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MEMORANDUM

OF COUNSEL  
LISA GRASSO EGAN  
JOHN W. HOGAN, JR.

To: Members, RTM

From: Ira W. Bloom, Town Attorney  
Gail Kelly, Assistant Town Attorney *Gail*

Date: September 30, 2013

Subject: RTM Review pursuant to Connecticut General Statute Section §8-24

\*ALSO ADMITTED IN CA  
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The RTM has been asked to review the negative report regarding the Gunn House from the Planning & Zoning Commission ("P&Z") pursuant to Section 8-24 of the Connecticut General Statutes. The statutory provision allows the legislative body of the town to review such a decision upon a negative report from the P&Z. Sections C5-1(F) and C10-4 of the Town Charter also authorize the RTM to review a negative 8-24 report.

The last time the RTM reviewed a Section 8-24 negative report was in 2005 with regard to a sewer extension. Attached are comments our office made at that time to the RTM. We would call these comments to your attention since they are applicable today. The RTM's focus should be whether the Gunn House proposal is consistent with the 2007 Plan of Conservation and Development ("POCD"). This is the underlying standard for a Section 8-24 review by the P&Z.

In 2005, we suggested that you review the reasons cited in the negative report submitted by the P&Z on this issue. We would suggest you do the same this time. It is our opinion however, that the RTM can make its own independent evaluation of this issue at this time. You are not limited to simply reviewing the P&Z decision, as long as your analysis focuses on the underlying standard—is the proposal consistent with the POCD.

IWB/kaa

2005 minutes

Attorney Ira Bloom to give a brief remark about the 8-24.

Town Attorney Ira Bloom:

As Mr. Bradley said, this is a section of the Connecticut General Statutes. This is now the second time in recent months that you have had the chance to review actions of the Planning and Zoning Commission. The starting point here again is a section of the charter, C10-4. Unlike the last time we did this, this is now tied in directly to a section of the state laws which, as Mr. Bradley just said to you, govern municipal improvements. Section 8-24 of the statutes normally refers to municipal improvements, municipal projects when the town purchases some property or leases property or sells property but it also includes extension of public utilities such as sewer lines so that's why these kinds of applications go to the Planning and Zoning Commission. The statute itself as well as the charter says that the legislative body, the RTM, can review this and reverse it by a 2/3 vote. That's why this is again before you. The question is what kind of review does the Planning and Zoning Commission undertake here and what kind of review should you be undertaking under the law. There are cases that talk about a §8-24 review. Some of them say it is a conceptual review. Some say it's more of an advisory review. The standards for you to consider #1 and for the Planning and Zoning Commission to consider are the Town Plan. What does the Town Plan say about growth? What does it say about sewers? What do the zoning regulations say about growth, sewers, lot size, things of that nature? It is kind of an overview of the Town Plan of the regulations of the town's general zoning laws and sewer policies. That's what the 8-24 review is intended to be by the Planning and Zoning Commission. Consequently, that is what your review should also be. I said it is advisory, not necessarily final, and that is because, if either the P&Z or, in this case, the RTM overriding the P&Z, approve this or issue a positive report, it is not done. It still goes to the Water Pollution Control Authority for a more detailed review so there is a second step even if you should pass it. So what you and the P&Z do is kind of an overview, conceptual analysis of these larger plans. If you should pass it, it would go on to WPCA for a more detailed review and a more specific review. That's what would happen if you were to reverse the P&Z by a 2/3 vote. What questions should you ask yourself? In my opinion, your starting point should be the negative report of the P&Z #2 that they issued on Sept. 14, 2005. They delineate five reasons for their report. It seems to me that what you should ask yourself is whether they properly considered the Town Plan. Did they properly consider the town's policies for sewers? Did they properly consider the town's zoning regulations? Did they identify proper policy issues in rendering their negative report? That kind of analysis is what you should be doing as part of this 8-24 review.

Mr. Bradley:

I also just wanted to point out that the 8-24 review is actually a planning function. We get accused of doing too much zoning and not planning. This is one of the things where we, under the statutes and under the way the commission operates, the extension of public utilities is a planning function and that duty is given to the Planning and Zoning Commission.