

**IN THE CHANCERY COURT OF DESOTO COUNTY, MISSISSIPPI**

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**IN THE MATTER OF THE ENLARGING,  
EXTENDING AND DEFINING OF THE CORPORATE  
LIMITS AND BOUNDARIES OF THE CITY OF OLIVE  
BRANCH, DESOTO COUNTY, MISSISSIPPI**

**CITY OF OLIVE BRANCH**

**PLAINTIFF**

**VS**

**CAUSE NO. 18-CV-02230**

**CITY OF HERNANDO, ET AL**

**DEFENDANTS**

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**OPINION OF THE COURT**

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**THIS CAUSE**, having come on for hearing before this Court commencing on March 23-26, March 29-31 and concluding on April 1, 2021, and the Court, having heard evidence presented by the Municipality of Olive Branch, Mississippi, as well as the Municipality of Hernando, Mississippi, DeSoto County, Mississippi, together with objections by individual residents in the proposed areas of annexation including argument of counsel, and the Court, being further advised, does hereby render the following opinion commensurate therewith:

On December 10, 2018, the city of Olive Branch, DeSoto County, Mississippi, hereinafter referred to as “Olive Branch,” or simply the “City” filed a Petition for the Approval, Ratification and Confirmation of the Enlargement and Extension of the Municipal Boundary, seeking to annex in excess of approximately forty square miles of territory adjoining and contiguous to the municipality, and thereafter the same was objected to by the Municipality of Hernando, Mississippi, hereinafter referred to as

“Hernando.” Likewise, the County of DeSoto, hereinafter referred to as the “County” thereafter objected as well. Though there were a number of individual objectors who filed written objections thereto, those objections were subsequently resolved and settled between themselves and Olive Branch resulting in a slightly smaller area of proposed annexation when this matter came on for trial on its merits. There were however, a number of individual objectors throughout the proposed area of annexation who objected, but with the exception of their limited statements at the conclusion of the trial, did not participate.

The Court finds the ordinance adopted by Olive Branch meets all statutory requirements with respect to its construction, content and notice. Further, that all necessary parties to this action have been properly noticed and are before this Court. The appropriate areas of annexation sought by the municipality are particularly set forth in its complaint and is further explained by a map entered into exhibit during the trial of this matter as Exhibit 16, and incorporated herein by reference. Said exhibit references the “settlement area” which Olive Branch has agreed to delete from its proposed area of annexation. There are two separate parcels proposed to be annexed by Olive Branch and shall hereinafter be referred to as “PAA 1” for Area 1 referenced on the map and “PAA 2” for Area 2 referenced accordingly.

1.

#### **APPLICABLE LAW**

1. In annexation matters the judicial function is limited to the question of whether the annexation is reasonable. *In the Matter of the Extension of the Boundaries of the*

*City of Winona*, 879 So.2d 966 (Miss. 2004). The municipality or party seeking the annexation has the burden of proving the reasonableness of the annexation. ***In Re: The Enlargement and Extension of Municipal Boundaries of the City of Biloxi***, 744 So.2d 270 (Miss. 1999). The Mississippi Supreme Court has set out a list of factors or indicia to guide the chancellor in the determination of the reasonableness of a city's annexation request. These factors, however, are only indicia of reasonableness, not separate and distinct tests in and of themselves. ***Bassett v. Town of Taylorsville***, 542 So.2d 918 (Miss. 1989). The chancellor must consider all of these factors and determine whether under the totality of the circumstances the annexation is reasonable. ***The City of Horn Lake v. The City of Southaven***, 864 So.2d 912 (Miss. 2003). The Court must always keep in mind that fairness to all parties has always been the proper focus of the reasonableness inquiry (emphasis added by the Court). Municipalities must demonstrate through plans and otherwise, that residents of annexed areas will receive something of value in return for their tax dollars in order to carry the burden of showing reasonableness. ***In the Matter of the Extension of the Boundaries of the City of Columbus***, 644 So.2d 1169 (Miss. 1994). The test of reasonableness, then, has evolved into 12 indicia as well as an emphasis on whether people in the annexed areas are to receive something in exchange for their tax dollars. The 12 indicia, as found in ***Columbus***, and as well as in ***The Matter of the Boundaries of the City of Jackson***, 551 So.2d 861 (Miss. 1989) are as follows:

(1) The need to expand; (2) The path of growth; (3) Potential health hazards from sewage and waste disposal in the annexed areas; (4) The municipality's financial ability to make the improvements and furnish municipal service as promised; (5) The need for zoning and overall planning in the area; (6) The need for municipal services in the area sought

to be annexed; (7) Whether there are natural barriers between the city and the proposed annexation area; (8) Past performance and time element involved in the city's provision of services to its present residents; (9) Economic or other impact of the annexation upon those who live in or own property in the proposed annexation area; (10) Impact of the annexation upon the voting strength of protected minority groups; (11) Whether the property owners and other inhabitants of the areas to be annexed have in the past and the foreseeable future unless annexed will, because of their reasonable proximity to the corporate limits of the municipality, enjoy economic and social benefits of the municipality without paying their fair share of taxes; (12) Any other factors that suggest reasonableness.

2. With the above stated indicia of reasonableness in mind, the Court looks to the evidence presented on behalf of Olive Branch:

**THE PROPOSED ANNEXATION BY THE CITY OF OLIVE BRANCH,**  
**MISSISSIPPI**

The City of Olive Branch is the second oldest municipality in DeSoto County, Mississippi, the county seat of Hernando being the oldest. It presently consists of approximately 37 square miles situated in that county's northeast corner adjacent to and adjoining the City of Southaven to its west. It is bordered by the State of Tennessee to the north and its eastern boundary is within a very few miles of Marshall County, Mississippi. In 1996 it almost doubled its size when an annexation was approved.

Thereafter, it added small acreages through annexation which was developer driven and requested, the last being in 2015. Though it sought annexation in 2007, that petition was withdrawn.

1. **THE CITY'S NEED TO EXPAND:**

When determining a city's need for expansion, this Court has been directed to consider many sub-factors, including: (a) Spillover development into the proposed annexation area; (b) The city's internal growth; (c) The city's population growth; (d) The city's need for development land; (e) The need for planning in the annexation area; (f) Increased traffic counts; (g) The need to maintain and expand the city's tax base; (h) Limitations due to geography and surrounding cities; (i) Remaining vacant land within the municipality; (j) Environmental influences; (k) The city's need to exercise control over the proposed annexation area; (l) Increased new building permit activity. *In the Extension of Boundaries of the City of Winona*, 879 So.2d 966 (Miss. 2004). Evidence adduced at the trial of this cause reflected that spillover development may be defined as "where development occurred within a municipality and that development exceeds that municipality's boundaries". Some planners refer to this as the "cup runneth over" theory. Although there may be other examples of spillover development, it would appear that this definition is most appropriate for the case at bar. Numerous developments along Olive Branch's municipal boundaries exit within one mile of those boundaries with developments adjacent to them inside the city. This is particularly true to the West of Highway 305 and along the city's southern border. These developments are more dense developments common to urban settings as compared to the developments to the east of

Highway 305 and along the city's southern border, many of which tend to be larger, rural type developments. According to Olive Branch's expert this was one of the reasons for the city's refusal to seek annexation for the Whispering Pines subdivision and adjoining developments to the east of the city. Further, there are a number of urban, dense developments further to the east along the city's boundary which indicate spillover growth.

With respect to the city's internal growth, the evidence reflected that a number of subdivisions and housing developments have been commenced and are in various stages of development, from platting to completion as reflected in Exhibit 139. The sheer number of building permits issued by the city, particularly since the conclusion of the economic recession experienced in 2007 and immediately thereafter reflected in Exhibits 21-25 show that the city's internal growth is alive and well. The issuance of building permits, including residential, business and industrial and other uses totaled 2,842 during the Covid-19 year of 2020, heavy by anyone's standards.

The city's population growth has consistently climbed higher, from a mere 1513 in 1970, to 37,461 in 2019.

The evidence reflects that the city's need for developable land should be considered by the Court at the same time in which the remaining vacant land within the municipality should be considered. The evidence reflects that approximately 34.8% of the existing city's vacant land is developable, 25.8% being without any constraints. Though this reflects a need for the addition of developable land, a conclusion agreed by the experts on all sides, the question of exactly how much land is needed arises and will be addressed.

With respect to the sub-factor which includes the need for planning in the annexation area, the Court notes that the area is subject to planning and zoning provided by DeSoto County, Mississippi. The resources and facilities in the planning department for DeSoto County are in all respects synonymous with those provided by municipalities and may be construed to rise to the mythical level of municipal planning because of its provision of building inspectors, code enforcement officers, Planning Commission, Board of Adjustment and GIS services. Evidence reflects that DeSoto County's planning services are second to no one in its objectives and services thanks in large to a farsighted and forward planning county government. The majority of the area in the proposed area of annexation is presently zoned agricultural or agricultural- residential (AR). There seems to be no exigent need for further zoning or planning.

Addressing other sub-factors under the indicia of need to expand, the Court notes that there is in Olive Branch, as in any municipality, a need to maintain and expand the city's tax base for financial reasons. There appear to be no environmental influences which affect the proposed area of annexation and again, because of the makeup of the area, the city's need to exercise control over that annexation area seems to be minimal.

There are no significant parcels of land sought in existing annexations by other municipalities at this time. Olive Branch's future ability to expand in all directions but perhaps the west and north is unlimited, if necessary. Lastly, with respect to these indicia, the Court notes that no one from the proposed area of annexation has come forward and evinced a desire to become part of that city. Considering all of the sub-

factors enumerated herein, the Court finds under the totality of the circumstances that there is indeed a need for the City of Olive Branch to expand at the current time.

2. **PATH OF GROWTH:**

In determining this issue, a city need only show that the areas desired to be annexed are in a “path of growth” which does not mean that the area is the most urgent or even the city’s primary path of growth. *The City of Winona, supra*. Further, a number of sub-factors are to be considered in determining this issue, such as (a) Spillover development in the annexation area; (b) Annexation area immediately adjacent to the city; (c) Limited area available for expansion; (d) Interconnection by transportation corridors; (e) Increased urban development in annexation area; (f) Geography; (g) Subdivision development. The Court finds that there is in fact spillover development along the southern and eastern boundary of the existing city in both areas proposed to be annexed for the reasons cited heretofore. Further, there exists development immediately adjacent thereto, in the nature of certain residential developments and industrial developments in PAA 2. Numerous transportation corridors, including State Highways 305 and 302, US Highway 78, Craft Road and College Road traverse the existing city and both areas of planned annexation.

3. **POTENTIAL HEALTH HAZARDS:**

In addressing this indicium of reasonableness, the Supreme Court has indicated that potential health hazards from sewage and waste disposal, a large number of septic tanks in the area, soil conditions which are not conducive to on-site septic systems, open



dumping of garbage and standing water and sewage are to be considered in determining this factor. *The City of Winona, supra.*

As stated earlier, most of PAA 1 is rural in nature with large lots or acreage residential development. These are served by septic tanks and on-site treatment plants. The denser developments are served by existing sewer services from private sewer companies who hold certificates to certain areas predominately in the north of PAA 1 West of Highway 305 or by Olive Branch. There is little evidence of septic tanks or on-site treatment plants in PAA 2. The City has furnished sewer services to a large residential development in PAA 2, however. Evidence reflects that the soil in PAA 1 is not conducive to the use of septic tanks. Accordingly, this indicium favors annexation.

**4. FINANCIAL ABILITY OF THE MUNICIPALITY TO PROVIDE  
MUNICIPAL SERVICES:**

With respect to this indicium, the following sub-factors are appropriate: (a) The present financial condition of the municipality; (b) Sales tax revenue history; (c) Recent equipment purchases; (d) Financial plan and department reports proposed for implementing and fiscally carrying out the annexation; (e) Fund balances; (f) The city's bonding capacity; and (g) Expected amount of revenue to be received from taxes in the annexed area. *The City of Winona, supra.* Evidence presented before this Court indicated that the city is in strong financial shape with respect to its finances. With an annual tax rate of 38.5 mils, and further revenue from utilities such as gas, water and sewer from within and without the city, the city has a healthy income to sustain its services and quality of life. Moody's Investment Services currently issued a strong rating

of Aa2 and reflected that Olive Branch's "financial position is strong and its debt burden is relatively low." Olive Branch's audits for the years 2014-2019 verify this. No one has presented evidence that the City does not have the capacity to provide financial services to the areas of annexation, though they disagree as to whether a tax increase may be necessary. This indicium favors reasonableness with respect to the city's ability to annex.

**5. ZONING AND PLANNING:**

The proposed areas of annexation which Olive Branch seeks is currently covered by the comprehensive plan of DeSoto County, Mississippi. Though the Olive Branch points to the age of said plan as an indicator of weakness, no evidence exists that the plan has adversely affected DeSoto County's growth or planning and it is well within the 20-year period of foreseeability. Unlike a number of its sister counties, DeSoto County has been involved in planning and zoning within its county boundaries since 1958. Its comprehensive plan is backed up by a fully staffed planning department, planning commission, building inspectors, code enforcement officers and geographical identification services. Further, the characteristic of the proposed area of annexation does not call for highly sophisticated planning because of its general agricultural makeup. Accordingly, the Court finds this indicium weighs against annexation.

**NEED FOR MUNICIPAL SERVICES:**

6. With respect to this indicia, the Supreme Court has indicated that sub-factors to be considered in determining whether the need for municipal services is reasonable may include: (a) Request for water and sewage services; (b) Plan of the city to provide first response fire protection; (c) Adequacy of existing fire protection; (d) Plan of the city to provide police protection; (e) Plan of the city to provide increased solid waste collection; (f) Use of septic tanks in the proposed annexation area; (g) Population density. *The City of Winona, supra*. The Supreme Court of Mississippi has determined that sparsely populated areas have less need for immediate municipal services than densely populated areas. *In Re: Enlargement and Extension of the Boundaries of the City of Macon*, 854 So.2d 1029 (Miss. 2003). With respect to this indicium, the Court notes that requests for sewage and gas service is provided throughout both areas of proposed annexation (and exclusively with respect to gas) by Olive Branch. A large portion of PAA 1 is certificated to Olive Branch by the Public Service Commission. Dense developments require sewer as opposed to large lot developments and developers, when necessary, construct the infrastructure on the developments and the collection of sewage is then handled by Olive Branch. Two things should be noted here: a) Olive Branch does not invest in the infrastructure of any private development with respect to utilities and b) Olive Branch is obligated to service these developments due to their certificates they sought and received. While it is true that they must maintain and service those same lines after their takeover

from the development and that their rates are subject to PSC approval, this is a profit-making venture for the municipality.

The vast majority of the water service throughout PAA 1 is certificated to the Lewisburg Water Association and its service will continue whether the area is annexed or not. However, the City has services in a certificated area to the west of Highway 305 in its certificated area, particularly adjacent to the current city limits. With respect to PAA 2, Olive Branch services that area with respect to utilities.

Looking at fire services, exhibit 64 reflects that the two areas proposed for annexation are serviced by four separate entities: 1) Lewisburg Fire Protection District with a Class 6 fire rating, 2) Fairhaven Graded Fire District, with a class 7 fire rating, 3) Bridgetown Graded Fire District with a Class 6 fire rating and 4) Olive Branch Municipal Fire Protection District with a class 5 fire rating. While Olive Branch has a Class 4 rating and sports a full-time paid fire department, the reality is that with respect to economic issues only, the evidence reflects that residential customers in each proposed area of annexation will see very little and in most cases no savings in insurance premiums because of the efforts and ratings of the volunteer fire districts. Admittedly, commercial insurance customers will experience more savings than residential customers, but there are only 37 commercial establishments throughout the entire proposed areas that Olive Branch seeks. Further, although Olive Branch seeks to provide first response fire protection for the area which it seeks, “on day one” following annexation, it should be noted that the obligation, and indeed the right to furnish that fire protection service lies solely with the various Fire Protection Districts previously established by the DeSoto

County Board of Supervisors. That fire protection district created pursuant to Mississippi statute clearly has this right as set forth in Section 19-5-175 of the Mississippi Code Annotated (1972 as amended). That statute reads, in part, as follows:

**“As long as any such district continues to furnish any of the services which it was authorized to furnish in and by the resolution by which it was created, it shall be sole public corporation empowered to furnish such services within such district.”**

With mutual aid agreements existing between the departments and considering the savings or lack thereof, there appears to be little need for fire services beyond that already available to the areas.

The municipality plans to immediately provide police protection to the proposed area of annexation should it be granted. Considering their police force and its number of sworn officers, patrol units, detectives, and equipment, and further understanding that the municipality would be patrolled by radar units for which both areas are now ineligible, it could normally hardly be argued that enhanced police protection by the city is not superior to that currently provided by the county. However, looking deeper into the issue, the training, services available within the department, the equipment available to its officers, the presence of an aviation unit by the county and the comparison to the City and County Departments as reflected in Exhibit 117 leads the Court to conclude that the DeSoto County Sheriff's Department is an anomaly among county law enforcement departments within the state in that their department furnishes services on the level at the minimum as do municipalities.

Likewise, the city plans to immediately provide collection services for solid waste. However, the Court notes that the county presently serves that area by contract with an independent provider for once a week collection. The city would only continue to provide once a week service, no more so than the area is currently receiving. The City will provide weekly rubbish collection, but that service is likewise available to county residents by call and further by self-delivery at no additional cost for a limit of four times per month. Finally, with regard to the issue of population density, the Court again notes that except for some major developments along and adjacent to the existing municipal limits, particularly west of Highway 305, the proposed area of annexation largely consists of single-family residences on large lots and agricultural areas. As sparsely populated areas have less need for immediate municipal services than densely populated areas, this sub-factor is not conducive to reasonableness. Accordingly, considering all of the sub-factors under the indicia of need for municipal services, the Court finds that generally the area is not in need of the fabled municipal level services which can be provided by Olive Branch, and accordingly, this factor weighs against annexation.

**7. NATURAL BARRIERS BETWEEN THE MUNICIPALITY AND THE PROPOSED AREA OF ANNEXATION:**

There is no evidence to indicate that there are any natural barriers between the municipality and the proposed area of annexation which would prohibit the City from providing the full range of municipal services and facilities to both areas sought to be annexed. Accordingly, the Court finds that this indicium favors annexation.

8. **PAST PERFORMANCE OF THE MUNICIPALITY IN PROVIDING SERVICES:**

Since its last major annexation in 1996 Olive Branch has extended a full range of its municipal services, including gas, water, sewer, police protection, fire protection, code enforcement and zoning throughout the area annexed since that time. In its smaller annexations since that time, as previously stated, the parcels were annexed at the request of the owners, a request which would have never been made but for the superior past performance of the City. No evidence was adduced at trial that indicates failed performances by the City as well.

Considering all of the aforesaid in the totality of the circumstances, the Court finds that Olive Branch's past record of performance in providing services for its citizens favors annexation.

9. **ECONOMIC OR OTHER IMPACT ON RESIDENTS AND PROPERTY OWNERS:**

Though the residents of the proposed area of annexation will, if annexed, be required to pay city taxes, that issue alone is insufficient to defeat annexation. *The City of Winona, supra*. In deciding this factor, the Court must balance the equities between the city's need to expand and any benefits which may come to the residents from that annexation taking into consideration any adverse impact, whether economic or otherwise which will be experienced by residents of the same. *The Matter of the Boundaries of the City of Jackson*, 551 So.2d 861 (Miss. 1989).

In return for their tax money, the areas will not receive proportionately better police or fire protection than they already receive from the County for the reasons set forth earlier. Nor will they receive water, or increased garbage collection. Their planning and zoning will remain largely unaffected as well. Street lighting is proposed by the city, and is not provided by the County. Insurance premiums for fire insurance will not be generally lowered and though gas and sewer may be available, the City is already obligated to provide that service to the areas exclusively. In weighing the equities between the impact of increased taxation on the residents of the proposed areas of annexation and the services which they would receive, this Court is unconvinced that the annexation would be reasonable. This indicium does not favor such.

10. **IMPACT OF THE ANNEXATION ON PROTECTED MINORITIES'**

**VOTING RIGHTS:**

The makeup of the existing City with regard to voting age citizens reflects a 74.8% white majority, 20.9% black and 4.3% of other nationalities. The proposed combined areas of annexation for Olive Branch indicates that area is 85.7% white, 11.6% black, and 2.8% of other nationalities. Accordingly, the combined city and proposed areas of annexation would result in the city being 77.4% white, 18.7% black, and 3.9% of other nationalities. Problematic here is the use of 2010 census numbers as these are the most recent census numbers available at this time. That notwithstanding, using the most recent figures, we find a reduction of black and other nationality voters of 2.6% overall. While this is certainly a decrease, it cannot be said that the impact on protected minority



voting strength would be seriously damaged. This factor favors annexation by Olive Branch.

11. **ENJOYMENT OF ECONOMIC AND SOCIAL BENEFITS OF THE  
MUNICIPALITY WITHOUT PAYING A FAIR SHARE OF TAXES:**

The City of Olive Branch placed into evidence statistics which reflected nonresident participation in the city's recreational leagues. That evidence reveals that 3,949 people participated in the City's sports leagues, with 59.5% of that number being nonresidents. According to Exhibit 95, only 687 of those participants were residents of the proposed area of annexation, or 17.39% of the total participants, a small number by all standards, particularly considering that the City invites participants through the schools to do so. To thereafter complain is synonymous to inviting a neighbor to dinner at your home and then presenting him with a bill at its conclusion. Further, although it is certainly true that utility services are provided to members of the proposed area, likewise a monthly service is paid by those residents for that service which matures into profits for the City. That coupled with the fact that the City is *obligated* to provide those services in their certificated area, negates the argument. Accordingly, again evaluating this indicium under the totality of the circumstances, it cannot reasonably be argued that the "fair share" of taxes and expenses are not paid by residents of the proposed area for any benefits which they received and which have been proven.

12. **ANY OTHER FACTORS THAT MAY SUGGEST  
REASONABLENESS:**

This Court must consider and address the impact which an annexation by the City of Olive Branch would have on residents of the various Fire Protection Districts in both areas of proposed annexation, particularly Lewisburg and Bridgetown. Exhibit 64 admitted into evidence reflects that the Lewisburg Fire Protection District encompasses approximately  $\frac{3}{4}$  of the land encompassing PAA 1. Further, a 1 mill tax is imposed by the county for the benefit of the fire protection district on all residents' homes in that fire protection district. If PAA 1 were granted to the City in its entirety, the loss of real property to the District upon which that tax would apply would result in the devastating loss of revenue to not only Lewisburg, but to all volunteer fire districts across the County because of the distribution method utilized by the County. Likewise, the lost resident citizens in that district would no longer have any incentive to support the district by dues, yet another means of support for the Fire District. The consequence will be that the remaining members of the fire protection district who are not annexed by Olive Branch will be forced to survive on reduced funds and resources for continued protection in fire emergencies. As to Bridgetown Graded Fire District, the removal of PPA 1 to the City would eviscerate the District from its largest, most populous area, including its own fire station. This would have the same effect on dues and contributions as enumerated with Lewisburg.

### **CONCLUSION**

The Court has considered the evidence presented by Olive Branch, Hernando and DeSoto County for a period of eight days. Among many other things, growth projections, bond ratings, services offered, density factors, paths of growth and the very right for a municipality to grow have been argued extensively by city officials and professional experts and planners. Having heard the evidence presented in open Court, including argument of Counsel, and considering all of the applicable indicia of reasonableness in the totality of the circumstances, the Court concludes as follows:

The application for expansion and annexation of the proposed areas by the City of Olive Branch is reasonable with respect to the issue of annexation in general. The City has shown by a preponderance of the evidence that a) the proposed areas of anticipated annexation are clearly in their path of growth, b) there is a need to expand the existing city limits, particularly for the annexation of developable land, c) the city has the financial resources and strength to pay for the anticipated annexation, d) there are *potential* health hazards in the proposed areas of annexation, e) there are no geographical boundaries to the annexation, f) there is no serious impact on the voting strength of protected minorities, and g) the City has a good record of past performances with respect to the fulfillment of promises of services to an annexed area.

The factors of concern to the Court which do not favor annexation include a) the need for planning in the area to be annexed, b) the need for municipal services, c) the “fair share” consideration, d) the economic impact on the citizens of the proposed areas of annexation, and e) the adverse impact on the various Fire Districts. Neither of these factors or indicia are meant to be exhaustive in and of itself and nor does either have

more weight than the other, but must be viewed in the totality of the circumstances.

Clearly when doing so, the City's request for annexation approval is reasonable in concept. However, the annexation is just as clearly unreasonable in its expanse.

The expert in urban and regional planning from Hernando and DeSoto County opined that the annexation was reasonable with respect to Olive Branch's need, but was concerned with the magnitude of the proposed areas of the land requested and enumerated. In support thereof, exhibit 190 was introduced to show the available land for development in the existing city, both areas of proposed annexation and a forecast of needed land for the foreseeable future, from 15 to 35 years. This testimony convinces the Court that the total of the proposed areas is unnecessary, unneeded, and overburdensome to citizens in the proposed areas. Consequently, the Court finds that the proposed annexation, *in toto*, is not reasonable and should be contracted.

Clearly, the acquisition of developable land is primary to the concerns of Olive Branch. Growth such as experienced in the City and indeed throughout DeSoto County must be accommodated by developable, vacant and preferably unconstrained land. Though the principle of capturing spillover growth is likewise a concern for any City, including Olive Branch, in this instance it appears to be secondary to the acquisition of developable land. This is garnered from the fact that Olive Branch did not seek to annex a large, developed area adjacent to its east municipal boundary that it had already supplied with utilities but instead chose to seek large tracts of vacant land in PAA 1. Consequently, the Court looks to accommodate accordingly.

For the reasons set forth in this opinion, the remaining residents of the proposed areas, particularly PAA 1 would be better served by leaving the Lewisburg Fire

Prevention District and the Bridgetown Graded Fire District as intact as possible.

Similarly, it would appear to be in the City's interest for the City to include at least the majority of the Olive Branch Municipal Fire District inside the city limits. With those thoughts in mind, the Court finds that the following areas sought by the City are hereby found to be reasonable and subject to annexation by Olive Branch:

1. All of PAA 2 as set forth in Exhibit 16;
2. The following areas in PAA 1:
  - a. Beginning at the intersection of the current municipal boundary and the western right of way of State Highway 305, along said western right of way south to the northern right of way of that certain electrical transmission line crossing said highway; then along the northern right of way boundary of said electrical transmission line until such time as it connects with the city limits of the City of Southaven along Malone Road;
  - b. That certain portion of Section 19 and 30, Township 2 South and Range 6 West lying west of Camp Creek;
  - c. The East half of Section 25, Township 2 South, Range 6 West;
  - d. That portion of Section 24, Township 2 South, Range 6 West lying and being situated in the Olive Branch Municipal Fire District.

With respect to items b, c and d above, it is the intent of the Court to include all of the Olive Branch Municipal Fire District. For illustrative purposes **only**, a map is attached hereto as an exhibit to this opinion. It should not be relied upon for any legal purposes.

The inclusion of the above described lands will more than adequately provide the City with developable, vacant land for at least the next 20 years based on the evidence with as little inclusion of residents as possible.

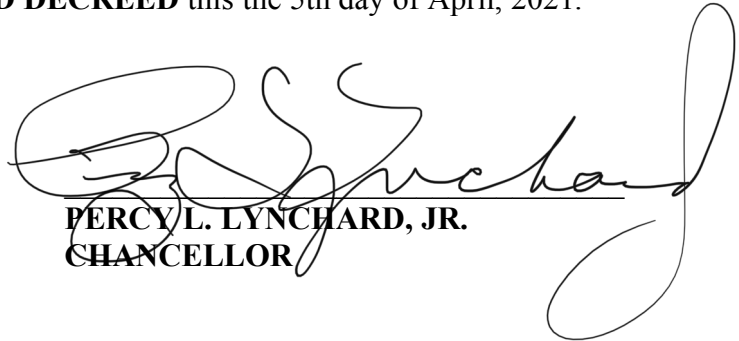
Likewise, it should satisfy the County's concerns with respect to its fire departments and likewise leave the I-269 corridor open for future annexation and acquisition by any municipality, including Olive Branch, that has its path of growth in that area.

In conclusion, the Court would be negligent if it did not comment on the current state of annexation law in Mississippi. It seems grossly inequitable to the Court that any municipality may impose its jurisdiction, taxes and ordinances on a population at its will without any input short of litigation. Rare is the occasion when an area and its citizens is taken into a municipality at the invitation or even agreement of those citizens. The only recourse for the potentially annexed citizens following the filing of the municipality's intent to annex is then to litigate the reasonableness of that annexation (which requires a great deal of time and resources, particularly money) against a usually well-funded municipality. Attorneys, professional planners, financial consultants and other experts are not without a high cost, a situation that the citizen learns early on when they object. Few are able to fund this type of litigation. Surely there is a method fairer to all parties that can resolve annexation litigation without the lone citizen attempting to defeat city hall in a modern-day David vs. Goliath trial. As it is not the Court's position to legislate by decree, the Mississippi Legislature should examine the current laws with respect to annexation and pass appropriate legislation that is more equitable to the citizens while

still preserving a municipality's right to expand. Efforts by its members thus far have been ineffective at best. Until such time as that is accomplished, this Court will continue to apply the law of this state in this area as it exists regardless of the Court's dislike as by oath it must. This in no way is meant to be critical of the City of Olive Branch in its annexation herein. They have simply followed the law as it stands and presented their case in a professional and well- developed manner. It is not the participants, but the law of which I criticize.

Counsel for Olive Branch is hereby directed to prepare an order commensurate with this Court's findings and after having done so, forward same to counsel for DeSoto County, Mississippi and the City of Hernando for their approval as to form and not as to content. Submission of the executed orders shall be tendered to the Court within 10 days of the date hereof pursuant to the Uniform Chancery Court Rules.

**ORDERED, ADJUDGED AND DECREED** this the 5th day of April, 2021.



**PERCY L. LYNCHARD, JR.**  
**CHANCELLOR**



