

Roswell. She said when you have a stake in the City, you have the enthusiasm and passion to get out there and sell it. She said she wholeheartedly supported this and hoped they received approval.

Councilmember Igleheart said in regards to clarifying some things about the contract, it was not about the concept nor the effort but more the nuts and bolts of the contract. He said after extensive discussions with Mr. Davidson and with some adaptations, there were now mechanisms that were clear that could be reviewed and adapted as needed. He said his concern was mostly making sure everyone was on the same page throughout this and would have ways to adapt that as we do and he said he thought that had been done. He agreed it was critical to get ahead of the things that were happening about the national economy and certainly things here but we needed to do what we could to turn things around and get ahead of things and make things happen and this would be a great first step. He said he was obviously in support of this.

Mayor Wood asked for further discussion. There was none. He thanked everyone and said we look forward to great things from the Roswell Business Alliance.

Community Development - Councilmember Betty Price

5. RZ11-09 & CV11-02, 350 & 370 Rucker Rd., Ashton Atlanta Residential, LLC, Land Lot; 1240. *(This item was deferred from the September 12, 2011 Mayor and Council meeting)*

Planning & Zoning Director Bradford D. Townsend, said this was a proposed application for a single family subdivision and required a rezoning from the existing designation of Fulton County Annexed single family homes to R-3A residential. The applicant is also requesting a concurrent variance to the required minimum lot width. The lot width requirement in the R-3A district is 80 feet and the applicant requested a reduction to 60 feet. The subject property is approximately 8.5 acres. It is a single two-parcel with two single family homes located north of Rucker Road and east of Houze Road. Mr. Townsend displayed an overhead slide and pointed out the current FC-A designation for this location. To the north and west of the subject property are existing single-family residences. There is an existing church to the east and single-family residences to the south across Rucker Road. The applicant submitted an initial site plan in June that identified a public access from the Crabapple Registry subdivision. That application included a cul-de-sac and a future connection to the church to the east. Following a neighborhood meeting and Planning Commission meeting, the applicant revised the application to include a single access to Rucker Road, which did not include connection to Crabapple Registry to the west, as well as 28 single-family lots. There are two proposed detention areas, one to the south and one to the north. The topography of the property has a slight crown in the middle, flowing to the north and south. The recommendation from the Planning Commission was to rezone the property and approve the concurrent variances with seven conditions. Those included connecting to the subdivision to the west and providing a 50-foot right-of-way for that connection as well as turn lanes on Rucker Road. There was a subsequent meeting with the applicant and Councilmember Price, as representatives. A list of conditions that the applicant concurred with was included in Council's packets with the recommended stricken changes indicated in red ink. Condition #3 had drastically changed dealing with the turn lanes and the applicant had requested taking an amount in the sum of \$50,000 to put towards future Rucker Road improvements. Condition #7 dealing with providing the access to the property was removed; Conditions #1, 2, 4 and 5 were amended; Condition #3 is being replaced.

Staff Recommended Conditions are as follows:

It is recommended that this application for rezoning RZ11-09 be approved. It is recommended that the concurrent variance for the lot width reduction from 80' to 60' be approved. Should the Mayor and City Council approve this rezoning, it shall be approved with the following conditions:

1. The plan shall be developed in accordance with the site plan stamped "Received August 5, 2011 City of Roswell Community Development Department," and amended to comply with these conditions.
2. There shall be street connectivity between the proposed subdivision with the existing Crabapple Registry subdivision to the west as required by the City of Roswell Transportation Department.

3. The owner/developer shall install a left turn lane on Rucker Road and a right turn lane on Rucker Road into the proposed subdivision as required by the City of Roswell Transportation Department.
4. The detention pond may need to be enlarged to meet the stormwater requirements as approved by the Public Works/Environmental Department.
5. The owner/developer shall install a 40' foot landscape strip area along Rucker Road similar to the Crabapple Registry Subdivision. The landscape area must be located outside the detention area. All landscaping and signage shall be approved by the Roswell Design Review Board.
6. The plat shall indicate a no access easement for the two lots along Rucker Road.
7. The owner/developer shall provide 50' of right-of-way to allow for a connection between the proposed subdivision as required by the Roswell Department of Transportation.

Planning Commission recommendations are as follows:

The Planning Commission recommended approval of the rezoning and concurrent variance to the lot width requirement from 80' to 60' during their August 16, 2011 hearing with the following conditions.

1. The plan shall be developed in accordance with the site plan stamped "Received August 5, 2011 City of Roswell Community Development Department," and amended to comply with these conditions.
2. There shall be street connectivity between the proposed subdivision with the existing Crabapple Registry subdivision to the west as required by the City of Roswell Transportation Department.
3. The owner/developer shall install a left turn lane on Rucker Road and a right turn lane on Rucker Road into the proposed subdivision as required by the City of Roswell Transportation Department.
4. The detention pond may need to be enlarged to meet the stormwater requirements as approved by the Public Works/Environmental Department.
5. The owner/developer shall install a 40' foot landscape strip area along Rucker Road similar to the Crabapple Registry Subdivision. The landscape area must be located outside the detention area. All landscaping and signage shall be approved by the Roswell Design Review Board.
6. The plat shall indicate a no access easement for the two lots along Rucker Road.
7. The owner/developer shall provide 50' of right-of-way to allow for a connection between the proposed subdivision as required by the Roswell Department of Transportation.

Mayor Wood stated he was confused on the last item. He asked if the red line was what the applicant had requested. Mr. Townsend said that was what the applicant had brought to us. Mayor Wood asked for staff's recommendation. Mr. Townsend said staff was in agreement with those recommendations without connectivity to the subject property. Mayor Wood said they had talked about a pedestrian connectivity and asked if that was now out. Mr. Townsend replied there would be no connectivity. Mayor Wood asked if there was connectivity of any kind. Mr. Townsend replied the applicant is requesting no connectivity. Mayor Wood asked if the City was asking for any pedestrian connectivity. Mr. Townsend stated the Transportation Department should discuss that issue.

Mayor Wood said there had also been discussion about a shared detention pond. Mr. Townsend said that was part of the proposed plan. Mayor Wood asked if there was an easement to get to the detention pond. Mr. Townsend replied yes, Condition #4 addressed the connection with the stormwater management facility to the subdivision to the east. Mayor Wood said he did not see a reference to an easement to that facility. Mr. Townsend replied it was connected to the public right-of-way so no easement was needed. Mayor Wood asked if the detention pond to the rear of the property had frontage on a public right-of-way. Mr. Townsend replied yes. Mayor Wood said he was not familiar with that and apologized.

Council Comment:

Councilmember Igleheart asked what would be the number of lots if the variance was not granted and remained at 80 feet on the frontage. Mr. Townsend replied the number would reduce from "28 to the lower twenties, 22 or 23."

Councilmember Orlans said the minimum lot width for R-3A was 80 feet and the applicant had requested a reduction to 60 feet. He asked Mr. Townsend to explain why the reduction was necessary and staff's viewpoint. Mr. Townsend said the surrounding homes that were under construction have a 60 foot width that was approved as part of Fulton County at the time, and then annexed into the City. Councilmember Orlans asked if that was Fulton County's minimum. Mr. Townsend replied correct. Councilmember Orlans asked why they were not now meeting the minimum censor in the City of Roswell. Mr. Townsend said because they were asking for a variance from that requirement. Councilmember Orlans asked staff's viewpoint on that. Mr. Townsend replied, "To make it consistent with the surrounding areas we feel would be appropriate." Councilmember Orlans said the Planning Commission recommendation was for a 40-foot landscaping strip and the applicant was requesting that be reduced to 20 feet. He asked Mr. Townsend to explain the current codes for that. Mr. Townsend said the current codes does not require a landscaping strip along Rucker Road, and at the beginning of the process we were asking it to be consistent with that of Crabapple Registry's. In determining how many lots that would remove, staff felt it would be appropriate to be a minimum of 20 feet. Councilmember Orlans asked if the revised plot was approved without the street connection between the two neighborhoods and if there had been any discussion between the two developments about a walking pass so children in the new subdivision could also use the green space since the City was basically giving that area up for green space. Mr. Townsend replied there had been none. Councilmember Orlans said then there would be no way for them to be able to do that. Mr. Townsend said there was a six-foot wooden fence along Crabapple Registry's property line.

Councilmember Price said there was discussion about having an opening in the fence and perhaps a pedestrian path or different things. Clearly, the existing neighborhood is not interested in that particularly but they did not sound like they were averse to an opening in the fence that would not normally be traversable but could be opened if needed especially since there would be some necessity for both subdivisions to access the detention pond. She said she did not know if Condition #4 adequately addressed that. For instance, there was a strike-through where it read "requirements as approved by the Public Works/Environmental Department." She asked why they did not have any say in that and why was it determined to remove that. Mr. Townsend replied the applicant should speak to why they requested that language be removed.

Councilmember Orlans asked if the applicant or staff asked that to be removed. Mr. Townsend confirmed it came from the applicant.

City Attorney David Davidson said there was an issue in that we require detention on a single lot of record. This pond was already in existence with an expansion of that pond. Without an agreement between the two parties or two homeowners associations there might be an issue with the detention pond area being on both properties. Mr. Townsend asked if both parties agreed there would not be an issue with that. Mr. Davidson said that would be correct.

Councilmember Dippolito asked about the ability to require the stormwater facility. He asked Mr. Davidson if there was a way to amend that Condition to make it read in a way that would encourage both parties to work together for the facility but provide some latitude. Mr. Townsend displayed an overhead. Mayor Wood said if they cannot work out a deal with their neighbor, they are going to have to put their own detention pond on their property. Mr. Townsend said that was correct and they would have to meet the City requirements. Mayor Wood said he thought that was the only way it could be done.

Councilmember Wynn asked Mr. Townsend, if the parties came to an agreement, would it have to go through the Public Works/Environmental Department. Mr. Townsend said it would always go through Public Works /Environmental since in order to have a land disturbance permit issued Public Works/Environmental would have to sign off on it, as well the preliminary plat. Councilmember Wynn asked why it was struck out and if he thought it was redundant. Mr. Townsend replied yes.

Councilmember Igleheart asked Mr. Davidson if a private agreement aspect could actually be included into a condition from the City. Mr. Davidson says it provided an "out" because they have 30-days to enter into an agreement and if they do not, they will have to take one of their lots and use it for stormwater. Councilmember Igleheart asked again about a private agreement.

Mr. Davidson replied the City allows off-site detention at times, but usually the agreement was presented to Council at the time of the rezoning and it cannot be done without the agreement. He said he would agree if they were willing to go forward in this manner, knowing they could lose a lot.

Councilmember Orlans asked Mr. Davidson if the last item that was given would be a condition of zoning. Mr. Townsend said replacement for Condition #4. Councilmember Orlans said perhaps we could get some input from the homeowners of the existing subdivision but technically, the one lot belongs to the City of Roswell and was a street. He thought there should be some access for the new subdivision's children to have access to it and there should be a gate or something in the fence, in trying to meet their needs and make that available to them. As had been said many times, there were not a lot of places for children to play. Councilmember Orlans said if the Council chose to do so, the City of Roswell would basically donate this property, to remain as a park. He said there should be some type of access and perhaps Crabapple Registry's Homeowners Association President could comment on that.

Mayor Wood stated this involved some transportation issues so he wanted Transportation staff to provide their response to the changes in conditions and the potential street or pedestrian connection that had been given up.

Transportation Director Steve Acenbrak said the Transportation Department supports connectivity and believes the Crabapple Registry stub was City property and was intended to connect to a future parcel. When that was discussed in detail, the issue of the stormwater detention came up. In the course of the conversation, it appeared Crabapple Registry was in support of sharing their detention for land use to act as somewhat of a regional detention so both properties could share in one area. It was clear Crabapple Registry would withdraw their support for that if the City continued to push the issue of the inter-parcel connection. In discussions between staff and the applicant, both parties could not come to an agreement, and the stormwater issue trumped the inter-parcel connectivity issue. Mayor Wood asked Mr. Acenbrak if it is not that Transportation does not support connectivity you just believe it would not be available if the neighboring subdivision was not going to assist in regional detention if we insist upon this pedestrian connectivity. Mr. Acenbrak said that was correct; there was not great support on the part of Crabapple Registry to make this connection. Mr. Acenbrak said the City could pursue that issue but when the stormwater issue was layered on top of the connection issue, it became complicated and we felt it was best to work a land use and environmental connection. Mr. Acenbrak said there might be a later opportunity to make the connection but at this time, there has not been a good win-win compromise found.

Mayor Wood asked if Mr. Acenbrak was comfortable with the turn lane. Mr. Acenbrak said he felt very strongly about the left turn lane; it is fair to set aside the money for the turn lane and he supported the change in Condition #3.

Councilmember Igleheart said he and Mr. Acenbrak had talked about this earlier today and asked if he could give a short version as to why he supported this versus doing the actual turn lane work specifically. Mr. Acenbrak displayed a graphic, pointed out Rucker Road, and said the subdivision was oriented north-south; the main street goes north and south. He said the issue was that staff believed that Rucker Road currently being a two-lane road with an average daily traffic north of 15,000 cars per day that warrants under the criteria to have a left-turn lane but that it was quite expensive for the applicant to build the entire process and was beginning to teeter on whether it was financially viable for them. He said it was essentially a rural section which meant there was no curb and gutter to the south side of Rucker Road and it is not terribly difficult to build a by-pass lane there to get the cars out of the through movement and allow them to be safely off to the side as opposed to holding traffic up. He said looking at that particular situation and the low number of cars that are turning left, transportation staff felt that

\$50,000 was a fair trade off for providing that as opposed to having them build the full lane. Councilmember Igleheart said for everyone else's benefit he had major concerns about that because of the blockage that could occur but said Mr. Acenbrak had convinced him it could actually been done to make this work for this amount, or hopefully, somewhere near that amount.

Mayor Wood asked Mr. Acenbrak if the City owns the right-of-way on the neighborhood's property for the pedestrian connection. Mr. Acenbrak said that was correct. Mayor Wood asked if it was essential to have the neighborhood's consent to keep that open for a pedestrian connection. Mr. Acenbrak replied yes. Mayor Wood said if the site plan were approved, it would almost block that street or the potential of making that pedestrian connection because a lot would be put adjacent to it. Mr. Acenbrak replied that was correct. Mayor Wood said then it was not a matter of trying to work something out in the future, it appeared we would lose that opportunity. Mr. Acenbrak said if there are no adjustments to the current site plan that would be correct.

Councilmember Dippolito said on the graphic there appeared to be room north of lot #12 in a common area for perhaps a 5-foot pedestrian path on the north portion of the right-of-way adjacent to the right-of-way adjacent to the detention area. It would not impact the green space in the subdivision but would provide the connectivity and it could be pervious gravel much like the ones at Roswell Area Park and maneuvered around specimen trees. Mr. Acenbrak said that was correct and there were some specimen trees that would have been impacted if we had held to the 50-foot right-of-way section. Councilmember Dippolito asked if Mr. Acenbrak had walked that and if he thought it was possible to put in a path that would avoid eliminating trees. Mr. Acenbrak said he believed that was possible.

Mayor Wood asked if the standard multi-use path was 10 to 12 feet. Mr. Acenbrak replied at least 8 feet but we strive for 10 to 12 foot.

Councilmember Price asked regarding the detention ponds, if no agreement was reached, would there be any plus or minus in having two detention ponds from the City's point of view at the rear, not counting the one at Rucker. Director of Environmental/Public Works Director Stu Moring replied that in almost every situation we would favor regional detention, fewer detention ponds. He said it was best to have one pond to maintain that has one discharge and so on that obviously would depend on some joint maintenance agreement that would have to be approved prior to the subdivision. Mr. Moring said he could not imagine a circumstance where they would not recommend regional detention; i.e., one pond. Councilmember Price said she was not inclined to leave this up to a potential agreement for us to give up the connectivity rights since we have determined that we own that property. Councilmember Price said she would like to see a clear agreement before giving up the rights to that property.

Applicant:

Pete Hendricks, 685 Lake Forest Drive, Sandy Springs, attorney, said that Ashton Woods was one of the Roswell corporate citizens and said they appreciated all the effort that had gone into trying to get these issues worked through. He said they were at a point with perhaps some refinement this evening of being able to conclude something that everyone could live with. He said if Condition #4 were to move forward as is, he was fine with the language about Public Works/Environmental Department and thought it was entirely appropriate for that language to be on there. Mr. Hendricks said he put together a Condition #4 to direct itself to the situation of what would happen if Crabapple Registry and the applicant were unable to get together to define how they would take care of combining on the detention facility and clearly acknowledging that at that point that Ashton Woods would have to be subject to all the rules and regulations under the Public Works/Environmental Department as a stand-alone development as they would if that continuity of the detention facility were not there. He said if it were determined that a modest level of meandering pedestrian walkway along the lot that Mr. Townsend indicated, was something that some sense could be made, we could work with that. He said the idea of vehicles coming through there was soundly objectionable to both sides.

Mayor Wood said the City was not asking for a vehicular connection now. The Mayor said the City has a public right-of-way and the purpose was to have pedestrian and bicycle connectivity. He said no one was insisting on motor vehicle connectivity.

Mr. Hendricks responded the dialogue had started out there and if they need to lend themselves now to accommodating that, it could certainly be worked through.

Mayor Wood replied that it must be worked through before passing the zoning; he was uncomfortable in leaving these questions unresolved. He said connectivity was important to him and that he believed in regional detention ponds but he was hearing there may or may not be a regional detention pond. The Mayor noted that the City would be giving up what was designed as a connection between this property and the adjacent property. He emphasized that he did not want to give up a clear connection for a possible regional detention pond. He did not want to give up either one and would insist upon some plan for connectivity and not just 5 feet. Installation of a sidewalk would require an easement wider than that just to put it in even if it was 5 feet, and if it was a multi-purpose trail it would be 10 to 12 feet. When the neighborhood argued to keep it open and not make it vehicular they said it is a green space. The Mayor stated that it does not work as well as a green space the way it is drawn right now; the way the lot was currently laid out on the development, it is not lining up with that access on the other side. It should line up and not just be 5 feet of connection between the two. The Mayor clarified that a resolution is needed to move it forward.

Mr. Hendricks replied that was fine, but he could not speak for Crabapple Registry. He noted that Mike Busher was present and would be glad to give definition by lot number and specificity as to where an easement through a revised plat would have to run. Mayor Wood replied that Council had suggested some ideas and although he did not know where the majority of the Council was on this, but from his standpoint, there is a clear right-of-way on one side; and normally where there are extended right-of-ways, they would be extended the same width and line up, otherwise, they would not meet the City's minimum standards. Mayor Wood said there were many things to work out and he knew everyone wanted to move forward on this project and they could try to work it out tonight but he was not optimistic. The Mayor noted that they had done an excellent job working out every other detail but the biggest obstacle was the turn lane. The Mayor reiterated that a solution must be found regarding the connectivity, and something worked out with the other neighborhood; things could not be left unresolved.

Mike Busher, Ashton Woods Homes, 1455 Old Alabama Road, Roswell, stated the reason they were silent on the issue of pedestrian access was not that it was an oversight but due to what evolved during discussions over 90 days, which was competing interests and how to manage them. Mr. Busher said they started with a site plan, contemplating using that right-of-way and connecting, but that was an outgrowth of a conversation with City staff; how to envision this land connecting into Crabapple Registry. There was clear direction to use the proposed right-of-way; that was how site plan #1 or A, evolved. Soon thereafter, they held a meeting with Crabapple Registry and the HOA and it was clear that was not going to be supported and there were various reasons why but in any event, to be good neighbors, they looked at alternatives. Through that came the plan that was before Council tonight. Mr. Busher said there was never a direct quid pro quo that if you do not connect we would share detention, but there was the intent that "would work with us and we will certainly work towards something that may be important to you." Mr. Busher said all along they have tried to say if in the promotion of connectivity, a shared detention facility helps, then they would certainly endeavor to do that. He said he also understood the sensitivity of Crabapple Registry saying you cannot condition them to something that was a private agreement. Mr. Busher said he understood the risk would be his to bear to that end; if he could not get them to agree on a shared maintenance agreement, then he would still by law have to detain on site and that would come at the loss of a unit. He said that he cannot necessarily solve the location of the connectivity issue but what they presented in the meeting with staff was is this critically important to any entity either transportation, staff, Crabapple Registry, or themselves. He asked if anyone really wanted this pedestrian access. Mayor Wood said it was critically important to him. Mr. Busher said for the participants in that meeting, he did not hear that and that was the only reason they had been silent on that issue. Mr. Busher said that they could by right, create a path inside of that

right-of-way which would deviate around lot #12 and then connect into the cul-de-sac, whether or not defined right now on a site plan. He said his only concern with doing it tonight would be whether or not there is enough depth from lot #12 to get to 10 feet. He said he knew 5 feet was achievable because they had already looked at that but seemingly, there should be enough space. Mr. Busher repeated that was the only reason why it was silent. Mayor Wood said he understood that, but pedestrian connectivity between neighborhoods was of critical importance to him. The Mayor said he understood the opposition to vehicular connectivity but did not understand the opposition to pedestrian connectivity given the stated purpose of keeping this open for recreation. Mr. Busher replied that he did not know if there would be opposition but he heard there was concern about an impervious application. Mr. Busher said he was open to it but would let Crabapple Registry speak to that. He noted that it would be an installation at their expense.

Councilmember Dippolito thanked Ashton Woods for their hard work on the different site plans and working with the neighborhoods. He said if there is not enough room to squeeze the minimum 8-foot, multi-use path between the existing right-of-way and lot #12, it appears that to the north of that is actually the detention pond. He said perhaps it could be pushed a bit north on the Crabapple Registry side and preserve more of their flat green space and that could be done as part of the configuration of the detention facility and perhaps gain the additional width needed for the path. He said he thought that would be a winning situation for everyone and create additional green space for Crabapple Registry and enable a way to work through the agreement for the detention facility and provide latitude to move the path around.

Mayor Wood said he agreed with Councilmember Dippolito entirely; there is a lot of opportunity if the communities would work together to move the pedestrian pathway further north into what was the detention pond area. He said tonight it would be difficult to get a neighborhood vote on a resolution to make a commitment for their real estate without a Crabapple Registry board meeting, or more definition to reach an agreement. Mayor Wood reiterated that he thought Councilmember Dippolito was going in the right direction but questioned whether it could be put together tonight.

Councilmember Igleheart said there was an option for a deferral. He noted that he had been to the property. The detention pond could be adapted to create more space where the fence currently is. He said some of the area could be filled in and made into additional open space. Councilmember Igleheart agreed with Councilmember Dippolito but time is needed to work out a design.

Mayor Wood said we had heard from the applicant and he would like to hear from Crabapple Registry.

Anthony Russell, Crabapple Registry HOA President, thanked the Council members and staff for hearing from them tonight, for responding to their emails, visiting onsite, and meeting with them at City Hall. This past June Ashton Woods contacted them with this proposal, but they did not contact Crabapple Registry prior to making the proposal to the City. Ashton Woods provided them with a plan and said they would be connecting to their neighborhood, to the pond, and that was the way it was going to be and they wanted to meet to discuss this. He said Ashton Woods made it seem to them that Crabapple Registry had to allow them to connect to their pond and there was no choice. The Crabapple Registry HOA learned they do not have to allow Ashton Woods to connect to the Crabapple Registry pond. Mr. Russell said more importantly Crabapple Registry did not want a road built there. He noted that there was no formal agreement to connect to the pond; Ashton Woods gave them a draft agreement last week that was unilateral and had no benefit to them other than the fact that there would be no road going in. Crabapple Registry neighbors met and were very unhappy with the draft agreement. They made a decision to negotiate the agreement. Mr. Russell said he had discussed Crabapple Registry's concerns it works well. Once Ashton Woods begins construction there it might not work or it could work fine now and have problems years later. That is not a risk that Crabapple Registry wants to assume or take on additional liability. Therefore, they asked Ashton Woods to draft an agreement, to be legally reviewed, to have the new subdivision assume the risk for the infrastructure of the pond. Mr. Russell noted that Crabapple Registry has paid to have the pond cut twice a year and would continue to do that, sharing that expense. Crabapple Registry will not accept

additional risk to their residence. For that reason, they do not want the road to go in because that is also additional risk for the children. He noted that Crabapple Registry is willing to work with Ashton Woods although they have been discouraged by much of the negotiations so far. Mr. Russell said there has much discussion about the City owning the common area and having the right-of-way; they always paid to maintain the land, the City never maintained it. Mr. Russell stated that Crabapple Registry paid property tax for a certain period of time until a consultant had that land reclassified as common area. Mr. Russell said that it bothered him to hear all the discussion about the City owning this land. He noted the plat contains the notation: "Future street B to be constructed prior to the building permit being issued for lot 16." Lot 16 now has a house and is located next to where the road would go in. Mr. Russell said they believed all along that the right-of-way had expired and why they were shocked when Ashton Woods said they would be putting in a street there. Mr. Russell said Crabapple Registry has maintained that strip of land and paying liability insurance; it is not a Roswell city park and if it were Roswell. Crabapple Registry does not want to lose that strip of land that the neighborhood children use for play. He understood Mayor Wood's comments regarding pedestrian connectivity and the other neighborhood using it. Crabapple Registry would need to discuss how Ashton Woods could design some sort of opening in the fence that would be aesthetically pleasing. Crabapple Registry does not want a paved path because it is grass now; if a cut-through was installed, they would want something impervious, with stone columns similar to what they have now that would provide the same purpose versus putting down gravel or concrete. In their conversation this afternoon, Ashton Woods seemed willing to draw up a contract to share the detention. Although further negotiation is still needed, he believed an agreement could be reached and that both sides could live with this being open ended for the next 30 days in order to get it in place.

Mayor Wood thanked Mr. Russell for his comments. The Mayor noted that he was not comfortable leaving this open ended and having passed a resolution without knowing all the details. He thought Crabapple Registry was on the right tract with Ashton Woods regarding a contract to prevent Crabapple Registry from taking on any additional risk. There is an advantage for the two neighborhoods sharing one detention pond because sharing the cost would save both neighborhoods money. Mayor Wood said there was not any intention for the City to put a road in there. If the neighborhood wished to have the connection in grass, he would favor the connection being in grass. He said he is a big supporter of pocket parks and he hoped this could become a pocket park; his concept of pocket parks is that they are owned by the City and they are liable but the neighborhood would be responsible for the maintenance and policed. Mayor Wood stated that he liked Councilmember Dippolito's suggestion that perhaps this connection could be moved; abandon a portion of this right-of-way, and the path could remain grass and not paved. He said he would support a deferral to give Ashton Woods and Crabapple Registry an opportunity to work out the details. He noted that the neighborhoods had worked out many other things and were now down to the last portion. Mayor Wood said he hoped the Council would support a deferral because it would be wiser for the neighborhood to get it worked out before Council voted.

Councilmember Price asked if the applicant wished to proceed.

Mayor Wood asked the applicant if they would be comfortable with a deferral. Mr. Busher said he would need to confer with the Spruill family regarding the answer. Mr. Busher quickly conferred with the Spruill family and confirmed that they were in agreement with a deferral. Mayor Wood asked if the applicant was requesting a deferral. Mr. Busher replied yes.

Public Comment:

Michael Harmon, Crabapple Registry resident, thanked Council and Mayor Wood for the tremendous job they have done looking at this issue. He said whatever the outcome is, he would always treat it with respect because of the effort. Mr. Russell said he was strongly against a deferral because this had taken a lot of time and the residents need to get on with their lives; a decision needs to be made but he would be fine with a six-month deferral. He was in agreement with a walking trail connectivity. There has been much HOA money spent to keep this common area in good condition. If the connectivity is done and if the land belongs to Roswell, then there should be cost assistance for the ongoing maintenance. Mr. Harmon noted that sewer and storm drains

currently exist there; he did not think anyone had considered those and the associated safety issues. Mayor Wood thanked Mr. Harmon and said that was the City's concern as well.

Council Comment:

Councilmember Igleheart said he understood the wish to move on, but for all the reasons mentioned, the issues need to be resolved and a final agreement reached by everyone.

Councilmember Wynn commented to Mr. Harmon that she understood and appreciated his position since she had previously been a community advocate herself. She explained that the City is trying to protect both sides but mostly Crabapple Registry because if the agreement is not reviewed by a legal consultant, and then this item was approved by Council, Crabapple Registry would not be covered.

Councilmember Dippolito said he appreciated both sides being willing to work on this. He suggested they walk the crush stone paths through Roswell Area Park that are pleasant walks and low maintenance. There might be a better alternative given the wooded nature of some of this area to go with the stone but said he was sure whatever the neighborhood felt comfortable with could be worked out.

Councilmember Price said she wanted to be absolutely clear about the discussion between the last person who spoke and the applicant. She asked if they were in agreement or not. Mayor Wood replied that the applicant was requesting a deferral. Mayor Wood said he would suggest a 30-day deferral to the next regular council meeting. Mr. Busher clarified that the applicant was requesting a deferral.

Planning and Zoning Director Brad Townsend clarified that thirty day deferral would be the next zoning meeting of Mayor and Council on November 14, 2011.

Mr. Hendricks, attorney for Ashton Woods, said it would be helpful to do this fairly quickly since staff had been so helpful getting the parties together to discuss this.

Councilmember Price said to that point, in the Mayor and Council minutes of September 12, 2011, on page 5 of 14, apparently the meeting held last Tuesday was supposed to have involved Crabapple Registry. For whatever reason, they didn't know about it or didn't come so unfortunately we missed an opportunity to resolve all of that at that lengthy meeting when an important party wasn't there. Hopefully, we can do that within the next month.

Motion: Councilmember Price made a motion to defer RZ11-09 & CV11-02, 350 & 370 Rucker Rd., Ashton Atlanta Residential, LLC, Land Lot; 1240 and this item placed on the Mayor and City Council agenda for 11/14/2011. Councilmember Igleheart seconded. No further discussion. The motion passed unanimously.

6. RZ11-07 Text Amendment regarding the creation of a compact parking space size and allowance for a percentage of compact parking spaces. (Second Reading)

Planning and Zoning Director Bradford D. Townsend said this was a text amendment to allow for compact parking spaces not to exceed 15% of the total area of the required spaces identified. At the first reading there was a discussion related to the aisle width for the spaces. He displayed an overhead graph showing the current parking aisles at 60 feet that indicated that it should remain as a standard in our current code to maintain the 60 feet. It allowed for the proper turning radiuses needed when there was double parking for that location as well as for maneuvering in and out of the parking space. He said staff recommends approval at second reading.

City Attorney David Davidson conducted the second reading of **AN ORDINANCE TO AMEND THE ZONING ORDINANCE OF THE CITY OF ROSWELL, GEORGIA, CREATING A COMPACT PARKING SPACE SIZE AND ALLOWING FOR A PERCENTAGE OF COMPACT PARKING SPACES**, stating: To accomplish