

**OCTOBER 18, 2011 ZONING HEARING  
“OTHER BUSINESS”  
COMMISSION DISTRICT 2**

**ITEM # 1**

**PURPOSE**

To consider a reauthorization of a 1981 resolution for CRP-2 Holdings Vinings, LLC for property located at 4545 River Parkway. The property is located on the east side of Cobb Parkway, south of Cumberland Boulevard in Land Lots 1017 and 1018 of the 17<sup>th</sup> District.

**BACKGROUND**

The subject property is zoned RM-12 and has been developed with apartments since the early 1970's. On December 21, 1981, the Cobb County Board of Commissioners approved a resolution relating to the property above. The resolution endorsed the legal non-conforming status of the property due to the creation of the Chattahoochee River National Recreation Area in the 1970's, which involved the Federal Government acquiring approximately 16 acres of the original apartment property. Please see Exhibit “B” for the resolution and see Exhibit “C” for a letter written and signed by Cobb County Board of Commissioners Chairman Ernest Barrett. In short, the plans for what now sits on the ground were approved in 1972 and the apartments were built in 1972-73. Any aspect of the property that does not currently meet any part of the zoning code was deemed to be “legally occupied” and “approved by all authorities of Cobb County”. This includes any zoning variances to density, setbacks, etc.

On May 4, 2011 Cobb County filed a Declaration of Taking relating to the Columns at River Parkway (the property) in the Superior Court of Cobb County in Civil Action File No. 11-1-04266-99 (Cobb County, Georgia v. CRP-2 Holdings Vinings, LLC). In this action Cobb County acquired property and permanent easements relating to State Project No. BHFST-0001-05(024) and Cobb County Department of Transportation Project No. D4080.

The applicant for this agenda item is requesting an updated reassurance through this resolution that the property is a legal non-conforming use for the benefit of the current or any future owners of the property. The fact that there was a right-of-way taking on the property in 2011, or any year before or after 2011, will not alter or diminish either of the 1981 documents. As part of this reauthorization, the property owner is requesting Chairman Lee sign a proposed letter stating the facts of this item (See Exhibit “D”).

**RECOMMENDATION**

The Board of Commissioners conduct a Public Hearing and consider reauthorizing a resolution.

**ATTACHMENTS**

Other Business Application (Exhibit A)  
1981 Board of Commissioners' resolution (Exhibit B)  
1981 Chairman Barrett Letter (Exhibit C)  
Proposed letter for Chairman Lee's signature (Exhibit D)  
Site Plan (Exhibit E)

Year 2011 Form

# Application for "Other Business" Cobb County, Georgia

(Cobb County Zoning Division - 770-528-2035)

BOC Hearing Date Requested: 10-18-11

Applicant: CAP-2 Holdings Vineyards, LLC Phone #: (678) 235-6315  
(applicant's name printed)

Address: 3500 Lenox Road NE, Ste 760 Atlanta GA E-Mail: astrong@colonyinc.com

Andrea Cantrell Jones Address: same  
(representative's name, printed)

Andrea Cantrell Phone #: 404 965 3686 E-Mail: andrea@dandglaw.com  
(representative's signature)

Signed, sealed and delivered in presence of:

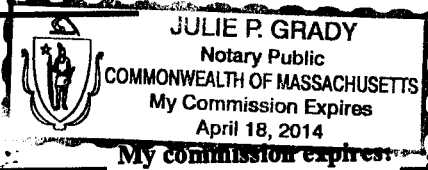
\_\_\_\_\_  
Notary Public My commission expires: \_\_\_\_\_

Titleholder(s): CAP-2 Holdings Vineyards, LLC Phone #: same as applicant  
(property owner's name printed)

Address: same E-Mail: astrong@colonyinc.com

[Signature]  
(Property owner's signature)

Signed, sealed and delivered in presence of:



Julie P. Grady My commission expires: April 18, 2014  
Notary Public

Commission District: 2 Zoning Case: N/A - Adopted 1972

Date of Zoning Decision: 12-26-72 Original Date of Hearing: 12-26-72

Location: 4545 River Parkway Atlanta GA 30339  
(street address, if applicable; nearest intersection, etc.)

Land Lot(s): 1016, 1017 District(s): 17th

State specifically the need or reason(s) for Other Business: Provide for re-authorization of 1981 resolution; re-authorization of an administrative variance due to condemnation (cannot utilize provisions of 134-35) and authorization for Chairman to execute a letter implementing such.

(List or attach additional information if needed)

PAGE 11  
MINUTES OF DECEMBER 22, 1981

~~31. LEGAL DEPARTMENT INVOICE PAYMENT ZONING.~~

~~MOTION: On motion duly made by Commissioner Lankford and seconded by Commissioner Carson, the Commission approved payment to Ted Medernach, Jr. in the amount of \$500.00 for appraisal fees in connection with the Shapiro Rezoning Case. Funds to be transferred from Contingency Fund to Account 1-30-4120.~~

~~VOTE: Unanimously carried.~~

32. LEGAL DEPARTMENT - RESOLUTION - RIVER PARKWAY APARTMENTS:

MOTION: On motion duly made by Commissioner Barrett and seconded, the Commission approved the following resolution:

"Plans submitted to and approved by Cobb County on February 28, 1972, for River Parkway Apartments, Permit #38025, for 540 apartments, were approved. At the encouragement of Federal, State and Local authorities, approximately 16 acres were sold to the Nature Conservancy of the United States. As a condition of this land transaction, Cobb County agreed and allowed 427 units of apartments to be constructed on the balance of the original site.

This confirms that the property is legally occupied by the improvements and other facilities now existing thereon, which have been approved by all authorities of Cobb County having jurisdiction.

In the event of the damage or destruction of any of the improvements or facilities on the property, same may be reconstructed on the existing site thereof and in conformity with the structures and improvements which exist on the date of such damage or destruction and thereafter may be used and occupied in the same manner as they are being used and occupied on the date of such damage or destruction.

This resolution shall insure to the benefit of any present or future owner of said property and improvements or any portion thereof."

VOTE: Unanimously carried.

~~33. MINUTES APPROVED:~~

~~MOTION: On motion duly made by Commissioner Lankford and seconded by Commissioner Thompson, the Commission approved the minutes of the Regular Meeting dated December 8, 1981.~~


~~VOTE: Unanimously carried.~~

MEETING ADJOURNED:

MOTION: On motion duly made by Commissioner Lankford and seconded, the Commission adjourned this meeting.

Minutes submitted by Terri N. Kelly.

The above and foregoing are true and correct minutes of a meeting of the Cobb County Board of Commissioners held on December 22, 1981.

  
MICHAEL J. BOLEK, Ex-Officio Clerk  
Cobb County Board of Commissioners



**Cobb County  
Board of Commissioners**

10 E. Park Square  
P. O. Box 619  
Marietta, Ga. 30061  
(404) 489-8910

December 22, 1981

Mr. Tom Towles  
Mr. Julian LeCraw  
4545 Northside Parkway  
Atlanta, Georgia, 30339

Gentlemen:

This letter pertains to property in Land Lots 1016, 1017, 1024, 1025, 17th District, 2nd Section, Cobb County, Georgia, commonly occupied by apartments known as River Parkway apartments. On this date, the Board of Commissioners of Cobb County approved the following resolution:

"Plans submitted to and approved by Cobb County on February 28, 1972, for River Parkway Apartments, Permit #38025, for 540 apartments, were approved. At the encouragement of Federal, State and Local authorities, approximately 16 acres were sold to the Nature Conservancy of the United States. As a condition of this land transaction, Cobb County agreed and allowed 427 units of apartments to be constructed on the balance of the original site.

This confirms that the property is legally occupied by the improvements and other facilities now existing thereon, which have been approved by all authorities of Cobb County having jurisdiction.

In the event of the damage or destruction of any of the improvements or facilities on the property, same may be reconstructed on the existing site thereof and in conformity with the structures and improvements which exist on the date of such damage or destruction and thereafter may be used and occupied in the same manner as they are being used and occupied on the date of such damage or destruction.

This resolution shall inure to the benefit of any present or future owner of said property and improvements or any portion thereof."

Ernest W. Harvey  
Chairman

Wes Carron  
Western District

George W. Linkford  
Eastern District

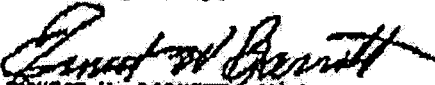
Harvey D. Pughel  
Western District

Burch Thompson  
Western District

Page Two  
December 22, 1981

I believe this resolution satisfactorily states the position of Cobb County which has existed since the original construction of these apartments.

Yours very truly,

  
ERNEST W. BARRETT, Chairman

May 24, 2011

CRP-2 HOLDINGS VININGS, LLC  
c/o Andrea Cantrell Jones, Esquire  
DILLARD & GALLOWAY, LLC  
3500 Lenox Road, N.E., Suite 760  
Atlanta, Georgia 30326

Re: State Route 3 - U.S. Highway 41, Project No. BHFST-0001-05 (024), Parcel No.  
1A

Dear Sir/Madam:

This letter pertains to property in Land Lots 1016, 1017, 1024, 1026, 17<sup>th</sup> District, 2<sup>nd</sup> Section, Cobb County, Georgia, occupied by apartments commonly known as the Columns at River Parkway (the "Property"). On December 22, 2011, the Chairman of the Board of Commissioners of Cobb County issued a letter to the former owner of the Apartments, confirming the following resolution:

Plans submitted to and approved by Cobb County on February 28, 1972, for River Parkway Apartments, Permit # 38025 for 540 apartments, were approved. At the encouragement of Federal, State and Local authorities, approximately 16 acres were sold to the Nature Conservancy of the United States. As a condition of this land transaction, Cobb County agreed and allowed 427 units of apartments to be constructed on the balance of the original site.

This confirmed that the property is legally occupied by the improvements and other facilities now existing thereon which have been approved by all authorities of Cobb County having jurisdiction.

In the event of the damage or destruction of any of the improvements or facilities on the property, same may be reconstructed on the existing site thereof and in conformity with the structures and improvements which exist on the date of such damage or destruction and thereafter may be used and occupied in the same manner as they are being used and occupied on date if such damage or destruction.

This resolution shall inure to the benefit of any present or future owner of said property and improvements or any portion thereof.

Letter, dated December 22, 1981, attached hereto as Exhibit "A."

On May 4, 2011, Cobb County filed a Declaration of Taking in the above-referenced highway improvement project, whereby it acquired 18,728.81 square feet of right of way and 19,109.18 square feet of permanent easement of the Property (Cobb County, Georgia v. CRP-2 Holdings Vinings, LLC, Superior Court of Cobb County, Civil Action File No. 11-1-04266-99).

On \_\_\_\_\_ 2011 the Cobb County Board of Commissioners approved Resolution No. \_\_\_\_, confirming that the December Cobb County agreement to allow 427 units of apartments to be constructed on the balance of the original site is hereby extended to and applies to the Property remaining after the May 4, 2011 condemnation. The resolution also confirms the following:

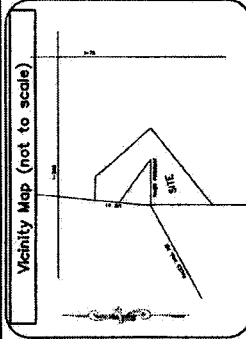
the property is legally occupied by the improvements and other facilities now existing thereon, which have been approved by all authorities of Cobb County having jurisdiction.

In the event of the damage or destruction of any of the improvements or facilities on the property, same may be reconstructed on the existing site thereof and in conformity with the structures and improvements, which exist on the date of such damage or destruction and thereafter may be used and occupied in the same manner as they are being used and occupied on date if such damage or destruction.

Yours very truly,

TIM LEE, Chairman





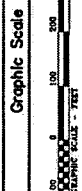
- Legend of Symbols & Abbreviations**
- A. Surveyed Station
  - B. Surveyed Point
  - C. Surveyed Line
  - D. Surveyed Boundary
  - E. Surveyed Area
  - F. Surveyed Structure
  - G. Surveyed Feature
  - H. Surveyed Object
  - I. Surveyed Marker
  - J. Surveyed Monument
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**Zoning Requirements**

These requirements apply to all lots within the county's jurisdiction. The zoning district is shown on the map. The zoning district is shown on the map. The zoning district is shown on the map.

**Surveyor's Notes**

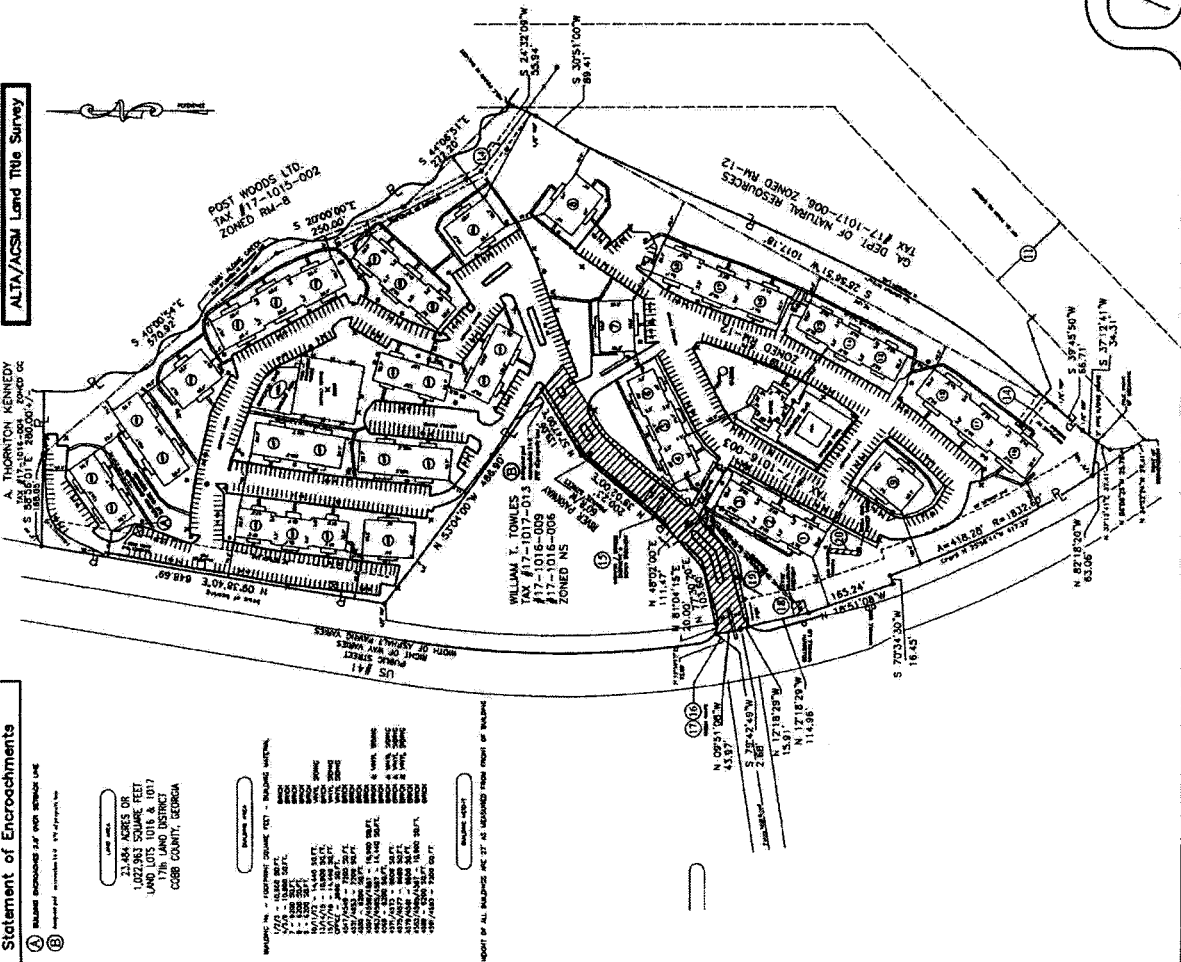
This is a true and correct copy of the original survey as shown on the map. The original survey was conducted on the date shown on the map. The original survey was conducted on the date shown on the map.



Sheet 1 of 1

**Pirkle & Associates Surveying Inc.**  
781 State Department Rd., Marietta, GA 30067  
Phone: 770-424-1176, Fax: 770-424-1175, Email: pirkle@parksurveying.com

**ALTA/ACSM Land Title Survey**



**Statement of Encroachments**

A. Subject encroaching on own separate lot

B. Encroachment on adjacent lot

Encroachment No.	Location	Distance	Remarks
1	1078 - 1078 DIST.	0.00	
2	1078 - 1078 DIST.	0.00	
3	1078 - 1078 DIST.	0.00	
4	1078 - 1078 DIST.	0.00	
5	1078 - 1078 DIST.	0.00	
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96	1078 - 1078 DIST.	0.00	
97	1078 - 1078 DIST.	0.00	
98	1078 - 1078 DIST.	0.00	
99	1078 - 1078 DIST.	0.00	
100	1078 - 1078 DIST.	0.00	

**Legal Description**

The legal description of the land shown on this map is as follows: ...

**Notes Corresponding to Schedule B**

1. Reference to the map of the State of Georgia, showing the location of the land shown on this map, is made by reference to the map of the State of Georgia, showing the location of the land shown on this map.
2. Reference to the map of the State of Georgia, showing the location of the land shown on this map, is made by reference to the map of the State of Georgia, showing the location of the land shown on this map.
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**Surveyor's Certification**

I, the undersigned, being a duly licensed and qualified Surveyor in the State of Georgia, do hereby certify that the foregoing is a true and correct copy of the original survey as shown on the map.



**PAIRIE PIRKLE**  
Surveyor  
State of Georgia