

City of Hattiesburg, MS

*200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401*



Appeal Public Hearing

Tuesday, January 3, 2017

4:00 PM

Council Chambers

City Council

1. **2016-134** Hold public hearing for appeal filed by Leonard Busby, Capturion Network, LLC, to appeal the Urban Development Director's denial of a request to convert a static billboard to a tri-vision billboard located at 5012 US Highway 98; Pattie Brantley, Urban Development Director, denied the application on October 10, 2016 based on LDC 95.12 2.; Public hearing was set previously for 4 p.m. December 5, 2016.

1. Appeal Letter - Capturion Network October 17 2016
2. 5012 US Hwy 98 - Sign Application - Billboard



City of Hattiesburg, MS

200 Forrest St.
P.O. Box 1898
Hattiesburg, MS 39401

FILE NUMBER: 2016-134

MEETING DATE: 01/03/2017

MINUTE BOOK NUMBER:

Brief Title: Hold public hearing for appeal filed by Leonard Bu

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Type: Public Hearing Item

Drafter: Ginger Maddox

In Control: City Council

Reference:

Attachments: Appeal Letter - Capturion Network October 17 2016,
5012 US Hwy 98 - Sign Application - Billboard

File Created: 12/21/2016

Budget Information:

Expenditure Type:

Purchasing Item:

Publication Information:

History of Legislative File



**BURSON ENTREKIN ORR
MITCHELL & LACEY, PA**

RICHARD O. BURSON
ROMNEY H. ENTREKIN ¹
CRAIG N. ORR
RYAN J. MITCHELL
P. GRAYSON LACEY, JR.
SHIRLEY M. MOORE ^{2,3}
BENJAMIN B. MORGAN
KATHERINE B. SUMRALL

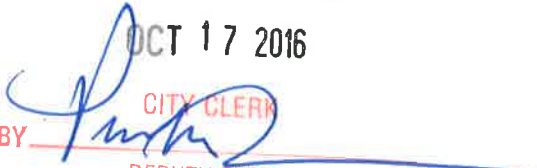
¹ ALSO ADMITTED IN LOUISIANA

² ALSO ADMITTED IN TENNESSEE

³ ALSO ADMITTED IN ALABAMA

FILED

OCT 17 2016

BY 
CITY CLERK
DEPUTY CLERK

October 17, 2016

Mr. Kermas Eaton
City Clerk
City of Hattiesburg
P. O. Box 1898
Hattiesburg, MS39403-1898

VIA HAND-DELIVERY

Re: Convert Static Off-Premise Sign to Tri-Vision
Sign Application for Texaco from Capturion Network, LLC
5012 U. S. Highway 98
Hattiesburg, MS 39401

Dear Mr. Eaton:

I represent Capturion Network, LLC in connection with the above matter. I am in receipt of Patti Brantley's October 10, 2016 letter regarding the above matter. A copy of that letter is enclosed herewith for your convenience.

Ms. Brantley's letter states that should my client "desire to appeal this decision, a letter of appeal must be filed with the city clerk's office within ten (10) days of this communication." Please consider this letter our notice of appeal. To the extent that a formal form is required, I am, out of an abundance of caution, enclosing the form REQUEST TO APPEAL PLANNING COMMISSION RECOMMENDATION that we received from Ms. Brantley's office.

The basis of our appeal is that the City Of Hattiesburg is treating my client differently than other billboard sign companies with respect to Tri-Vision billboard signs. As Ms. Brantley's letter notes: "I am fully aware that we have [Tri-Visions billboard signs] in some areas of the city." There are in fact several such signs in the city limits, and the city has taken no action whatsoever to bring those signs in compliance with the regulations set forth in Ms. Brantley's letter. By allowing my client's competitors to erect and/or maintain Tri-Vision billboard signs within the city limits but refuse my client those same rights, the city is treating

my client differently. This deprives my client of its rights under the Mississippi and United States Constitution.

Accordingly, we respectfully appeal Ms. Busby's decision. Please direct this letter to the planning division manager for processing for a public hearing before the city Council.

Should you need anything further from me, please do not hesitate to contact me.

Sincerely,

Burson Entrekin Orr Mitchell & Lacey, PA



Craig N. Orr

CNO/plw

Cc: Patricia Brantley, AICP Director, Dept. of Urban Development
Annie Amos, Esq., City Attorney
Ginger Maddox, Planning Division Manager
All with enclosures



Mayor

Johnny L. DuPree, Ph.D.

Council - Ward 1
Kim Bradley

Council - Ward 2
Deborah Denard Delgado

Council - Ward 3
Carter Carroll

Council - Ward 4
Mary Dryden

Council - Ward 5
Henry Naylor

October 10, 2016

Mr. Leonard Busby
Capturion Network, LLC
P. O. Box 6439
Laurel, MS 39441

RE: Convert Static Off-Premise Sign to Tri-vision
Sign Application for Texaco from Capturion Network, LLC
5012 U. S. Highway 98
Hattiesburg, MS 39401

Mr. Busby,

In response to your request to convert an existing static billboard to a tri-vision billboard, the Sign Ordinance does not allow a revolving mechanism for on premise or off premise signs. I am fully aware that we have them in some areas of the city. As we have addressed earlier, the existing tri-vision billboards were either permitted before the adoption of the current Land Development Code or were permitted by MDOT, exclusive of city involvement. Your application to convert the static billboard located at 5012 US Hwy 98 to a tri-vision billboard has been denied. Section 95.12, Miscellaneous Restrictions and Prohibitions, of the Land Development Code has been included for your review.

Land Development Code

95.12 Miscellaneous Restrictions and Prohibitions:

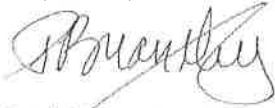
2. Signs that revolve or are animated or that utilize movement or apparent movement are prohibited. Without limiting the foregoing, banners, streamers, animated display boards, pennants, and propellers are prohibited, but signs that only move occasionally because of wind are not prohibited if their movement: (Amended by Ord. 2583, Sec. 1, 1/21/97)
 - a. Is not a primary design feature of the sign. (Amended by Ord. 2583, Sec. 1, 1/21/97)
 - b. The restriction of this subsection shall not apply to signs specified in 95.11.4. or to signs indicating the time, date, or temperature. (Amended by Ord. 2583, Sec. 1, 1/21/97)

Should you desire to appeal this decision, a letter of appeal must be filed with the City Clerk's office within ten (10) days of this communication. Your letter will then be directed to the Planning Division

Leonard Busby
October 10, 2016
Page 2

Manager and processed to hold a public hearing before the City Council. If you require additional assistance, you may contact me directly.

Respectfully,

A handwritten signature in cursive script, appearing to read 'P. Brantley', written in dark ink.

Patricia Brantley, AICP
Director, Department of Urban Development

C: Craig Orr, Attorney
Annie Amos, City Attorney
Ginger Maddox, Planning Division Manager



Send to:
Pattie Brantley, Director of Urban Development
Dept. of Urban Development
P.O. Box 1898
Hattiesburg, MS 39403
601.545.4591 or fax 601.545.1962

REQUEST TO APPEAL PLANNING COMMISSION RECOMMENDATION

Today's Date:	October 17, 2016
Planning Commission Meeting Date:	N/A
<i>(Appeals must be made within ten consecutive days of the recommendation)</i>	
Name of Property Owner/Petitioner:	Mr. Leonard Busby, Capturion Network, LLC
Name of Person Requesting Appeal Hearing:	Mr. Leonard Busby, Capturion Network, LLC
Mailing Address of Person Requesting Appeal Hearing:	P. O. Box 6439, Laurel, MS 39401
Address of Petitioned Property: 5012 U.S. Highway 98, Hattiesburg, MS 39401	
Petitioner's Request of the Planning Commission: Hearing and Re-Consideration of decision to deny application to convert the static billboard located at 5012 U.S. Highway 98 to a tri-vision billboard.	
Planning Commission's Recommendation: <i>Approve or Deny x</i>	

I/We hereby APPEAL the Planning Commission Recommendation for the above referenced petition and request to hold a Public Hearing before the Hattiesburg City Council.


Appellant (signature)

Appellant (signature)
As Attorney

16. 007922

RECEIVED

SEP 06 2016

REC BY: *[Signature]*

SIGN PERMIT APPLICATION

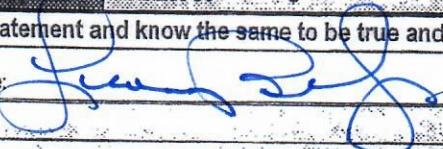
CITY OF HATTIESBURG - LAND DEVELOPMENT CODE OFFICE
P O BOX 1898 - HATTIESBURG, MS 39403-1898 - PHONE (601) 545-4559

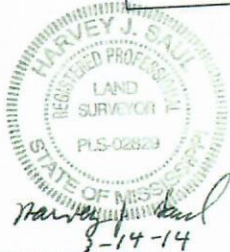
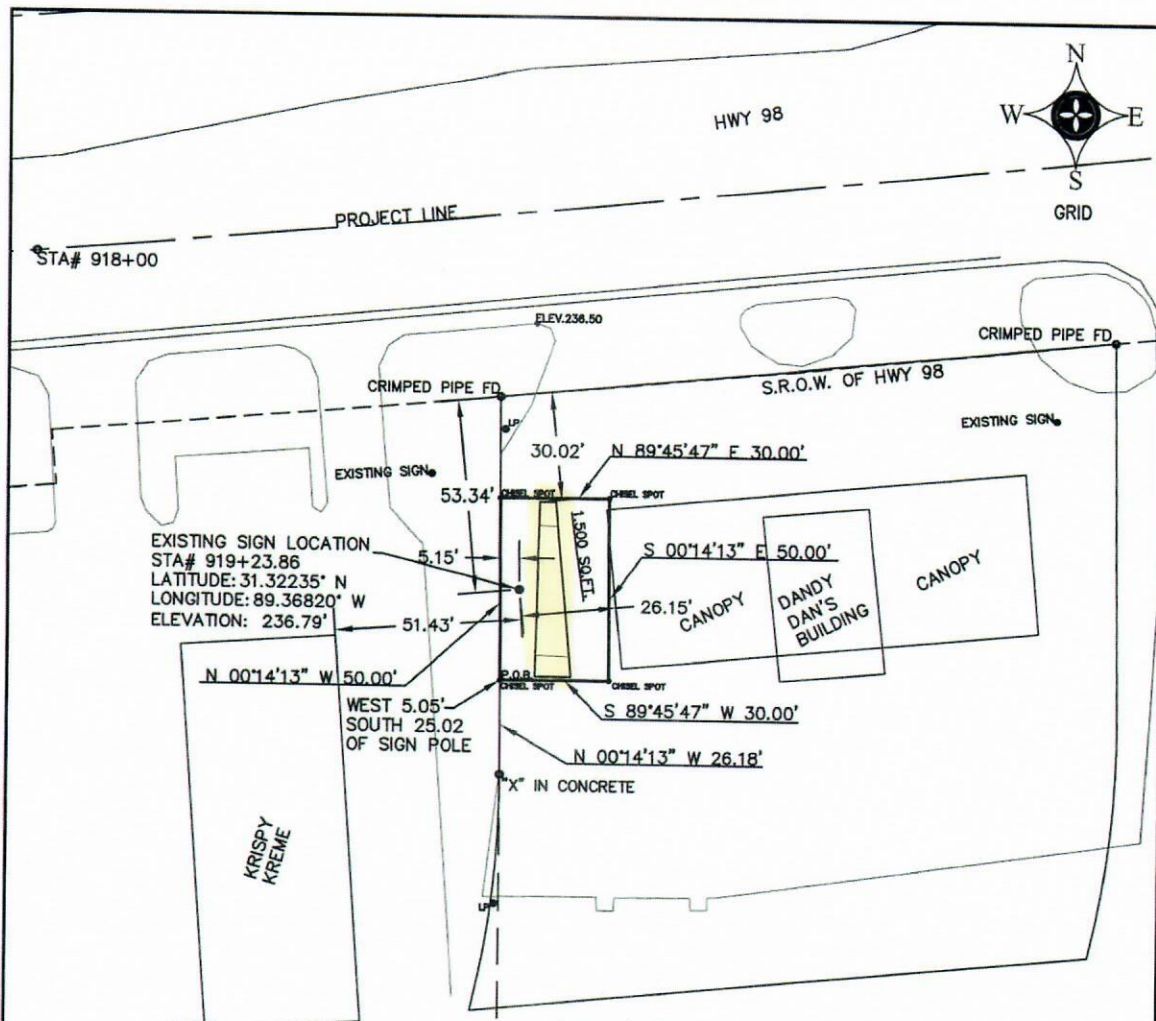
RECEIVED

SEP 4 2016

REC BY: *[Signature]*

Application must be completed IN FULL prior to any review by LDC Staff			
Drawings CANNOT be faxed as they are typically illegible.			
L.E.D. Signs must also be approved by the Site Plan Review Committee for SPRC application contact 601-545-4599			
			DATE
Name of Project	Texaco US HWY 98		
Property Address	5012 US HWY 98		
Phone Numbers (cell, office, etc.)	601-580-8283		
City Hattiesburg	State MS	Zip 39440	County Lamar
If mailing address different from above - please complete the following information:			
Property Owner/Company Name	Mississippi Oil, INC in C/O Busby Companies		
Mailing address	P.O. Box 6439		
Phone Numbers (cell, office, etc.)	601-428-4014		
City Laurel	State MS	Zip 39441	County Jones
Shaded areas are for L.D.C. Staff only			
Zoning Class B.5	Historical District N/A	Flood Zone X	
Panel #	Map #	Eff. Date	
WARD 3		CONTRACTOR INFORMATION:	
SIGN CONTRACTOR:	Capturion Network, LLC	VERIFIED BY LDC:	
ELECTRICAL:	Dubose Electric	INS	BOND
RESPONSIBLE PARTY FOR CLEANUP/DISPOSAL:		(SIGNATURE)	Leonard Busby, II
Clean-up Contact Person:	Leonard Busby, III	Company Name:	Capturion Network, LLC
Address:	P.O. Box 6439 Laurel, MS 39441	Phone:	601-428-4014
The following items or information is required for review of this application			
Site Plan/Property Plat with sign location, setback and ALL sign and setback dimensions		(attach)	
Vicinity Map for Property Site Required		(attach)	
Parcel Number:	051P-11-038.000 (Null)	PPIN #	11883
Corner Lot? (yes/no)	YES	Interior Lot? (yes/no)	NO
Are there any existing freestanding signs at this location? (yes/no)	YES	Church Sign? (yes/no)	NO
Engineer Certification (attach) as to:		School Sign? (yes/no)	NO
State/Federal Permit Required (Highway Dept)	Yes: X	No:	
Describe Scope of Work:		Wind load:	
Convert existing static face to a new Tri- Vision Face. Brick and Stone the pole for Aesthetic Purposes .		If yes, Permit #	
Being that there are others in the city that exist now this should be approved without any objection, also if you will note you need to sign my MDOT Application that is required by State Law in which we meet all of their spacing requirements, just like all of the other existing Tri-Visions within the City			
As the City has allowed our competitors to erect Tri-Vision signs and/or has not demanded that our competitors take down their existing Tri-Vision signs, we would ask that we not be treated differently by the City. We are entitled to the same equal protection under the law			
Variance(s) Required?	How many	Section #	
	Requires:	Requests:	
	How many	Section #	
	Requires:	Requests:	

SIGN DETAIL										
Check appropriate block(s) or indicate Letter			1st SIGN		2nd SIGN		3rd SIGN		4th SIGN	
New Sign										
Replacing Existing Sign										
Change Out Face Only - NO change in size/message area			X Change out Face							
Permanent Sign (P)	or	Temporary Sign (T)	P							
Commercial (C)	or	Non-Commercial (NC)	C							
Off Premise (need site plan) (Off)	or	On Premise (On)	OFF							
Freestanding (F)	or	Monument (M)								
Roof Sign (R)	or	Projecting (P)								
L.E.D.	or	Marquee (M)								
Building Mounted (B)	or	Wall Mounted (W)								
Tubing or String of lights (T or S)	or	Directional (D)								
Billboard (specify if single (S), "V" shaped (V) or back-to-back (B/B) style)			V Shaped							
Other (specify type)			Tri Vision							
Give details for each proposed sign										
Street Frontage (Linear Foot)			170 Feet	ft		ft		ft		ft
Front Setback (to property line/not road)			F 30.02 Feet	ft	F	ft	F	ft	F	ft
Nearest Side Setback (to property line/not road)			S 5.15 Feet	ft	S	ft	S	ft	S	ft
Rear Setback (to property line/not road)			R 90 Feet	ft	R	ft	R	ft	R	ft
Overall Sign Height (ground to top of pole)			H 26 Feet	ft	H	ft	H	ft	H	ft
Ground Clearance			C 23 Feet	ft	C	ft	C	ft	C	ft
Sign Height			H 40 Feet	ft	H	ft	H	ft	H	ft
Sign Width			W 48 Feet	ft	W	ft	W	ft	W	ft
Sign Depth			D 20 Feet	ft	D	ft	D	ft	D	ft
How many sides? 1, 2, Multi (M), 3 dimensional (3)			2 Faces							
Distance between backs of signs (B/B)			B/B		B/B		B/B		B/B	
Standard Message Area Square Footage (per panel or section)			672	Sq Ft		Sq Ft		Sq Ft		Sq Ft
Standard Message Area Square Footage (per panel or section)			672	Sq Ft		Sq Ft		Sq Ft		Sq Ft
Standard Message Area Square Footage (per panel or section)				Sq Ft		Sq Ft		Sq Ft		Sq Ft
Standard Message Area Square Footage (per panel or section)				Sq Ft		Sq Ft		Sq Ft		Sq Ft
Standard Message Area Square Footage (per panel or section)				Sq Ft		Sq Ft		Sq Ft		Sq Ft
Standard Message Area Square Footage (per panel or section)				Sq Ft		Sq Ft		Sq Ft		Sq Ft
L.E.D. Message Area Square Footage				Sq Ft		Sq Ft		Sq Ft		Sq Ft
TOTAL Message Area for overall sign			1344	Sq Ft		Sq Ft		Sq Ft		Sq Ft
L.E.D. Color										
Illuminated (I)	or	Non-Illuminated (NI)	I							
Internally Illuminated (II)	or	Externally Illuminated (EI)								
For Building or Wall Signs: Size/Area Height			H	ft	H	ft	H	ft	H	ft
For Building or Wall Signs: Size/Area Width			W	ft	W	ft	W	ft	W	ft
For Building or Wall Signs: Overall Wall Size/Area				Sq Ft		Sq Ft		Sq Ft		Sq Ft
For Billboards - Distance from closet billboard on same side of street			746.4B	ft		ft		ft		ft
If Commercial Project over \$10,000 then you must provide an MPC Number #					Total Job Cost		\$ 25,000			
					Permit Fee		\$			
I hereby certify that I have read and examined this statement and know the same to be true and correct:										
Print Name: Leonard Busby, III			Signature: 							
Notes:										
Approved by:			Date approved				Date issued			
Permit Number			Cross Ref. Permit				Prepared by:			



NOTE:
ALL BEARINGS AND DISTANCES BASED ON TRANSVERSE MERCATOR-MISSISSIPPI EAST ZONE NAD83. BEARINGS DETERMINED BY GPS - GRID NORTH. HORIZONTAL AND VERTICAL CONTROL STATION: INET NETWORK VERTICAL DATUM- NAVD88 SURVEY PERFORMED BY RTK GPS AND CONVENTIONAL COMBINED FACTOR: 0.99987644 CONVERGENCE ANGLE: -00°16'41"

NOTE: NOT ALL EASEMENTS AND ROW'S LOCATED - OBSERVED OR RECORDED NOT ALL SUBSURFACE FEATURES LOCATED NOT ALL STRUCTURES AND FEATURES LOCATED

A parcel of land lying in the NE 1/4 of the SE 1/4 of Section 11, Township 4 North, Range 14 West, Lamar County, Mississippi, described as follows:

Commencing at the SE/C of the NE 1/4 of the SE 1/4 of Sec.11-T4N-R14W, Lamar County, Mississippi, thence run West 1054.89 feet, thence run North 410.93 feet to a chiseled X in the concrete, thence run N 00°14'13" W 26.18 feet to a point that is 5.05 feet West and 25.02 feet South of the sign pole for the P.O.B. Thence continue N 00°14'13" W 50.00 feet, thence run N 89°45'47" E 30.00 feet, thence run S 00°14'13" E 50.00 feet, thence run S 89°45'47" W 30.00 feet to the P.O.B. Containing 1,500 sq.ft.

SE/C OF THE NE 1/4 OF THE SE 1/4 OF SEC.11-T4N-R14W, LAMAR COUNTY, MISSISSIPPI.

DATE: 2/25/14	REFERENCE MATERIALS: ORIGINAL GOV'T FIELD NOTES; BENNIE J. SELLERS PLAT; DEED BOOK 82, PAGE 146-147; MDOT ROW PLAT; CLIENT'S INSTRUCTIONS				
SCALE: 1"=40'	SAUL SURVEYING AND MAPPING, LLC. 454 SHORT 7th AVENUE - LAUREL, MS 39440 PHONE: (601) 428-0800 - FAX: (601) 649-2372 EMAIL: hsaul@saulsurveying.com PROFESSIONAL SURVEYOR ALABAMA LICENSE #28446 / MISSISSIPPI LICENSE #02829 COPYRIGHT © 2014 ~ SAUL SURVEYING AND MAPPING, INC.				
SURVEY CLASS: B					
DWG. NO.: 022514A1(E.of krispy kreme)(air space lease)					
☒ SOLAR OBSERVATION	LOCATION: SEC.11-T4N-R14W, LAMAR COUNTY, MISSISSIPPI.				
☐ BEARING DETERMINED BY GPS	NAME: CAPTURIOR SIGN AT DANDY DAN'S (HWY 98)(AIR SPACE LEASE)				
PREPARED BY: PB					
CREW LEADER: JP	☐ 1/2" REBAR	☒ GAS METER	☒ FIRE HYDRANT	FLOOD MAP:	
CHECKED BY: HJS	☐ CONCRETE MARKER	PROPERTY LINE	☒ WATER METER	MAP DATE:	
NO TITLE RESEARCH DONE BY THIS SURVEYOR	☒ POWER POLE	CENTER LINE	☐ WOOD FENCE	FLOOD ZONE:	
	☒ LAMP POLE	WIRE FENCE	☐ ELECTRICAL LINE	FLOODS: YES ☐ NO ☐	

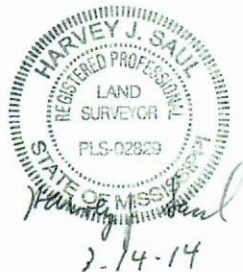
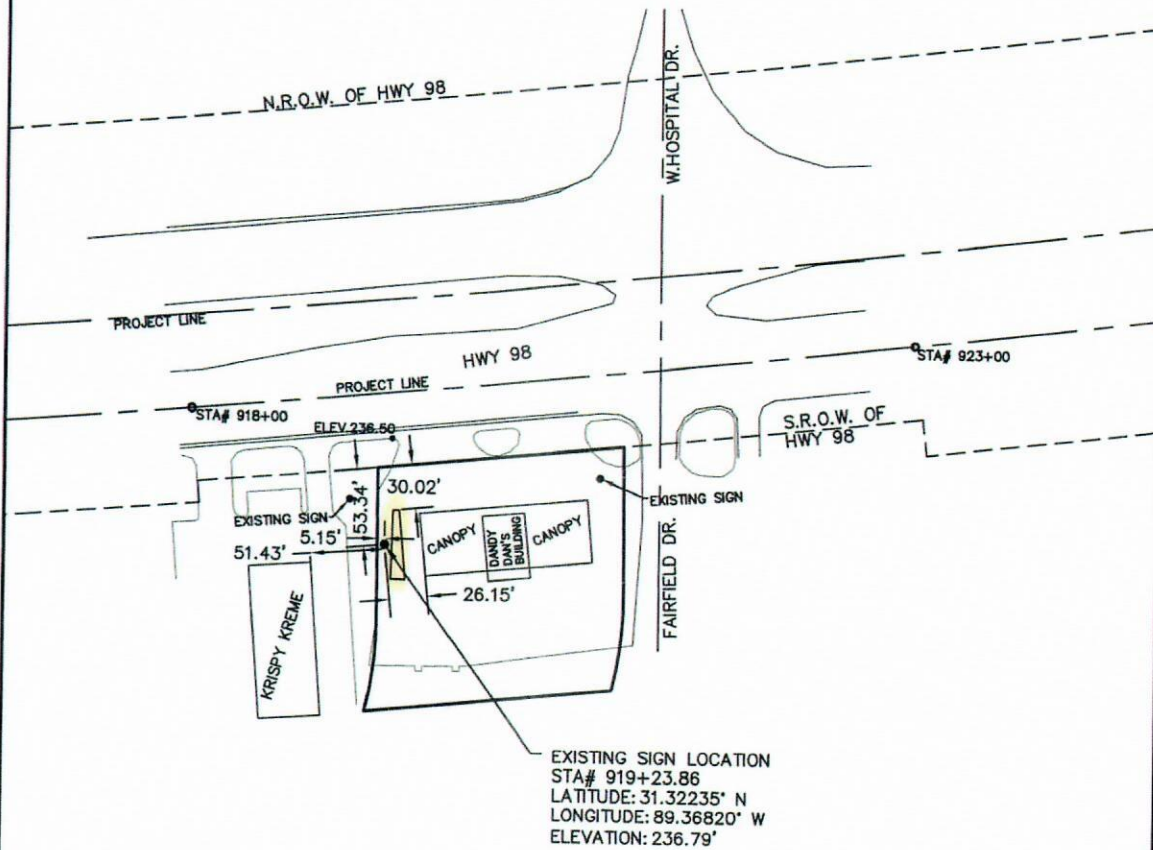
Sheet No: _____ of _____

Permit No: _____

REVISIONS			
APPLICANT		MDOT	
DATE	BY	DATE	BY



Show North
GRID



SCALE: 1"=100'
DWG# 022514A1(E.of krispy kreme)(MDOT)
PREPARED BY: PB

NOTE: ALL BEARINGS AND DISTANCES BASED ON
TRANSVERSE MERCATOR-MISSISSIPPI EAST ZONE NAD83.
BEARINGS DETERMINED BY GPS - GRID NORTH.
HORIZONTAL AND VERTICAL CONTROL STATION: INET NETWORK
VERTICAL DATUM- NAVD83
SURVEY PERFORMED BY RTK GPS AND CONVENTIONAL
COMBINED FACTOR: 0.99997644
CONVERGENCE ANGLE: -00°16'41"

FINAL ADMINISTRATIVE RULE/REGULATION ADOPTION
STATE BOARD OF CONTRACTORS
STATE OF MISSISSIPPI

Effective October 15, 2007 the following administrative rule/regulation has been officially adopted by the Mississippi State Board of Contractors.

Once a building permit is issued to a residential builder or remodeler, or the holder of a certificate of responsibility by a municipal or county building official, or any other authority charged with the duty of issuing local building permits, such licensed residential builder or residential remodeler or holder of a certificate of responsibility shall exhibit a sign at the permitted job site which shall include, prominently displayed in lettering at least two (2) inches high and twelve (12) inches wide, the license or certificate of responsibility number of the residential builder or residential remodeler or holder of the certificate of responsibility and the State issuing it.

Captureion Network, LLC

Contractor Company

P.O. Box 6439, Laurel, MS
39441

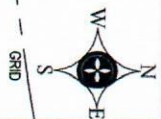
Company Address:

[Signature]

Contractor Signature:

Sept 2nd 2016

Date:



N.B.O.W. OF HWY 98

PROJECT LINE

HWY 98

STA# 918+00

STA# 923+00

EXISTING OUTDOOR
ADVERTISING SIGN
(BILLBOARD)

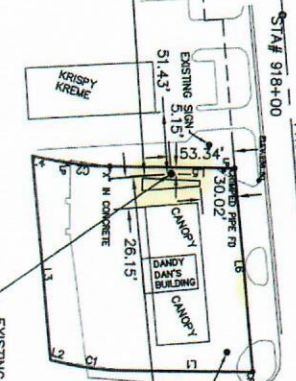
EXISTING OUTDOOR
ADVERTISING SIGN
(BILLBOARD)

746.48'

FAIRFIELD DR.

S.B.O.W. OF
HWY 98

1102.89'



EXISTING SIGN LOCATION
STA# 919+23.86
LATITUDE: 31.32235° N
LONGITUDE: 89.36820° W
ELEVATION: 236.79'

LINE	BEARING & DISTANCE AS PER DEED	BEARING & DISTANCE AS PER SURVEY (NAD83)
L1	S 00°20'19" E 104.22'	
L2	S 1°35'12" W 2.33'	
L3	S 84°09'36" W 170.00'	
L4	N 1°35'12" E 2.33'	
L5	N 00°20'19" W 104.22'	
L6	N 84°09'36" E 170.00'	
CURVE	RADIUS & ARC LENGTH	CHORD
C1	256.11' & 63.45°	N 84°14'43" E 170.28'
C2	256.11' & 63.45°	S 06°45'08" W 63.29'

DATE: 2/29/14

SCALE: 1"=100'

SURVEY CLASS: B

NOTES:

PROFESSIONAL
SURVEYOR

SAUL SURVEYING AND MAPPING, LLC.

454 SHERBURN AVE. SE, SUITE 304
ALBUQUERQUE, NM 87102
PHONE: (505) 436-0800 - FAX: (505) 436-2572
EMAIL: bsa@saulsurveying.com
PROFESSIONAL SURVEYOR

DWG. NO.: 02251441(E. of Krispy
Kreme)(area of review)

☒ SOLAR OBSERVATION

☐ BEARING DETERMINED BY GPS

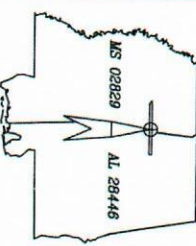
PREPARED BY: PB

CREW LEADER: JP

CHECKED BY: HJS

NO TITLE RESEARCH DONE
BY THIS SURVEYOR

REVISIONS



LOCATION: SEC. 11-T4N-R14W, LAMAR
COUNTY, MISSISSIPPI

ALABAMA LICENSE #29446 / MISSISSIPPI LICENSE #02829

DATE: 2/29/14

PROJECT: CAPTIVATION SIGN AT DANDY DAVIS
(HWY 98)(AREA OF REVIEW)

1/2" REBAR ☒ GAS METER ☒ FIRE HYDRANT ☒ FLOOD MAP: ☒

CONCRETE MARKER ☒ PROPERTY LINE ☒ WATER METER ☒ MAP DATE: ☒

POWER POLE ☒ CENTER LINE ☒ WOOD FENCE ☒ FLOOD ZONE: ☒

LAMP POLE ☒ WIRE FENCE ☒ ELECTRICAL LINE ☒ FLOODS: YES ☐ NO ☐

NOTE: ALL BEARINGS AND DISTANCES BASED ON
TRANSVERSE MERCATOR-MISSISSIPPI EAST ZONE NAD83.
BEARINGS DETERMINED BY GPS - GRID NORTH.
HORIZONTAL AND VERTICAL CONTROL STATION: NET NETWORK
SURVEY PERFORMED BY RIK GPS AND CONVENTIONAL
CONVENTIONAL ANGLE: -00°16'41"

NOTE: NOT ALL EASEMENTS AND ROWS
LOCATED - OBSERVED OR RECORDED
NOT ALL SUBSURFACE FEATURES LOCATED
NOT ALL STRUCTURES AND FEATURES LOCATED

