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## MEMORANDUM

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**TO:** HISTORIC DISTRICT COMMISSION, CITY OF NEWPORT  
**FROM:** MATT WEINTRAUB, HISTORIC PRESERVATION PLANNER  
**SUBJECT:** APPLICATION FOR CERTIFICATE OF APPROPRIATENESS FOR THE WELCOME CENTER  
AT THE BREAKERS, 44 OCHRE POINT AVENUE  
**DATE:** AUGUST 22, 2013  
**CC:** PAUL CARROLL, ECONOMIC DEVELOPMENT DIRECTOR  
GUY WESTON, ZONING OFFICER  
JOSEPH NICHOLSON, CITY SOLICITOR

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This memorandum addresses topics raised in the written and oral testimony that was provided to the Historic District Commission during public hearings on August 13 and 15, 2013, for the above referenced application. It is intended to provide additional information, clarifications, and analysis for the Commission's consideration.

### **The Newport Standards for New Construction**

The Newport Standards for Treatment of Historic Properties ("Newport Standards") are defined in the Historic District Zoning Ordinance Section 17.80.060. The Newport Standards include: A) Standards for Contributing Structures; B) Standards for Noncontributing Structures and Existing Walls, Gates, Gateposts and Fences made subject to review by Section 17.80.100(6); and C) Standards for New Construction, Reconstruction and New Walls, Gates, Gateposts and Fences made subject to review pursuant to Section 17.80.100(6).

At the public hearing of August 15, 2013, the applicant's architect, Mr. Joslin, presented an analysis of the proposed project according to the Newport Standards for New Construction. Mr. Joslin did not use the Newport Standards for Contributing Properties. Mr. Joslin asserted that staff's analysis focused only on the Newport Standards for Contributing Properties. Staff maintains that the Newport Standards for Contributing Properties are correct standards to use in reference to the proposed project. Nonetheless, in the report dated August 7, 2013, staff provided an analysis of the proposed project according to all of the Newport Standards that might be applied to the project, including the Newport Standards for New Construction. As indicated by the report, staff concluded that the proposed project was not consistent with Newport Standards for New Construction C.1 and C.3, which are corollary to the Secretary of the Interior's Standards for the Treatment of Historic Properties, Standards for Rehabilitation ("the Secretary's Standards") No. 9.

Please see the staff report for the complete analysis according to the Newport Standards.

### **Application of National Park Service Advice**

At the public hearing of August 15, 2013, Mr. Joslin interpreted the proposed project as consistent with the Newport Standards for New Construction, which are based on the Secretary's Standards. In his testimony, Mr. Joslin referred to specific features, materials, and architectural influences of the proposed project. For the Commission's consideration, the following is a discussion of the proposed project as presented by Mr. Joslin and in reference to specific interpretive and technical advice provided by the National Park Service.

The National Park Service provides the Interpreting the Standards (ITS) Bulletins and the Technical Preservation Services (TPS) Preservation Briefs to assist property owners in making appropriate decisions regarding the treatment of historic properties. The National Park Service, in the ITS Bulletins and TPS Preservation Briefs, and on the National Park Service website, states that new construction on the site of a historic building should be compatible to the historic building. Compatibility is commonly achieved through the general concepts of similarity

and subordination. Specifically, the National Park Service recommends that new construction be similar in form and materials to the historic building, while the composition and details of the new construction should be simplified as compared to the historic building. This can typically be accomplished by using building materials in the same color range and value as the historic building; by basing the size, rhythm, and alignment of windows and doors on the historic building; and by maintaining the specific architectural character of the subject historic building rather than using details and elements typical of other (historic) buildings or properties.

Mr. Joslin's testimony asserted that the proposed new construction is compatible in materials and details to the existing historic and architectural character of The Breakers. One of the most prominent features of the proposed new building is the curvilinear roof clad in patinated copper, which Mr. Joslin indicated is referential to the property's existing entry gate and the main house's acorn ornamentation. However, patinated copper is not a building material that is used in any substantial degree in the historic architecture of The Breakers, including the wrought iron gate. Rather, terra cotta roofing and masonry cladding are the building materials that primarily characterize The Breakers architecture. Furthermore, the reference of the roof shape to the shape of the entry gates and the acorn ornaments, which are comparatively minor features of the overall property, is a tenuous association to the existing historic architecture; it does not acknowledge the stronger associations that may be gained by using simpler roof forms and similar materials, which would meet National Park Service standards and guidelines.

In addition, the proposed new construction would feature an elaborate system of curvilinear window mullions. It appears that the proposed primary pattern of arched mullions within rectangular panels could successfully evoke the existing arcades and windows of main house of The Breakers in a simplified and subordinate manner, in keeping with National Park Service advice. However, the inclusion of a secondary decorative curvilinear mullion band running horizontally across the primary mullions, and additional vertical members dividing the interiors of the arches, would result in a much more complex window pattern that would obscure the compatibility of the primary arches-within-rectangles pattern. Mr. Joslin's assertion that the elaborate window mullions would reference the main house's existing garland ornaments is tenuous and unobvious because the garlands are details, rather than primary elements, of the existing architecture that are not readily visible from the proposed new construction. Similarly, the proposed use of painted board-and-batten siding on the new construction would introduce building materials and practices that are not referential to those exhibited by the existing masonry façades of The Breakers buildings, and not consistent with the tenets provided by the National Park Service.

Furthermore, Mr. Joslin's testimony and the application materials indicated that the proposed new construction is patterned after garden conservatories and outbuildings of the 19<sup>th</sup> century that are found on other properties, but that were never planned for or constructed on The Breakers. This would constitute using details and elements typical of other building types and properties, and could create a false sense of historical development of The Breakers property, which is not in keeping with the advice of the National Park Service. Additionally, Mr. Joslin's testimony made reference to an association of the proposed new construction with the existing Children's Playhouse, a "folly" that is found on The Breakers property. However, the proposed new construction would not be located near or visibly connect to the Children's Playhouse; rather, it would be located adjacent to the stately Beaux-Arts gatehouse. According to the National Park Service, new construction should be referential to the building architecture to which it is connected visually and proximally.

As described above, when considered in the context of The Breakers property upon which it is proposed to be constructed and the dominating Beaux-Arts architecture to which it is proposed to be constructed adjacent, the proposed new construction does not appear to meet the Newport Standards or the Standards and Guidelines of the National Park Service.

### **Properties Subject to Review by the Historic District Commission**

At the public hearings on August 13 and 15, 2013, there was discussion of the properties and features that are subject to Commission review pursuant to the Historic District Ordinance. For the Commission's consideration, the following Ordinance sections relate directly to the properties and features that are subject to Commission review (*italics added for emphasis*):

- Section 17.80.050(A)(1): “Before a property owner may commence construction, alteration, repair, removal or demolition affecting the exterior appearance of a structure or its appurtenances within any designated historic district, or affecting an historic cemetery located in the City of Newport, the owner must apply for and receive a certificate of appropriateness from the commission approving such construction, alteration, repair, removal or demolition.”
- Section 17.80.050(C)(1): “In deciding whether to issue a certificate of appropriateness, and in making the determination that the proposed alteration is not incongruous with those aspects of the structure, appurtenances, or the district that the commission has determined to be historically or architecturally significant, the commission shall give consideration to:
  - a. The historic and architectural significance of the structure and its appurtenances;
  - b. The way in which the structure and its appurtenances contribute to the historical and architectural significance of the district; and
  - c. The appropriateness of the general design, arrangement, texture, materials, and siting proposed in the plans.”
- Section 17.80.020: “‘Contributing structure’ means a structure designated contributing based on application of the Newport Historic Structures Inventory Standards or one which the commission has determined to be contributing because it adds to the local district’s sense of time, place, character, or historical development by location, design, setting, materials, workmanship, or association. To be so designated the structure should conform to the character of the local district as defined in that district’s “nominating papers”. The rationale for such designation should be explicit and provided to the homeowner upon request by the commission or designated staff.”
- Section 17.80.020: “‘Appurtenances’ means features other than primary or secondary structures which contribute to the exterior historic appearance of a property, including, but not limited to, paving, doors, windows, signs, materials, decorative accessories, fences, and historic landscape features.”
- Section 17.80.020: “‘Historic landscape feature’ means features which characterize the historic and designed character of a property’s setting, including, but not limited to, decorative or retaining walls, gates, fences, statuary or other objects of art, seating or other furnishings, arbors, trellises, fountains, paths, walkways, driveways, curbing, the contour and elevations of landforms and designed grades, and under certain circumstances, trees.”

Based on the above referenced code sections, it appears that the Commission, while reviewing the subject application for a Certificate of Appropriateness on The Breakers property, has authority to consider the congruities of proposed alterations and/or new construction in relation to existing structures and/or landscape features that the Commission determines are significant appurtenances to The Breakers property, which may include overall site design, topography, trees, materials (including plantings), paths, and walkways.

### **Historic Designed Landscapes in the Historic District Ordinance**

At the public hearing on August 13, 2013, there was discussion of the Commission’s purview in regard to the specific property type of a “historic designed landscape” pursuant to the Historic District Ordinance. The Ordinance contains two sections that reference this property type, neither of which is clear in wording or intent. According to the definition of “historic designed landscape” in Section 17.80.020: “Importantly, Newport has a number of nationally significant landscapes, now exempted from review; the commission should recognize and encourage the preservation of such historic designed landscapes.” This definition does not state that all historic designed landscapes are exempt from review, or which historic designed landscapes are exempt from review; and it leaves open the possibility that some historic designed landscapes may not be exempt from review. It may be interpreted that the Ordinance exempts from review those historic designed landscapes that are currently located outside the boundaries of a historic district.

According to Section 17.80.100(1), “historic designed landscapes” are items that are exempt from Commission review. This statement is contained within a section that discusses painting and ordinary maintenance and repair, which are exempt from review “provided that such painting or ordinary maintenance and repair does not result in any change of design, type of material, or appearance of the structure or appurtenance”. It appears that historic designed landscapes are included in a list of items/actions that further define painting and ordinary maintenance and repair. It may be interpreted that the intent of the Ordinance is to exempt ordinary maintenance and repair of historic designed landscapes, provided that such maintenance and repair does not change the design, material, or appearance of the historic designed landscape.

### **Integrity and Significance of the Historic Landscape**

At the public hearings on August 13 and 15, 2013, there was discussion of the integrity and significance of the historic landscape and associated features on The Breakers property, including the “garden walk”. The garden walk was historically comprised of a serpentine pathway and a system of plantings to either side of the pathway.

In a letter to Trudy Coxe of the Preservation Society of Newport County (PSNC), dated August 7, 2013, and provided by the applicant, Charles A. Birnbaum (author of *Protecting Cultural Landscapes: Planning, Treatment and Management of Historic Landscapes*, National Park Service Preservation Brief 36) wrote:

The consensus among the consultants is that this feature [the garden walk] of Bowditch’s design has low or significantly diminished integrity. This is undeniably true in relationship to its associated historic plant materials; however, with the exception of the lost segment between the Caretaker’s Cottage and the Cliff Walk, the garden walk has a high degree of integrity in terms of its route, alignment and width. Currently, limited sections have become challenging to read, due to understory planting introduced in the latter half of the 20<sup>th</sup> century that have become overgrown over the walk itself. However, the circulation route has a high level of integrity, and can largely be discerned and navigated. (Page 3)

Regarding the “lost segment between the Caretaker’s Cottage and the Cliff Walk” in the northeast quadrant of the property, and based on review of historic plans, aerial photographs, current conditions, and testimony provided by PSNC staff, it appears that the PSNC succeeded in accurately restoring the historic alignment of the garden walk segment that was disrupted by storm events in the 1990s. Therefore, the garden walk pathway apparently has integrity with the exception of its paving materials, which are non-historic.

Furthermore, Mr. Birnbaum wrote (italics added for emphasis):

I publicly stated that a Cultural Landscape Report (CLR) for properties such as The Breakers was essential to understanding significance and managing change. I am pleased to learn that, based on the work done by Reed Hilderbrand, *a CLR is now progressing toward completion for The Breakers*, and I am convinced that this will set a standard for future work in Newport... The Breakers landscape’s period of significance will likely be confirmed by the CLR... (Pages 1-2)

At the public hearing on August 15, 2013, Patricia M. O’Donnell (Master of Landscape Architecture) also recommended completion of a CLR (parts 1 and 2) prior to making decisions and undertaking work on the historic landscape. Based on these expert recommendations by Mr. Birnbaum and Ms. O’Donnell, it would seem prudent to make decisions about the management of The Breaker’s historic landscape on a *completed* CLR (which has not been provided by the applicant). In addition, based on these expert recommendations in regard to basing management decision on a completed CLR, Mr. Birnbaum’s assertion in his letter that “it [the proposed project] would have no adverse impact on the larger spatial and visual relationships of The Breakers landscape and its setting (in fact it would reinforce these historic landscapes)” seems to be a preliminary judgment.

## Treatment Approaches for Historic Properties

At the public hearing on August 15, 2013, there was discussion of the various approaches to treatment that may be considered for The Breakers property. The following information regarding treatment approaches is provided for the Commission's consideration.

The National Park Service provides the Secretary's Standards, which are intended to promote responsible preservation practices that help protect our Nation's irreplaceable cultural resources. The Standards provide for four treatments: Preservation, Rehabilitation, Restoration, and Reconstruction. Choosing the most appropriate treatment for a building (or property) requires careful decision-making about a building's (or a property's) historical significance, as well taking into account a number of other considerations such as: relative importance in history; physical condition; proposed use; and mandated code requirements. The National Park Service describes and recommends use of the four treatments as follows:

- **Preservation** is defined as the act or process of applying measures necessary to sustain the existing form, integrity, and materials of an historic property. Work, including preliminary measures to protect and stabilize the property, generally focuses upon the ongoing maintenance and repair of historic materials and features rather than extensive replacement and new construction. New exterior additions are not within the scope of this treatment; however, the limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a preservation project. (Preservation as a treatment is not considered further in this memorandum because it is acknowledged that The Breakers property has previously been the subject of Rehabilitation and Restoration, which excludes the use of Preservation as a subsequent treatment.)
- **Rehabilitation** is defined as the act or process of making possible a compatible use for a property through repair, alterations, and additions while preserving those portions or features that convey its historical, cultural, or architectural values. Rehabilitation is appropriate when repair and replacement of deteriorated features are necessary; when alterations or additions to the property are planned for a new or continued use; and when its depiction at a particular period of time is not appropriate. Rehabilitation is the most commonly used of the four approaches to the treatment of historic properties.
- **Restoration** is defined as the act or process of accurately depicting the form, features, and character of a property as it appeared at a particular period of time by means of the removal of features from other periods in its history and reconstruction of missing features from the restoration period. The limited and sensitive upgrading of mechanical, electrical, and plumbing systems and other code-required work to make properties functional is appropriate within a restoration project. Restoration is appropriate when the property's design, architectural, or historical significance during a particular period of time outweighs the potential loss of extant materials, features, spaces, and finishes that characterize other historical periods; when there is substantial physical and documentary evidence for the work; and when contemporary alterations and additions are not planned.
- **Reconstruction** is defined as the act or process of depicting, by means of new construction, the form, features, and detailing of a non-surviving site, landscape, building, structure, or object for the purpose of replicating its appearance at a specific period of time and in its historic location. Reconstruction is appropriate when a contemporary depiction is required to understand and interpret a property's historic value (including the re-creation of missing components in a historic district or site); when no other property with the same associative value has survived; and when sufficient historical documentation exists to ensure an accurate reproduction.

Based on project materials and testimony provided by the applicant and the applicant's project designers, the proposed project may be most accurately characterized as an attempt at Rehabilitation because it proposes new construction and changes/additions to the landscape in order to accommodate a proposed new use. As noted above, staff used the Rehabilitation standards and associated guidelines to analyze the proposed project, because the Newport Standards as defined in the Historic District Zoning Ordinance are based on the Secretary's Standards for Rehabilitation. In his letter, Mr. Birnbaum promoted a Rehabilitation approach to plantings and a

Restoration approach in regard to the visual and spatial relationships of the historic landscape. In her oral testimony, Ms. O'Donnell asserted that the more appropriate treatments for The Breakers, a museum property, would be Restoration and/or Reconstruction, because such treatment(s) would result in a more comprehensively accurate depiction of the property from its historical period of significance.

### **Interface with the Boiler Room Project**

At the public hearing on August 15, 2013, the applicant's project designers referred to planned maintenance/repair work to the underground boiler room (which is not included or required in the scope of work for the above referenced application for a Certificate of Appropriateness) in relation to the proposed new construction of a Welcome Center. According to plans and documents provided by the applicant and the applicant's project designers, the proposed new construction of a Welcome Center would be located partially above the east-end bearing wall of the underground boiler room and the west end of the adjoining tunnel.

In a letter to Carl Rothbart of WASA/Studio A, dated March 11, 2013, and provided by the applicant, Donald Friedman of Old Structures concluded that the boiler room elements (brick walls, brick vault roof, and steel members) were in good condition structurally and materially. Mr. Friedman also concluded that the tunnel structure was in good material condition, but that it exhibited cracking, including significant cracks in the roof vault, apparently indicative of downward movement of the vault roof in the past. He recommended monitoring the tunnel roof for active cracks and further downward movement. In regard to the proposed new construction of a Welcome Center partially above the boiler room, Mr. Friedman wrote that, if the footing loads of the proposed new construction exceeded the capacity of the boiler room roof, then replacing earth fill above the boiler room with lightweight fill could mitigate the loads. Mr. Friedman did not address potential mitigation measures for the tunnel roof if it exhibited active cracks/downward movement, either as a result of the footing loads of the proposed new construction or as a separate event.

In a letter to Curt Genga of PSNC, dated July 8, 2013 (revised from April 3, 2013), and provided by the applicant, Carl Rothbart wrote that "the additional load imposed by the welcome center atop the boiler room wall structure is acceptable and does not present a structural issue and in fact it is intended [to] strengthen the lateral load resistance of the boiler room wall". Mr. Rothbart did not address the calculated effect of the load of the proposed new construction on the tunnel structure. In a letter to Curt Genga, dated June 19, 2013, and provided by the applicant, Mr. Rothbart proposed the installation of a new lightweight geofoam fill atop the boiler room's roof structure to within one foot of existing grade, presumably to mitigate the load of the proposed new construction of a Welcome Center on the boiler room structure. Mr. Rothbart did not propose any measures in relation to the load of the proposed new construction atop the tunnel structure.

Therefore, the proposed new construction of a Welcome Center would involve removal of existing earth fill and installation of new subsurface geofoam fill atop the boiler room, and may involve unspecified mitigation measures in relation to the tunnel structure. Also, according to a Demolition Plan dated July 15, 2013, and submitted for Commission review, the combined work of the proposed new construction of a Welcome Center and the planned maintenance/repair work of the boiler room would involve the removal of approximately 25 existing trees/shrubs, which is included in the scope of work for the above referenced application for a Certificate of Appropriateness. Pursuant to the Historic District Zoning Ordinance, any planned maintenance/repair work to elements of the boiler room and/or tunnel structure that are not a part of the exterior appearance of the property would not be subject to an application for a Certificate of Appropriateness, unless the Commission was to determine that the underground boiler room and/or tunnel structure are "contributing structures" to the historic district.

### **Conclusion**

This memorandum is provided to the Commission to assist in the Commission's deliberation of the application for a Certificate of Appropriateness for the proposed Welcome Center at The Breakers. The information in this memorandum may be considered in conjunction with and in addition to the information contained in the staff report dated August 7, 2013, and previously provided to the Commission.