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Secy.

Item four. Proposed five lot subdivision including two rear lots located at 595 Ridgewood Road. Applicant/Agent Dean Thomasson.

Dean Thomasson:

Good evening, my name is Dean Thomasson, I represent Ted Bysiewicz who is the owner of approximately six acres located on the westerly side of Ridgewood Road the old Loewenthal property. He acquired this property about a year ago and he's been investigating various ways of developing it. We have three possible proposals. One of them involves a road way and approximately a dozen or so lots. No waivers would be required on the subdivision regulations to do that proposal. The second proposal involves four regular 15,000 square foot lots fronting on the road and one interior lot. And the third proposal that we like the best involves two interior lots but it also involves the waiver of two of your rules. One of the rules that we request to be waived is the ratio of the interior lots to fronting lots and the second rule that we request to be waived, even though we don't necessarily agree with it, your staff has indicated that they think that a waiver would be necessary, is the relationship of a front lots to rear lots and so called stacking. Robert Holley from Griner Engineering is with us this evening to go over the three proposals and what we have zeroed in on. We believe pursuant to your subdivision regulations the conditions for waivers that the proposal we like the best would not have an adverse effect on adjacent property. That the conditions of the property, that stone walls, and brooks and ponds are unique to that property in the area and that evidence is sufficient in and of itself to approve the waiver and the other physical surroundings, shape and topography of the site.

Chm. Gionfriddo:

Dean, I think it's clear, but maybe just for the record we should make sure it's clear, you keep talking about three proposals, the one you're asking us to approve, the one you have applied for is the one with the two rear lots.

Dean Thomasson:

That's correct, we just want you to see.

Chm. Gionfriddo:

I just want, for the records to make sure that everyone understands what we're doing.

Dean Thomasson:

Because there is the issue of why request a waiver if you can do something else that doesn't require a waiver. But if we take the route of doing something that doesn't require a waiver, we don't think that that's the best utilization of the land. You get some undersized lots or you get lots that are just too dense for the neighborhood, and that's why we are proposing what we feel larger lots in harmony with the neighborhood and we're requesting the waivers that go along with that proposal. I'll give the floor to Bob Holley now. Thank you.

Bob Holley:

We looked at three different alternatives. Alternative number one being the construction of a short cul-de-sac and this allows the development of twelve lots. As Dean mentioned. no waivers would be required and all of these would conform to your Zoning Regulations. The existing house in this proposal would

be removed, the existing driveway would be removed, virtually all of the amenities that exist on the site would be lost. In this alternative, which we called alternative (B) the existing house is retained, the driveway is relocated and there are four front lots all of which conform to the Zoning Requirements, and the one large lot which has the existing house on it. Neither we nor Dean, nor Ted really liked either one of these proposals. The third alternative that we looked at was the appropriate for the neighborhood, most appropriate for the land, preserves some of the amenities, preserves the existing house. We put the existing house on a lot here with the required frontage keeping the same driveway preserving this entrance that exists there now, connecting the house to the water and sewer, preserving the swimming pool, and this is a 78,000 square foot plus lot. On this lot there is an existing pond which is going to be rehabilitated. It's in a rather degraded state. There are small trees growing right out of the middle of the pond and so forth. This would be rehabilitated so that it would be a nice looking man made pond, and the house back as you requested before, back 100 feet from the property line. This lot is 33,000 plus square feet. The other front lot is also back 100 feet and we've combined this driveway entrance so that there are fewer curb cuts than there were in previous proposals, and these two driveways then split and this lot is the smallest and its 28,000 square foot. That's over double the Zoning requirement. This rear lot is 61,000 plus square feet and this rear lot which is, driveway comes up here, is 60,500 plus, so the sanitary sewer is going to be extended from off the map up to right there, terminating in a manhole, all of these houses. The existing house would be connected to the extended sanitary sewer and the four new houses would be connected to the sanitary sewer. The existing house would be connected to the water which already is in place. The storm drain which terminates right here now in a catch basin. The catch basin on this side of the storm drain would be extended so that we could have some catch basins both on Ridgewood Road and at the foot of the driveways here, and we would have catch basins at the foot of these driveways here. So that's essentially what the development is.

Chm. Gionfriddo:

You had an opportunity to look at the comments from the Public Works department?

Bob Holley:

Yes, we have. We reviewed those comments with Phil Bower and Sal Fazzino the day before yesterday, and gone over those and we think, and we made some changes in the map, yesterday and today which we think brought this into conformance with all of their comments.

Chm. Gionfriddo:

Phil, is that what you handed to George, something that indicates that you feel your concerns have been addressed?

Phil Bauer:

We have written a letter to the Planning and Zoning Department dated August 11, it should have been distributed, but apparently it wasn't. I shall therefore read it. Staff has met with the developer and his engineer to discuss all of our prior concern and comments on this proposal. Solutions have been submitted and reviewed by us in draft form. Final maps are being prepared and will show all of these changes. This department is satisfied that our comments have been addressed and has no further objections to offer.

Chm. Gionfriddo:

Thank you. Anyone else have any questions? Comm. Patnaude.

Comm. Patnaude:

I would like to clarify something that's going on in my mind here. Is this the same one that was denied about a month and a half ago, two months?

Chm. Gionfriddo:

That's correct.

Comm. Patnaude:

Is that right?

George Reif:

Dean, before we get into that, I would like to ask the Chair a question, that's all. Could you explain to me just for the record again and maybe for some people who are sitting here, how this development can be brought back so soon after being denied? I'd just like the explanation.

Chm. Gionfriddo:

George, procedurally there's no bar to an application being refiled once it's denied, except if it's a special exception.

George Reif:

Unless it's re-zoning, so they can continue to turn things in. So theoretically speaking, if you've been voted down, you can come back every meeting.

Chm. Gionfriddo:

Theoretically correct.

George Reif:

Let me get it through my head here. In other words, once we turn somebody down, in this case their gonna keep coming back, coming back and coming back am I right?

Chm. Gionfriddo:

Correct. Unless it's a change of zone.

Comm. Patnaude:

Outside of that.

Dean Thomasson:

I would like to point out though, that there have been some changes since this proposal was last before you. (inaudible) to the north there, one of the other comments from the Public Hearing was that they wanted to see the two driveways merge together at the road to have one access, as opposed to two, which would clutter the curb way. One of the other changes, these lots were moved back approximately one hundred feet from the curb as opposed to being forty feet. We did make those changes, and there was the appearance of stacking. This lot used to go up at an angle and that was one of the waiver requests. There was this lot, this lot and then this lot but our position then was that it was not stacking, it was, this was a full frontage lot and this was still a full frontage

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and this was the interior, but to address that concern, we extend this across have the three fronting lots and the two interior lots, so I believe we've addressed all the concerns of the previous Public Hearings on this proposal, and I believe we've addressed the technical comments from Public Works, Water and Sewer Departments, so we're seeking your approval.

Chm. Gionfriddo:

Comm. Loffredo:

Comm. Loffredo:

Last time I think you, a lot of the concerns that you just addressed were my concerns. When comparing the two prints that I had kept the last one, cause I thought for sure you'd be coming back. I did notice those things, but one thing on the print says, it looks like the existing structure. Are you removing some of that driveway? On my print it says remove existing pavement.

Speaker unknown:

Can I answer that? There's a small piece of the pavement right in here, which measures maybe eight feet by twenty-five feet which is going to be removed.

Comm. Loffredo:

Their not realigning the whole upper portion?

Speaker unknown:

No, the driveway entrance is going to stay right where it is and the basic driveway and turn around is gonna stay just as it is. Just a small piece right in here, which was probably used for some overflow parking or backing out of the garage, but that's gonna be taken out.

Comm. Loffredo:

One other comment. It seems, I'm not quite sure if Phil Bauer addressed with his letter or not, it was in regard to the wetlands.

Phil Bauer:

Our comments about wetlands were (inaudible) no wetland soils on the site. There is the intermittent stream, is technicality a wetland and we are crossing that with this driveway right here, with a culvert the rest of the way. The wetland streams, the intermittent streams are being maintained and the pond which is a wetland even though it's not mapped, is being rehabiliated and in spite of the fact the soil conservation service says that it would be alright to fill it in. But Mr. Bysiewicz has decided that should be maintained since it's there and it has some values.

Comm. Loffredo:

Another thing, could you point out for me how close your abutting homes are to your whole perimeter?

Well the only home that shows on this map is this here, and the house is roughly twenty-five feet from the property line. In this driveway the edge of the pavement is about twenty-five feet from the property line. It is twenty-five feet from the property line, it's ten feet wide and that's what Dean mentioned that we have

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moved. Before it was only five feet wide from the property line. There's another house recently built over here. I'm not exactly sure what the location is, but it's quite a way back from this property line. There's nothing up in here, unless there's something under construction, Ted, which.

Bob Holley:
That abutts Goodman Lane?

Comm. Loffredo:
O.K. the one off of Plumb Rd.

Bob Holley:
Poplar Rd., right.

Chm. Gionfriddo:
Mr. Patnaude, do you have a question?

Comm. Patnaude:
Am I right to say one reason I was against this in the beginning, I did deny it, was the point that on the subdivision word regulations, I thought a precedent might be set whereas you said if you put up rear lots, the ratio should be four to one. I think you come in one and three quarters or two and three quarters to the point. If you went to plan one, you wouldn't need any waivers and everything would be alright, am I right Dean? Plan A?

Bob Holley:
Plan A

Bob Holley:
Plan B, right. In both these alternatives isn't any waivers required, is that correct, Dean?

Unknown speaker:
The plan B, the ratio of front lots to interior lots, is in conformance, as four to one and those fronting lots meet the frontage and area requirements of the zone. We just think that that's the proper development for the neighborhood, so that's why we're proposing our proposal requiring with the attached request for waivers.

Comm. Patnaude:
The last time it was stacking of, we felt that your stacking the rear lots up can I see that other plan please? Again, the other side. In other words, you got frontage to every one but one, am I right? According to what you got up there.

Unknown speaker:
Adequate frontage here, here, and here. And this one is forty feet.

Chm. Gionfriddo:
Any other questions? If not thank you. Any members of the public wishing to speaking favor of this aproposal? Any members wishing to speak in opposition?

Atty. Mike Dowley:
Thank you. Atty. Mike Dowley, and I was here at the last public hearing representing Mr. Augeri and I had Mr. Stone speak and Mr. and Mrs. Labbidia

speaking and we still have the same factual issues and there gonna speak and put those factual issues on the table again. I think now more than ever, you should be concerned about legalities and just exactly what the waiver process is, and indeed what is being requested of you. If you look at your waiver provision in section six of your regulations. First the regulations that you are permitted to waive are only the subdivision regulations, and what you are being requested here tonight is to waive a subdivision regulation and a Zoning regulation. The subdivision regulations do not give you the power to waive the Zoning regulations. You function as a Planning agency when you're doing your subdivision functions and your Planning agency can't over rule your Zoning functions. In fact in some towns, you have a different Planning agency and you have a different Zoning agency for that reason. And what you have before you tonight is a request for you as a Planning board to waive a rule of a Zoning board and you really don't have the power to do that. If I could just show you the map of what I think are the difference and I think it's important or I wouldn't take the time to do it. What the difference in the two regulations are, you have a subdivision regulation which says that for every four lots you are permitted to have one rear lot. For every four front lots you are permitted to have one rear lot. Well, by definition, you only have three front lots, so if you only have three front lots how can you have a rear lot? You can only do that if the people of the Planning board say you have a right to do that. The second item that's before you, and I think it would be more difficult to decide tonight if they hadn't come before you the last time, is the length of this driveway. Your regulations say, your Zoning Regulations say that the length of the driveway should only be for one lot not two lots, and what happened here is you've really got, what they've done is here's your lot four which ends about here, what they've done with it is they've extended it up to here. What you've got is if you look at the original application, in order to properly take care of this house which is shown on the map, they had a, if you look at the original plan this particular lot, lot number three, currently extended further closer to the driveway and so you could see indeed the length of this driveway was not alone for one lot but the length of the driveway ran for lot number four as well as lot number three, before it reached lot number five. You're actually going a far greater length than your Zoning Regulations permit you to go and these people are asking you to waive a Zoning Regulation. If you look in Mr. Borkowski's application, he says in his letter, his letter to you, I need you to waive section 44.08.27. And if you just look at your subdivision regulations, you're normally talking of single numerals and not double numerals. The 44 section gets you into the Zoning Regulations. Well that is a little bit of legal background, occasionally I practice law, I guess. Factually you got other real concerns here. I've come before you and asked for waivers, and some of you remember the Westwood subdivision. In the Westwood Subdivision I came in and I came in with an entire neighborhood, and I mean I brought I think almost every neighbor out there to come in and ask for a waiver. And the waiver that we asked for was not a Zoning Regulation, but rather it was a Planning regulation that was to do with the length of the streets and cul-de-sacs. And that night I said to you, and I say it to you again, now there is no one in the world who knows better than whether a regulation could be waived than the people who live out there. And the people who live out there are telling you as their representatives that they don't want it waived. And so then you say well, alright, they don't want it waived, let's look at our regulations and see what we have to find. Which the regulations say that you must find is not one of four things, but you must find the following four things. All of them. And

if one fails, the waiver has to fail. I'm gonna read them from bottom to top. The bottom one Subsection D says you must find that the waiver will not in any way vary the provisions of the Zoning Regulations. And I just went through with you what the request was, so I think on the face of it one of the four requirements is gone. The next one is you must find that because of the particular physical surrounding shape or topographical conditions of the specific property involved, a particular hardship to the applicant would result as distinguished from a mere inconvenience if the strict letter of these regulations are carried out. What you people as a body of administrators have to be concerned with, is granting of a waiver here is gonna set you up for a lot of waiver requests and you better make sure that each of these requirements within your regulations is fulfilled.

Chm. Gionfriddo:

Could I ask a question? How did the Westwood subdivision meet paragraph C?

Atty. Mike Dowley:

Because the people came in and put evidence on that night, that indeed their particular situation with regard to, remember the Westwood section has a stream.

Chm. Gionfriddo:

Doesn't say that though.

Atty. Dowley:

Excuse me.

Chm Gionfriddo:

It says the particular hardship to the applicant would result as distinguishes from a mere inconvenience.

Atty. Dowley:

That's correct and the neighbors came in that night and they testified to the fact that there was a street within, I don't know the name of it, you guys might know better than me, but if you go down Meadowood Road, if you take a left off of Meadowood Road, there's a street there with no houses on it, and that street with no houses on it is a street that people use only to back into in order to get their cars out of there. And then they testified to the situation that what was developing was a situation where there was a property owner to the east who had a section of property that there was gonna be a stub right of way developed to and they clearly showed you that their property was unique and the particular hardship that Mr. Coughlin had that night, was that in order to develop his property, if you had to look at the traffic situation he would have to consider traffic that would be going through the loop road system from a subdivision that didn't exist, we didn't know when it was going to exist, and we had a traffic engineer who couldn't compute the traffic at all. I mean that was a hardship that would have been impossible for him to have met. In addition, the property was shown to have been unique. It was unique in the sense just in that one word itself, and I went through all of the things, but more important than all of them were the people who live there testified that they wanted it.

Chm. Gionfriddo:

Isn't that what the ultimate is, that in order for you to get your approval you had to come in and ask for a waiver because if you came in with a straight

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subdivision, the neighbors would have come out in opposition and you would have had a problem.

Atty. Dowley:
As I told.

Chm. Gionfriddo:
Probably item E.

Atty. Dowley:
As I told Comm. Leinwand that night I felt that I could have come in and gotten approval with a loop subdivision cause we met with every single Subdivision Regulation and as a Planning Agency, you don't have the discretion that you have as a Zoning Agency and because I could get it and fulfill all of the regulations, you would have had to have given it to me.

Chm. Gionfriddo:
I'm only being a devils advocate because I think your legal point is right, by the way.

Atty. Dowley:
Going through the four requirements. I don't think they met D, I don't think there's a particular hardship for C. B was the one that you gotta be most careful about. B was the one that says if your gonna grant a waiver, you gotta make sure that you grant it to someone who's conditions are unique, because if there not unique, every developer in the Citys' gonna come in and ask for a waiver on every project and you people have got to be very,very careful as to why this property is unique from the property across the street. Finally, the granting of the waiver will not have an adverse affect on any adjacent property. My clients are gonna be here tonight and tell you that they think that this waiver will have an adverse affect on their property. And that evidence will be before you. So it's not like you have to find any of the four, it's simply you've gotta find all four or it's over, and I think that this developer in his presentation and on the face of it cannot satisfy all four. I won't be.

Chm. Gionfriddo:
Can I ask one other question? Is would your clients and the neighbors in the area, I'm not, I don't like indicating that either plan A or plan B on the other side would be approved but would they be happier with let's say plan B, than what they have here?

Atty. Dowley:
I can't tell you because we have to spend time and talk with the developer. I don't even know what plan A or plan B are, I mean you people have looked at them and I just can't look at them from the road. I mean if you could let me sit down and spend some time and look at them, I'll be able to talk to you, but I don't know from a point of view. You've got a couple of ponds out there and you've got some land and I'm not even sure whether you can do plan A or plan B except on a drafting table. I just don't know.

Chm. Gionfriddo:
O.K., fair answer.

Atty. Dowley:
I better be careful, I'm getting some compliments tonight. In terms of the ratio

of one to four, which is a Subdivision Regulation. The purpose of that is for your regulations to make sure, your not alone a waiver which you should give rarely but your dealing with a rear lot and you people yourselves said that you took a long time to develop this rear lot regulation and you sat there and said lets make sure that if we do it, lets do it right. And what you said is we'll only give them one rear lot per every four lots of frontage and now if you give this guy more than one rear lot for only three lots of frontage, I think you've got to live with it, and if you want to fine, but you are gonna have to live with it the rest of the term. I haven't had an opportunity to go through all of the, I don't know if your Zoning staff has taken an opinion on this so I don't know, but I'd say that I don't know whether George or Nino have had the time to do a report, but basically my legal opinions, I've given them to you. (inaudible) or not and for that reason, I've asked Mrs. Augeri if she cares to bacically repeat some of the testimony she gave at the last time. Thank you.

Mrs. Augeri:

Good evening once again. In listening to Mr. Thomasson, Oh, I'm sorry, Janice Augeri, 625 Ridgewood Rd. My family and I are contiguous neighbors of Mr. Bysiewicz's property. In listening to Mr. Thomasson present his proposal, one phrase of his really stuck out and that is we don't believe that this proposal will have any adverse affect on the neighborhood. That is not the case at all. We present a proposal that has an over five to six hundred foot driveway, which is in full view of my entire south and southwest windows. The property and the land in that area is loaded with ledge, which is going to require blasting. My well is very, very, close to that lot number whatever, that back lot, which will have an adverse, which may have an adverse affect on my well. That back lot is an eyesore frankly, with a home back there, it is not in keeping with the character of that area. According to myself, according to my neighbors, and according to the woman who owned the property before Mr. Bysiewicz did. It is not in keeping with the character and I have to object to Mr. Thomasson's statement that it is. It does not belong there. It is not asthetically pleasing, and it does not belong there. Both the construction and the (inaudible) to that home will diminish the quality of my home, and the others surrounding it. And I ask that you please consider that. Thank you.

Atty. Dowley:

I don't really have anything further, the homes that are out there I told you this the last time, they're all very large lots, I mean I think the Augeries' have the smallest lot around three or four acres and the Labiddias' have just built a new home out there with around five acres and Mr. Stone has about I think twelve acres of property so that you can't just make the argument that these lots are going to be in the same character of those that are around there. That's all I have, thank you very much.

Chm. Gionfriddo:

Dean, I have a question. That your request for the waiver of this Zoning Code Section 44.08.27. I realize from your written request there your saying your making it not because you believe it is necessary, but because staff is of the opinion that a waiver is necessary. It's not that their of the opinion necessarily that a waiver is necessary, they're indicating to you that you have a defect in the zone, what they consider to be a defect in the Zoning Code and you are looking for a waiver from us to correct it. But how do we answer Michaels' legal Point?

Dean Thomasson:

I'd first like to see what George and Nino have to say about that if they still feel the same way with this extnetion. And for that matter, Ted has just told

me that it is not adverse at all to demolishing the house and running the line right there if need be. I mean it's if you want to get really technical, I could not have made the application the first time we made the application, George refused to accept the application because it was incomplete without a request for a waiver. You know, that's his right to do so, so I requested a waiver of something I didn't believe in only because he said I needed to get it before you this evening. I agree with Mike that you can't waive the Zoning rules and I would like to think that either the staff has changed their opinion or the Commission can see, can agree with us that this if in fact is a fronting lot and it conforms to the Zoning rules without a request for a waiver. I'm really only requesting the waiver on the ratio of four lots to one interior lot.

Chm. Gionfriddo:

George, what your requesting and what I'm requesting for you, which what your.

George Reif:

O.K. clarify that fact that there was no question about the requirement for the waive about the ratio right, right, so there had to be a request for a waiver, that's why y got turned down. I look at that and they've still two lots in front of the rear lot and .

Unknown speaker:

Obvisouly there's a disagreement.

Dean Thomasson:

I would like to say if we're running this line here do we still have two lots in front of the rear lot?

George Reif;

If you're going to remove the existing house, surely you're not going to use that layout. That's not an issue.

Dean Thomasson:

Your talking degrees here now, this is a front lot, it meets the requirements and this lot is behind it. Now how can you say that we've got two houses, an interior lot behind two houses?

Chm. Gionfriddo:

Well, I don't want you to, you were concerned, you wanted Georges'opinion, you got it so that's.

Dean Thomasson:

What I want to make sure is that the Commission be aware of the issue, that I'm not requesting waiver of the Zoning rules in violation of the.

Chm. Gionfriddo:

You don't feel you need it.

Dean Thomasson:

That's correct, it's only before you because in order to get this proposal before you I had to request it through staff.

Chm. Gionfriddo:

Nino, did you have something you wanted to add? You didn't walk the site did you?

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Nino:

No, I'm not worried about the site.

Chm. Gionfriddo:

I just couldn't resist asking. What do we take into consideration here. Is this the depth on one lot here, or is this the depth on one of one lot here. This is the one you take as a consideration. The depth of one lot you're extending the depth of that lot.

Unknown speaker:

What do we do?

Chm. Gionfriddo:

Again, thank you for that rhetorical question. What do we do?

Dean Thomasson:

Going over the conditions for considering waivers, I can read A thru D as well as Mike can. This is a unique piece of property. It has a pond which we're trying to preserve on one piece of property, it has a stone wall on which we're trying to follow the boundry line along that, you're not going to find another piece of property as unique as this piece of property. Adverse effects, I don't know. I don't live there, but for some reason if I wanted to think people were coming to visit me, that I lived in a unique neighborhood, with large lots, I don't think driving past 1, 2, 3, 4, 5 homes on small lots is better design or better plan. We're proposing what we feel is to be a better plan. Now we can come in here, you know, our next application, we may just decide to do just this one, forget the waiver business and then it'll be interesting what there arguments at that time are. Maybe then they'll say it's not a good plan at all, so we're proposing what we think is an appropriate plan for the neighborhood, we're parcel because it's unique and we leave it to your judgement. You've seen the evidence, you've seen the parcel here, I haven't seen any contrary evidence why this parcal isn't unique. The topographical and the conditions. Thank you.

Chm. Gionfriddo:

Thank you, is there anyone else who wants to be heard on this, this evening? I'm gonna, I'm kinda in a quandary, because my personal opinion is that this layout is much better than the layouts on the other side of this board. But I have a problem with respect to interperatation of that one particular section of the regulations. My personal inclination as one member of the Commission is I would just as soon see this matter continued for two weeds and I would like to take some time to think about that particular aspect. Because if Michael is right, then we have no alternative but to reject it. If the opponnet is correct in his interpretation that we can accept the subdivision and I, if that interpretation were correct I could vote for it cause my personal feeling is if I lived there, I would much prefer this than to what's on the other side of that board. But I don't feel comfortable voting untill I get a clearer interpretation of the meaning of 44.08.27.

Mrs. Augeri:

May I ask, may I make another statement here?

Chm. Gionfriddo:

Sure, we haven't closed it yet.

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Mr. Augeri:

What I don't understand is Mr. Thomasson continuously brings up this other twelve lot or eighty-seven lot subdivision here. This lady here and another, proposal before you, felt that there was a kind of veiled threat. I have that same feeling and I don't think it belongs here. In other words, if I don't accept this of, if I don't object to that one, I don't particularly.

Chm. Gionfriddo:

I'm not assuming it as a real threat.

Mrs. Augeri:

I'm talking.

Chm. Gionfriddo:

Well, what I'm saying is my feeling is this parcel is going to be developed at some point.

Mrs. Augeri:

Agreed.

Chm. Gionfriddo:

Whether it's going to be three lots five lots however many there able to get, and what I'm trying to see is a member of this Commission is, to see it developed in a way that would be the best. If he could do let's say plan B on that map, if he could do it and it meets every requirement of our regulations, we would have no alternative but to accept it even though we don't really feel it's what we wanted.

Mrs. Augeri:

I understand that sir.

Chm. Gionfriddo:

I just want to make that.

Mrs. Augeri:

That's all I'm concerned about. Thank you.

Chm. Gionfriddo:

I have a little problem in the sense that we're continuing discussion during a Public Hearing. The reason I raised the point I raised is, it was my hope somehow that we would make a motion to continue this Public Hearing till the next Hearing, until we get some clearer delineation of that section.

Comm. Lofferdo:

Before the motion is made, who is going to make this observation? Who are we going to get to make this observation? Are we going to the City Atty., or is it who?

Chm. Gionfriddo:

My personal opinion is that this particular matter as to what the exact meeting of not be separated from a city street by more than the depth of one front lot is

gonna be perhaps the subject of a legal interpretation by a judge in a courtroom. O.K., if we approve this subdivision and the people in the area decide that their gonna challenge it, I'm sure that's gonna be one of the grounds upon which they challenge. That we mininterpereted our regulations. Then also, if we reject based on that if the developer decides to challenge us, it'll probally be under the same grounds, that we somehow didn't apply our regulations properly. For that reason, I would like to bring it to Ralf Wilson and just see if from a clear legal point of view, he sees, he may just say it's up to the interpretation of a Commissioner, it's not that clear, or he may say clearly they meet the requirements or clearly they don't.

Chm. Gionfriddo:
Comm. Loffredo:

Comm. Loffredo:
One other thing. I'm in agreement with going to the City Atty., because I feel he could look at it differently than the way we're looking at it right now. But when you say the length of a lot, to me it seems that it should be the lot that is appropriate to that zone.

Chm.Gionfriddo:
The problem is, what it how we see it, what it seems to be, may not be, in otherwords, when a judge interperets a section, he's gonna look at what's actually on paper and in writing, not how we think it should have been written. So the question becomes and bring it to Ralf Wilson this is what it says, what does it mean? And if it dosen't mean what we like it to say, than we may have to amend it. But the bottom line is, what we're taking to the City Atty. is a request, what does this mean? Does this mean it's a standard lot in the area, or does it simply the length of whatever the front lot is in front of it. Now that's why you have the City Atty., cause he's gonna sit there and interperate it the way hopefully a court would interperate it.

Chm. Gionfriddo:
Comm. Loffredo:

Comm. Loffredo:
I feel comfortable making the motion that we continue the Public Hearing pending the opinion of the City Atty. on this question.

Chm. Gionfriddo:
Is there a second? All those in favor.

Response:
Aye.

Chm. Gionfriddo:
Any opposed? To be continued.Hopefully we'll have the answer by the 26th.

Chm. Gionfriddo:
Move to item 5.