

BEFORE THE BOARD OF SUPERVISORS OF THE COUNTY OF MADISON,
STATE OF MISSISSIPPI

IN THE MATTER OF REZONING CERTAIN
LAND SITUTED IN SECTION 19, TOWNSHIP 8
NORTH, RANGE 2 EAST, MADISON COUNTY, MISSISSIPPI

RECEIVED
OCT 30 2014

PETITIONER:

LUCKY TOWN ACRES, LP

PETITION TO REZONE AND RECLASSIFY REAL PROPERTY

Comes now Lucky Town Acres, LP, owner of the hereinafter described land and property, and files this petition with the Board of Supervisors of Madison County, Mississippi, to rezone and reclassify a tract or parcel of land situated in Section 19, Township 8 North, Range 2 East, Madison County, Mississippi, more particularly describe as follows, to-wit:

SEE EXHIBIT A

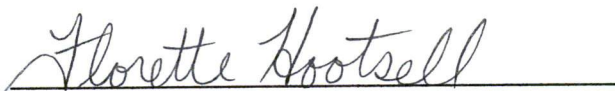
From its present Zoning District Classification of R-1 Residential District and A-1 Agricultural District to a C-1 Commercial District, in support thereof Petitioner would respectfully show as follows, to-wit:

1. Subject property consists of 9.76 acres.
2. The zoning proposed is not in compliance with the adopted Land Use and Transportation Plan of Madison County, but is the highest and best use.
3. Changes and conditions in this area or neighborhood that support rezoning to a ~~R-1 Residential~~ ^{C-1 Commercial} District:

See Exhibit B

WHEREFORE, PREMISES CONSIDERED, Petitioner respectfully requests that this petition be received, and after due consideration, the Board of Supervisors of Madison County, Mississippi will enter an order amending the Land Use Plan to reflect General Commercial zoning, and reclassify this property from its present R-1 Residential and A-1 Agricultural District classification to a C-1 Commercial District.

Respectfully submitted, this the 30th day of October-, 2014.



PETITIONER

Florette Schmidt Hootsell, Representing Lucky Town Acres, LP

Stubblefield & Hawley

PL 8.00

BOOK 0490 PAGE 668

QUITCLAIM DEED

(C)

340657

STATE OF MISSISSIPPI
COUNTY OF MADISON

FOR AND IN CONSIDERATION of the sum of Ten Dollars (\$10.00) and other good and valuable considerations, the receipt and sufficiency of all of which is hereby acknowledged, I, FRANCES V. SCHMIDT (Grantor), an unmarried widow, do hereby sell, convey and quitclaim unto LUCKY TOWN ACRES, L.P., a Mississippi Limited Partnership, (Grantee), all of my right, title and interest in and to the following real property, situated in the County of Madison, State of Mississippi, more particularly described as follows, to-wit:

See Exhibit "A" attached for property description

No part of the above described property constitutes any part of the homestead of the Grantor.

WITNESS my signature this the 30th day of December, 2000.

Frances V. Schmidt
FRANCES V. SCHMIDT

STATE OF MISSISSIPPI
COUNTY OF RANKIN

PERSONALLY appeared before me, the undersigned authority in and for the aforesaid county and state, on this the 30th day of December, 2000, within my jurisdiction, the within named, FRANCES V. SCHMIDT, who acknowledged before me that

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The Southeast Quarter (SE ¼), less 40 acres off the North end thereof,
Section 19, Township 8 North, Range 2 East,

Less and Except from said land twenty (20) acres in the Southeast corner described as: Beginning at a point which is 18.62 chs. Westerly along the center of Gravel Road from the SE cor. of Sec. 19; thence North 10.90 chs. to a stake; thence S 89° 45' E. parallel to the South line of the Section to a point which is 30 links West of the East line of said Section; thence South to the center of Gravel Road; thence Westerly along said road to the point of beginning, and containing 20.0 acres, more or less and all being in Section 19, Township 8 North, Range 2 East, Madison County, Mississippi;

Less and Except: A certain parcel of land being located in the SE ¼ of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi, and being more particularly described as follows, to-wit:
Commencing at the Southeast corner of said Section 19; run thence North 89° 45' West for a distance of 1228.92 feet; thence run North 719.60 feet to the Point of Beginning; thence run South 89° 45' East for a distance of 1241.85 feet; thence run North 176.01 feet; thence run North 89° 45' West for a distance of 1241.85 feet; thence run South for a distance of 176.01 feet to the Point of Beginning, containing 5.02 acres of land, more or less.

Signed for Identification:

Frances V. Schmidt
FRANCES V. SCHMIDT

she executed the above and foregoing Quitclaim Deed on the day and year therein stated as her voluntary act and deed.



My Commission Expires:

August 24, 2001

Indexing Instructions: Metes and Bounds description in SE 1/4 of Section 19-T8N-R2E, Madison County, Mississippi

GRANTOR'S/GRANTEE'S ADDRESS:

862 Gluckstadt Road
Madison, MS 39130
Ph: (601) 856-6400

Prepared By:

J. Stephen Stubblefield
MS Bar #8011
Stubblefield & Harvey, PLLC
3900 Lakeland Drive, Suite 401
Jackson, MS 39208

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Less and Except: A parcel of land lying and being situated in the SW ¼ of the SE ¼ of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi and being more particularly described as follows, to-wit: Commencing at the SE Corner of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi; thence run Westerly along the North line of Mannsdale Public Road for a distance of 1664.0 feet to the Point of Beginning; thence turn to the right through a deflection angle of 86° 11' and run Northerly for a distance of 170.00 feet; thence turn to the left through a deflection angle of 85° 23' and run Westerly along a line parallel with the North line of Mannsdale Public Road for a distance of 323.39 feet; thence turn to the left through a deflection angle of 94° 37' and run Southerly for a distance of 170.00 feet to a point on the North line of Mannsdale Public Road; thence turn to the left through a deflection angle of 85° 23' and run Easterly along the North line of Mannsdale Public Road for a distance of 323.39 feet to the Point of Beginning, containing 1.258 acres, more or less.

Less and Except: A parcel of land containing 3.0 acres, more or less, being situated in the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi and being more particularly described by Metes and Bounds as follows, to-wit:

Signed for Identification:

Frances V. Schmidt
FRANCES V. SCHMIDT

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Commence at the center of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi; run thence South for 661.03 feet along the East right-of-way of county road to an iron rod, being the POINT OF BEGINNING; thence continue South 01 degrees 35 minutes 51 seconds East for 77.00 feet along the aforesaid county road to an iron rod; thence South 77 degrees 13 minutes 10 seconds East for 776.34 feet to an iron rod; thence North 01 degrees 25 minutes 11 seconds West for 269.78 feet to an iron rod in fence line; thence South 88 degrees 24 minutes 09 seconds West for 752.86 feet along the aforesaid fence line to the POINT OF BEGINNING.

Less and Except: A parcel of land containing 1.66 acres (72,493.61 square feet), more or less, being situated in the Northwest Quarter (NW ¼) of the Southeast Quarter (SE ¼) of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi, and being more particularly described by Metes and Bounds as follows, to-wit:

Commence at a ferrous metal rod on the Eastern right-of-way of Catlett Road, said rod marking the Southwest corner of the Northern ½ of the Northern ½ of the Southeast ¼ of Section 19; run thence along said right-of-way South 00 degrees 12 minutes.

Signed for Identification:


FRANCES V. SCHMIDT

EXHIBIT "A"

20 seconds West for a distance of 77.00 feet to the POINT OF BEGINNING for the parcel herein described; thence run South 00 degrees 12 minutes 20 seconds West for a distance of 192.85 feet; thence leave said right-of-way and run South 89 degrees 45 minutes 57 seconds East for a distance of 751.80 feet; thence North 75 degrees 22 minutes 49 seconds West for a distance of 776.24 feet to the POINT OF BEGINNING.

Less and Except: A parcel of land containing 5.00 acres (217,800.00 square feet), more or less, being situated in the Southeast $\frac{1}{4}$ of Section 19, Township 8 North, Range 2 East, Madison County, Mississippi, and being more particularly described by Metes and Bounds as follows, to-wit: Commence at the Southeast corner of Section 19; run thence West for a distance of 1229.20 feet; thence North for a distance of 17.53 feet to a ferrous metal rod on the Northern right-of-way of Gluckstadt Road, said rod being the POINT OF BEGINNING for the parcel herein described; thence run along said right-of-way South 89 degrees 57 minutes 54 seconds West for a distance of 228.33 feet; thence North 89 degrees 50 minutes 01 seconds West for a distance of 206.48 feet; thence leave said right-of-way and run North

Signed for Identification:


FRANCES V. SCHMIDT

EXHIBIT "A"

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03 degrees 55 minutes 54 seconds West for a distance of 170.00 feet; thence run North 00 degrees 48 minutes 26 seconds West for a distance of 319.12 feet; thence North 89 degrees 11 minutes 34 seconds East for a distance of 444.03 feet; thence South 00 degrees 48 minutes 26 seconds East for a distance of 495.46 feet to the POINT OF BEGINNING.

Said above described tract with exceptions containing 84.06 acres, more or less.

Signed for Identification:

Frances V. Schmidt
FRANCES V. SCHMIDT

STATE OF MISSISSIPPI, COUNTY OF MADISON:

I certify that the within instrument was filed for record in my office this 5 day of July, 2001, at 9 o'clock A.M., and was duly recorded on the JUL 15 2001, Book No. 490, Page 668.

STEVE DUNCAN, CHANCERY CLERK

BY: S. Cole D.C.





BEAR CREEK
WATER ASSOCIATION

P. O. Box 107
Canton, MS 39046

Phone: (601) 856-5969
Fax: (601) 856-8936

September 26, 2014

Lucky Town Acres, L.P.
862 Gluckstadt Road
Madison, MS 39110

RE: Property in Section 19, T8N, R2E
Madison County, Mississippi

To Whom it May Concern:

Please be advised that all the properties near the northeast corner of Gluckstadt Road and Catlett Road do lie within Bear Creek Water Association's water and sewer certificated area. The association will provide any developments within that area such services in accordance with its standard water and sewer extension policies and procedures. This includes any properties within Section 19, Township 8 North, Range 2 East of Madison County.

Please contact me if you need any additional information.

Sincerely,



Nolan P. Williamson, P.E.
Engineering Manager

EXHIBIT A

A parcel of land containing 9.76 acres, more or less, being situated in Section 19, T8N-R2E, Madison County, Mississippi, and being more particularly escribed as follows:

Commence at a found iron pin marking the Southwest corner or the North $\frac{1}{2}$ of the North $\frac{1}{2}$ of the Southeast $\frac{1}{4}$ of said Section 19; run thence S 00 degrees 12 minutes 20 seconds W for a Distance of 352.89 feet; thence S 00 degrees 20 minutes 30 seconds E for a distance of 383.60 feet; thence S 00 degrees 23 minutes 11 seconds W for a distance of 389.60 feet to the Point of Beginning for this parcel herein described; From said Point of Beginning, run S 89 degrees 58 minutes 37 seconds E for a distance of 476.73 feet; thence S 00 degrees 00 minutes 09 seconds for a distance of 675.58 feet; thence S 89 degrees 24 minutes 41 seconds E for distance of 143.56 feet; thence S 03 degrees 55 minutes 39 seconds for a distance of 170.00 feet; thence N 89 degrees 14 minutes 29 seconds W for a distance of 72.21 feet; thence N 88 degrees 06 minutes 14 seconds W for a distance of 100.02 feet; thence S 89 degrees 36 minutes 16 seconds W for a distance of 100.02 feet; thence N 83 degrees 32 minutes 21 seconds W for a distance of 100.05 feet; thence S 89 degrees 36 minutes 16 seconds W for a distance of 100.02 feet; thence N 85 degrees 48 minutes 58 seconds for a distance of 100.18 feet; thence N 88 degrees 23 minutes 25 seconds W for a distance of 65.51 feet; thence N 00 degrees 23 minutes 11 seconds E for a distance of 823.53 feet to the Point of Beginning.

THIS IS A CLASS "B" SURVEY ACCORDING TO THE "STANDARDS OF PRACTICE FOR SURVEYING" IN THE STATE OF MISSISSIPPI, ESTABLISHED BY THE AUTHORITY OF SECTION 73-13-15(f), MISSISSIPPI CODE OF 1972 AS AMENDED.

ONLY VISIBLE UTILITIES ARE SHOWN ON THIS PLAT.

REFERENCE MERIDIAN - TRUE NORTH BASED ON SOLAR OBSERVATION.

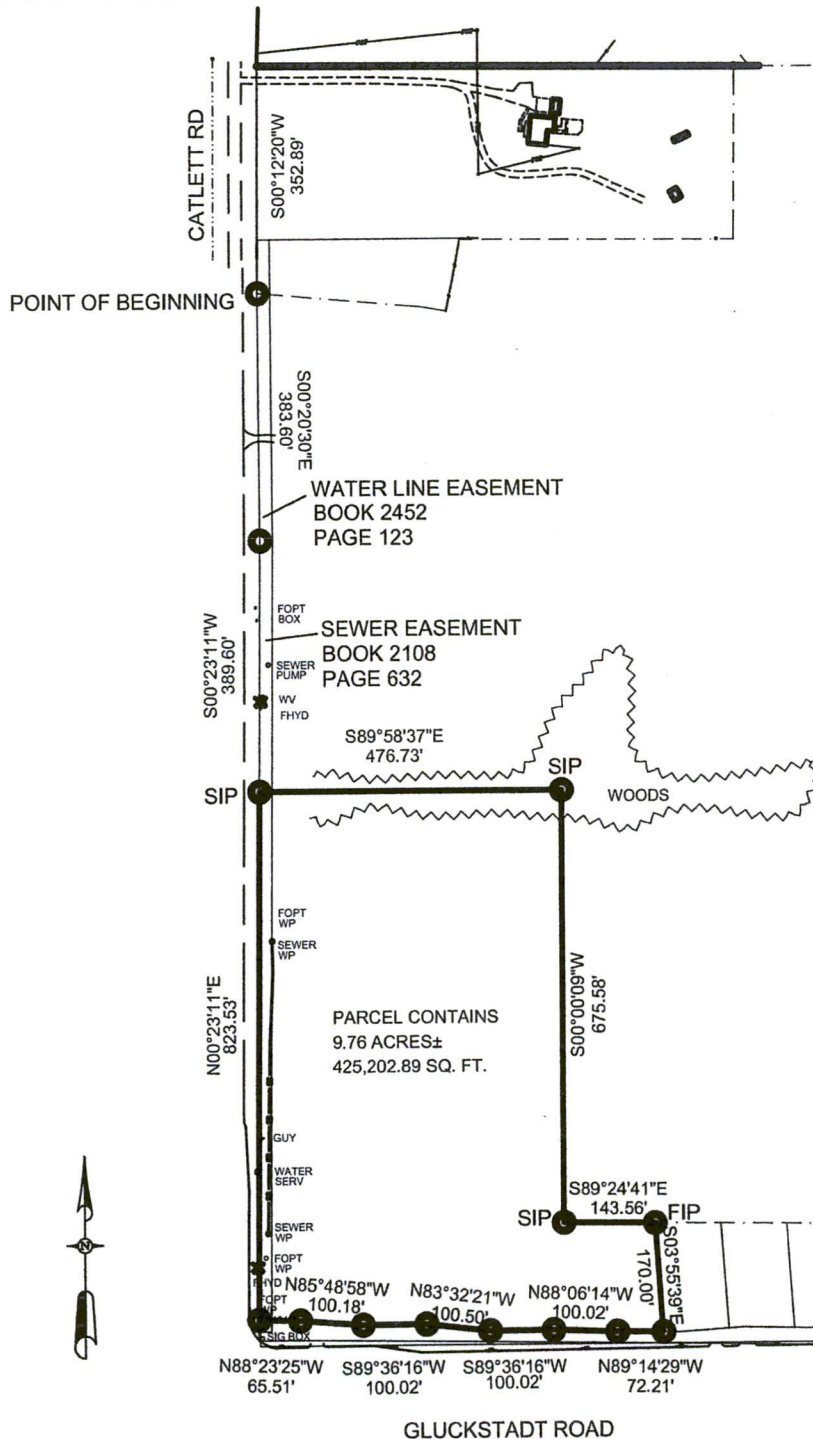
● INDICATES 1/2" X 18" FERROUS METAL ROD @ PROPERTY CORNERS. FIP INDICATES FOUND IRON PIN. SIP INDICATES SET IRON PIN.

A CURRENT TITLE REPORT WAS NOT FURNISHED TO US FOR OUR USE IN PREPARING THIS SURVEY. THEREFORE, THERE MAY BE ADDITIONAL EASEMENTS, AND / OR SERVITUDES EFFECTING THIS PROPERTY WHICH ARE NOT SHOWN ON THIS SURVEY.

SURVEY IS VALID ONLY IF PRINT HAS ORIGINAL SIGNATURE AND SEAL OF SURVEYOR PRESENT.

POINT OF COMMENCEMENT
FIP MARKING THE SW CORNER
N 1/2 N1/2 SE 1/4 SECTION 19

THIS PROPERTY IS LOCATED IN FLOOD ZONE "X" ACCORDING TO FIRM MAP NUMBER 28089C0395F, DATED MARCH 17, 2010.



A PARCEL OF LAND CONTAINING 9.76 ACRES (2425,202.89 SQUARE FEET), MORE OR LESS, BEING SITUATED IN SECTION 19, TOWNSHIP 8 NORTH, RANGE 2 EAST, MADISON COUNTY, MISSISSIPPI, AND BEING MORE PARTICULARLY DESCRIBED BY METES AND BOUNDS AS FOLLOWS:

COMMENCE AT A FOUND IRON PIN MARKING THE SOUTHWEST CORNER OF THE NORTH 1/2 OF THE NORTH 1/2 OF THE SOUTHEAST 1/4 OF SAID SECTION 19; RUN THENCE S00°12'20"W FOR A DISTANCE OF 352.89 FEET; THENCE S00°20'30"E FOR A DISTANCE OF 383.60 FEET; THENCE S00°23'11"W FOR A DISTANCE OF 389.60 FEET TO THE POINT OF BEGINNING FOR THE PARCEL HEREIN DESCRIBED; FROM SAID POINT OF BEGINNING, RUN S89°58'37"E FOR A DISTANCE OF 476.73 FEET; THENCE S00°00'09"W FOR A DISTANCE OF 675.58 FEET; THENCE S89°24'41"E FOR A DISTANCE OF 143.56 FEET; THENCE S03°55'39"E FOR A DISTANCE OF 170.00 FEET; THENCE N89°14'29"W FOR A DISTANCE OF 72.21 FEET; THENCE N88°06'14"W FOR A DISTANCE OF 100.02 FEET; THENCE S89°36'16"W FOR A DISTANCE OF 100.02 FEET; THENCE N83°32'21"W FOR A DISTANCE OF 100.50 FEET; THENCE S89°36'16"W FOR A DISTANCE OF 100.02 FEET; THENCE N85°48'58"W FOR A DISTANCE OF 100.18 FEET; THENCE N88°23'25"W FOR A DISTANCE OF 65.51 FEET; THENCE N00°23'11"E FOR A DISTANCE OF 823.53 FEET TO THE POINT OF BEGINNING.

I, Roger T. Ellison, P.L.S., do hereby certify that the survey shown hereon was performed under

SURVEY FOR:



EXHIBIT B

A petition to rezone real property must comply with two standards, a change in the character of the neighborhood, and a public need. Lucky Town Acres, LP submit the following in support of the petition being considered:

A steady progression of commercial properties and uses from I-55 to the west, beginning with the development of Distribution Drive, and the commercial and industrial uses along this street. Subsequently, American Way and Enterprise Drive was added, along with numerous commercial and industrial lots.

Gluckstadt Business Park was developed, all zoned commercial.

Lexington Drive was developed, all zoned commercial.

John Minniger's property was rezoned to commercial, and is now occupied with commercial businesses.

Residential property was rezoned to commercial and developed as Storage Depot, and a convenience store is currently being constructed on a portion of that property.

A residence abutting Red Oak Subdivision was rezoned to commercial, and is now occupied by a realtor's office.

As the map submitted marked Exhibit C shows, commercial zoning has moved west along both sides of Gluckstadt Road.

The availability of water and sewer in this area is a major change, along with the widening of Gluckstadt Road to three lanes, with a signalized intersect at Gluckstadt Road and Catlett/Bozeman Road. Bozeman Road improvements are being planned to improve traffic flow in this area.

Mississippi Department of Transportation is currently replacing the interchange at I-55 and Gluckstadt Road to accommodate the increase in traffic.

The development of Red Oak Subdivision, Arrington Subdivision, Ridgefield Subdivision, Belle Terre Subdivision, and Stillhouse Creek Subdivision, and with the commercial mentioned above clearly show all the changes that have occurred in this area, changing this area from A-1 Agricultural District and R-1 Residential District to commercial and moderate density residential.

The Madison County Comprehensive Plan, in Chapter 1-Goals, Objectives, and Policies, reads as follows:

OBJECTIVE: To produce a desirable land use pattern by guiding the location and design of commercial development through proper planning and zoning of commercial sites.

POLICY 15: Commercial uses will be located in areas in close proximity to their service populations and will be designed to produce an architecturally pleasing and harmonious business environment that will maintain property values over time.

The Development Plan submitted contains 9.76 acres of C-1 Commercial property. The commercial is at the intersection of Catlett/Bozeman Road and Gluckstadt Road. The residential portion of the

Development plan wraps around the commercial, with a buffer, and abuts Stillhouse Creek Subdivision. Petitioners believe a controlled commercial area here will not only enhance the proposed subdivision with nearby commercial amenities, but if developed carefully, will successfully serve the surrounding residential communities, with no adverse effect. All commercial access will be from interior streets, with controlled signage and exterior lighting. All requirements of the Madison County Zoning Ordinance will be observed, along with the requirement of a full site plan review of any proposed commercial development.

Paul & Maureen Speyerer
118 Belle Terre Drive
Madison, MS 39110

December 23, 2014

Mr. Scott Weeks
Zoning Administrator
Planning and Zoning
125 West North Street
Post Office Box 608
Canton, MS 39046

Re: Appeal of Planning and Zoning Board vote

Dear Mr. Weeks,

Please accept this letter as notice of our appeal of the Planning and Zoning Board's December 11, 2014, vote to change the zoning of the approximately 9 acres on the North-East corner of Bozeman Road and Gluckstadt Road to C-1 (Lucky Town Acres, LP).

We are currently working with Lucky Town Acres, LP to reach an agreement on a *Declaration of Restrictions*. If we are able to enter into an agreement, we will withdraw our appeal.

Sincerely,



Paul and Maureen (Mimi) Speyerer

cc:
Ms. Florette Hootsell
P. O. Box 2114
Madison, MS 39130

STENNETT, WILKINSON & PEDEN

A PROFESSIONAL ASSOCIATION

ATTORNEYS AND COUNSELORS AT LAW

JAMES A. PEDEN, JR.
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RIDGBLAND, MISSISSIPPI 39157-4316

TELEPHONE: (601) 206-1816
TELEFAX NO.: (601) 206-9132
E-MAIL: attorneys@swplaw.net

February 6, 2015

Mr. Scott Weeks
Zoning Administrator
of Madison County
Post Office Box 608
Canton, Mississippi 39046

Re: In the Matter of Rezoning Certain Land
Situated in Section 19, Township 8 North,
Range 2 East, Madison County, Mississippi

Dear Mr. Weeks:

As you may recall, Florette Hootsell; Brad Sellers, her consultant; and I met with you on Tuesday, January 27, 2015, in regard to the pending Petition to rezone approximately 9.76 acres ("subject property") at the northeast corner of the intersection of Gluckstadt Road with Catlett Road to a classification of General Commercial District (C-1).

Because I had just been retained to represent the Petitioner in this matter, I wanted to meet with you and to explain that I would be involved in this matter.

During our discussion, I mentioned that I had just learned that the Petitioner, Lucky Town Acres, L.P., a Mississippi limited partnership, had merged with Lucky Town Acres, LLC, a Mississippi limited liability company, with Lucky Town Acres, LLC, being the surviving entity. I further explained that the limited liability company was technically the owner of the subject property, and that the Petition to rezone the subject property needed to be amended to make Lucky Town Acres, LLC, the Petitioner. You graciously indicated that such would not be a problem.

Accordingly, I am hereby transmitting to you an Amendment to Petition to Rezone and Reclassify Real Property. Attached to the Amendment as Exhibit "A" are the Articles of Merger, including a Plan of Merger. Article 7, paragraph 7.4 of the Plan of Merger explains that, on the effective date of the merger, title to all property owned by Lucky Town Acres, L.P., shall be transferred to, vest in, and devolve upon the surviving limited liability company, Lucky Town Acres, LLC.

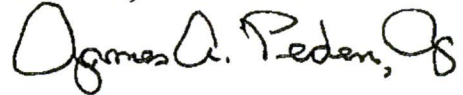
Please file and process the enclosed Amendment.

As you know, after conducting a public hearing, the Planning and Zoning Commission recommended that the Petition to rezone the subject property be approved. Certain Protestants have appealed that recommendation to the Madison County Board of Supervisors.

We are engaged in negotiations with the Protestants who are requesting that certain restrictions be placed upon the subject property to limit the permitted uses. If wording acceptable to both sides can be negotiated, the Protestants will withdraw any opposition which they may have and will withdraw their appeal. We shall keep you informed. If I can provide additional information, please let me know.

Sincerely yours,

STENNETT, WILKINSON & PEDEN

A handwritten signature in cursive script that reads "James A. Peden, Jr." with a stylized flourish at the end.

James A. Peden, Jr.

JAPjr:br

Enclosure

cc Mrs. Florette Hootsell
Mr. Brad Seller

