

**APRIL 21, 2009 ZONING HEARING
"OTHER BUSINESS"
COMMISSION DISTRICT 1**

ITEM # 3

PURPOSE

To consider amending the stipulations for WC Real Estate regarding Z-75 (GENUINE PROPERTY SOLUTIONS, LLC) of August 21, 2007, for property located in Land Lot 329 of the 20th District on the east side of Barrett Parkway, south of Battle Forest Drive.

BACKGROUND

The subject property is zoned CRC subject to numerous conditions/stipulations which are attached. One of the stipulations related to the athletic club reverts the zoning to LRO if the facility is not opened within two years of the rezoning approval (10/16/07). Due to the economic downturn the facility has not been constructed. Mr. Helton is requesting a two year extension to the reversion until October 18, 2011. Mr. Helton has contacted the Battle Forrest Homeowners Association informing them of this request and attached is a letter from the association stating they have no issues with this request. The Other Business application is attached.

FUNDING

N/A

RECOMMENDATION

The Board of Commissioners consider the request to extend the reversionary clause until October 18, 2011. If approved, all other previously approved conditions/stipulations are to remain in effect.

ATTACHMENTS

Board of Commissioners Decision
Letter from Battle Forrest Homeowners Association
Other Business Application

ORIGINAL DATE OF APPLICATION: 08-21-07APPLICANTS NAME: GENUINE PROPERTY SOLUTIONS, LLCTHE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS**BOC DECISION OF 10-16-07 ZONING HEARING:**

GENUINE PROPERTY SOLUTIONS, LLC (Connie M. Kraemer, Bonnie Sue Watts, Brenda Deaver, Glenda Cox and Robert G. Brinson, owners) requesting Rezoning from **R-20** to **LRO** and **OI** for the purpose of Offices and Fitness Center in Land Lot 329 of the 20th District. Located on the east side of Barrett Parkway, south of Battle Forest Drive.

MOTION: Motion by Lee, second by Goreham, as part of the Consent Agenda, to delete Rezoning to the **CRC** and **LRO** zoning districts **subject to:**

- lot area/locations as delineated on the site plan received by the Zoning Division on June 7, 2007, with zoning districts as: Lot #1 zoned LRO, and Lot #2 zoned CRC - use specific for an athletic club (attached and made a part of these minutes)
- project to be developed in substantial conformance with the site plan submitted to the Zoning Division on June 7, 2007, subject to Plan Review and approval by the District Commissioner
- if the athletic club use does not open within two years of rezoning, or if after opening it ceases business for more than one year, then Lot #2 portion becomes zoned LRO
- letter of agreeable conditions from Mr. John Goss dated September 26, 2007 *not otherwise in conflict and with the following comment and changes* (attached and made a part of these minutes):
 - Comment on Item No. 4 - The proposed cross-parking agreement, with a total of 222 spaces is approved, with a total project contemporaneous variance of five (5) spaces.
 - Item No. 5 – Add to the end: *“All four sides of the buildings will have similar architecture and materials.”*
 - Item No. 7 – Change to read: *“Two directional signs (no larger than 20 square feet each) will be placed on interior landscape islands (located close to the ground) in Home Depot’s parking lot to guide visitors to the proposed fitness center and office condominiums.”*
 - Item No. 8 – Add to end: *“There will be no flashing lights or scrolling messages on the signs.”*
 - Item No. 10 - Add to the end: *“Dumpster corrals will be of the same material and color as the buildings they serve.”*

ORIGINAL DATE OF APPLICATION: 08-21-07

APPLICANTS NAME: GENUINE PROPERTY SOLUTIONS, LLC

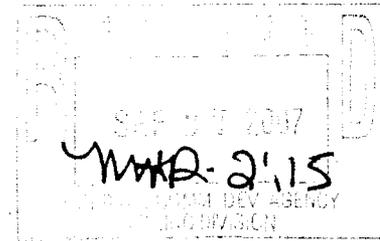
THE FOLLOWING REPRESENTS THE FINAL DECISIONS OF THE
COBB COUNTY BOARD OF COMMISSIONERS

BOC DECISION OF 10-16-07 ZONING HEARING (Continued):

- architecture to be in substantial conformance with the submitted elevation drawings, subject to review by *People Looking After Neighborhoods* and Staff, and final approval by the District Commissioner (attached and made a part of these minutes)
- landscape plan subject to review by *People Looking After Neighborhoods* and Staff, and approval by the District Commissioner
- District Commissioner may approve minor changes
- Fire Department comments and recommendations
- Water and Sewer Division comments and recommendations
- *revised* Stormwater Management Division comments and recommendations received October 5, 2007 (attached and made a part of these minutes)
- Cobb DOT comments and recommendations

VOTE: **ADOPTED** unanimously

GENUINE
PROPERTY



September 26, 2007

Hand Delivered

Mr. Mark Danneman
Manager of Zoning Division

Zoning Division
Cobb County Community Development Department
191 Lawrence Street
Marietta, GA 30060-1689

Min. Bk. 53 Petition No. Z-75
Doc. Type Letter of
agreeable conditions
Meeting Date OCT. 16, 2007

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RE: Application for Rezoning

Application No: Z-75
Applicant: Genuine Property Solutions, LLC
Owners: Connie M. Kraemer
Bonnie Sue Watts
Brenda Deaver
Glenda Cox
Robert G. Brinson (surviving spouse of Barbara Brinson)
Property: 4.48 acres located at 3391 Barrett Parkway
The property is northeasterly of the intersection of Dallas Highway and Barrett Parkway in Land Lot 329, 20th District, 2nd Section Cobb County, Georgia

Dear Mr. Danneman:

After meeting with planning and zoning staff, meetings with representatives of Cobb County Water Service, Stormwater Management, Traffic and Fire Department, meetings with adjoining homeowner groups, meetings with owners of other nearby properties and reviewing the staff comments and recommendations we submit this letter of agreed stipulations. At the time of the Application for Rezoning is approved, as submitted, this letter of signed stipulations shall become a part of the grant of the requested zoning and shall be binding upon the property. The referenced stipulations are as follows:

1. The stipulations and conditions set forth herein shall replace and supersede in full any and all prior stipulations and conditions, in whatsoever form, which are currently in place on the subject property.
2. Rezoning of the subject property will be from the R-20 zoning category to the LRO and O&I zoning categories with reference being made to that certain site plan prepared by Travis Pruitt & Associates, Inc. dated April, 17 2007 with regard to the total acreage of 5.22 acres.

3. Applicant proposes to construct a Bodyplex health club/fitness center with a foot print of 12,000 square feet and a total floor area of 15,000 square feet on the O&I zoned property having a required parking of 75 spaces with parking provided of 60 spaces. (See Paragraph 4) Note on the LRO zoned property the applicant proposes to construct a total of 43,200 square feet of office condominiums having a required parking of 152 spaces with parking provided of 162 spaces. Two (2) 1-story buildings will be built along the north side of the property adjacent to Battle Forest Subdivision a third building will be built at the east end of the parking lot with 1-story above the main parking lot grade another lower level of office space accessible to a smaller parking lot between the building and the flood plain. A fourth building will be built on the south side of the property. This building will be the only full 2-story building. It will be positioned next to the health club/fitness center and more than 250 feet from the Battle Forest Subdivision.
4. A cross-access shared parking easement agreement between the fitness center property and the office condominium property will be prepared and recorded with Cobb County. The fitness center property contains 60 parking spaces. That is 15 less than required. The office condominiums have 10 more spaces than required. We request a reduction of (5) spaces to the total number of required spaces for the fitness center and office condominium projects combined. The reduction is only 2% of the total required. This request is being made under the premise that we have two (2) different uses in this development with maximum parking needs at different times of the day. The maximum parking need of the offices is between 8:00 AM and 5:00 PM. The fitness center's maximum parking needs are between 6:00 AM and 8:00 AM then again from 5:00 PM to 9:00 PM.
5. The health club/fitness center building exterior shall consist of reddish brick, colored masonry trim, stucco type material trim and cornice, architectural shingle gable canopy and aluminum and glass windows. The office condominium building's exterior shall consist of reddish brick, stucco type material, architectural shingles on sloped roofs and aluminum and glass windows. Both the health club/fitness center and the office condominiums will be as shown and reflected on the elevations prepared for Applicant and presented to the Planning Commission meeting on October 2, 2007 and the Board of Commissioners of Cobb County at the Zoning Hearing to be held on October 16, 2007. Final colors will be approved by P.L.A.N. from samples presented by Applicant, which selection must be made within thirty (30) days of presentation; otherwise, Applicant may proceed with its choice.
6. No application for a free-standing sign located along Dallas Highway will be made.
7. Directional signs (32 square foot maximum) will be placed on interior landscape islands in Home Depot's parking lot to guide visitors to the proposed fitness center and office condominiums.
8. A building wall sign will be installed on the rear elevation of the fitness center facing Home Depot's parking lot. A smaller wall sign will be installed on the gable of the canopy above the entrance doors. All signs will conform to the Cobb County Code, Chapter 134 Zoning, Article VI Signs, Section 134-314 On-premise signs.

9. All exterior lighting utilized within the proposed development shall be environmentally sensitive shoe-box type lighting with any lighting on the buildings shielded to prevent outward beams and all lighting shall be kept within the bounds of the proposed development. Light poles in the parking area shall not exceed 25 feet in height and shall be dark bronze in color.
10. All trash dumpsters shall be located along the south side of the proposed development thereby placing them as far from Battle Forest Subdivision as possible.
11. All parking lot cleaning and refuse collection services shall be restricted to normal office business hours (8:00 AM to 5:00 PM). There shall be no outdoor speaker or audio systems.
12. The health club/fitness center will be 24 hours a day and 7 days per week. The building will be equipped with keycard access for entry between 11:00 PM and 6:00 AM. Additionally, the building will be equipped with security cameras inside and outside the facility. In an attempt to address the concerns of some nearby residents regarding the 24 hour aspect, we propose the following:
The fitness center will be closed to teenagers without adult supervision after 11:00 PM.
No loitering signs will be posted in the parking lot and will be strictly enforced.
After one (1) year, if the 24 hour aspect of the fitness center is determined to be a disturbance or a nuisance to the nearby residents a change to the hours of operation can be made.
At the direction of the district commissioner the hours of operation will be limited to opening at 5:00 AM and closing at 11:00 PM.
13. Ingress and egress to the proposed development shall be from the NW corner of the Home Depot property via the Home Depot entrance at Dallas Highway and the main traffic aisle along the west side of the Home Depot parking lot. See the attached letter from Home Depot.
14. Applicant agrees to comply with the recommendations of Cobb County Stormwater Management and local, state and federal regulations dealing there with expanding Home Depot's stormwater detention pond including replacing the grass and black chain link fence as required.
15. There shall be no telecommunications towers or monopoles on any portion of the subject property excepting only such telecommunications equipment serving Applicant's office and health club/fitness center use.
16. Applicant agrees to install parapet walls of sufficient height to screen all roof-top mechanical equipment.
17. Applicant agrees to replace any damaged or missing boards on the 8' tall cedar fence along the south side of the Battle Forest Subdivision.
18. Applicant agrees to eliminate the gravel driveway and curb-cut to Barrett Parkway in the 15 feet wide access easement that is adjacent to Battle Forest Subdivision. This access easement and driveway would be eliminated upon completion of the proposed development.
19. All best efforts will be made to save the oak tree along the north side of the property when the one (1) story office buildings are being planned and constructed. These efforts will include shifting the buildings so that the space between them lines up with the oak tree.
20. Minor changes to this proposed development can be made by the district commissioner.

It is believed that the requested re-zoning , pursuant to the referenced site plan and the stipulations contained herein, is an appropriate use of the subject property while taking into consideration the properties and owners thereof surrounding the proposed development and will provide a step down transitional zoning use from the nearby CRC and NRC properties to the R-15 property of Battle Forest Subdivision. The development will bring office space and health/fitness facilities to the nearby residents of West Cobb thereby reducing drive times on our busy roads.

Thank you for your consideration of this request.

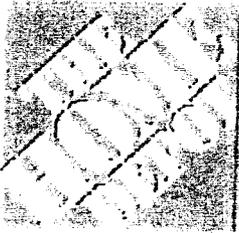
Respectfully yours,

GENUINE PROPERTY SOLUTIONS, LLC

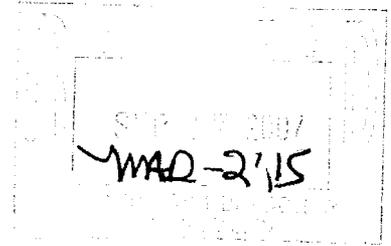


John R. Goss

Petition No. Z-75
Meeting Date 10-16-07
Continued



2455 Paces Ferry Rd. C-19
Atlanta, GA 30339
770-433-8211



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July 27, 2007

Sanctuary Park West Real Estate, LLC
c/o Genuine Property Solutions, LLC
2265 Roswell Road, Ste 500-A
Marietta, Georgia 30062
Attn: John Goss

RE: Proposed Sanctuary Park West Fitness Center and Office Condominium Development at NEC of Marietta-Dallas Highway and Barrett Parkway, West Cobb County, Georgia ("Project") – Sanctuary Park West Real Estate, LLC, ("SPWRE") and HD Development of Maryland, Inc. ("Home Depot")

Dear Mr. Goss:

Based on preliminary discussions between you and Home Depot regarding the Project, Home Depot agrees in principle to the following aspects of the Project:

1. To grant an access easement over that certain Home Depot driveway that affords SPWRE the most direct access to Marietta- Dallas Highway (a portion of which is shown on that certain Rezoning Site Plan from Travis Pruitt & Associates dated 4/17/07 [the "Site Plan"] and labeled as "HD Driveway Easement");
2. To grant an access easement over (or, possibly convey) that narrow, unimproved portion of the Home Depot property that would serve as the Project's entrance driveway (labeled as "Project Driveway" on the Site Plan);
3. To convey approximately 0.74 acres of unimproved land for development of the Project (labeled as "Lot 3" on the Site Plan); and
4. To allow SPWRE to drain stormwater to Home Depot's existing detention pond (labeled as the "HD Pond" on the Site Plan), provided that SPWRE undertakes the necessary detention pond improvements and enters into a joint pond maintenance agreement.

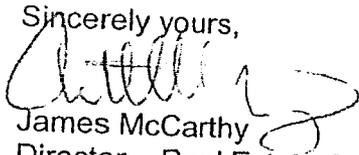
Sanctuary Park West
July 27,
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Meeting Date 10-16-07
Continual

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The terms and conditions related to such items will, of course, be subject to the written agreements that the parties will need to finalize and execute. We look forward to cooperating with you on your Project. Please do not hesitate to call me if you require clarification on any of these items.

Sincerely yours,



James McCarthy
Director – Real Estate Southeast

February 26, 2009

WC Real Estate Investors, LLC
1225 Johnson Ferry Road
Suite 160
Marietta, GA 30068

Re: 3381 and 3391 Ernest Barrett Parkway, NW Marietta, GA 30064-1802

Zoning: Extension on CRC - Community Retail Commercial district

Dear Mr. Jeff Helton:

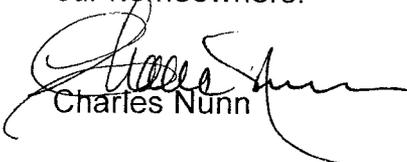
Thank you for your many and continued efforts to communicate with Battle Forest Homeowners Association. We appreciate your efforts to keep us updated on the project located at 3381 and 3391 Ernest Barrett Parkway, NW Marietta, GA 30064-1802.

We are aware that the majority of this property is zoned LRO and a small tract of 1.15 acres (Lot #2) has been designated CRC for an athletic club. We understand that the CRC zoning for this tract states that if the athletic club does not open within two years of rezoning (October 2, 2007), or if after opening it ceases business for more than one year, then Lot #2 portion becomes zoned LRO.

We understand that WCREI, LLC is going to formally request from Cobb County a three year extension on Lot#2, - CRC zoning effective October 2, 2009 and ending October 1, 2012 because of the current economic downturn in real estate.

As president of Battle Forest Homeowners Association I have given the information you have provided on your project to the members of our board and all of our homeowners. Specifically, I have met with the board regarding your intention to submit a formal request to Cobb County to receive a three year extension on Lot#2, - CRC zoning effective October 2, 2009 and ending October 1, 2012. The board has no issues with this request.

The board also appreciates your sending a letter to all of our homeowners individually notifying them of your intention to request the aforementioned zoning extension. We were pleased to hear that you received no opposition from any of our homeowners.


Charles Nunn

Application for "Other Business"

Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2045)

BOC Hearing Date Requested: 4.21.2009

Applicant: WC REAL ESTATE INVESTORS LLC Phone #: 770.579.3436
(applicant's name printed)

Address: 1225 JOHNSON FERRY ROAD, SUITE 160 MARIETTA 30068 E-Mail: jeff@heltonrealestate.com

JEFF L. HELTON Address: SAME AS ABOVE
(representative's name, printed)

[Signature] Phone #: 678.313.4049 E-Mail: jeff@heltonrealestate.com
(representative's signature)

Signed, sealed and delivered in presence of:

Katherine S. Doherty My commission expires: July 15, 2009
Notary Public

Commission District: 1st Zoning Case: Z 75

Date of Zoning Decision: 10.16.2007 Original Date of Hearing: 8.21.2007

Location: 3301 & 3391 EARNEST BARRET PKY (NEAREST CROSS STREET, DALLAS HIGHWAY)
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 329 District(s): 20TH

State specifically the need or reason(s) for Other Business: _____

WC Real Estate Investors, LLC is formally requesting a ^{two} ~~three~~ year extension on Lot#2, - CRC zoning effective October 2, 2009 and ending October 1, 2012. The majority of this property is zoned LRO and a small tract of 1.15 acres (Lot #2) has been designated CRC for an athletic club. The CRC zoning for this tract states that if the athletic club does not open within two years of rezoning (October 2, 2007), or if after opening it ceases business for more than one year, then Lot #2 portion becomes zoned LRO. The current economic downturn in real estate has made it very difficult for our current athletic club operator to obtain financing to build and open a new facility. We are now faced with marketing the property to other fitness centers and will need time to procure a new operator. The CRC zoning for Lot #2 is critical to our development.

(List or attach additional information if needed)