



MEMORANDUM

TO: Erin Howard, Director of Economic Development and Acting Director of Planning
City of Hartford

FROM: Brian L. McCann

DATE: May 22, 2023

SUBJECT: PZ-REZONE-23-000003, Requested Condition of Approval

The applicant for the above-referenced rezoning application, Larry Stubbs, respectfully requests that the above-referenced zoning map approval, if it should be granted, be made conditioned on the lot combination (merger) of all the subject lots.

We offer the following legal authority for such a condition of approval. The right of a municipal land use agency to attach conditions to the approval of an application is similar to but distinct from making its approval conditional upon the approval of another agency or official. The right of an agency to attach conditions depends upon several factors, including the capacity in which the agency acts, the nature of the condition itself, and whether it is authorized by statute or the agency's existing regulations. Conditions which bring an application into conformity with existing regulations are usually valid. *9 Conn. Prac., Land Use Law & Prac. § 22:16 (4th ed.)*

Conditions attached to an application, on the other hand, can cover matters other than approvals by other officials and will usually be upheld if they are within the scope of the agency's statutory authority and are an attempt to implement its existing regulations for a specific project on which the agency acts in an administrative capacity. *Id.*

In sum, a municipal land use agency (Zoning Commission) may only condition an approval on a ministerial act (being or having the characteristics of an act or duty prescribed by law as part of the duties of an administrative office).

As you are aware, the applicant intends to file an application for a lot combination for all of the following parcels: 5, 7, 11, 15, 17 Lincoln Street and 289, 295 Washington Street. That application will be made subsequent to the applications in front of the Planning and Zoning Commission (PZ-REZONE-23-000003 and PZ-SPUSE-23-000010), in the event that they are approved. This lot combination application is an administrative approval or 'desk review' – and as such, a ministerial act. Therefore, it is perfectly appropriate and legal to condition the above-referenced rezoning application on the successful completion of the lot combination application. In short, the rezoning would not become effective until such time as the application applies for and receives the proposed lot combination.