

MEMORANDUM

COPY

FROM: OFFICE OF THE CITY ATTORNEY  
MIDDLETOWN, CONNECTICUT 06457

TO: Planning & Zoning Commission and Planning & Zoning Department

DATE: February 22, 1989

RE: Legal Opinion Request - Simultaneously Filing of Zoning Text Amendment Proposal and Application to Conduct Activity

QUESTION:

May the applications be filed simultaneously or must the text change issue be resolved first, adopted and become effective, prior to the filing of an application requesting approval of the activity?

ANSWER:

The applications may be filed simultaneously, however, the Commission must act on each application separately and distinctly and, as to each one, for specific and relevant reasons.

DISCUSSION:

The Connecticut Supreme Court has held that it is not procedural error for a planning and zoning commission to consider an application for change of zone and one to permit development on the subject property simultaneously. Norris v. Planning & Zoning Commission, 156 Conn. 592 (1968).

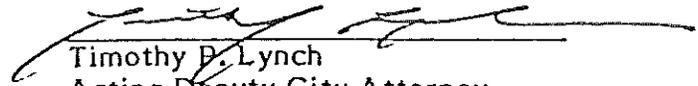
The Norris Court found that:

(t)he record discloses that after the hearing the commission, with meticulous care and full comprehension of its different zoning and planning powers and functions, considered each of the proposals separately and acted upon each by separate resolution. In passing upon each proposal, the commission with particularity detailed the reasons for its favorable action on that proposal. It would serve no useful purpose and have no value whatsoever as a precedent to summarize in this opinion the voluminous record and the separate conclusions of the commission. It suffices to note that the record is ample and complete and fully supports the determination made by the commission in the proper exercise of its diverse powers and functions. . . . The trial court was fully justified in concluding that the commission acted within its authority in changing the master plan and that, in making the change of zone and issuing the . . . permit, the commission did not act illegally, arbitrarily or in the abuse of its discretion.

Norris, supra at 595-96 (citations ommitted).

Accordingly, it is clear that both applications may be filed simultaneously. "The

important fact is that, although the commission heard all the evidence on the three proposals at a single hearing, when it came to act upon them, it clearly acted separately and distinctly and for specific and relevant reasons on each of the proposals." Id. at 597.



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