

She welcomed two new members to the Planning Commission. Lisa DeCarbo and Joe Piontek.

REZONING

11-0404

RZ11-09 and CV11-02

ASHTON ATLANTA RESIDENTIAL, LLC

350 & 370 Rucker Road

Land Lot: 1240

Roswell Planning and Zoning Director Brad Townsend stated that this is a rezoning as well as a concurrent variance request for approximately eight-and-a-half acres. It is located on Rucker Road in land lot 1240. It is a comprehensive plan designation of medium residential. The applicant is requesting R3-A, multi-family residential for a single family subdivision which would contain 29 single family lots. The variance requested is for a concurrent variance of the minimum required lot width from 80-foot required by code to a 60-foot code requirement.

As one can see on the aerial, there are three single-family homes to the south, across Rucker Road. There is a current developed subdivision to the west, a current developed sanctuary and church to the east and a currently developed completed subdivision to the north. This purple line is the division between the city of Alpharetta and the city of Roswell. So it is right on Roswell's city limits at the northern part of Rucker Road. The development to the east, there is also an active landscaping business in this location as one can see. The current property has two single-family homes. One here and the larger one located here on the approximate eight-and-a-half acres. That is the site development that they have.

Submitted in the Commission's back up material was an application for a minimum lot size of the subdivision for 9000 square foot lots, which is in conformance with the R3-A requirement and also as a requirement as designed in this subdivision. There are two detention locations. The property as it currently sits there is like a ridge in this location of the property so there are two different catch basins. One would run to the north and one would go to the south because of the way the current topography of the property is located.

The original site plan submitted on June 7, 2011 indicated a proposed access via a sub-street through the existing Crabapple Registry subdivision located to the west of the subject property. This sub-street one can see is located in this location just adjacent to a single-family home and their detention pond. This was designed as part of its subdivision approval when it was in Fulton County to have this sub-street connect to this location. There is also a second sub-street that would connect to this landscaping area. It is just located right in this location of the current subdivided property.

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The comprehensive plan that is being reviewed by the state as well as ARC calls for connectivity for streets and pedestrians at least 19 times throughout the plan. The 2025 Comprehensive Plan indicates connectivity and connections at least seven different times through out the plan.

There were three differences in the plans from the original submittal and after the neighborhood meeting. The revised plan shows connection between the subdivisions being removed and the proposed connection to the church also being removed. The revised plan indicates only access to Rucker Road and the revised plan contains 28 lots where the original plan contained 26 lots.

The plan has been reviewed by the landscape architect. They would be required to remove at least 10 specimen trees dealing with the development. It also has been reviewed by the other departments within the city of Roswell dealing with their approval.

Staff is recommending seven conditions for this application. They are recommending that the connectivity between the two subdivisions take place allowing for this access location in his location. The other conditions relate to a minimum buffer similar to that at the Registry be maintained within this subdivision. The other conditions deal with transportation requirements for left turn lane into the property, also a right turn lane into the property and to make sure that adequate right-of-way is dedicated for those improvements at those locations.

In summary, staff would recommend approval of the rezoning since it is in similar lot size to the surrounding residential areas in this location. They would also recommend the connectivity of the location into the Crabapple Registry.

Bryan Chamberlain asked Brad Townsend if the connection to the church remain as a condition. Brad Townsend stated that it did not. Staff did not think that that was appropriate. When the original plan came in they were doing that to gain access to the two lots that they were backing up. But since the church is a definite off-peak type of thing and there is a real significant grade change from where the road would be or connection to the parking lot of the church, they felt it inappropriate for that connection.

Cheryl Greenway asked if there were any other question from the Commission for Brad Townsend.

Harvey Smith asked why the recommendation is the connectivity. Is the staff going back with that because of ARC? The comments that were in....Brad Townsend stated that they were requiring the connectivity because it was originally developed when this was developed in Fulton County. They provided the sub-streets to connect the connections. In going through the comprehensive plan, staff heard it numerous times as well as in the adoptions of the policies that

there should be more connection between subdivision and they need to stop providing or developing dead end cul-de-sac streets. The transportation department, public works and environmental dealing with access, the fire, safety and police departments are all saying that they need more connections to provide the opportunity to have that traffic at least have alternatives to coming down onto Rucker at the one location.

Townsend stated that one of the other transportation issues is the Registry doesn't even have a left turn into their development. So in essence this actually provides a smoother flow off of Rucker to both of these subdivisions by providing a left turn.

Joe Piontek asked if they do agree to the count, it says only 27 not 28. Brad Townsend stated that they are going to probably lose a couple of lots because they do have some concern that the detention ponds are undersized. Those have to be correctly sized for the future detention. Staff is not sure of the number they are going to end up with but it will be less than the 28 that is on the property they have proposed.

Bryan Chamberlain asked Brad Townsend just as a point of information, when there is the connectivity issue with an existing neighborhood of a new neighborhood in this case. Is there any approval or review and approval required of that existing neighborhood? Or allowed to that existing neighborhood, or is it just because that was the way it was when they built the neighborhood?

Brad Townsend stated that the neighborhood was built and developed showing that as public right-of-way. It is in essence in the public domain for it to be used as access.

Cheryl Greenway took that a step further, in the original plan what was the concept as far as who paid the cost to do the connections into the expanding areas? The new developers? Brad Townsend stated that was correct. Greenway asked if a plan is approved would this have to go back the public works department to deal with the detention issue, the drainage issue. Townsend stated that that would all be worked out if the rezoning is approved. That would be worked out prior to the land disturbance permit.

Lisa DeCarbo stated that Brad Townsend said that the connectivity, the difference between the two site plans offered in May and then now. After public meetings was it the neighboring subdivision on the west that requested that that right-of-way not be used? Townsend stated that was correct. DeCarbo stated that she hopes there are folks here that are representing that subdivision. Townsend stated that he was sure they will speak for themselves this evening.

Cheryl Greenway stated that if there were no other questions for Brad Townsend she asked the applicant to come forward and present the application. She

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reminded everyone that if they do come up to speak, please state their name and address for the record. The meeting is being recording and also there are cards in the back. If the speakers would please get one of those and fill out his name and address and turn that in to the city staff if they do plan to speak. This would be appreciated.

Pete Hendrix presented the application. He practices law at 6085 Lake Forest Drive in Sandy Springs. The application that has been presented to the Commission by staff is an 8.507 acre tract consisting of what commonly is known as 350 and 370 Rucker Road. He thinks it is important as the Commission reviews and analyses the request in front of them to note that with the Crabapple Registry contiguous and to the west of this property that was originally zoned in Fulton County as an R5-A. It is currently under Roswell's designation as Fulton County Annexed but it was originally an R5-A in Fulton County. The result of that is that the minimum lot width in Fulton County and existing in Crabapple Registry is 40 feet. So with a view towards trying to have some level of conformity, compatibility with what truly is contiguous and right next to them they are asking for the concurrent variance to reduce from what is Roswell's required minimum of 80 feet to 60 feet. Hendrix thinks that is getting them closer in scope, look and scale to what is developed in the immediate area of the property. Then of course contiguous and to the east of the property is the church. And when one goes beyond that he comes to Brindle Estates. What is important with Brindle Estates to show the compatibility with the request that is in front of the Commission, those lots range from 7000 square feet to 16,000 square feet. The applicant's proposed lots range from 9000 square feet to 16,184 square feet. So he thinks as far as lot size is concerned, configuration of the lot, lot width and all of that they are nicely fitting in with what it is that they are asking for under the application. As one goes to the application and most particularly as he goes to staff's review and analysis beginning on page 16, whether it is a suitable use and affirmatively found to be a suitable use. Will it adversely affect the stuff that it is contiguous and next door, North Farm to the north and Crabapple Registry to the east and not found to prospectively have an adverse effect.

Then they get down to the land plan. They do not fit the land plan as to the suggestion of estates, medium residential. But then staff goes on to note that it is certainly in keeping, it is in harmony with the Crabapple Registry, which is contiguous and to the west as far as density is concerned. Coming on over to 17, the request for the R3-A may not change the character of the zoning district as the existing subdivision to the west similar in nature to the proposed rezoning, and then they go on to site Brindle Estates, which Hendrix just recited to the Commission as to compatibility with lot size.

Concluding overall comment on page 18, the overall zoning scheme for this area indicates single-family residential. The proposed request for single-family residential will help carry out these zoning regulations.

Hendrix pointed out that Mike Busher with the applicant, with Ashton Woods is present. The reason that they came forward with a modified and revised site plan was having had extensive reach out with Crabapple Registry contiguous and to the west of them. What came through those conversations was very much a concern and the Commission will hear from spokespersons from that neighborhood this evening over the interparcel access that has been described to them and a strong resistance to have that interparcel access. And what sort of coincidentally spills out of that would then be the ability to be able to share detention facilities between the two subdivisions. They all try to think in terms of regional detention facilities and this would be on sort of a mini-scale, the ability to have some sort of joint detention facility. So while the interparcel access part of that would be something that might not be exactly in line with what the city of Roswell, by their druthers, would like to see from a staff perspective, Hendrix thinks that they do pick up another public works benefit on being able to have that shared detention.

Mike Busher with Ashton is present and he will take a few minutes with the Commission to walk them through the product that they are proposing. Pete Hendrix stated that he has represented these guys for about 18 or 19 years now and he can tell one that they do the full spectrum of residential subdivision development. They do a terrific job with it and even in this economy that they are all laboring under right now they have proven to be successful with projects that they have within the last 12 months zoned in Milton and in John's Creek.

Mike Busher, Ashton Woods Homes, 3251 Compass Way, Alpharetta, GA. stated that he can certainly talk about product and maybe he will do that more in the form of a question and answer but he thinks the connectivity issue is what was paramount in the discussion. But the connectivity issue was absolutely a byproduct of his meetings with the Crabapple Registry HOA and their representatives. They are here tonight. Busher thinks that what the Commission will hear and they sort of agreed that they will limit the representatives so that the Commission is hearing from every single person hopefully the same story but was a common theme and a pretty visceral reaction to connecting. They absolutely did not want it. They did start with the premise that there was a right-of-way there that was abandoned and tended to be connected. That is where their first plan stemmed from. But it was also very clear that that was not the Crabapple Registry's understanding of that right-of-way and Busher will let them present that side of it. But that aside, it was really more so to the point of if they are going to help each other here, they can't support this connectivity and they have their reasons why. So that is what has led them to this plan.

The two additional lots, one can see that as how did they arrive at two additional lots and again is that an increase in density that was not initially contemplated? It absolutely was contemplated but it couldn't get there by virtue of the two connecting roads. So, if one takes those two roads away he does end up having the ability to have two more lots. For the owners' purpose and their purpose they

are going to seek to get that density. It makes sense. It didn't result in a need for a variance on those lots.

Finally, with respect to detention, Pete Hendrix said it correctly that the shared detention facility is something that they have discussed with the Crabapple Registry HOA. Busher thinks it is fair to say that they are in agreement with it in concept and obviously there is more work to be done on how that will be shared. But effectively, the Ashton HOA will be paying for maintenance ongoing of a shared maintenance agreement with that detention facility. But he thinks most importantly it would have to be sized correctly for their needs and they believe that it will be.

Finally, Busher stated that he thinks there was a point about the connectivity going away for the church. He thinks staff may have said that that was accurate but in the staff recommendations it actually says that the connectivity shall remain. It is point no. 7. They would certainly ask for that to be taken out and if that is the intent then that would be their wish as well.

If there are questions about other parts of the application Busher stated that he will be happy to answer them.

Cheryl Greenway asked if there were any questions for the applicant.

Harvey Smith asked how many lots are in the Registry. How many homeowners are in that HOA? Mike Busher stated that off the top of his head he could not tell Smith. He thought it was just under 30, so 26. Smith clarified that it was almost the same size. Busher stated that the lot lines one sees on the west line have been affectively paired up...they try to pair up their lot lines to theirs.

Cheryl Greenway stated that in the conditions that have been put by staff it is also talking about that the applicant will install a left turn lane on Rucker Road and a right turn lane coming into the subdivision. What are Busher's comments on that?

Mike Busher stated that he has reached out to the city staff on that issue. He stated that it is obviously less than desirable. He thinks there are some arguments to be made that if they are coming in off of Rucker and not connecting, which is ultimately their wish, they could make their case that for a 28-lot subdivision, it doesn't require a system improvement. But until they get a little further down the road they probably need to have that meeting with them to figure out first of all if there is the support for having one single access off of Rucker. And that kind of leads Busher to the next question. Can they address the issue of right hand turn lanes if connectivity becomes something that is not going to be reviewed? If it stands then that is a different issue.

Cheryl Greenway clarified that Busher understood that if he did get approved for the revised plan that would not connect with the other neighborhood that he potentially is going to lose a couple of homes because of drainage issues.

Mike Busher stated that he actually does not agree with that. He does not agree with that analysis. He understands that the point was made that there could be the possibility of losing lots, but he feels pretty confident that they can get there with what they have shown. What he would ask is that staff doesn't...they could always have a condition that says they can have no greater than 28 lots, but he does not think it will cause the loss of lots to get there.

Cheryl Greenway stated that she thinks they will have to defer that to the public works department. Pete Hendrix agreed. He stated that they would present the hydro, the engineering review analysis particularly with a view towards the possibility of jointly sharing that detention facility. And then they will either be able to meet the city of Roswell's standards or they are not going to be able to meet the city's standards. They ultimately will do what the city of Roswell requires of them.

Cheryl Greenway stated that she just wanted to be sure that the applicant was aware of the potential risks there. Mike Busher stated that was a fair point and he does not want to sound adversarial to it, he just thinks they can get there but to the point, if they are approved for 28 with the hydrology and the engineering ends up supporting that they can only build 26 then 26 it is.

Harvey Smith asked the applicant to help him understand why it sounds like the decel or right turn or left turn into the subdivision, how is that connected to the connectivity issue? To him that is two distinct, it sounds like the applicant is suggesting that if he does not have interparcel access then they are not going to create decel lanes. Smith thinks those are two separate issues all together. He lives not far from there off of SR 140 and he comes across Rucker Road and he knows the traffic issues that are there. That is a heavily traveled road after 4 p.m. in the afternoon or in the morning.

Mike Busher stated that his perspective on that is that those system improvements that Smith speaks of, for example for Crabapple Registry, they weren't required to have a left hand turn lane. One could argue that the traffic was no better, he does not know if it was worse, he does not know, but for a 28-lot subdivision it probably could have called for a left hand turn lane for that subdivision and they didn't. If they are then only talking about a 28-lot subdivision for their site, not connected to, again Busher would make that argument that that is a pretty significant system improvement albeit may be necessary. But now they are transferring that burden to Busher for 28 lots. He would say pretty forcefully, "Okay, then there is already a plan to widen Rucker. There are plans to increase the right-of-way which they are giving up in their plan." So, as the system

improvement that would contemplate widening the road to deal with future traffic challenges presents itself, one would by virtue of the applicant's plan be able to do that. To put it in now seems to Busher to be a little bit punitive.

Cheryl Greenway asked if there were any additional questions for the applicant.

Lisa DeCarbo stated that Busher talked about the fact that Crabapple Registry was not required to do the left hand turn lane or the decel lane. Was that developed when this property was within Fulton County or within the city of Roswell? It sounded like before that was Fulton County's call.

Mike Busher stated that was correct but he also believes it is typically about a 50-lot subdivision that tends to be the point at which one begins to require turn lanes. That is his point. He understands DeCarbo's point certainly but he is just trying to balance what are the competing needs of what he can do for his side and also what the seller can bear on his side.

Bryan Chamberlain stated just as a point of observation that he is not picking holes, but relative to the logic pattern Busher set out a moment ago of they are typically required for 50 lots, prior to the other subdivision being built there were no lots. That subdivision has been built with 20+ lots, 25+ lots. Busher's, if approved would be built with 25+ lots. They are now at 50 lots. They have two points of egress and ingress. For 50+ lots it seems to Chamberlain that the logic of there needing to be turn lanes ends on its own that point.

Mike Busher added to that point that they are now putting that burden all on his subdivision. He could also say, let's specially assess the people at Crabapple Registry because they get a benefit of it. That ought to go far, that wouldn't happen. His point would be that they are going to give up right-of-way, which contemplates the expansion of Rucker Road hopefully long term. And that expansion and widening of Rucker would enable it to have those turn lanes as were talked about as a system improvement. That is why he said that as connectivity it becomes important because if it is connected it becomes viewed as one subdivision in effect in a different way that it is a 28 lot subdivision that stands on its own.

Cheryl Greenway asked if there were any additional questions. Hearing none she thanked the applicant and stated that he would have a chance to come back up and speak after the public section.

Greenway asked if there is anyone who would like to come up and speak in favor of the applicant. She reminded the speakers to please stated their name and if they filled out a card to please give it to the city staff.

Dan Osborne
345 North Farm Drive
Alpharetta, GA

Osborne stated that he lives at 345 North Farm Drive in the city of Alpharetta. His property and the North Farm subdivision back up to this particular project. They are not opposed to this project. Their concern and the reason Osborne is here tonight is water runoff and the detention facility at the current Registry, which seems to be not working. He has called the city of Roswell about six months ago and they were told that it was not their problem. Osborne stated that he has lived in North Farm for 26 years. A year and-a-half ago his back yard disappeared. His lawn is gone. It is water runoff from this particular property and when they have a severe rainstorm, which is infrequent, he gets flooding. The house next to him gets flooding on both sides of him. If the builder will tell him that they will grade this thing properly to make sure that water doesn't come into their back yards they are in favor of it. Osborne represents and has been given authorization by the board to represent 252 homes in North Farm. They have investigated this builder; they have been to some of his homes and saw that he builds quality merchandise. Osborne is not being paid to be a spokesman for them but he is here representing the neighborhood's interest and that is water and runoff. If the Commission would address that issue with these people the neighbors would be delighted. Osborne stated that the residents of North Farm are in favor of this subdivision.

Cheryl Greenway asked if there was anyone else who would like to speak in favor of this application.

Anthony Russell
12198 Lime Ridge Court

Louis Lake
12199 Lime Ridge Court

Louis Lake stated that both he and Anthony Russell are members of the homeowners' association at Crabapple Registry. Russell is the president of the homeowners' association. Russell stated that he has some folders for each of the Commissioners. Cheryl Greenway asked that Russell give the information to the city staff member.

Anthony Russell reiterated that he is the homeowners' association president and Lou Lake lives directly across the street from him on Lime Ridge Court. They live directly adjacent and across from the detention pond and near the area where the connectivity is proposed by the city of Roswell. Russell stated that he would like to just ask his neighbors that are here today to stand up so that the Commission can see the number of folks that came out in support of their position as a subdivision.

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Russell stated that they were initially contacted by Ashton Woods back in early June 2011 with their plans for the Rucker Road site. Their first reaction was, he would say, just total shock and disappointment at their initial proposal. So, the neighbors went and worked with them to reach sort of a compromise and that compromise is the revised plan.

Just to provide a little history on the North Farms neighborhood, Russell stated that it was built in 2005 and completed in early 2006. They have 26 homes in the subdivision. It is a single street cul-de-sac. The demographics range but they have approximately 30 school age children in their neighborhood.

Russell stated that he would like to draw the Commission to the folder. If one can see on the first line, he listed their contact information but he also put a photo in there of what they consider common area that is the proposed connectivity. Their kids use that area down next to the detention pond and next to the Juno residence as a play place. It is a great, open, flat area and it is frequently used by children. Russell reiterated that there are 30 kids in their neighborhood.

If one looks across the page there is the plat that was filed in 2004 or 2004, Russell does not remember the date for the subdivision, and he highlighted note no. 31. That references street B. It says very clearly that that street should be constructed by the builder prior to the issuance of the building permit for Lot 16. Lot 16 is the home on the other side of the proposed street from the detention pond. The corner of the house is seen there in the photo. They were told by the builder throughout the process of building their homes that they had desire to purchase the landscape property to the west and the school property to the east to build a much larger neighborhood. They were not able to do that and so they explained to the neighbors that there was a finite window for that road to be constructed and it clearly shows that in the plot that was filed as public record. T

Russell stated that they are not happy that Ashton Woods wants to connect their detention pond either but they reached that as a compromise with them in order to facilitate the road not being constructed. They have kids playing in the neighborhood. They worry about additional cars on their streets. They are a very tight knit community, they all watch out for each other's families. Adding strangers up and down this street everyday... Russell does not think those people are going to be as careful and as watchful for their children as they are.

They are concerned about losing the play space and the green space. As one can see there are some very mature trees up along the fence that Russell is sure Ashton Woods could retain many of those under the proposal that they have submitted the amendment.

They are also concerned particularly for the Juno's who live adjacent to that property and the Chen's, who live across the street. They will have a huge loss of

privacy to their homes. Not only that, but as they all know, they are in a very depressed real estate market and the neighbors feel like it will clearly effect the market value of the homes with that road there.

Finally, the neighbors just think it is detrimental to their neighborhood and the sense of community that they have in their neighborhood. Russell thinks that the points that have been made already this evening, that as proposed this garners two additional homes, which increases the tax base for the city of Roswell. And really, their agreement with Ashton Woods for the connectivity of the detention ponds is solely contingent on the road not being constructed. If the road is constructed, the neighbors can't agree to allow then them to connect to that detention pond.

Louis Lake stated that he believes Anthony Russell covered it all but in addition he would like to re-emphasize one important part for the homeowners' association. And that is that the children play on that common area, which will be destroyed if they put that road in. Lake can't believe the safety of their children would be outweighed by whatever advantage that connecting road will provide for the road department. He emphasized that the road was supposed to be constructed prior to the permit being granted on Lot 16 and when they combine both of those items, the homeowners' association is requesting that the Planning Commission vote yes to the development as presented by Ashton Woods without the connecting road.

Cheryl Greenway asked if there were any questions for Anthony Russell or Louis Lake. There were none. She asked if there was anyone else that would like to speak in favor of the application.

Jim Wright
1355 Hester Drive
Cumming, GA

Jim Wright stated that his wife and her two brothers are the owners of the property that is up for rezoning. Simply put, they have been there many years. There has always been a thought or some plans that Rucker Road would be widened. The other subdivision when it got built, they were supportive of that. They were supportive when the church was there. Wright just does not feel like it should be put on them at this time to make that significant road improvement that might cause diminished value to them. If the road is going to be widened as Mike Busher says, and Wright thinks that could be incorporated at that time. In his observation most of the commute traffic, Wright thinks most of the traffic is coming west on Rucker Road, which would be right turns. In the morning people coming out of those two subdivisions most likely would be making lefts to east. All Wright asks is that the Commission please consider their position on it. That they don't feel like they should have to take the hit, so to speak for making that significant road improvement at this time.

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Cheryl Greenway thanked Wright and asked if there was anyone else who would like to speak in favor of the applicant.

Simon Juno
12194 Lime Ridge Court
Alpharetta, GA

Simon Juno stated that he was in favor of this at this time because he is next to the property where they are proposing the road. Anthony Russell was referring to his property; this is going to be next to his house. When Juno bought this house the builder delivered a given impression that that road has to be built one day before Juno's permit is given. So on that information only, Juno bought the house. So he is the one mostly affected if there is a proposal to come next to his road.

Apart from that, Juno also wants to make a point that there is only one small common area and he would never harm his children or any of the neighborhood children. Forty kids can come and play in this small, small area. Even if they did not propose this, Juno thinks it would be very disastrous for all of their kids. He just wanted to make sure that there is no proposal going next door to his home.

Cheryl Greenway thanked Juno.

Harvey Smith asked Simon Juno if he was the homeowner on the corner, on lot 16. Juno stated that he was. Smith thanked Juno.

Cheryl Greenway asked if there was anyone else who would like to speak in favor of the applicant. Seeing no one, she asked if anyone would like to speak in opposition to the applicant. For the record no one came forward. Greenway asked Pete Hendrix or Mike Busher if they would like to respond to any of the statements that have been made.

Pete Hendrix stated that they would respectfully request the Commission's approval of the application as they have presented it with the modified and amended site plan dated August 5, 2011 that does not reflect the interparcel access. Obviously, they filed an initial site plan that showed the interparcel access and the rework of that came from a reach out engagement and a number of meetings with Crabapple Registry contiguous into the west in appreciation and understanding of their position and their lack of desire for that connection. Hendrix stated that he thinks as staff has indicated, however this should be sorted out it would be appropriate to delete seven on the connection to the church because of the restraints of the topography and the lack of any reasonable basis to make that connection.

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Mike Busher stated that he would also like to extend the thanks to the Crabapple Registry homeowners' association principally. There were other people involved but obviously anytime one can get to an application when he is on his side of it and he can find very little opposition, it is usually because there was no objection, which is never, or one hopes that they have reach something of a compromise with the folks that are most impacted. Busher hopes the Commission takes that with them. He certain appreciated the neighbors' input and it is an outgrowth of that that they have reached this plan. That was Busher's only final, closing thought.

Cheryl Greenway thanked Busher.

Greenway asked if anyone on the Planning Commission had any additional questions for the applicant or the city.

Bryan Chamberlain stated to Brad Townsend that the Commission has heard the point of assumed compromise between the two parties, with the third party being the city of Roswell with six points as opposed to seven points. Could Townsend readdress these...

Brad Townsend stated that point no. 7 just needs to be amended to just strike the existing church property to the east. It should stay in there, requiring it to the subdivision. The only part that staff would recommend changing is the east...the existing church property to the east language be removed.

Bryan Chamberlain stated that as it relates to the other six items relative to what the Commission has heard, can Townsend give them the city's view?

Brad Townsend stated that he won't speak for transportation but they are here this evening if the Commission requests any information from them. He feels that as required by transportation, the right turn lane in and the left turn in to the development is a safety issue for Rucker Road. For not only the residents but the surrounding people who use it as a through road and an arterial road just to get to SR 140, to get to Hardscrabble, to get to the city of Alpharetta. They all know that this is such a heavily traveled road that they have...

Townsend presented a drawing off the SR 140 intersection at Rucker Road as one is going east. There is a curb cut into Rite Aid, there is a curb cut into the small office building, dual curb cuts north and south into two residential developments. A curb cut into the landscaping business, curb cut in the Registry, vacant three lots. There are three driveways to the two individual homes. There was a third home that was destroyed by tornado. This is the property that they are dealing with. This is the church, another subdivision. In the length of 1800-1900 feet the types of conflicts that they are creating are numerous. So anything that provides safety for the traveling public he thinks should be ultimate in dealing with whether this is rezoned or not.

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Sidney Dodd asked Brad Townsend if transportation is here this evening, could he have them address the merits or the issues concerning the construction of these decels. That would be very helpful and the cost as well. If he could address the issues, the merits and the cost to construct these decel lanes. If he can give Dodd the lineal feet he can estimate the cost.

Franco DeMarco with Roswell DOT stated that he did not have the lineal feet. DeMarco stated that he was engineering design manager for the transportation department. He did not come with figures or anything like that.

Sidney Dodd stated that one of the reason that they wanted to understand the cost is obviously they want to make a reasonable and fair recommendation to all parties that are involved and it would be helpful to have an estimate of the cost. Maybe the applicant or Brad Townsend or other staff can speak to that issue and the Commission can come to a consensus on what that cost would be. Or generally speaking.

Mike Busher mentioned \$60,000 for the left turn lane or maybe \$100,000 for both. He is just guessing about \$100,000 for both the left turn lane and the right turn lane.

Dodd asked DeMarco to speak to why transportation and design requested this and what are the issues that he sees and what are the merits that caused the Planning Commission to consider this today.

Franco DeMarco stated that it is common that they recommend a left turn lane into developments and right turn lanes. Rucker Road has a lot of traffic and anytime that they can ease the traffic; make it safe, they always recommend a left turn lane and a right turn lane. Because people trying to make a left are just going to back up traffic, it just happens everywhere in the city. They are trying to eliminate a lot of this.

Dodd clarified that that is a two-lane road at that point on Rucker Road. DeMarco stated that was correct, a two-lane. Dodd continued that as it approaches Crabapple there is another pocket of north-south traffic in that area as well. Is that correct? DeMarco stated that was correct. That is their recommendation and RDOT would like to go with that.

Lisa DeCarbo stated that she was just wondering, there has been talk about the eventual widening of Rucker Road. When is that scheduled? Do they have that funded, is it on the horizon? Franco DeMarco stated that it was not on the schedule. He knows that Alpharetta is looking to do that and DeMarco does not know when. He has not heard of any schedule but he knows that Alpharetta has plans in the future to do that. That would move into Roswell's section.

DeCarbo stated that she had one more question but was not sure if it would be for DeMarco or Townsend and this subdivision is probably so small that it doesn't hit this. But, isn't there a limit on the number of units or the size of a subdivision that has only a single egress from a fire safety perspective?

DeMarco stated that he does not believe that there is.

Harvey Smith stated that he would like to go back to the interparcel access. The Registry, even though it sounds like it is safe to say that both subdivisions want to remain independent. But he is just curious when Crabapple Registry was annexed into the city of Roswell, would the final plat...how does that, they have that easement there for the connection. How did that just go away? Smith asked Townsend to help him with that. The final plats recorded by Fulton County....

Brad Townsend stated that the easement never went away. The easement is there. Roswell annexed it with it being public right-of-way. The only thing that did not happen was the construction of that portion of the road from the existing asphalt to the property line of this property.

Harvey Smith asked how will the ARC, if it is part of the future land use plan...if they kind of go along with the proposed plan tonight, the revised one. Will the Commission be viewed as opponents to that? Will they have retribution from ARC on this if they just go against that desire?

Brad Townsend stated that they would not. They would probably look at it as this is a local issue and local officials get to make their local decisions. There is a planning perspective of connectivity that the city of Roswell is trying to promote in every way that they can. They are trying to put sidewalks and bike paths and as many different trails as they can. This is just the first one that they have run into where they know there are two prevailing sides on the issue as to what they feel they want for their neighborhood.

Cheryl Greenway stated that she had one question for Brad Townsend and one for transportation that will go maybe a little bit together. Hind sight is always 20/20 but does it fall back that when Registry was built that that road should have been put in at that point to go to the edge of the property in preparation for the future connectivity to whatever was going to be there?

Brad Townsend stated that was correct. DeMarco agreed.

Cheryl Greenway stated that in going from there back to transportation she can sympathize with the applicant that it would be a little strange that they have Rucker Road going along and all of sudden there is a left hand land and then everything comes back together. There is just a left turn lane in that one little area. Visually Greenway stated that she has a hard time seeing how they would do that without having to get easement rights to the properties on the south side

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of that road to put in a left turn lane to widen the road enough to put in a left turn lane.

Franco DeMarco stated that he thinks that there is enough right-of-way from what he has seen to be able to do that without acquiring any easements. Greenway asked if he meant a right-of-way on their property. DeMarco stated along the road way on both sides of the road there is enough right-of-way to put in a left turn lane.

Cheryl Greenway thanked DeMarco.

Bryan Chamberlain stated that he had a timing question for Brad Townsend. Lot 16 was supposed to not receive a building permit as he understands it, until that connection was built. What jurisdiction...

Brad Townsend stated Fulton County. Chamberlain clarified that it was Fulton County where Lot 16 received its permit. So Roswell has received it as it is.

Cheryl Greenway asked if there were any additional questions.

Sidney Dodd stated that in relating to the detention pond, if the Registry says no, they can't connect or modify their detention pond and if building this subdivision...there is a requirement that there be an additional detention pond facility capacity. Where does that go? Has that been discussed in the revised plans?

Brad Townsend pointed out the northern area where it shows it connecting. The obvious solution is to make whatever criteria requirement dealing with detention is possible leaving the separation between the two and making sure that one has taken care of the run off that would go off to the north.

Sidney Dodd stated that in addition to the elevations that surround that area. Brad Townsend stated that was correct. He pointed out the roadway connection.

Cheryl Greenway asked Brad Townsend to clarify for her but the way she is reading the staff recommendations they are recommending approval but they are starting with the August 5, 2011 revised plan. But with the conditions that they are putting with it, it is basically in a sense taking it back to the original plan.

Brad Townsend stated that the original plan did not have a Rucker Road access. With the Rucker Road access one kicks in the two turn lane requirements and he does not have the connection to the church to the east.

Cheryl Greenway clarified that they are dropping the church so then they are connecting it to the Registry subdivision but then they are also giving them access to Rucker Road so that they won't have both. So, it would be like a circle

or a U. Brad Townsend stated that it would be a nice traffic pattern. Greenway asked if that is what transportation is recommending also is to have the U. Townsend stated that was correct.

Cheryl Greenway thanked Brad Townsend and asked if there were any additional questions. Hearing none she closed the public portion and asked for a motion or other comments from the Planning Commission. Greenway asked the Commission if anyone had anything they wanted to discuss, comment on.

Joe Piontek stated that he was asking Sidney Dodd about this because he is new to this commission and he is trying to figure some of this stuff out. He understands the applicant's position that when he bought the house he always thought that he would have a vacant lot next to him and now he realizes that there is a possibility of a road going in next to him and there would be some traffic that would move past his house from now on. But when the city did the 2030 plan they talked a lot about the connectivity of different properties and that seems to feed right into the city of Roswell's position on this. Piontek understands that that is a lot of money to put a left hand lane there. But his brother-in-law lives out in that direction and Rucker Road is not his chosen path to go and see him anymore. The traffic is terrible. They have six cuts of 1900 feet here, that just seems kind of logical to Piontek too, so that is what he is asking about.

Cheryl Greenway stated that for those that are new on the Planning Commission, they use this time to discuss any questions they have or to express their opinions on "I'm comfortable with this; I am not comfortable with that." It is okay to have that discussion at this point.

Bryan Chamberlain asked how long has The Registry been there. How many years? The answer was six years. He is right now dealing with the issue of they have this great common area, a play area that they have gotten use to using. At the same time he is looking at the fact that that was set aside during the original planning process for a road to provide connectivity to whatever was to the east of it. He is dealing with that struggle of gee, we got used to it, we like it a lot but they are about to lose it and there wasn't anything taken away that said get used to that. It's usable forever, it has always been. That is the difficulty that he is faced with there in addition to the cost obviously. He just wanted to express some sensitivity to that issue.

Some one from the audience wanted to speak but Greenway informed him/her that the public portion of the meeting has been closed.

Harvey Smith stated that as far as the city's recommendation, for him to fully understand, they want connectivity but they also have entrance coming off, he means the revised August 5, 2011 plan. They have entrance from Rucker Road plus it is connected to The Registry. So it is really going to be a third site plan.

Brad Townsend stated that was correct. Smith went on to say that it would be developed. Townsend stated that was correct.

Harvey Smith stated that he also had a comment to that same area. The property owners, and Smith being in the real estate business, he understands that that plat is recorded for the homeowners on either corner. It is almost like one fears the big pasture next door to him. What is going to be built there? Are they going to build a Wal-Mart or what is going to happen? He thinks they're due diligence when they bought the home. He knows that Pulte is not a slouch either, that is a well-known company. The subdivision plat would have shown that and if the city of Roswell annexed it in...when was The Registry annexed into the city of Roswell? A couple of years ago? Three years ago?

Brad Townsend stated that he believed it was in 2007.

Harvey Smith stated that it is like it has been there. From a legal perspective Smith thinks that has been there and of course when one sees it is a beautiful lot that became kind of a common area, kind of a green space, but not by design. He thinks it is, whether it is approved or not, Smith is just saying that it is a green space but not by design. That is just a comment on that. But he knows the intention behind interparcel access was to alleviate the traffic off of these main arteries like Rucker Road. One can see instead of having all of these sub-streets feeding in and out, there are all of these smaller subdivisions that they are trying to combine that where they have more opportunities to get in and out of the various subdivisions. That is just a comment and a general observation. Smith is just saying that to other members of the Planning Commission that this is not...interparcel access has been for years, at Fulton County it has been a dream and of course as one of their developments that the city of Roswell brought in.

Sidney Dodd asked Brad Townsend for clarity that items 1-7 or 1-6 as it may be, those items would be concurrent with the zoning variance if approved but the site plan of course would have to come before the city of Roswell and the Design Review Board and transportation, etc. Brad Townsend stated that if approved by council with the conditions of staff, the design that the Commission has in front of them would be modified to meet those conditions. They would then come in for a preliminary plat of the subdivision which then they could go then and start construction and come to a final plat and then start to build homes.

Dodd clarified that at that point the zoning designation would be whatever it is conditional to items 1-6 or 7. Townsend stated that was correct.

There was another question for Brad Townsend as it relates to the detention pond. It sounds like there is some conflict between the two neighborhood parties as it relates to if there is connectivity then what he thought he heard said was there will be know sharing of detention pond. Townsend stated that was correct.

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So, then they would need to modify staff's recommendations and the Commission's recommendation if so needed to say that there has to be a detention pond and somebody figures out where it goes?

Brad Townsend stated that condition no. 4 would probably adequately address that in conjunction with knowing that condition no. 7 requires the connectivity to take place.

Number four references existing detention pond in The Registry does it not? Brad Townsend stated that it did not. It just indicates detention pond may be to be enlarged. That was the detention pond on this site in reference to not knowing whether they would be able to use The Registry or not, they wanted to make sure that it was sized appropriately.

Cheryl Greenway stated that she feels confused on the right-of-way questions, not the right-of-way but the cuts in that now they are recommending that the two properties be joined but they are still putting an access to Rucker Road going back to the U. She thought the purpose behind this was to not have so many curb cuts and if they were going to connect the two, then it would go back to a design like was on the first one. She is not sure she understands why they are thinking it is better to have the U.

Brad Townsend stated that the U makes it, with the improvements of the left and right turn lane; the safety on Rucker Road becomes taken care of. With the U, if one connected to The Registry and leaves the Ashton tract as a cul-de-sac then everyone empties through The Registry to Rucker with no left turn lane because they don't have a left turn lane today into their development so one ends up now with 54 homes onto Rucker Road. With the U, they have the opportunity for two locations, one that has the right turn lane and the left turn lane so the safety factor is actually doubled because one has two choices now. One figures out his time of day as to when the lights backing the cars up are from SR 140. He'll go through the eastern location because he will be able to get east. Or he will go to the western location because he wants to go west and make just the right turn.

Cheryl Greenway stated that they are not far enough apart. Is it going to make that much difference whether one is going east or west?

Brad Townsend stated that it probably would not make that much difference in time. He thinks the most difference is in the safety of the exit and entrance.

Townsend stated that he did want to bring up one factor that hasn't really been discussed. When dealing with fire department and their desire to...what is the right amount on a cul-de-sac kind of thing? They have given staff some indication that a break point is like at 30 homes. One gets above that and he needs a secondary or an alternative way to get in and out. With the connection, they have 54 or some manner over 50 homes dealing with whatever they end up with.

Harvey Smith stated back to the detention area, does Brad Townsend think, it sounds like there have been some issues with Crabapple Registry, with North Farm and the 250+ homes. He does not know how many lots are directly affected by the flooding or the run off. He is sure that the detention area on the new development will be designed...will it alleviate the problems of both subdivisions? The Registry and in its own right will that be....does Townsend think that will solve the problems North Farm has had in the past?

Brad Townsend stated that he can't say that it is going to solve all of them, but what one has today is he has a sheet flow issue off of this piece of property right now where wherever the natural grade or topography is sending the water, it is sending the water. The Registry issue is something that public works/environmental would have to look at is, is it acting or is it functioning the way it should? Maybe there needs to be some improvement to those structures that are impacting the North Farm location. He is not going to say that it is going to be solved, but at least they are now aware of the situation. This developer has been out on notice that he has a northern neighbor that his property is impacting and his development needs to retain every drop of water that it is supposed to. And Crabapple Registry is put on notice that they have an issue too that needs to be at least looked at. If there are some improvements, does it need to be removed or re-graded or does the outfall need to be addressed in some manner.'

Harvey Smith stated as a point of discussion that by keeping them independent that could be an expense or a responsibility that The Registry might be forced to bear in the future.

Joe Piontek stated that it seems to him like they are being brought this issue of keeping these retention ponds separate in exchange for not requiring the connectivity. Are they really related? It sounds like North Farm has a water runoff issue as it is. They may in fact have a bigger one no matter where this next retention pond is put. And is there any rationale for requiring or allowing those to be combined right now? Do they have to take this bargain of combining the runoff ponds in exchange for no connectivity? Does that make sense?

Brad Townsend stated that it is not within the Planning Commission's purview to make or disregard an agreement that they brought to one privately. One needs to be able to approve what he feels is the proper subdivision with the zoning being put in front of him. It is not their choice to require them to combine the detention ponds.

Cheryl Greenway stated that she was looking for a motion.

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Motion

Bryan Chamberlain stated that he would like to take a stab at making a motion that prior to making it basically would concur with staff and make the modification to item no. 7 eliminating the words "the existing church property to the east as required by Roswell Department of Transportation," and leaving the remainder of the wording in on item no. 7 and all else remaining the same.

Brad Townsend asked that Chamberlain make sure that the motion includes that the variance would be approved as part of the motion.

Bryan Chamberlain added that the variance would be approved as part of the motion.

Cheryl Greenway added referring to the conditional variance. Is that Chamberlain's recommendation? Bryan Chamberlain stated that was his recommendation. Harvey Smith seconded the motion.

Cheryl Greenway asked if everyone was clear on that or does anyone need that motion restated. There was no need for a restatement so the Commission will vote on the motion. Greenway called the question.

The motion passed unanimously.

Cheryl Greenway thanked the applicant for his time. She asked Brad Townsend if he could report to the appropriate person at the city of Roswell that there seems to be some water issues with the North Farms. Townsend stated that he would do that.

CONDITIONAL USE

11-0405

CU11-03

FIVE BROTHERS AUTO SALES, LLC

1280 Alpharetta Street

Land Lot: 449

Brad Townsend stated that this is a conditional use for a used automobile establishment. The property is approximately three acres in size. The current use is an auto service establishment in which they are servicing automobiles. There is a perennial stream, Hog Waller Creek, just to the north. There is existing parking in the front of the building that allows approximately 36 spaces along Alpharetta Hwy. The building is approximately 108 feet from the right-of-way. The applicant has submitted a report regarding installation and maintenance of erosion control related to the stream buffer that was submitted to the city engineer. In 2008 the city adopted several standards dealing with used car/automotive establishments. They are required to have a conditional use.

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