OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

FEBRUARY 7, 2013

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY,
FEBRUARY 7, 2013, AT CITY HALL, COMMISSION CHAMBERS,
OWENSBORO, KENTUCKY, AND THE PROCEEDINGS WERE AS
FOLLOWS:

MEMBERS PRESENT:  C.A. PANTLE, CHAIRMAN
WARD PEDLEY, VICE CHAIRMAN
RUTH ANN MASON, SECRETARY
GARY NOFFSINGER, DIRECTOR
MADISON SILVERT, ATTORNEY
JERRY YEISER
SEAN DYSINGER
JASON STRODE
FRED REEVES

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CHAIRMAN:  LET'S CALL THE MEETING OF THE
OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT TO ORDER.
WANT TO WELCOME YOU BRIEFLY.  WE START OUR PROGRAM
EACH MEETING WITH A PRAYER AND PLEDGE OF ALLEGIANCE.
WE INVITE YOU TO JOIN WITH US.  RUTH ANN WILL HAVE OUR
PRAYER THIS EVENING.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN:  AGAIN, I WANT TO WELCOME YOU TO THE
MEETING THIS EVENING.  IF YOU HAVE ANY COMMENTS ON ANY
OF THE ITEMS, PLEASE COME TO ONE OF THE PODIUMS.
STATE YOUR NAME SO WE'LL HAVE RECORD OF WHAT YOU HAD
TO COMMENT ON.

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WITH that the first item is to consider the
minutes of the January meeting. They're on file in
the office. I don't think we've found any problems.
Entertain a motion to dispose of the item.

Mr. Pedley: motion for approval.

Mr. Dysinger: second.

Chairman: a motion has been made and a
second. All in favor raise your right hand.

(all board members present responded aye.)

Chairman: motion passes.

Next item, please, sir.

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Conditional Use Permit

Item 2

2031 East 10th Street, zoned R-4DT
Consider a request for a conditional use permit in
order to install a class-2 manufactured home in an
R-4DT zone.

Reference: Zoning Ordinance, Article 8,
section 8.2a 10b/7

Applicant: Martha M. Thompson McDaniel

Mr. Silvert: could you state your name, please?

Ms. Evans: Melissa Evans.

(Melissa Evans sworn by attorney.)

Ms. Evans: first of all, I would like to say
that approval of items here tonight does not allow the
applicant or owner to construct, alter or modify or
OCCUPY A BUILDING ON THE SUBJECT PROPERTY. IT IS THE
APPLICANT OR OWNER'S RESPONSIBILITY TO OBTAIN ALL
APPROVALS AND INSPECTIONS AS NECESSARY BEFORE
OCCUPANCY AS THE BUILDING WILL BE ALLOWED. PLEASE
CONTACT THE BUILDING AND ELECTRICAL DIVISION OF THE
OMPC PRIOR TO BEGINNING ANY WORK ON THE SUBJECT
PROPERTY FOR APPLICABLE REQUIREMENTS.

ZONING HISTORY

THE SUBJECT PROPERTY IS CURRENTLY ZONED R-4DT
INNER-CITY RESIDENTIAL. OMPC RECORDS INDICATE THERE
HAVE BEEN NO ZONING MAP AMENDMENTS FOR THE SUBJECT
PROPERTY.

THERE WAS A PREVIOUS CONDITIONAL USE PERMIT
APPROVED FOR THE SUBJECT PROPERTY IN 2007 TO INSTALL A
14' BY 52' MANUFACTURED HOME. AT THAT TIME THE
APPLICANT WAS GRANTED A WAIVER FOR THE REQUIRED
SIDEWALKS SINCE THERE WERE NO SIDEWALKS IN THE AREA.

THE APPLICANT IS NOW WISHING TO INSTALL A
LARGER, 14' BY 66', MANUFACTURED HOME ON THE PROPERTY
AND IS STILL SEEKING THE WAIVER OF THE SIDEWALK
REQUIREMENT. ALL OTHER REQUIREMENTS FOR THE
MANUFACTURED HOME SITE WILL BE MET AS SHOWN ON THE
SITE PLAN SUBMITTED.

LAND USES IN SURROUNDING AREA

THE PROPERTY TO THE NORTH, EAST AND WEST IS
ZONED R-4DT INNER-CITY RESIDENTIAL. THE PROPERTY TO
THE SOUTH ACROSS EAST TENTH STREET IS ZONED I-2 HEAVY
INDUSTRIAL.

ZONING ORDINANCE REQUIREMENTS

THE CLASS-2 MANUFACTURED HOME SITE STANDARDS
BASED ON THE REQUIREMENTS OF THE ZONING ORDINANCE ARE
AS FOLLOWS:

1. A CONCRETE OR ASPHALT PARKING PAD TO
   ACCOMMODATE TWO 9'X18' SPACES IS REQUIRED.

2. A MINIMUM 10'X10' DECK OR PATIO IS
   REQUIRED.

3. A CONCRETE SIDEWALK IS REQUIRED, BUT MAY
   BE WAIVED ALONG RURAL ROADS (WITHOUT CURBS).

4. THE DRIVEWAY APRON SHALL NOT EXCEED 40
   PERCENT OF THE LOT WIDTH.

5. THE PROPERTY IS REQUIRED TO HAVE AT LEAST
   THREE TREES.

6. THE MANUFACTURED HOME SHALL BE PERMANENTLY
   INSTALLED ON A PERMANENT FOUNDATION. A POURED
   CONCRETE OR MASONRY BLOCK SKIRTING WALL SHALL BE
   CONSTRUCTED BENEATH AND ALONG THE ENTIRE PERIMETER OF
   THE MANUFACTURED HOME.

7. ALL WHEEL, TRAILER-TONGUE AND HITCH
   ASSEMBLIES SHALL BE REMOVED UPON INSTALLATION.

8. THE MANUFACTURED HOME SHALL BE PERMANENTLY

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CONNECTED TO AN APPROVED WATER AND SEWER SYSTEM WHEN AVAILBLE.


WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT A.

CHAIRMAN: THANK YOU.

HAVE THERE BEEN ANY COMMENTS IN THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND DO YOU HAVE ANYTHING YOU WOULD LIKE TO ADD AT THIS TIME?

MR. MARKSBERRY: SHE'S NOT HERE. I'M THE GENERAL CONTRACTOR.

MR. SILVERT: COULD YOU STEP TO THE MICROPHONE, PLEASE.

CHAIRMAN: STATE YOUR NAME, PLEASE.

MR. MARKSBERRY: BILLY JOE MARKSBERRY.

(BILLY JOE MARKSBERRY SWORN BY ATTORNEY.)

MS. MARKSBERRY: SHE'S ACTUALLY PURCHASING THE HOUSE FROM US AT FREEDOM HOMES. I'M THE GENERAL CONTRACTOR OVERSEEING THE PROJECT. SHE ASKED ME TO COME TONIGHT ON HER BEHALF.
CHAIRMAN: DO YOU HAVE ANY COMMENTS YOU WANT TO ADD FOR OR AGAINST?

MR. MARKSBERRY: NO. BASICALLY SHE COVERED IT. THEY'RE TAKING A 2004 OUT AND REPLACING IT WITH A 2013 BLOCK FOUNDATION. SHE'S GETTING MORE SPACE.

CHAIRMAN: ANY BOARD MEMBERS HAVE ANY QUESTIONS OF THE APPLICANT AT THIS TIME?

MR. DYSINGER: MR. CHAIRMAN, THIS IS FOR THE APPLICANT OR STAFF, EITHER ONE.

WHEN THE WAIVER OF THE SIDEWALK REQUIREMENT WAS ORIGINALLY GRANTED, IT WAS FOUND THAT IT WOULD BE APPROPRIATE BECAUSE THERE WEREN'T SIDEWALKS IN THE AREA AT THE TIME. IS THAT STILL APPROPRIATE AND HOLD TRUE?

MS. EVANS: YES. THE AERIAL PHOTO DOESN'T SHOW SIDEWALKS IN THE AREA STILL.

MR. DYSINGER: THANK YOU, MR. CHAIRMAN.

CHAIRMAN: STAFF HAVE ANY COMMENTS?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: ANYBODY IN THE AUDIENCE WISHING TO SPEAK FOR OR AGAINST?

(NO RESPONSE)

CHAIRMAN: HEARING NONE I'LL ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

MS. MASON: MR. CHAIRMAN, I MOVE FOR APPROVAL
OF THE CONDITIONAL USE PERMIT BASED ON THE FINDINGS OF FACT THAT IT'S COMPATIBLE WITH THE PREVIOUS CONDITIONAL USE PERMIT AS THE APPLICANT IS ASKING TO INSTALL A LARGER MANUFACTURED HOME. ALSO, THAT THEY MEET THE ZONING ORDINANCE REQUIREMENTS THAT WERE MENTIONED EARLIER WITH THE EXCEPTION OF NO SIDEWALKS SINCE THERE ARE NO SIDEWALKS IN THE VICINITY OF THE PROPERTY AND THE SIDEWALK WAS WAIVED IN THE PREVIOUS CONDITIONAL USE PERMIT.

MR. PEDLEY: SECOND.

CHAIRMAN: A MOTION HAS BEEN MADE AND A SECOND. ANY OTHER COMMENTS FROM THE BOARD MEMBERS? (NO RESPONSE)

CHAIRMAN: STAFF HAVE ANY OTHER?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: DO YOU UNDERSTAND ALL OF THE REQUIREMENTS THAT WE PRESENTED?

MR. MARKSBERRY: I DO.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

MR. SILVERT: THIS WILL BE A RELATIVELY SHORT MEETING. DO YOU HAVE A MOMENT AFTER THE MEETING, I'D LIKE TO SPEAK TO YOU FOR JUST A MOMENT.

MR. MARKSBERRY: YES.
MR. SILVERT: THANKS.

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VARIANCE

ITEM 3

615 CRABTREE AVENUE, ZONED B-5
CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
THE REAR YARD BUILDING SETBACK LINE FROM 20 FEET FROM
THE PROPERTY LINE TO 5 FEET FROM THE PROPERTY LINE AND
TO REDUCE THE FRONT YARD BUILDING SETBACK LINE FROM 75
FEET FROM THE STREET CENTER LINE TO 52 FEET FROM THE
STREET CENTER LINE.
REFERENCE: ZONING ORDINANCE, ARTICLE 8,
SECTION 8.5.17(C), 8.5.17(E)
APPLICANT: JAMES PHILLIP EDGE, SR.

MS. EVANS: THIS PROPERTY WAS REZONED TO B-5
BUSINESS INDUSTRIAL IN THE DECEMBER 2005 OMPC MEETING,
AND THERE HAS BEEN A VARIANCE GRANTED FOR ANOTHER
STRUCTURE ON THIS PROPERTY AT THE JANUARY 2006
MEETING.

THE APPLICANT IS NOW WISHING TO REPLACE AN
EXISTING NONCONFORMING BUILDING WITH A LARGER
BUILDING, BUT IT'S ONLY 30 FEET FROM THE PROPERTY LINE
WHICH IS THE SAME LOCATION THAT THE EXISTING STRUCTURE
THAT WILL BE TORN DOWN SITS.

THE NEW STRUCTURE WOULD SIT NO CLOSER TO THE
FRONT PROPERTY LINE THAN THE CURRENT BUILDING ON THE
SITE. THE NEW BUILDING STRUCTURE CANNOT BE ENLARGED
OR ALTERED IN A WAY WHICH INCREASES ITS NONCONFORMITY
WITHOUT A VARIANCE. ALTHOUGH, ANOTHER BUILDING ON THE
SITE WAS ABLE TO USE AN AVERAGED BUILDING SETBACK LINE OF 35.2 FEET FROM THE PROPERTY LINE AS PERMITTED IN THE ORDINANCE, THE NEW BUILDING IS PROPOSED TO BE CLOSER THAN THAT AND THEREFORE MUST SEEK A VARIANCE FROM THE PRESCRIBED BUILDING SETBACK LINE OF 75 FEET FROM THE STREET CENTER LINE AND 20 FEET FROM THE REAR PROPERTY LINE WHERE IT ADJOINS RESIDENTIALLY ZONED PROPERTY.

GRANTING THE VARIANCE TO REDUCE THE REAR YARD BUILDING SETBACK LINE FROM 20 FEET FROM THE PROPERTY LINE TO 5 FEET FROM THE PROPERTY LINE:

* WILL NOT ADversely Affect THE public health, SAFETY OR WELFARE BECAUSE THE NEW BUILDING WILL BE IN LINE TO THE REAR WITH OTHER BUILDING CONSTRUCTED ON THE PROPERTY THAT RECEIVED A VARIANCE.

* IT WILL NOT ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY BECAUSE BUILDINGS ALREADY ENCROACH INTO REAR SETBACKS IN THIS AREA.

* IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC BECAUSE BUILDINGS ON THIS PROPERTY ARE ALREADY LOCATED CLOSER TO THE PROPERTY LINES THAN PRESCRIBED SETBACKS WOULD TYPICALLY ALLOW AND HAVE YET TO CAUSE A HAZARD OR NUISANCE.

* IT WILL NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING OHIO VALLEY REPORTING (270) 683-7383
REGULATIONS BECAUSE A REAR YARD VARIANCE HAS ALREADY
BEEN GRANTED FOR ANOTHER STRUCTURE ON THE PROPERTY.

STAFF WOULD RECOMMEND APPROVAL OF THE FIRST
VARIANCE TO REDUCE THE BUILDING SETBACK LINE FROM 20
FEET TO 5 FEET.

GRANTING THE VARIANCE TO REDUCE THE FRONT YARD
BUILDING SETBACK LINE FROM 75 FEET FROM THE STREET
CENTER LINE TO 52 FEET FROM THE STREET CENTER LINE:
* IT WILL NOT ADVERSELY AFFECT THE PUBLIC
HEALTH, SAFETY OR WELFARE BECAUSE THE NEW BUILDING
WILL SIT NO CLOSER TO THE ROAD THAN THE EXISTING
BUILDING.

* IT WILL NOT ALTER THE ESSENTIAL CHARACTER OF
THE GENERAL VICINITY BECAUSE BUILDINGS ALREADY
ENCROACH INTO FRONT SETBACKS IN THIS AREA.

* IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO
THE PUBLIC BECAUSE BUILDINGS ON THIS PROPERTY ARE
ALREADY LOCATED CLOSER TO THE PROPERTY LINES THAN THE
PRESCRIBED SETBACKS WOULD TYPICALLY ALLOW AND HAVE YET
TO CAUSE A HAZARD OR NUISANCE.

* IT WILL NOT ALLOW AN UNREASONABLE
CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING
REGULATIONS BECAUSE THE NEW BUILDING IS REPLACING AN
EXISTING BUILDING THAT ALREADY ENCROACHES INTO THE
PRESCRIBED AND AVERAGED BUILDING SETBACK LINES ON THE
SITE AND WILL NOT BE CLOSER THAN THE BUILDING IT IS REPLACING.

STAFF WOULD RECOMMEND APPROVAL OF THE VARIANCE TO REDUCE THE BUILDING SETBACK LINE FROM 75 FEET FROM THE STREET CENTER LINE TO 52 FEET FROM THE STREET CENTER LINE.

WE WOULD LIKE TO ENTER THE STAFF REPORT INTO THE RECORD AS EXHIBIT B.

CHAIRMAN: THANK YOU.

HAS THERE BEEN ANY COMMENTS FILED WITH THE OFFICE?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: IS THE APPLICANT HERE AND DO YOU HAVE ANY COMMENTS YOU WOULD LIKE TO BRING AT THIS TIME?

APPLICANT REP: NO.

CHAIRMAN: ANY BOARD MEMBER HAVE ANY QUESTIONS OF THE APPLICANT?

(NO RESPONSE)

CHAIRMAN: HEARING NONE I'LL ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION FOR APPROVAL TO GRANT THE VARIANCE BASED ON FINDINGS OF FACT THAT IT IS COMPATIBLE IN THE NEIGHBORHOOD SINCE ALREADY A SETBACK SIMILAR HAS BEEN GRANTED.
1 THE FIRST VARIANCE OF GRANTING THIS VARIANCE TO
2 THE REAR YARD SETBACK FROM 20 FEET FROM THE
3 PROPERTY LINE TO 5 FEET FROM THE PROPERTY LINE AND
4 WITH STAFF FINDINGS OF FACT 1 THROUGH 4.
5 THEN APPROVAL OF GRANTING THIS VARIANCE TO
6 REDUCE THE FRONT YARD BUILDING SETBACK LINE FROM 75
7 FEET FROM THE STREET CENTER LINE TO 52 FEET FROM THE
8 STREET CENTER LINE WITH STAFF FINDINGS OF FACT 1
9 THROUGH 4.
10 CHAIRMAN: IS THERE A SECOND?
11 MR. DYSINGER: SECOND.
12 CHAIRMAN: A MOTION HAS BEEN MADE AND A
13 SECOND. DOES THE STAFF OR BOARD HAVE ANY OTHER
14 COMMENTS OR QUESTIONS AT THIS TIME?
15 MR. NOFFSINGER: NO, SIR.
16 CHAIRMAN: HEARING NONE ALL IN FAVOR RAISE
17 YOUR RIGHT HAND.
18 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
19 CHAIRMAN: MOTION CARRIES.
20 NEXT ITEM, PLEASE.
21 ITEM 4
22 4700-4900 BLOCKS, 4821 FREE SILVER ROAD, ZONED EX-1
23 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
24 THE MINIMUM BUFFER FOR COAL MINING ACTIVITIES FROM A
25 NEIGHBORING RESIDENTIALLY DEVELOPED PROPERTY FROM 300
26 FEET TO 100 FEET FROM THE RESIDENCE AT 4840 FREE
27 SILVER ROAD AND FROM 300 FEET TO 200 FEET FROM THE
28 RESIDENCE AT 4920 FREE SILVER ROAD.
29 REFERENCE: ZONING ORDINANCE, ARTICLE 12,
SECTION 12A.52
APPLICANT: WESTERN KENTUCKY MINERALS, INC.

MS. EVANS: THE APPLICANT DOES HAVE A SIGNED
WAIVER FROM EACH OF THE PROPERTY OWNERS GRANTING THEM
PERMISSION TO MINE WITHIN 100 AND 200 FEET
RESPECTIVELY. THESE WAIVERS HAVE BEEN SUBMITTED TO
THE DEPARTMENT OF MINING RECLAMATION AND ENFORCEMENT.

ACCORDING TO THE APPLICANT, IT IS NECESSARY TO
MINE CLOSER TO THE ALLOWED 300 FEET TO MAXIMIZE THE
COAL RECOVERY FOR THE APPLICANT AND THE PROPERTY
OWNERS.

GRANTING THIS VARIANCE:

* IT WILL NOT ADVERSELY AFFECT THE PUBLIC
HEALTH, SAFETY OR WELFARE BECAUSE ACCORDING TO THE
APPLICANT, MINING ACTIVITIES REGULARLY TAKE PLACE
WITHIN 100 FEET OF STRUCTURES WITHOUT CAUSING HARM OR
SAFETY CONCERNS.

* IT WILL NOT ALTER THE ESSENTIAL CHARACTER OF
THE GENERAL VICINITY BECAUSE COAL MINING ACTIVITIES
ARE ALREADY TAKING PLACE IN THIS AREA.

* IT WILL NOT ALLOW AN UNREASONABLE
CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING
REGULATIONS BECAUSE THE PROPERTY OWNERS HAVE SIGNED
WAIVERS GRANTING THE APPLICANT PERMISSION TO COME
CLOSER TO THE STRUCTURES LOCATED ON THEIR PROPERTIES.
STAFF WOULD RECOMMEND APPROVAL.

WE WOULD LIKE TO ENTER THE STAFF REPORT INTO

THE RECORD AS EXHIBIT C.

CHAIRMAN: HAVE WE HAD ANY COMMENTS IN THE

OFFICE FOR OR AGAINST?

MR. NOFFSINGER: NO, SIR.

CHAIRMAN: THE APPLICANT IS HERE AND DO YOU

HAVE ANY COMMENTS YOU WANT TO BRING AT THIS TIME?

MR. WRIGHT: NO.

CHAIRMAN: ANY BOARD MEMBERS HAVE ANY

QUESTIONS OF THE APPLICANT?

MR. PEDLEY: YES, I DO.

IS THE HOMEOWNER IN AGREEMENT TO -- WOULD YOU

STEP UP TO THE MIKE, PLEASE?

CHAIRMAN: STATE YOUR NAME, PLEASE.

MR. WRIGHT: TIMOTHY WRIGHT.

(TIMOTHY WRIGHT SWORN BY ATTORNEY.)

MR. PEDLEY: IS THE HOMEOWNER IN AGREEMENT OF

YOU MINING WITHIN 100 FEET OF HIS HOME?

MR. WRIGHT: YES. WE HAVE SIGNED WAIVERS FROM

EACH OF THE HOMEOWNERS TO COME WITHIN 100 FEET.

MR. PEDLEY: THE STATE AND COUNTY IS OKAY WITH

YOUR VARIANCE ON 300 FEET -- YOU'RE MINING 100 FEET

FROM THE HOME. THE APPLICANTS HAVE SIGNED WAIVERS

FROM EACH PROPERTY OWNER SIGNING PERMISSION, AND ALSO
THE STATE AND COUNTY IS OKAY WITH THE VARIANCE?

MR. WRIGHT: THE COUNTY IS OKAY WITH MINING UP TO THE RIGHT-OF-WAY OF FREE SILVER ROAD.

MR. PEDLEY: THEY HAVE APPROVED THAT?

MR. WRIGHT: YES.

MR. PEDLEY: THAT'S THE ONLY QUESTION. I JUST WANTED TO MAKE SURE THAT'S BEEN APPROVED BY THE HOMEOWNERS.

MR. WRIGHT: YES.

MR. PEDLEY: THANK YOU.

CHAIRMAN: ANY OTHER BOARD MEMBERS HAVE ANY QUESTIONS?

(NO RESPONSE)

CHAIRMAN: STAFF HAVE ANY OTHER COMMENTS?

MR. NOFFSINGER: NO.

CHAIRMAN: IS THERE ANYONE IN THE AUDIENCE FOR OR AGAINST THE ITEM?

(NO RESPONSE)

CHAIRMAN: HEARING NONE ENTERTAIN A MOTION TO DISPOSE OF THE ITEM.

MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION FOR APPROVAL BASED ON FINDINGS THAT THE STATE AND COUNTY HAS APPROVED THE SETBACK ON THE ROAD AND THE HOMEOWNERS HAS APPROVED THE SETBACK WITH THE FINDINGS OF FACT STATED BY THE STAFF THAT IT WILL NOT ADVERSELY
AFFECT THE PUBLIC HEALTH, SAFETY OR WELFARE BECAUSE
ACCORDING TO THE APPLICANT, MINING ACTIVITIES
REGULARLY TAKE PLACE WITHIN 100 FEET OF STRUCTURES
WITHOUT CAUSING HARM OR SAFETY CONCERNS; IT WILL NOT
ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY
BECAUSE COAL MINING ACTIVITIES ARE ALREADY TAKING
PLACE IN THIS AREA; IT WILL NOT CAUSE A HAZARD OR A
NUISANCE TO THE PUBLIC BECAUSE PROPERTY OWNERS OF THE
RESIDENCES IN QUESTIONS HAVE SIGNED A WAIVER GRANTING
THE APPLICANT TO COME CLOSER TO THEIR STRUCTURES; IT
WILL NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF THE
REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE THE
PROPERTY OWNERS HAVE SIGNED WAIVERS GRANTING THE
APPLICANT PERMISSION TO COME CLOSER TO THE STRUCTURES
LOCATED ON THEIR PROPERTIES. THERE ARE NO CONDITIONS
APPLIED TO THAT.

CHAIRMAN: IS THERE A SECOND?

MR. DYSINGER: SECOND.

CHAIRMAN: A MOTION HAS BEEN MADE AND A
SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE
BOARD OR THE STAFF?

(NO RESPONSE)

CHAIRMAN: HEARING NONE ALL IN FAVOR RAISE
YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)
CHAIRMAN: MOTION CARRIES.

ONE FINAL MOTION.

MR. DYSINGER: MOVE TO ADJOURN.

MS. MASON: SECOND.

CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: WE ARE ADJOURNED.

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STATE OF KENTUCKY )
)SS: REPORTER'S CERTIFICATE
COUNTY OF DAVIESS )

I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND
FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY
THAT THE FOREGOING OWENSBORO METROPOLITAN PLANNING
COMMISSION MEETING WAS HELD AT THE TIME AND PLACE AS
STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;
THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION
WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD
MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT
SAID PROCEEDINGS WERE TAKEN BY ME IN STENO TYPE AND
ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,
ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
FOREGOING 17 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

WITNESS MY HAND AND NOTARY SEAL ON THIS THE
11TH DAY OF FEBRUARY, 2013.

LYNNETTE KOLLER FUCHS
NOTARY ID 433397
OHIO VALLEY REPORTING SERVICES
202 WEST THIRD STREET, SUITE 12
OWENSBORO, KENTUCKY 42303

COMMISSION EXPIRES: DECEMBER 16, 2014
COUNTY OF RESIDENCE: DAVIESS COUNTY, KENTUCKY

OHIO VALLEY REPORTING
(270) 683-7383