





Chairman Finaldi said they had switched the order of these two matters so they could vote on the request for the waiver to the Subdivision Regulations before voting on the actual application for subdivision. Mrs. Emminger said she had prepared a resolution of decision based on the discussion and comments the Commission had made at the previous meeting. Mr. Urice asked what the feasible alternative is and Chairman Finaldi said there are some other options. Mr. Urice said he did not feel there were based on the application as presented; which was to develop the entire parcel. Chairman Finaldi said alternatives exist that would allow access to this site other than use of a joint driveway. He then said they would first vote on the waiver, and then the subdivision. He said the request for waiver is to allow a joint driveway to traverse the lots. Mr. Manuel said the only kind of joint driveway the Commission can approve is one that is located between the lots. Mr. Blaszka made a motion to accept resolution of denial for the waiver and read the following excerpt from page 3 into the record:

*Now therefore be it resolved, as to the request for the waiver, the Planning Commission of the City of Danbury, after due consideration of evidence in the record and the Commission's personal knowledge of the terrain of Long Ridge Road, hereby denies the waiver request, Ward Mazzucco for the Rosato Resubdivision, SUB 06-03, located at 7 Long Ridge Road (Assessor's Lot # J19003) for the following reasons:*

- 1) Based on evidence in the record, the topography of the Long Ridge Road area is characterized by steep slopes, specifically the westerly portion of Long Ridge Road. The proposed project site is within this area generally characterized by steep slopes. Additionally, the ridge that traverses the proposed project site is a natural land feature that continues through to the properties to the north. Based on the foregoing, the steepness of the slopes on the subject site are not unique to the area and are not therefore unique to the site justifying granting of said waiver.*
- 2) Due to the topographic conditions on the site, additional development should be minimized in compliance with applicable requirements of the Subdivision Regulations which is clearly contrary to the applicant's desire to maximize said development regardless of the slope conditions; and*
- 3) Irrespective of said topographic conditions, the applicant's proposal for use of a joint driveway does not meet the intent nor specific language of the Subdivision Regulations that require such driveways to be located between lots having direct access to an arterial road. Said proposed joint driveway clearly traversed all four lots requiring access across each lot to the next subsequent lot. The joint driveway was not located between said lots but rather over said lots.*

Mr. Manuel seconded the motion to deny the waiver request and the motion was passed unanimously by voice vote. Chairman Finaldi then asked for a motion on the subdivision application. Mr. Blaszka made a motion to deny the application for subdivision based on the language on pages 4 & 5 of the resolution:

*Be it Further Resolved, in denying said request for a waiver, the re-subdivision fails to comply with Chapter 4, Section B.12, Paragraph 2; and Be it Further Resolved, as to the request for re-subdivision, the Planning Commission of the City of Danbury, after due consideration of evidence in the record and denial of said request for a waiver, does hereby deny the subdivision application by Artel Engineering for Rosato Resubdivision, SUB 06-03, to be located at 7 Long Ridge Road (Assessor's Lot # J19003), having found that the application does not meet the requirements of the Subdivision Regulations based on the following reasons:*

- 1) *The lots are not proposed to be served by individual driveways located on the subject lots and owned in fee simple as required by Chapter 4 Section B.12 of the Subdivision Regulations.*
- 2) *In the Subdivision Regulations, there is no presumption that joint driveways will be permitted by the Planning Commission.*
- 3) *The policy of the Planning Commission when considering whether to require use of a joint driveway is to first determine if the proposed subdivision or re-subdivision could comply with the requirements of the Subdivision Regulations. As an alternative to individual driveways exiting onto heavily traveled roadways, the Commission has in the past allowed or required applicants to utilize the provision allowing for a joint driveway between lots to minimize curb cuts along either an arterial or collector road.*
- 4) *In considering the applicant's request for use of a joint driveway rather than individual driveways, the Planning Commission relied on both written and oral testimony given by the applicant's attorney and engineer that stated that the topography along Long Ridge Road was too steep to allow individual driveways albeit such alternative driveway plan had been submitted. Additionally, such testimony indicated that "any effort to install three driveways along the stretch of road bounding the east side of the resubdivision would require extensive clearing, excavating, grading and filling and, in the end, the resulting driveways might well fail to meet the grade requirements of the Regulations." Based on such testimony, the Planning Commission could not find that the layout, number and location of individual driveways were feasible.*
- 5) *The Planning Commission and various departments reviewed the Concept Road Plan and Profile. Relying on testimony from the applicant's engineer, although a road designed to City standards is a preferable alternative, due to topographic constraints, required cuts and retaining walls for the road and location of septic fields, density would be reduced by at least two lots. Therefore, the only way the applicant could re-subdivide the site into 5 lots would be for the Commission to require use of a joint driveway thus eliminating any discretion of the Commission relative to access. In the opinion of the Commission, its hand should not be forced to allow a waiver of the regulations in order to permit an applicant to maximize density of land considered topographically challenged.*
- 6) *The Commission determines that feasible and prudent alternatives exist to allow access to the property other than the use of a joint driveway.*
- 7) *Concerns regarding emergency vehicle access to residences on the new lots were raised in staff reports from Deputy Fire Marshal James Johnson dated April 26, 2006 and August 1, 2006. The Deputy Fire Marshal stated in the first staff report that the "plans offer limited access at best" and that the "shared driveway grade exceeds fire apparatus manufacturer's recommendations of 8%." The applicant's engineer submitted plans improving the grade of both the joint driveway and individual driveways to house sites. However, the Deputy Fire Marshal in the August 1, 2006 staff report stated the "grades slightly exceed fire recommendations of 8%, but with proper maintenance there should be no issues. It is a recommendation that monitored fire alarm systems be installed to provide an early warning and Fire notification." Although the applicant agreed that a homeowner's association would be formed to ensure proper maintenance and the enforcement of the fire alarm systems, the provision of emergency services to homes accessed via the proposed joint driveway could be compromised if the joint driveway or required alarm systems were not maintained. This is a significant health and safety concern related to the specific conditions of the proposed project site. Neither the Planning Commission nor any City agency can enforce "proper maintenance" nor guarantee unobstructed access over this proposed joint driveway. Therefore, pursuant to*

