ORDINANCE NO. 3133

City Clerk

AN ORDINANCE TO GRANT A ZONING CODE VARIANCE TO COLUMBIA LAND MANAGEMENT, LLC FOR THEIR PROPERTY LOCATED AT 247 W. SANDBANK ROAD IN THE CITY OF COLUMBIA, ILLINOIS TO ALLOW THE LENGTH OF THE LOADING BERTH TO BE THIRTY FIVE (35) FEET

WHEREAS, Columbia Land Management, LLC is the owner of property having the assigned address of 247 W. Sandbank Road in the City of Columbia, Illinois (the "City") and which property is legally described as Part of Tax Lot 3A in Survey 555, Claim 505 as recorded in the Recorder's Office of Monroe County Illinois in Surveyor's Official Plat Record "A" on page 106 and part of Tax Lot 13A in Survey 556, Claim 498 as recorded in the Recorder's Office of Monroe County Illinois in Surveyor's Official Plat Record "A" on page 106 all in Township 1 South Range 10 West of the 3rd P.M. Monroe County Illinois;

WHEREAS, Subsection 17.44.050(B)(3&4) of the City's Zoning Code provides and requires buildings with certain types of uses shall have a loading and unloading space of fifty (50) feet in length;

WHEREAS, Columbia Land Management, LLC ("CLM") has applied for a variance from strict compliance with said length of loading and unloading space of the City's Zoning Code to allow the loading and unloading space to be thirty five (35) feet in length;

WHEREAS, Section 17.08.040 of the City's Zoning Code provides and requires that all applications for variances from strict compliance with the City's Zoning Code shall be filed with the City Clerk and forwarded by the City Clerk to the City's Zoning Board of Appeals for public hearing, following publication of the required notice of hearing in a newspaper published in the City;

WHEREAS, a public hearing with regard to the CLM zoning variance application was held before the Columbia, Illinois Zoning Board of Appeals on September 3, 2014, following the publication of the required notice of hearing in compliance with the City's Zoning Code requirement and the City's Zoning Board of Appeals has recommended that the requested length of loading and unloading space variance be granted to CLM;

WHEREAS, Subsection 17.08.050(A) of the City's Zoning Code provides and requires that when by reason of exceptional topographical conditions or other extraordinary or exceptional situation or condition of a specific piece of property, which condition is not generally prevalent in the area, the strict application of the length of loading and unloading space of fifty (50) feet in length requirement would result in

peculiar and exceptional practical difficulties or exceptional and undue hardship upon the owner of such property, the City Council shall be empowered to authorize on application in regard to such property, a variance from such zoning district regulation so as to relieve such difficulty or hardship;

WHEREAS, Subsection 17.08.050(C) of the City's Zoning Code provides and requires that in the City Council's consideration of all applications for Zoning Code variances, the City Council shall, before making any finding in a specific case, first determine that the proposed change will not constitute a change, including a variation in use, in the district map and will not impair an adequate supply of light and air to adjacent property, or increase congestion in public streets or increase the danger of fire, or materially diminish, or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of the City;

WHEREAS, Subsection 17.08.050(C) of the City's Zoning Code further provides and requires that every variance granted shall be granted by ordinance and that the ordinance granting the variance shall include a written finding of fact based upon testimony and evidence, specifying the reason for granting or denying the variance and the decision of the City Council shall be made a part of any building permit for which a variance is allowed;

WHEREAS, Subsection 17.08.050(D) of the City's Zoning Code provides and requires that the concurring vote of a majority of the Mayor and the City Aldermen holding office shall be required for the granting of a variance from strict application with the City's Zoning Code where the Zoning Board has recommended approval of the granting of the variance; and,

WHEREAS, the City Council of the City has found and determined and does hereby declare that it is necessary and appropriate that allowing the loading and unloading space to be thirty five (35) in length requested by CLM be granted by this Ordinance.

NOW, THEREFORE, BE IT ORDAINED, by the City Council of the City of Columbia, Illinois, as follows:

Section 1.   The recitals contained above in the preamble of this Ordinance are hereby incorporated herein by reference, the same as if set forth in this Section of this Ordinance verbatim, as findings of the City Council of the City of Columbia, Illinois.

Section 2.   The City's City Council has found and determined and does hereby declare that the proposed variance will not constitute a change, including a variation in use, in the City's district map and will not impair an adequate supply of light and air to adjacent property, or increase congestion in public streets or increase the danger of fire, or materially diminish or impair established property values within the surrounding area, or in any other respect impair the public health, safety, comfort, morals and welfare of

the City. Further, the City Council of the City has found and determined that, based upon testimony and evidence presented at the public hearing before the City's Zoning Board of Appeals, the requested Zoning Code variance should be granted based upon the following facts:

(A) The proposed construction will not diminish the appearance of the property and will not adversely affect any adjoining or proximately located property or property owner.

(B) The reduction in the length of the loading and unloading space eliminates an exceptional topographical condition or extraordinary or exceptional situation or condition on the subject property which condition is generally not prevalent in the neighborhood as the thirty five (35) feet in length will allow the loading and unloading spaces to fit into the buildings layouts.

(C) The property owners who own property adjoining or located proximate to the subject property in the neighborhood have not objected to the requested variance.

(D) Requiring strict application of loading and unloading spaces being fifty (50) feet in length requirement in this C-3 (Highway Business District) property in the City for the applicant would result in a peculiar and exceptional practical difficulty for CLM and would create exceptional and undue hardship for CLM and the community; whereas the proposed loading and unloading space length variance on the subject property will allow the loading and unloading spaces to fit into the proposed buildings design and layout, that hardship should be avoided by the granting of the requested variance.

Section 3. The loading and unloading space length variance herein requested (allowing the loading and unloading space length to be thirty five (35) feet) is hereby granted.

Section 4. The City's Building Inspector is directed to attach a copy of this Ordinance to the building permit to be issued to the CLM in connection with the authorization to construct buildings on property having the assigned address of 247 W. Sandbank Road, in the City of Columbia, Illinois in accordance with the requirements of Subsection 17.08.050(C) of the City's Zoning Code.

Section 5. This Ordinance shall be in full force and effect from and after its passage.

Alderman Agne moved the adoption of the above and foregoing Ordinance; the motion was seconded by Alderman Niemietz, and the roll call vote was as follows:

YEAS: Aldermen Ebersohl, Agne, Niemietz, Roessler, Huch, Mathews, Reis, Holtkamp

and Mayor Hutchinson.

NAYS: <u>None</u>.

ABSENT: <u>None</u>.

ABSTENTIONS: <u>None</u>.

PASSED by the City Council and APPROVED by the Mayor this 20th day of October, 2014.

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KEVIN B. HUTCHINSON, Mayor

ATTEST:

_____
WESLEY J. HOEFFKEN, City Clerk

(SEAL)