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OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT

MAY 3, 2012

THE OWENSBORO METROPOLITAN BOARD OF ADJUSTMENT
MET IN REGULAR SESSION AT 5:30 P.M. ON THURSDAY, MAY
3, 2012, 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
SEAN LAND, ATTORNEY
BRIAN HOWARD
MARTY WARREN
SHANNON RAINES

* * * * *

CHAIRMAN: LET ME CALL THE OWENSBORO
METROPOLITAN BOARD OF ADJUSTMENT TO ORDER. I WANT TO
WELCOME YOU ALL AT THIS TIME. WE START OUR PROGRAM
WITH A PRAYER AND PLEDGE OF ALLEGIANCE TO THE FLAG
EACH EVENING. WE INVITE YOU TO JOIN WITH US. BRIAN
HOWARD WILL HAVE THE PRAYER AT THIS TIME.

(INVOCATION AND PLEDGE OF ALLEGIANCE.)

CHAIRMAN: AGAIN, I WANT TO WELCOME EACH ONE
OF YOU TO THE MEETING. 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 YOUR BEING
HERE AND WHAT YOU HAVE TO SAY.

WITH THAT THE FIRST THING WE HAVE THIS EVENING
IS CONSIDER THE MINUTES OF THE APRIL 5TH MEETING.

1 THEY'RE IN THE OFFICE. I DON'T THINK THERE'S ANY
2 PROBLEMS OR ANYTHING.

3 MR. HOWARD: NO, SIR.

4 CHAIRMAN: WITH THAT I'LL ENTERTAIN A MOTION
5 TO DISPOSE OF THE ITEM.

6 MR. WARREN: MOTION TO APPROVE THE MINUTE AS
7 WRITTEN.

8 MS. MASON: SECOND.

9 CHAIRMAN: A MOTION HAS BEEN MADE AND A
10 SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

11 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

12 CHAIRMAN: MOTION CARRIES.

13 NEXT ITEM, PLEASE.

14 -----

15 CONDITIONAL USE PERMIT

16 ITEM 2

17 10565 HIGHWAY 81, ZONED A-R
18 CONSIDER A REQUEST FOR A CONDITIONAL USE PERMIT IN
19 ORDER TO OPERATE AN AGRI-TOURISM BUSINESS.
20 REFERENCE: ZONING ORDINANCE, ARTICLE 8, SECTION 8.2H9
21 APPLICANT: JERRY C. BAIRD

22 MR. LAND: STATE YOUR NAME, PLEASE.

23 MS. EVANS: MELISSA EVANS.

24 (MELISSA EVANS SWORN BY ATTORNEY.)

25 MS. EVANS: FIRST OF ALL, I WOULD LIKE TO
STATE THAT APPROVAL OF ANY ITEMS HERE TONIGHT DOES NOT
ALLOW FOR THE APPLICANT OR OWNER TO CONSTRUCT, ALTER

1 OR MODIFY OR OCCUPY ANY BUILDINGS ON THE SUBJECT
2 PROPERTY. IT IS THE APPLICANT OR OWNER'S
3 RESPONSIBILITY TO OBTAIN ALL APPROVALS AND INSPECTIONS
4 AS NECESSARY BEFORE OCCUPANCY OF THE BUILDING IS
5 ALLOWED. THEY NEED TO CONTACT THE BUILDING AND
6 ELECTRICAL DIVISION AT THE OMPC PRIOR TO BEGINNING ANY
7 WORK ON THE SUBJECT PROPERTY FOR APPLICABLE
8 REQUIREMENTS.
9 ZONING HISTORY

10 THE SUBJECT PROPERTY IS CURRENTLY ZONED A-R
11 RURAL AGRICULTURE. OMPC RECORDS INDICATE THERE WAS A
12 ZONING MAP AMENDMENT APPROVED FOR A PORTION OF THE
13 SUBJECT PROPERTY AT THE APRIL 12, 2012 OMPC MEETING,
14 REZONING IT FROM R-1A TO A-R.

15 THE APPLICANT IS REQUESTING TO CONSTRUCT AND
16 OPERATE A WINE TASTING FACILITY ON THE SUBJECT
17 PROPERTY WHERE THEY CURRENTLY OPERATE A VINEYARD.
18 LAND USES IN SURROUNDING AREA

19 THE PROPERTY TO THE NORTH IS ZONED R-1A
20 SINGLE-FAMILY RESIDENTIAL AND A-R RURAL AGRICULTURE.
21 THE PROPERTIES TO THE SOUTH, EAST AND WEST ARE ZONED
22 A-R RURAL AGRICULTURE.
23 ZONING ORDINANCE REQUIREMENTS

24 1. PARKING - MINIMUM OF 5, AS SHOWN ON THE
25 SITE PLAN SUBMITTED.

1 MS. EVANS: WE WOULD LIKE TO ENTER THE STAFF
2 REPORT INTO THE RECORD AS EXHIBIT A.

3 CHAIRMAN: THANK YOU.

4 DO WE HAVE ANY COMMENTS OR QUESTIONS AT THE
5 OFFICE?

6 MR. HOWARD: NO, SIR.

7 CHAIRMAN: DOES ANYONE HERE WISHING TO SPEAK
8 ON THAT ITEM?

9 (NO RESPONSE)

10 CHAIRMAN: THE BOARD MEMBERS HAVE ANY COMMENTS
11 ON THE ITEM?

12 (NO RESPONSE)

13 CHAIRMAN: STAFF HAVE ANY OTHER QUESTIONS?

14 MR. HOWARD: NO, SIR.

15 CHAIRMAN: ENTERTAIN A MOTION TO DISPOSE OF
16 THE ITEM.

17 MS. MASON: MR. CHAIRMAN, I MOVE FOR APPROVAL
18 BASED ON MY FINDINGS OF FACT THAT IT'S A LOGICAL
19 EXPANSION OF THE EXISTING USE AND IT'S COMPATIBLE WITH
20 THE LAND USE IN THE AREA.

21 MR. WARREN: SECOND.

22 CHAIRMAN: A MOTION HAS BEEN MADE AND A
23 SECOND. IS THERE ANY OTHER COMMENTS OR QUESTIONS FROM
24 THE BOARD?

25 (NO RESPONSE)

1 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

2 MR. HOWARD: NO.

3 CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

4 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

5 CHAIRMAN: MOTION CARRIES.

6 NEXT ITEM, PLEASE, SIR.

7 -----

8 VARIANCE

9 ITEM 3

10 1724 LEE COURT, ZONED R-4DT
11 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
12 THE SIDE AND REAR YARD BUILDING SETBACK LINES FOR AN
13 ACCESSORY STRUCTURE FROM 3 FEET FROM THE PROPERTY LINE
14 TO 0 FEET FROM THE PROPERTY LINE.
15 REFERENCE: ZONING ORDINANCE, ARTICLE 3, SECTION
16 3-7(B)(2)
17 APPLICANT: DONALD W. BUCKBY & JUDY C. BUCKBY

18 MS. EVANS: THE APPLICANT IS WISHING TO
19 RECONSTRUCT A DETACHED GARAGE THAT WAS DESTROYED BY
20 WEATHER AND INCREASE THE SIZE OF THE ORIGINAL GARAGE.

21 ACCORDING TO THE SITE PLAN SUBMITTED THE
22 ORIGINAL GARAGE ENCROACHED INTO THE REAR AND WEST SIDE
23 BUILDING SETBACK LINE. IT APPEARS THE ORIGINAL GARAGE
24 WAS 2 FEET 8 INCHES FROM THE REAR PROPERTY LINE AND 1
25 FOOT 4 INCHES FROM THE WEST PROPERTY LINE INSTEAD OF
THE REQUIRED 3 FEET FROM THE PROPERTY LINES.

WHILE WE DO FIND IT APPROPRIATE TO REDUCE THE
SETBACK LINES ON THE REAR AND WEST SIDE, WE DO NOT

1 FEEL REDUCING THE SETBACK TO 0 FEET WOULD BE
2 NECESSARY. RATHER WE WOULD RECOMMEND THE REAR YARD
3 BUILDING SETBACK LINE BE REDUCED FROM 3 FEET FROM THE
4 PROPERTY LINE TO 2 FEET 8 INCHES FROM THE PROPERTY
5 LINE AND THE WEST SIDE YARD BUILDING SETBACK LINE BE
6 REDUCED FROM 3 FEET FROM THE PROPERTY LINE TO 1 FOOT 4
7 INCHES FROM THE PROPERTY LINE.

8 THIS WOULD ALLOW THE APPLICANT TO CONSTRUCT
9 THE NEW LARGER DETACHED GARAGE IN THE SAME PLACE AS
10 THE OLD ONE UTILIZING THE EXISTING FOOTER AND LINING
11 UP WITH THE EXISTING DRIVEWAY.

12 GRANTING THE VARIANCE TO REDUCE THE REAR YARD
13 BUILDING SETBACK LINE FROM 3 FEET FROM THE PROPERTY
14 LINE TO 2 FEET 8 INCHES FROM THE PROPERTY LINE AND
15 REDUCING THE WEST SIDE YARD BUILDING SETBACK LINE FROM
16 3 FEET FROM THE PROPERTY LINE TO 1 FOOT 4 INCHES FROM
17 THE PROPERTY LINE WILL NOT ADVERSELY AFFECT THE PUBLIC
18 HEALTH, SAFETY OR WELFARE BECAUSE THIS WILL BE
19 REPLACING A BUILDING THAT HAD NO NEGATIVE IMPACT
20 PREVIOUSLY; IT WILL NOT ALTER THE ESSENTIAL CHARACTER
21 OF THE GENERAL VICINITY BECAUSE THIS AREA WAS
22 DEVELOPED BEFORE THE ESTABLISHMENT OF THE ZONING
23 ORDINANCE AND THERE APPEAR TO BE NUMEROUS OTHER
24 ENCROACHMENTS.

25 STAFF WOULD RECOMMEND APPROVAL TO REDUCE THE

1 REAR YARD BUILDING SETBACK FROM 3 FEET FROM THE
2 PROPERTY LINE TO 2 FEET 8 INCHES FROM THE PROPERTY
3 LINE AND TO REDUCE THE WEST SIDE YARD BUILDING SETBACK
4 LINE FROM 3 FEET FROM THE PROPERTY LINE TO 1 FEET 4
5 INCHES FROM THE PROPERTY LINE WITH ONE CONDITION.
6 THAT THEY OBTAIN THE NECESSARY BUILDING, ELECTRICAL
7 AND MECHANICAL PERMITS, INSPECTIONS AND CERTIFICATE OF
8 OCCUPANCY AND COMPLIANCE.

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

11 CHAIRMAN: THANK YOU.

12 AGAIN HAVE WE HAD ANY QUESTIONS OR COMMENTS AT
13 THE OFFICE?

14 MR. HOWARD: NO, SIR.

15 CHAIRMAN: ANYONE HERE WISHING TO SPEAK ON
16 THIS PARTICULAR ITEM OR HAVE ANY COMMENTS?

17 (NO RESPONSE)

18 CHAIRMAN: BOARD MEMBERS HAVE ANY QUESTIONS OR
19 COMMENTS ON THIS ITEM?

20 (NO RESPONSE)

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

23 MR. PEDLEY: MR. CHAIRMAN, I MAKE A MOTION TO
24 APPROVE THE VARIANCE IN ACCORDANCE WITH THE STAFF
25 RECOMMENDATION TO REDUCE THE REAR YARD BUILDING

1 SETBACK FROM 3 FEET FROM PROPERTY LINE TO 2 FEET 8
2 INCHES FROM THE PROPERTY LINE AND TO REDUCE THE WEST
3 SIDE YARD BUILDING SETBACK LINE FROM 3 FEET FROM THE
4 PROPERTY LINE TO 1 FEET 4 INCHES FROM THE PROPERTY
5 LINE, AND THE CONDITION TO OBTAIN NECESSARY BUILDING,
6 ELECTRICAL PERMITS, INSPECTIONS AND CERTIFICATES OF
7 OCCUPANCY AND COMPLIANCE.

8 THIS VARIANCE WILL NOT ADVERSELY AFFECT THE
9 PUBLIC HEALTH, SAFETY OR WELFARE BECAUSE THE APPLICANT
10 WILL BE REPLACING A DETACHED GARAGE THAT CAUSED NO
11 NEGATIVE IMPACT PREVIOUSLY; IT WILL NOT ALTER THE
12 ESSENTIAL CHARACTER OF THE GENERAL VICINITY BECAUSE
13 THE AREA WAS DEVELOPED BEFORE THE ESTABLISHMENT OF THE
14 ZONING ORDINANCES AND NUMEROUS DETACHED ACCESSORY
15 STRUCTURES APPEAR TO ENCROACH INTO THE REQUIRED
16 BUILDING SETBACK LINES; IT WILL NOT CAUSE A HAZARD OR
17 A NUISANCE TO THE PUBLIC BECAUSE THERE WAS A DETACHED
18 BUILDING IN THIS LOCATION PREVIOUSLY THAT CAUSED NO
19 PROBLEMS; IT WILL NOT ALLOW AN UNREASONABLE
20 CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING
21 REGULATIONS BECAUSE THERE APPEAR TO BE MANY OTHER
22 ENCROACHMENTS IN THE AREA.

23 MR. WARREN: SECOND.

24 CHAIRMAN: A MOTION HAS BEEN MADE AND A
25 SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE

1 BOARD?

2 (NO RESPONSE)

3 CHAIRMAN: STAFF HAVE ANY OTHER COMMENTS?

4 MR. HOWARD: NO, SIR.

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

7 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

8 CHAIRMAN: MOTION CARRIES.

9 NEXT ITEM, PLEASE.

10 ITEM 4

11 1296 OMEGA STREET, ZONED R-4DT
12 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
13 THE FRONT YARD BUILDING SETBACK LINE FROM 25 FEET FROM
14 THE PROPERTY LINE TO 15 FEET FROM THE PROPERTY LINE.
15 REFERENCE: ZONING ORDINANCE, ARTICLE 8,
16 SECTION 8.5.11(C)
17 APPLICANT: CITY OF OWENSBORO

18 MS. EVANS: AS PART OF THE REDEVELOPMENT OF
19 THE COTTAGES OF MECHANICSVILLE, OMEGA STREET IS BEING
20 EXTENDED FROM WESTWOOD AVENUE TO MCFARLAND AVENUE.

21 IN ORDER FOR THE NEW OMEGA STREET TO LINE UP
22 WITH THE EXISTING WASHINGTON AVENUE ACROSS MCFARLAND
23 AVENUE, IT IS NECESSARY FOR THE STREET TO BE
24 CONFIGURED IN THE PROPOSED WAY.

25 ALTHOUGH THE STAFF WOULD NOT TYPICALLY
RECOMMEND A VARIANCE FOR A NEW SUBDIVISION, THE
LOCATION OF OMEGA STREET IN ALIGNMENT WITH WASHINGTON
AVENUE REDUCES THE DEPTH OF THE SUBJECT PROPERTY. NO

1 ADDITIONAL PROPERTY IS AVAILABLE TO INCREASE THE LOT
2 DEPTH AND LEAVING THE LOT VACANT WOULD NOT BE IN
3 CHARACTER WITH THE EXISTING OR PROPOSED NEIGHBORHOOD.

4 THE SUBJECT PROPERTY IS A CORNER LOT AT THE
5 INTERSECTION OF OMEGA STREET AND MCFARLAND AVENUE.
6 MCFARLAND AVENUE IN THIS AREA IS A MINOR ARTERIAL
7 STREET WITH THE BUILDING SETBACK LINE OF 75 FEET FROM
8 THE CENTER LINE OF THE ROAD. THERE IS ALSO AN
9 EXISTING UTILITY EASEMENT ALONG THE REAL PROPERTY
10 LINE. THE CONFIGURATION OF THE NEW OMEGA STREET, THE
11 BUILDING SETBACK ALONG MCFARLAND AVENUE AND THE
12 UTILITY EASEMENT ON THE REAR OF THE PROPERTY ALL
13 REDUCE THE AMOUNT OF BUILDABLE AREA ON THE SUBJECT
14 PROPERTY.

15 GRANTING THIS VARIANCE WILL NOT ALTER THE
16 ESSENTIAL CHARACTER OF THE GENERAL VICINITY BECAUSE
17 THERE ARE MANY OTHER ENCROACHMENTS INTO THE FRONT YARD
18 BUILDING SETBACK LINE WITHIN THE MECHANICSVILLE
19 NEIGHBORHOOD WHICH HAVE BEEN IDENTIFIED BY COMMUNITY
20 DEVELOPMENT DIRECTOR, KEITH FREE, AND ARE INCLUDED IN
21 THE APPLICATION.

22 IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO
23 THE PUBLIC BECAUSE THE STRUCTURE WILL BE SET BACK OVER
24 25 FEET FROM THE STREET CURB.

25 STAFF WOULD RECOMMEND APPROVAL WITH THE

1 CONDITIONS: 1) SUBMISSION AND APPROVAL OF A FINAL
2 PLAT REFLECTING THE VARIANCE; AND 2) OBTAINING THE
3 NECESSARY BUILDING, ELECTRICAL AND MECHANICAL PERMITS,
4 INSPECTIONS AND CERTIFICATES OF OCCUPANCY AND
5 COMPLIANCE.

6 WE WOULD LIKE TO ENTER THE STAFF REPORT INTO
7 THE RECORD AS EXHIBIT C.

8 CHAIRMAN: HAVE WE HAD ANY COMMENTS OR
9 QUESTIONS IN THE OFFICE?

10 MR. HOWARD: NO, SIR.

11 CHAIRMAN: IS ANYONE HERE WISHING TO SPEAK ON
12 THIS POSITION FOR OR AGAINST?

13 (NO RESPONSE)

14 CHAIRMAN: BOARD MEMBERS HAVE ANY QUESTIONS OR
15 COMMENTS?

16 (NO RESPONSE)

17 CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

18 MR. HOWARD: NO, SIR.

19 CHAIRMAN: ENTERTAIN A MOTION TO DISPOSE OF
20 THE ITEM.

21 MR. WARREN: MR. CHAIRMAN, MAKE A MOTION TO
22 APPROVE THE VARIANCE WITH THE FINDING THAT IT WILL NOT
23 ALTER THE ESSENTIAL CHARACTER OF THE GENERAL VICINITY
24 OR ALLOW AN UNREASONABLE CIRCUMVENTION OF THE ZONING
25 REQUIREMENTS DUE TO THE NUMEROUS ENCROACHMENTS WITHIN

1 THE NEIGHBORHOOD. IT WILL ALSO NOT ADVERSELY AFFECT
2 THE PUBLIC, HEALTH, SAFETY AND WELFARE AS IT'S
3 PROVIDING AFFORDABLE HOUSING FOR THE COMMUNITY AND
4 WILL ENHANCE THE HEALTH, SAFETY OF THE PUBLIC IN THE
5 AREA. IT IS A CORNER LOT AND IT WILL NOT CAUSE A
6 HAZARD OR NUISANCE TO THE PUBLIC BECAUSE THE SETBACK
7 IS STILL ADEQUATE FOR A SAFE OPERATION.

8 WITH THE CONDITIONS: 1) SUBMISSION AND
9 APPROVAL OF AN AMENDED PRELIMINARY PLAT AND A FINAL
10 PLAT; 2) OBTAIN NECESSARY BUILDING, ELECTRICAL AND
11 MECHANICAL PERMITS, INSPECTIONS AND CERTIFICATES OF
12 OCCUPANCY AND COMPLIANCE.

13 MR. HOWARD: IF I COULD INTERJECT REAL QUICK.

14 MR. WARREN: YES, SIR.

15 MR. HOWARD: THE FIRST CONDITION WAS ALTERED
16 BASICALLY TO READ THE SUBMISSION AND APPROVAL OF A
17 FINAL PLAT REFLECTING A VARIANCE. THAT WAS DISCUSSION
18 WE HAD THIS AFTERNOON. SO THAT WAS KIND OF A LATE
19 CHANGE. IF MAYBE YOU WOULD CONSIDER THAT.

20 MR. WARREN: THE FIRST CONDITION WOULD BE A
21 SUBMISSION AND APPROVAL OF A FINAL PLAT.

22 CHAIRMAN: IS THERE A SECOND?

23 MS. MASON: SECOND.

24 CHAIRMAN: A MOTION HAS BEEN MADE AND A
25 SECOND. ANY OTHER QUESTIONS OR COMMENTS FROM THE

1 BOARD?

2 (NO RESPONSE)

3 CHAIRMAN: STAFF HAVE ANYTHING ELSE TO ADD?

4 MR. HOWARD: NO, SIR.

5 CHAIRMAN: ALL IN FAVOR RAISE YOUR RIGHT HAND.

6 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

7 CHAIRMAN: MOTION CARRIES.

8 NEXT ITEM, PLEASE.

9 ITEM 5

10 401 WEST 2ND STREET, ZONED B-2 RIVERFRONT CORE OVERLAY
11 DISTRICT

12 CONSIDER A REQUEST FOR A VARIANCE IN ORDER TO REDUCE
13 THE REQUIRED FLOOR TO FLOOR HEIGHT OF UPPER FLOORS
14 FROM 10 FEET TO 9 FEET 8 INCHES.

15 REFERENCE: ZONING ORDINANCE, ARTICLE 21,
16 SECTION 21.83(V)(IV)

17 APPLICANT: BRYANT DOWNTOWN HOTEL, LLC

18 MS. EVANS: THE SUBJECT PROPERTY IS WITHIN THE
19 RIVERFRONT CORE OVERLAY DISTRICT. ARTICLE 21 UNDER
20 THE ZONING ORDINANCE ESTABLISHES FLOOR TO FLOOR
21 HEIGHTS OF UPPER FLOORS FOR BUILDINGS IN THE DOWNTOWN
22 OVERLAY DISTRICT.

23 THE PURPOSE OF THIS REQUIREMENT IS TO INSURE
24 INFILL DEVELOPMENT WILL BE IN CHARACTER WITH THE
25 EXISTING BUILDING WHERE THE FACADE AND CEILING HEIGHTS
ARE EXISTING. MAINTAINING THE PRESCRIBED HEIGHTS
WOULD ASSURE SIMILAR FACADE PROPORTIONS ADJACENT TO
EXISTING BUILDINGS.

1 IN THIS CASE, THE APPLICANT IS DEVELOPING THE
2 ENTIRE BLOCK WITH PLANS TO CONSTRUCT A 7-STORY HOTEL
3 AND PARKING LOT. THE FIRST FLOOR OF THE HOTEL WILL
4 EXCEED THE 15 FOOT MINIMUM FLOOR TO FLOOR HEIGHT
5 REQUIRED IN ARTICLE 21. THE SECOND FLOOR OF THE HOTEL
6 WILL EXCEED THE REQUIRED FLOOR TO FLOOR HEIGHT AS
7 WELL.

8 SINCE NO OTHER BUILDINGS IMMEDIATELY ADJOIN
9 THE PROPOSED HOTEL, THERE IS NOT AN EXISTING STANDARD
10 TO MAINTAIN IN THE BLOCK.

11 THE APPLICATION MUST RECEIVE RECOMMENDATION
12 FROM THE HISTORIC PRESERVATION BOARD TO ALTER THE
13 FLOOR TO FLOOR HEIGHT OF UPPER FLOORS BEFORE THE OMBA
14 CAN ACT. THE HISTORIC PRESERVATION BOARD MET ON MARCH
15 7, 2012, AND MADE A FAVORABLE RECOMMENDATION TO
16 APPROVE THE DIMENSIONAL VARIANCE FINDING THAT THE
17 BUILDING FITS WITHIN THE CHARACTER SOUGHT FOR THE
18 DOWNTOWN OVERLAY DISTRICTS.

19 GRANTING THIS VARIANCE WILL NOT ALTER THE
20 ESSENTIAL THE ESSENTIAL CHARACTER OF THE GENERAL
21 VICINITY BECAUSE THIS IS A REDEVELOPING AREA WHERE THE
22 ENTIRE BLOCK IS BEING DEVELOPED AS ONE PROJECT. IT
23 WILL NOT ALLOW AN UNREASONABLE CIRCUMVENTION OF THE
24 REQUIREMENTS OF THE ZONING REGULATIONS BECAUSE THE
25 OVERALL HEIGHT OF THE HOTEL WILL MEET THE INTENT OF

1 ARTICLE 21 OF THE ZONING ORDINANCE AND ONLY A MINOR
2 DIMENSIONAL VARIANCE IS SOUGHT.

3 STAFF WOULD RECOMMEND APPROVAL.

4 WE WOULD LIKE TO ENTER THE STAFF REPORT INTO
5 THE RECORD AS EXHIBIT D.

6 CHAIRMAN: THANK YOU.

7 HAVE WE HAD ANY COMMENTS OR QUESTIONS IN THE
8 OFFICE?

9 MR. HOWARD: NO, SIR.

10 CHAIRMAN: IS THERE ANYONE HERE THIS EVENING
11 WISHING TO SPEAK FOR OR AGAINST THIS ITEM?

12 (NO RESPONSE)

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

15 MR. PEDLEY: MR. CHAIRMAN, MAKE A MOTION FOR
16 APPROVAL BASED ON THE PRESERVATION BOARD'S APPROVAL
17 AND RECOMMENDATION THAT WE APPROVE THIS VARIANCE.

18 WITH THE STAFF RECOMMENDATION THAT WE APPROVE
19 THIS VARIANCE WITH THE FINDINGS GRANTING THIS VARIANCE
20 WILL NOT ADVERSELY AFFECT THE PUBLIC HEALTH, SAFETY OR
21 WELFARE BECAUSE THE CEILING HEIGHTS WILL MEET ALL
22 APPLICABLE BUILDING CODES; IT WILL NOT ALTER THE
23 ESSENTIAL CHARACTER OF THE GENERAL VICINITY BECAUSE
24 THIS IS A REDEVELOPMENT AREA WHERE THE ENTIRE BLOCK
25 FRONT IS BEING DEVELOPED AS ONE PROJECT AND NO

1 EXISTING DOWNTOWN BUILDINGS ARE IMMEDIATELY ADJACENT;
 2 IT WILL NOT CAUSE A HAZARD OR A NUISANCE TO THE PUBLIC
 3 BECAUSE THE CEILING HEIGHTS WILL MEET ALL APPLICABLE
 4 BUILDING CODES; IT WILL NOT ALLOW AN UNREASONABLE
 5 CIRCUMVENTION OF THE REQUIREMENTS OF THE ZONING
 6 REGULATIONS BECAUSE THE DECREASED HEIGHT IS SMALL AND
 7 THE GENERAL DESIGN OF THE HOTEL WILL STILL MEET THE
 8 INTENT OF ARTICLE 21.

9 CHAIRMAN: IS THERE A SECOND?

10 MR. WARREN: SECOND.

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

14 (NO RESPONSE)

15 CHAIRMAN: STAFF HAVE ANYTHING ELSE?

16 MR. HOWARD: NO, SIR.

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

19 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

20 CHAIRMAN: MOTION CARRIES.

21 NEXT ITEM, PLEASE.

22 -----

23 ADMINISTRATIVE APPEAL

24 ITEM 6

25 407 STABELFORD CIR, ZONED R-1C

1 CONSIDER A REQUEST FOR AN ADMINISTRATIVE APPEAL
2 CONCERNING THE ZONING ADMINISTRATORS INTERPRETATION OF
3 ARTICLE 3, SECTION 3-6(E) REGARDING THE PLACEMENT OF A
4 BRICK WALL WITHIN A PUBLIC UTILITY EASEMENT.
5 REFERENCE: ZONING ORDINANCE, ARTICLE 7, SECTION 7.35
6 APPLICANT: BETTY BOWLES

7 MR. HOWARD: MR. CHAIRMAN, WE HAVE RECEIVED A
8 LETTER FROM MADISON SILVERT, THE PLANNING COMMISSION
9 ATTORNEY, ASKING THAT THIS ITEM BE POSTPONED UNTIL THE
10 JUNE MEETING. THE ATTORNEY FOR ACTUALLY BOTH THE
11 APPLICANT AND OMU HAVE AGREED THAT THIS ITEM SHOULD BE
12 POSTPONED UNTIL THAT TIME. WE WOULD RECOMMEND THAT
13 YOU TAKE A MOTION TO POSTPONE UNTIL THE JUNE MEETING.

14 CHAIRMAN: ENTERTAIN A MOTION.

15 MR. WARREN: MOTION TO POSTPONE THE ITEM ON
16 THE AGENDA.

17 MR. PEDLEY: SECOND.

18 CHAIRMAN: A MOTION HAS BEEN MADE AND A
19 SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

20 (ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

21 CHAIRMAN: MOTION CARRIES.

22 ENTERTAIN ONE FINAL MOTION.

23 MR. WARREN: MOTION TO ADJOURN.

24 MS. MASON: SECOND.

25 CHAIRMAN: A MOTION HAS BEEN MADE AND A
SECOND. ALL IN FAVOR RAISE YOUR RIGHT HAND.

(ALL BOARD MEMBERS PRESENT RESPONDED AYE.)

CHAIRMAN: MOTION CARRIES.

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WE ARE ADJOURNED.

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

3 I, LYNNETTE KOLLER FUCHS, NOTARY PUBLIC IN AND
4 FOR THE STATE OF KENTUCKY AT LARGE, DO HEREBY CERTIFY
5 THAT THE FOREGOING OWENSBORO METROPOLITAN BOARD OF
6 ADJUSTMENT MEETING WAS HELD AT THE TIME AND PLACE AS
7 STATED IN THE CAPTION TO THE FOREGOING PROCEEDINGS;
8 THAT EACH PERSON COMMENTING ON ISSUES UNDER DISCUSSION
9 WERE DULY SWORN BEFORE TESTIFYING; THAT THE BOARD
10 MEMBERS PRESENT WERE AS STATED IN THE CAPTION; THAT
11 SAID PROCEEDINGS WERE TAKEN BY ME IN STENOGRAPHY AND
12 ELECTRONICALLY RECORDED AND WAS THEREAFTER, BY ME,
13 ACCURATELY AND CORRECTLY TRANSCRIBED INTO THE
14 FOREGOING 18 TYPEWRITTEN PAGES; AND THAT NO SIGNATURE
15 WAS REQUESTED TO THE FOREGOING TRANSCRIPT.

16 WITNESS MY HAND AND NOTARY SEAL ON THIS THE
17 25TH DAY OF MAY, 2012.

18

19

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

22

23 COMMISSION EXPIRES: DECEMBER 16, 2014

24 COUNTY OF RESIDENCE: DAVIESS COUNTY, KY

25