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BREAKERS WELCOME CENTER

Zoning board gets preview of arguments

The attorney for opponents of the plan say there's no reason to overturn its rejection by the Historic District Commission.

By Sean Flynn
Staff writer

NEWPORT — The attorneys for the Preservation Society of Newport County, who are appealing the Newport Historic District Commission's decision to reject a proposed welcome center at The Breakers, and the attorneys representing the Bellevue Ochre Point Neighborhood Association, who oppose the proposal, have filed briefs outlining their legal arguments.

The city's Zoning Board of Review, which will decide the appeal, will take up the briefs at its meeting Monday beginning at 7 p.m. in the council chamber at City Hall. City Zoning Officer Guy Weston said he expects the board to formally accept the documents and to reschedule oral arguments, which were initially planned for the end of January.

Attorney Turner C. Scott, who represents the neighborhood association, has asked for more time, Weston said.

Attorneys William Landry of Providence and Matthew H. Leys of Newport, representing the Preservation Society, filed a 53-page brief, plus exhibits, arguing the HDC decision should be overturned. Scott and attorney Roland F. Chase, both of Newport, filed a 22-page brief on behalf of the neighborhood association arguing the HDC decision should be upheld.

"The proposed Welcome Center is a modest, subordinate building comprising just 3,650 square feet," Landry wrote. "This size is equal to six-tenths of one percent (.006) of the 13-acre area of The Breakers property, quite small in the context of the property as a whole."

The proposed building is one story, about the same height as the tent it would replace, he wrote, and would be screened by surrounding vegetation in an existing grove in the northwest corner of the property.

In its decision, the HDC wrote the proposed welcome center "would not be compatible with the Beaux-Arts, Italian High Renaissance style

architecture of the historic buildings on the site. The proposed new construction would introduce stylistic elements to the property that are not present on or harmonious with the historic buildings, such as complex curvaceous roofs, extensive use of copper, and curvaceous ornamental window mullions."

Architect Alan Joslin of Epstein Joslin Inc. in Cambridge, Mass., and his "design team selected materials that are used on the property and in the neighborhood, including patinated copper roofing, green steel, the use of clear glazing of a scale that is found at The Breakers, tinted skylight glazing, etc.," Landry wrote. "The green patinated copper, like the pavilions in other historic properties in the Historic District, was used to help the building recede into the surrounding greenery."

"The Department of Interior Standards prohibits extensive 'copying' of historic structures in new construction," Landry wrote. "They require compatibility and resonance, but also require differentiation."

"The Newport standards also call on architects to not 'copy' or 'replicate' historic structures on properties in the Historic District so as not to create 'a false historic appearance,'" Landry argued.

"This is precisely the balance that Joslin struck here," Landry wrote. "Deliberately copying the 'red roof and limestone' architectural features of The Breakers main building would have violated these standards; made the Welcome Center far too conspicuous; and created a false sense of historic development."

A "mini-me Breakers" for a welcome center would be a "undesirably conspicuous building that would not blend into the landscape," Landry wrote.

Scott argued the Preservation Society must show "blatant, clear-cut errors" in the Historic District Commission decision to succeed in its appeal.

"Rather, the Society quibbles about such things as how to interpret various provisions of the Newport Historic District Commission ordinance, whether the commission properly applied National Park Service and other review criteria, and other matters that are within the jurisdiction of

LOCAL & STATE



An architect's rendering shows the interior of the proposed Breakers welcome center.

Breakers

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the HDC to determine," Scott countered.

State law says, "The Zoning Board of Review shall not reverse a commission decision except on a finding of prejudicial procedural error, clear error, or lack of support by the weight of the evidence in the record," he wrote.

"The HDC decision is fatally flawed on all three grounds," Landry argued.

He noted that the state Historical Preservation & Heritage Commission, comprised of 16 experienced preservation architects and other professionals, extensively reviewed the plan earlier this year, made some changes, and then approved it.

HDC Chairman John Shehan's decision "to refuse to allow the HDC to be exposed to the work product and reports of the RIHPHC on this project was inexplicable — and unprecedented in terms of how historic district commissions around the state function," Landry wrote.

The HDC relied on six findings put together by Matt Weintraub, the city's historic preservation planner, and submitted on Aug. 7, "long before the hearings even began," Landry wrote.

Lengthy HDC hearings took place on Aug. 13, 15 and 27, when experts and people in the community gave testimony.

Weintraub, who previously worked in California, began working for the city on July 29, meaning "he had virtually no time to meaningfully acquaint himself with the property, the District, the City, and its Ordinances," Landry wrote. "He was not exposed to any of the actual evidence in the case — covering

nearly 400 transcript pages by more than 30 sworn witnesses and thousands of pages of exhibits — before he wrote the 'findings' that the HDC adopted without discussion over the course of about five minutes, even though they bore no relation whatsoever to the evidence actually presented."

The HDC decision, which was approved on a 4-3 vote, "was in fact against the weight of the evidence ... and was riddled with clear legal error in that the wrong legal standards were applied by the staff member, resulting in a flawed result by the HDC," Landry wrote.

Of the six findings, three are mere statements of fact, Landry wrote, and three are key findings that are seriously flawed and wrong. Ignoring the state report was a "procedural error" compounded by reliance on the staff report, he wrote.

"Respectfully, the situation borders on the bizarre, and clearly constitutes prejudicial procedural error, requiring reversal," Landry wrote.

Besides Joslin, five other building design architects testified in favor of the project and found it compliant with all local and federal standards, Landry wrote. They included Barbara van Beuren, a registered architect and president of the van Beuren Charitable Foundation; Sam Frank, former dean of architecture and design at the Rhode Island School of Design; John Grosvenor, a practicing architect in Newport for 32 years and a past member of the RIHPHC; Laurence Cutler, a registered architect since 1966 who once ran a large architectural firm, taught architecture at Harvard, MIT and RISD, and is now

chairman and CEO of the National Museum of American Illustration on Bellevue Avenue; and Carl Rothbart, a practicing preservation architect familiar with The Breakers, as well as federal and local standards for historic properties.

State Historic Preservation Officer Edward F. Sanderson, who is also the RIHPHC's executive director, provided a written document supporting the welcome center as designed.

Scott argued the report of the state Historical Preservation & Heritage Commission "was properly excluded as hearsay, which in Rhode Island is defined as an out-of-court utterance that is being offered to prove the truth of the matter asserted therein."

This is "a matter entirely within the jurisdiction of the Newport Historic District Commission," Scott argued.

Patricia O'Donnell, a landscape architect from Connecticut and Vermont hired by the neighborhood association, "offered a careful nuanced analysis of both the Secretary of the Interior's Standards and the Newport Standards, and concluded on several key points The Breakers proposal is either inconsistent or only partially consistent with the Secretary's standards and even more inconsistent with the Newport standards," Scott wrote.

The Breakers was designed by architect Richard Morris Hunt and constructed between 1893 and 1895 as a summer home for Cornelius Vanderbilt and his family. The federal government has designated the mansion a National Historic Landmark.

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