

To: Westport P&Z Commission  
From: Don Bergmann, Rep. RTM District One  
Re: Staff Report for Kemper-Gunn "8-24"

September 9, 2013

I think Director Bradley's Staff Report may unnecessarily delay a positive report.

RESIDENTIAL ZONE ISSUES:

TPC&D In addressing the Town Plan of Conservation & Development, the Report highlights the fact that the Kemper-Gunn House will be relocated to a residence A Zone. The Kemper-Gunn House will be relocated to a parking lot. While a re-zoning is required, there are no residences within this parking lot. The re-location of the Kemper-Gunn House actually will add a residential type structure to this lot.

New Zone The Report correctly advises the Commission that the site for the Kemper-Gunn House on the Baldwin Lot will require a re-zoning. This issue was discussed last winter with Director Bradley in an attempt to anticipate relevant issues and the best solutions. Two re-zoning possibilities make sense and work. The site could be re-zoned BCD or RORD-2, though each has its own elements. However, the approval and the choices will be made at a future Commission meeting and do not seem relevant to an 8-24 Report. What does seem relevant is that the zone change will conform to this downtown commercial area.

TPC&D REFERENCES:

a. The Report references many sections of the TPC&D, both those that support relocation to the Baldwin Lot and those stated by the Report as not supportive. As mentioned, the Commission probably should ignore the fact that the Baldwin Lot is zoned residence A in assessing conformity to the TPC&C. Similarly, it is not helpful for the Report at page 4 to refer to the following:

"Protect the predominantly single-family residential focus . . ."

and then to include three "bullet" quotations from the TPC&D relating to residential neighborhoods.

b. The following Staff Report reference to the TPC&D is also not helpful:

"The Plan recommends that Westport not dispose of existing land or buildings unless absolutely necessary".

The site to be leased to DC Kemper-Gunn, LLC is not the kind of "existing land" to which this TPC&D recommendation is directed. Also, the Town will lease the site.

SUPPORT AND NOT SUPPORT SUMMARY:

Page 5 of the Report lists two "support" and three "not to support" items. Of the "not support" items, the following is noted. "1", commercial use in a residence zone, probably should not be listed. "3" seems inaccurate because it presumes that the present use, parking, is a use for public facilities. As to "2", I suspect that the Commission will be reluctant to issue a negative 8-24 report because the proposal has potential "parking & traffic impacts or loss of parking spaces". Those issues will be addressed by future Commission actions.

As to "support" items, the Staff Report could well have cited the TPC&D language on the following TPC&D pages: 4-1, 4-8, 4-9, 4-13, 7-3, 7-4 and the last paragraph on 7-10. Pages 7-3 and 7-4 are particularly relevant because the relocation has as one of its goals rental occupancy by non-chain stores. The Report references this project goal on page one, "6", but otherwise makes no reference to this important driver of this project.

ADDITIONAL STAFF REPORT ISSUES:

Zoning Issues In my judgment, the Staff Report reflects shortcomings on page 6 under "Zoning Issues".

1. The Report does not make it clear that there is no need to re-zone any portion of the Baldwin Lot other than the site area for the relocated house.
2. Based upon prior discussions with Dir. Bradley I thought it had been concluded that variances were not needed if the site is re-zoned BCD. The Report now raises the variance issues for a BCD zone of height and stories. If re-zoned RORD-2, variances were expected to be required. That will be acted upon by the ZBA, a body often supportive of historic preservation. It seems particularly unlikely that the ZBA will object to the height and stories of this historic structure.
3. The issue of subdivision was also discussed in advance with Dir. Bradley and the main question appeared to be the deed recordings pertinent to the Baldwin lot. While the issue must be addressed, I believe it was judged procedural, not substantive.
4. The Report references "proposed uses", "sufficient parking for the proposed uses" and the need for 24 parking spaces. These are all issues for future Commission hearings. As to the 24 parking spaces, based upon discussions with Dir. Bradley, I did not believe a parking space requirement applied to a BCD zone.

#### Planning Issues

Under "Planning Issues", page 6, the Report raises hypothetical concerns regarding the preservation of the historic nature of the house. I expect this can be addressed by the HDC, but I also expect that the Commission would not fail to issue a positive 8-24 report because an historic structure had to have some exterior alterations to accommodate those with disabilities. Further, the Staff Report almost implies that this project does not have benefits in addition to the preservation of an historic structure. The benefits of this project are many. Indeed, nothing was included in the Report about the revenues from real estate taxes and ground lease rents.

Also on page 6 of the Report and the first three paragraphs on page 7, concerns are raised in the form of questions or suggestions pertaining to parking, street widening, a parking deck and alternative locations. While these may resonant with some, I think the following responses are justified:

1. The Bedford Square project should address its own impacts and the commitment of Bedford Square to building a foundation for and relocating and donating the house was long known. Also, the Kemper-Gunn house space had for many years been leased for business uses;
2. The widening of Elm Street seems very unlikely to be needed as a result of the relocation;
3. The possibility of a parking deck in the Baldwin Lot appears to go beyond the scope of this 8-24 report. In addition, it was discussed with Dir. Bradley and, I believe documentation was made available or offered showing the relocation would have no impact on a deck; and
4. Bedford Square Associates advised many months ago that it would move the house only as far as Elm Street. This offer evidenced practical moving considerations and cost.

#### CONCLUSION:

The Staff Report concludes with a listing of Reasons to Issue a Positive or a Negative Report. I can't recall a past similar listing. More importantly, the listed reasons "for" understate the Kemper-Gunn project, while the listed reasons "against" do not really contribute to the 8-24 process.

The first against reason seems irrelevant. The second will become relevant during future Commission actions. The third is troubling because it is the first time it is raised in the Report. A potential burden to the Town is both unlikely and speculative. Hence, it probably should have no relevance to this 8-24 Report. I think the Commission will find the fourth reason "against" wrong

*Don Bergmann*