see the 10% not only from the guest rooms but also from the initiation fees. Mrs. Douthit stated she would like to see the total initiation fees put into a preservation fund which would be used to maintain the properties. Mrs. Wiener did not agree. Mrs. Douthit indicated she would compromise at 50% then, to which Mrs. Wiener did not agree, stating she didn't think it was something they could do. Mrs. Smith asked if the capital reserve fund is the same fund referred to in the agreement as the fiduciary fund to which Mr. Rampell answered affirmatively.

Item 20

Mar-a-Lago

Mr. Ciklin reported that the reason they offered the 10% special fiduciary account was as a showing of good faith as they thought that was an area which showed how they operate the Club and how they maintain the Club and this is way beyond the spectrum of what they are to do, so they cannot agree to too much, the Club may fail and it is a decision that should be decided by the Club's Board of Directors, and it is not for the Town Council to decide.

Mrs. Douthit stated the reason she suggested it was it was her thought that the income monies be spent for preservation, so it wouldn't have to come out of Mr. Trump's pocket. Mrs. Smith noted it does say the gross proceeds and there may not be any. Mr. Rampell agreed to place 10% of the gross revenues from guest rooms into the fiduciary account. Mrs. Douthit asked if they would be willing to donate 50% of the initiation fees to which Mr. Rampell did not agree, noting one of the problems and one of the statements that he keeps hearing over and over is all of this money is going to go into Mr. Trump's pocket. He wanted them to know there is a lender involved here and he wanted them to keep that in mind.

Mrs. Smith believed part of the confusion is that the Council is not totally clear as to the picture and that is why these things are being constantly brought up.

Attorney Kolins addressed the Council stating he wasn't here to suggest that the initiation fees go to preserve the estate and not go to Mr. Trump. He believed if he had to take that money and pay off the mortgage that is his business. He cannot understand however, how the Mar-a-Lago estate will be preserved by this Club and that is an issue this Council should be directly involved in. He felt if they assumed that the initiation fees are not going to preservation, they need to understand that, but that means the only monies left to preserve Mar-a-Lago and maintain it are from the annual dues. He recalled Mr. Rampell came to the Council Meeting on May 13, 1993 with a box to prove to the Council it costs approximately seven thousand dollars a day to maintain Mar-a-Lago and he suggested it will be more expensive than that to maintain it as a Club because whatever they are doing now to maintain it, there will be more employees and additional things to maintain.

He asked where this money would come from to continue to maintain the estate as it will not come from the sale of stock; and it isn't coming from the ten per cent of the guest room fees as that has already been pointed out is not enough to maintain the estate; and he thought this question should be asked of the applicant as to where these monies are coming from.

Mrs. Smith believed that Mr. Ciklin and Mr. Rampell before this is over will furnish a financial statement to assure the Council of the viability of Mar-a-Lago's ongoing financial condition and preservation either under Mr. Trump or the Club. Mr. Rampell responded he finds this line of inquiry deeply upsetting as it is based on the presumption that Donald Trump is not trustworthy and he resents this as it has been continuing throughout the debate as to whether he can be trusted with initiation fees, with the ownership of stock certificates, and with Mar-a-Lago. He believed there was nobody since Mrs. Post who has done more to preserve Mar-a-Lago than Mr. Trump out of his own pocket and they can drive by the property and see it is in an immaculate condition. He thought it was irrelevant today what his financial condition was and it is irrelevant to the application as to what their business plan is, or what their financial statement is, but he resented this continuous doubt about his character that underlies all of these questions about where the dollars are going to go.

He was sure if a variance was requested by someone, they don't say the variance will be granted but first they had to see their financial statement and tax returns to make sure he will be able to make the mortgage payment on the house before the variance is granted. He stated the financial information is difficult to assemble even if they wanted to, as they don't really know how many members will be in the Club and they don't know if people in the community would want equity or non-equity or what will appeal. He pointed out this is one of the undercurrents today and last time they were challenged because someone came in and said what if 500 shareholders ended up with 500 undivided interests in the land, and he has tried to address that by putting it into the Agreement.

He recalled Mr. Chopin made an accusation today that one of the Council members had introduced this into the application and that is not so, as he entered into this provision in the Agreement specifically in response to one of Mr. Chopin's alarmist concerns.

Mrs. Wiener asked to make a statement in response to the comments offered by Mr. Rampell on how Mr. Trump has maintained this property because she was at Mar-a-Lago before Mr. Trump bought it and it was a public disgrace and they need to know where they are and they have someone who has brought this back. She keeps hearing the remarks about people wanting to buy it but she didn't believe there was anyone out there who was willing to take this on. She recalled there wasn't anyone willing to take it when the Post Foundation was the owner. She recalled a subdivision was granted to an individual but they couldn't come up with the money and it wasn't taken care of properly and she wished all of them to remember where they were coming from and not be so quick to judge.

Attorney Chopin clarified the point about the ten per cent going into a fund from the guest room revenue and it would be used to help preserve the historic and critical features of the Club itself. He suggested to Mr. Randolph if he thought of it in those terms, the language in Article 8 does not achieve that purpose because of the wording as it talks about for maintenance and that is too broad as that could include expenses unrelated to preservation.

Mr. Randolph responded the Agreement was drawn broadly because of the discussions he had with the applicant and he didn't believe he had the authority to be more specific unless the Council directed him to do so. He stated if they want to narrow that down, they should hear from the applicant. Mrs. Wiener commented she has noted about clubs that the members seem to have great pride in their clubs and are assessed to keep it that way, and she didn't see this being any different and it will be taken care of. Mrs. Douthit agreed it may be taken care of but her idea is to have it go to the preservation as maintenance is painting or cementing and that sort of thing.

Mrs. Smith believed that was covered in the Preservation Easement that Mr. Trump has given and every detail has been worked out. Mrs. Douthit agreed that is what is there but it does have to be maintained. Mrs. Smith believed he has given all of the provisions of the care and maintenance of the property in the easements.



Mrs. Royal asked Mr. Pandula if he could give any broad estimate of what restoration expenses might be. Mr. Pandula responded he could not as they haven't gone that far, as they have done thorough research into the Code requirements of the building. He stated some of the information they received with regards to handicap access was misleading as this building can and will be made accessible to the handicapped and can be made life-safety safe and all building codes can be met without detrimental effect to the fabric of the historic aspects of the building but he couldn't give them the cost at this time.

Mar-a-Lago

Mrs. Peters gave the oath to Mrs. Gertrude Maxwell who addressed the Council indicating she has been an active citizen of this Town since 1978 and has followed the plans for Mar-a-Lago with great interest. She felt Mr. Trump should be congratulated as to what he has accomplished in pursuing plans to preserve Mar-a-Lago from a private residence to a private social club. She was thrilled that the decision has been made to do this as Mr. Trump has meticulously restored this to its original opulence. She believed everyone should be grateful that he has been the savior of this grand estate, at a cost of personal effort, time, and millions of dollars and no one else has tried to preserve it.

She thought because of Mr. Trump's flexibility and being cooperative in working with the Town, and his continuous willingness to address the concerns of the citizens of the Town, his perseverance to resolve these problems with creative, intelligent and workable solutions, Mrs. Post's legacy can be preserved for future generations to enjoy. She stated the physical lay out, including the corridors as designed by Mrs. Post can be easily adapted to being a really great premier private social club.

She acknowledged that under the present economic conditions, anyone should be able to see that Mar-a-Lago could not continue to be preserved as a personal home with the care and expense needed to maintain its unique elegance.

She believed the concept of adaptive use has been invaluable in preservation circles and has saved many landmarked buildings and ensured their preservation.

She commented that Mr. Trump and his attorneys are optimistic that the list of conditions concerning traffic, parking, club membership, preservation of safety and other issues will be satisfactorily met, making it possible for this 66 year old estate to be preserved as the Mar-a-Lago Club.

She indicated this Club could be of great benefit not only to its members and the community but also to many needy local and national charities. She stated in all of its uses and especially for special social and charitable fund raising events with limited membership and also a limited number of guests for special events, surely there is no reason why there should be any undue traffic problem which could not easily be solved as Mr. Trump has recommended very practical and realistic solutions to all hypothetical problems. She hoped that every problem and concern will be resolved and Mr. Trump will be granted the Special Exception to turn this into a private social club. She felt Mr. Trump is one of the greatest preservationists in the State of Florida, and possibly the nation and certainly the greatest one who has set foot in Palm Beach since Henry Flagler.

She felt since it is no longer workable to have this as a private home, she hoped the Council, after exploring every detail will approve conversion of this 17 acre estate to a Club. She knew the documents have been circulated to all departments and to the Town's Landmarks Preservation Commission and the State's Division of Historical Resources and after all have carefully reviewed and resolved, the acceptance of this proposal would be advantageous and the most satisfactory way to preserve this estate.

She felt this proposal was the only way to perpetuate the functional life of this historical gem. She had all of the confidence that they would enter into this historically important agreement to everyone's mutual benefit and satisfaction, legally binding safeguards preserving Mar-a-Lago beyond all of our lifetimes to be a local and national landmark forever.

Item 21 - Mr. Randolph believed the Council had addressed this item that more detail relating to corporate structure of the Club, budget and manner of meeting costs for maintenance and operation be given.

Item 21

Mr. Weinberg suggested that since they still have to go through the items contained in the Declaration of Use Agreement that they resume this meeting at 9:30 AM for continuation of the Executive Session on Thursday, June 3, 1993.

Mrs. Peters gave the oath to Marietta Muer who addressed the Council asking to make a statement on the references made to Charley's Crab throughout this hearing pointing out that the restaurant is an altogether different venture than the Mar-a-Lago Club. Mrs. Wiener recalled she was the one that brought this up noting there is no space for cars to move into on the parking lot of Charley's Crab and while at Mar-a-Lago there is more stacking room.

VI. ANY OTHER MATTERS. None.

VIII. ADJOURNMENT. Meeting was adjourned at 6:37 PM.

Adjournment

Grace T. Peters  
Town Clerk