



TO: Mayor, City Council and City Manager

FROM: J. Pat Rich, Development Coordinator 

DATE: October 27, 2021

SUBJECT: Recommendation from Planning Commission Accessory Building Variance Request David Dreher

David Dreher has filed an application requesting a variance from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of a roof over a concrete slab basketball court totaling 4875 sf. and 25' 6" high. This would be the second accessory building at this address. The property address is 8438 Kimo Court. The tax parcel number is 067M-1-35-175.000. The property is in an R-2 zoning district. The maximum square footage allowed for an accessory structure is 800 sf. The variance requested is 4,075 sf. The maximum height allowed is 25'. The variance requested is 6". There shall only be one accessory structure on a property. The variance requested is a second accessory building on this property. The Case File Number is 202100343.

This is a request for 3 variances. Adding the roof to the basketball court makes it an accessory structure. The ordinance regarding accessory structures states:

1. Shall not exceed 800 sf. This variance would grant 6 times the maximum sf. The accessory structure will be larger than most houses in Diamondhead.
2. Shall only be one on a property. A pool house already exists.
3. Maximum height shall not exceed 25'.

Received and read into the record a letter from 4 residents objecting to the variance.

At its regular meeting on October 26, 2021, the Planning Commission voted 5-0 to recommend denying the variance.

A swimming pool designated to contain a water depth of twenty four (24") inches or more shall not be located, constructed, or maintained on any lot or land area except in conformity with the following requirements:

- i. Location. No pool shall be located in front of the principal building. No above or in-ground pool shall be located within ten (10') feet of a side or rear lot line or under any electrical lines, or over any utility or drainage facility. No portion of any walkway or pool appurtenance structure shall be closer than four (4') feet to any lot line.
- ii. Fence. Swimming pools shall be fenced in accordance with the applicable building code in force for the City of Diamondhead.

*D. Residential Accessory Building, Structure or Use.*

Permitted residential accessory buildings, structures or uses include:

- i. Parking Spaces and Garages shall be provided in accordance with Article 8, but no parking garage shall be detached from the main structure.
- ii. Structures.
  - (a) Uses: A principal structure shall be already constructed on the same lot.
  - (b) Use Limitation: Accessory structures shall not be used as a habitable dwelling unit.
  - (c) Types of structures i.e. bathhouses, greenhouses, outdoor kitchens, storage sheds, detached decks, pergolas and RV/camper storage etc. not otherwise addressed herein.
  - (d) Area limitation: Accessory structures shall be limited to 30% of the footprint of the primary structure but not to exceed 800 square feet whichever is less.
  - (e) Maximum height: The maximum height shall not exceed twenty-five (25') feet. However, the height of the accessory structure shall not exceed the height of the primary structure. The accessory structure shall not exceed one (1) story (see f).
  - (f) Setbacks: The structure shall not be located in front of nor within ten (10') feet of the principal building and not within five (5') feet from a side lot line, nor within ten (10') feet of a rear lot line. If the height exceeds fifteen (15') feet, the accessory structure shall meet the required setbacks of the primary structure.
  - (g) Types of Materials: To insure architectural compatibility, building design shall be in keeping with the design patterns and architectural features consistent with the primary structure.
  - (h) Number of structures: There shall only be one accessory structure on a property.



# City of Diamondhead

5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222.4626

FAX: (228) 222-4390

[www.diamondhead.ms.gov](http://www.diamondhead.ms.gov)

## STAFF REPORT TO PLANNING COMMISSION

DATE: October 18, 2021

CASE FILE NUMBER: 202100343

APPLICANT: David Dreher, Jr.

ZONING DISTRICT: R-2 Medium Density Single Family

TYPE OF APPLICATION: Variance

**NATURE OF REQUEST:** David Dreher has filed an application requesting a variance from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of a roof over a concrete slab basketball court totaling 4875 sf. and 25' 6" high. This would be the second accessory building at this address.

The property address is 8438 Kimo Court. The tax parcel number is 067M-1-35-175.000. The property is in an R-2 zoning district. The maximum square footage allowed for an accessory structure is 800 sf. The variance requested is 4,075 sf. The maximum height allowed is 25'. The variance requested is 6". There shall only be one accessory structure on a property. The variance requested is a second accessory building on this property. The Case File Number is 202100343.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: October 26, 2021

### ACTION BY THE PLANNING COMMISSION:

**FINDINGS:** The Planning Commission may recommend granting a variance provided affirmative findings of fact are made on each of the following criteria:

- A. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district. By way of example, special conditions circumstances peculiar to land could include irregularity, narrowness, or shallowness of lot size or shape, or exceptional topographical or other physical conditions.
- B. That literal interpretation of the provisions of this title would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title.
- C. That special conditions and circumstances do not result from the actions of the applicant.
- D. That granting the variance requested will not confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same zoning district.
- E. The variance, if authorized, will represent the minimum variance that will afford relief and will represent the least modification possible of the regulation in issue.

- F. The Variance would observe the spirit of the Ordinance and would not change the character of the district.
- G. The Variance would observe the spirit of the Comprehensive Plan.
- H. That the Variance requested will not result in any change in use or density of the subject property.

NOTES: In recommending that any variance be granted, the Planning Commission may prescribe appropriate conditions and safeguards in conformity with the zoning ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of the zoning ordinance and punishable as determined within the zoning ordinance.

Under no circumstances shall the Planning Commission or Mayor and City Council grant a variance to allow a use not permissible under the terms of the zoning ordinance in the district involved, or any use expressly or by implication prohibited by the terms of the zoning ordinance in said district.

**RECOMMENDATION TO PLANNING COMMISSION:** To **deny** the Variance as petitioned.

The staff recommends denying the Variance based on the following findings of fact.

- A. That special conditions and circumstances do not exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same district
- B. That literal interpretation of the provisions of this title would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this title.
- C. That special conditions and circumstances do result from the actions of the applicant.
- D. That granting the variance requested will confer on the applicant any special privilege that is denied by this title to other lands, structures, or buildings in the same zoning district.
- E. The variance, if authorized, is beyond the minimum variance that will afford relief and will not represent the least modification possible of the regulation in issue. It is extremely excessive.
- F. The Variance would not observe the spirit of the Ordinance and would change the character of the district.
- G. The Variance would not observe the spirit of the Comprehensive Plan.
- H. That the Variance requested will not result in any change in use or density of the subject property.



## AGENDA

### PLANNING AND ZONING COMMISSION

Commissioner Flowers  
Commissioner Layel  
Commissioner Debrow  
Commissioner Rubar  
Commissioner Hourin  
Commissioner Torguson  
Commissioner Hector

Tuesday, October 26, 2021

6:00 PM CST

Council Chambers, City Hall  
and via teleconference, if necessary

---

#### Call to Order

#### Statement of Purpose

1. May our decisions today be made with wisdom, careful deliberation and in the best interest of the City of Diamondhead. May we display patience and kindness in our dealings with each other and all who are in attendance and may any decisions made today promote the health, safety and welfare of the citizens of Diamondhead and the enhancement of the City as a whole.

#### Pledge of Allegiance

#### Roll Call

#### Confirmation or Adjustments to Agenda

#### Approval of Minutes

2. Approval of August 24, 2021 minutes.

#### New Business

*DENIED  
5-0*

3. David Dreher has filed an application requesting a variance from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of a roof over a concrete slab basketball court totaling 4875 sf. and 25' 6" high. This would be the second accessory building at this address. The property address is 8438 Kimo Court. The tax parcel number is 067M-1-35-175.000. The property is in an R-2 zoning district. The maximum square footage allowed for an accessory structure is 800 sf. The variance requested is 4,075 sf. The maximum height allowed is 25'. The variance requested is 6". There shall only be one accessory structure on a property. The variance requested is a second accessory building on this property. The Case File Number is 202100343.
4. The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to require all new street names to be Hawaiian in the Subdivision Regulations (Ordinance Number 2020-001). The proposed text amendment shall add to Article 308.7. "All other proposed street names shall be Hawaiian.". The Case File Number is 202100385.
5. Approval of 2022 Planning and Zoning Commission Calendar.

#### Unfinished Business

#### Open Public Comments to Non-Agenda Items

#### Commissioners' Comments

#### Communication / Announcements

October 19, 2021

Dear Mr. Rich,

We are writing this letter in protest to Case File Number 202100343, regarding the addition of a second accessory building to this property at 8438 Kimo Court. It is stated in your letter to the families residing on Kimo Court that "**there shall be only one accessory structure on a property.**" Mr. Dreher has one accessory building on-site. The one accessory building is a Pool House, which is the size of a small home.

Recently, Mr. Dreher added an extended addition to his home, which was a new garage area. Many neighbors did not notice a **Building Permit** in the window of the home or on the external fence around the yard, perhaps the **Building Permit** was in the home. According to the Diamondhead website, "**most construction projects require a permit.**" This structure *does not detract* from the curb appeal of his home, so the neighbors did not feel intruded upon.

With the request of the second accessory, it will affect his direct neighbors and surrounding neighbors. The structure will change the view of his direct neighbor's backyard that is tranquil and has a beautiful view of nature!

Building a roof over the concrete slab basketball court and possible baseball batting cage disrupts the character of the homes that already exist on Kimo Court. We are not talking about a small area to be constructed, but an area of 4,075 square feet. The surrounding neighbors do not want to view a "towering roof," that is not a primary domicile, as they walk on Kimo Court or sit on their property to enjoy an evening with nature.

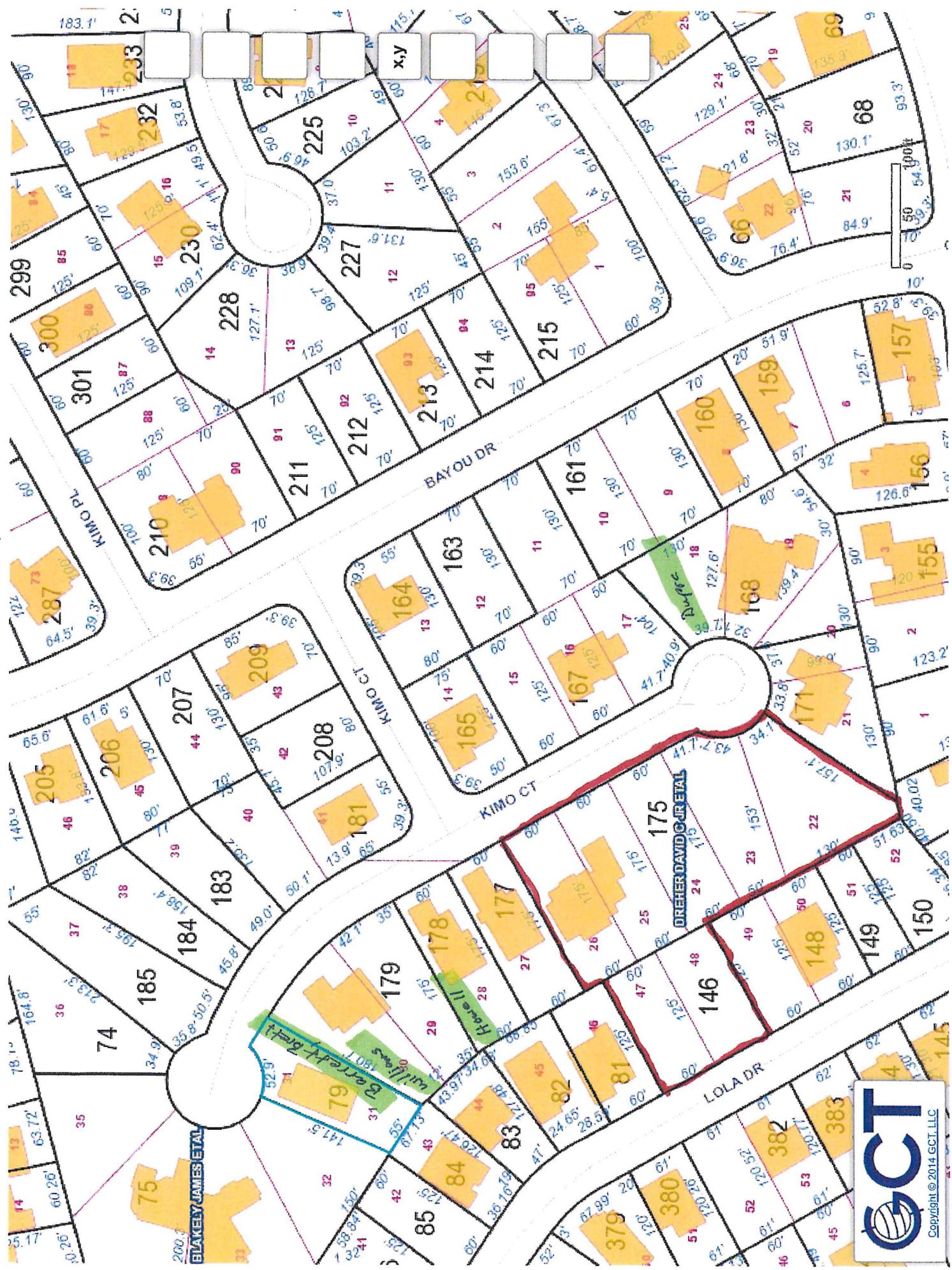
The second accessory building should not be permitted to be developed, since the structure could alter the market value of the surrounding homes on Kimo Court. If a gym is needed for children to play basketball, perhaps the city of Diamondhead should consider building one on an undeveloped area away from residential homes.

For the specific reason of "pushing limits," **we protest the construction on the property of 8438 Kimo Court for the roof over the basketball court and possible baseball batting cage.** We would like to keep our peaceful and naturesque street intact!

Respectfully,

The Families Residing on Kimo Ct.

Maria C. Barrett *Ron Karr* 84324 Ronald E. Howell 84322  
Debbie Karr *Robert Williams* 84330 Edwinia DuCre'  
Derek A. Williams Michael DuCRE' 84448





5000 Diamondhead Circle  
Diamondhead, MS 39525  
Ph: 228-222-4626  
FX: 228-222-4390

## APPLICATION FOR VARIANCE REQUEST

Case Number: 202100343

Date 8/25/2021

Applicant: David C. Dreher Jr.

Applicant's Address: 8438 Kimo Court

Applicant's Email Address: Gulfcoastgfronts@gmail.com

Applicant's Contact Number: (Home) N/A (Work) 228-255-0012 (Cell) 228-669-2304

Property Owner: David & Lynsey Dreher

Owner's Mailing Address: 8438 Kimo Court

Owner's Email Address: Gulfcoastgfronts@gmail.com

Owner's Contact Number: (Home) \_\_\_\_\_ (Work) 228-255-0012 (Cell) 228-255-0012

Tax Roll Parcel Number: 067M-1-35-175.00

Physical Street Address: 8438 Kimo Court

Legal Description of Property: 25-26 BLK 4 UN 6.1 Diamondhead P

Zoning District: \_\_\_\_\_

State Purpose of Variance: (Front/Side/Rear/Lot Size/Parking/Building/Coverage)  
(Signage-Size-Height)

To apply for a roof over a basketball court on a  
pre-existing slab on my property behind my fence.

(estimate size 69x70) 4,830 sq ft.

REQUIRED ITEM AProperty Owner David & Lynsey DasherStreet Address 8438 Lino Court

Statement Describing Variance Request

To apply for a roof over a basketball court on a pre-existing slab on my property behind my fence.  
(estimate size 68x70)

The reasons why it complies with the criteria for variances:

1. DO THE SPECIAL CONDITIONS AND/OR CIRCUMSTANCES EXIST WHICH AFFECT ONLY THE LAND OR STRUCTURE IN QUESTION AND NO OTHER SURROUNDING OR SIMILAR PROPERTIES?

Response: It only affects the structure in question and no other surrounding properties.

2. WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?

Response: No it will not.

3. ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?

Response: No they are not.

4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

Response: No it will not.

## STATEMENT OF UNDERSTANDING

As the applicant or owner/s for the requested Variance in the City of Diamondhead, I (we) understand the following:

*(\$100.00 + 1.00 A/H Fee) = total of 101.00*  
 The application fee of \$100.00 must be paid prior to the acceptance of the application. Further, that if the application is withdrawn for any reason that the application fee is forfeited to the City of Diamondhead.

As the applicant or owner/s, I (we), or the designed representative, must be present at the public hearing.

That all information provided with this application is true and correct to the best of my knowledge.

That this application represents only property owned by me (us) and that any other adjoining property owners must apply for a Variance on his own behalf.

That all required attachments have been provided to the City of Diamondhead.

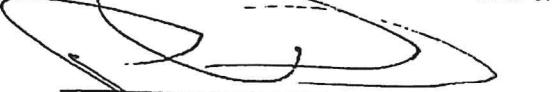
That additional information may be required by the Planning Commission prior to final disposition.

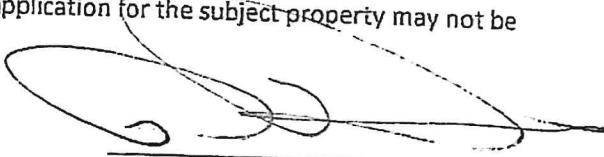
The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on October 26, 2021 at 6 p.m. in the Council Chambers of the Diamondhead City Hall.

If a continuance of the hearing is necessary at my (our) request, the request must be made to the Zoning Official a minimum of seven (7) days prior to the hearing. If such request is not made in writing, I understand that a new application must be filed and an application fee paid to the City.

If the application is denied by the City Council, a new application for the subject property may not be submitted for one (1) year from the date of denial.

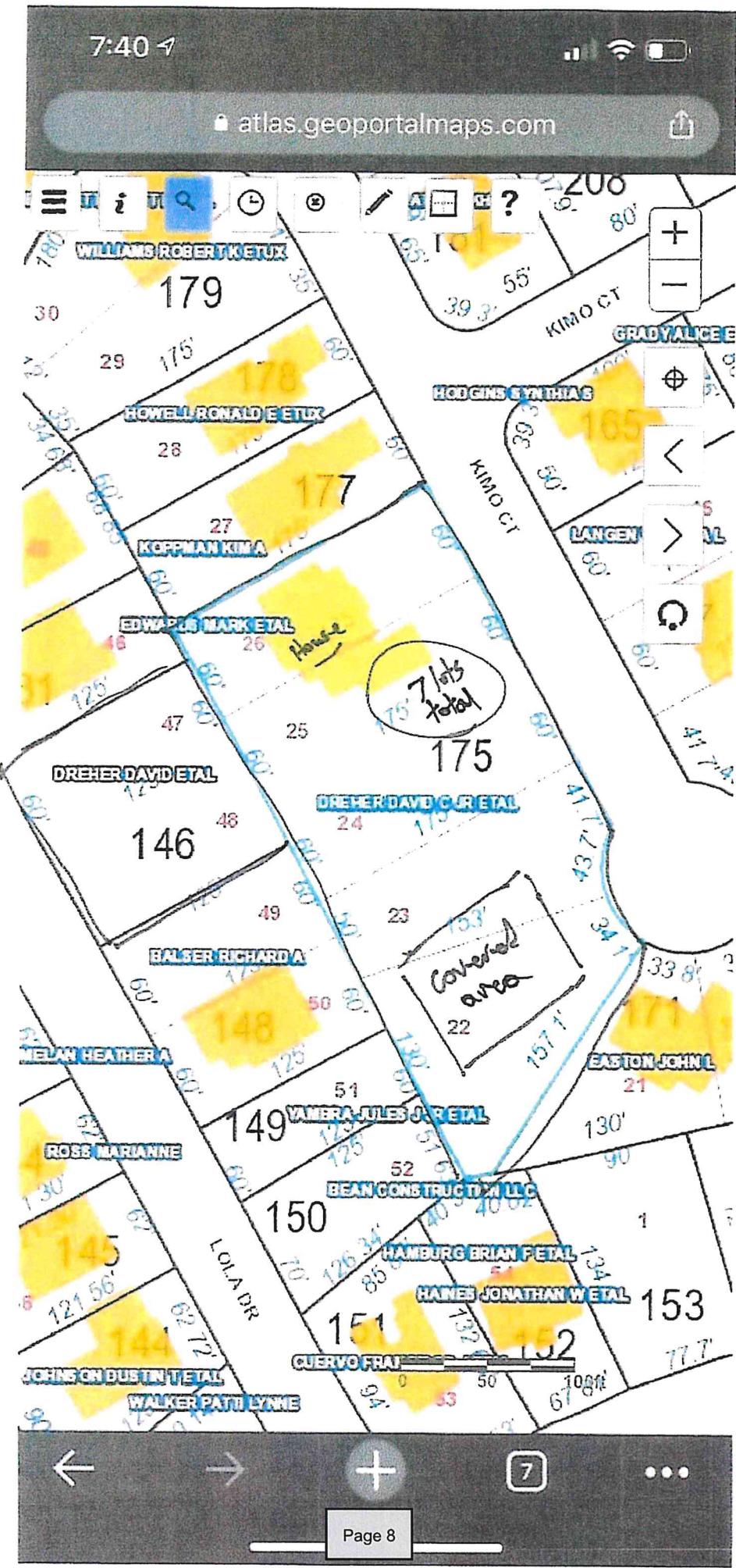
  
 Signature of Applicant

  
 Signature of Property Owner

For Official Use Only

\$100.00  
 Copy of Deed, Lease or Contract  
 Site Plan  
 Parking Spaces  
 List of Property Owner

Application Signed  
 Written Project Description  
 Drainage Plan NA   
 Notarized Statement NA



7:40 7

atlas.geoportalmaps.com

ATMAEKHLAS 35' 39 3'

KIMO CT

GRADY

HODGINS SYNTHIAS 165'

KIMO CT

LANGENW

EDWARD MARKET AL 165'

DREHER DAVID C JR ETAL

Street View

Parcel Number: 067M-1-35-175.000

Owner Name: DREHER DAVID C JR ETAL

Owner Address: 8438 KIMO COURT

Owner City, State ZIP: DIAMONDHEAD, MS 395250000

Physical Address: 8438 KIMO CT

Improvement Type: RES

Year Built: 2012

Base Area: 2897

Adjusted Area: 4836

Improvement Value: 494390

Land Value: 60000

Total Value: 554390

Estimated Tax: 6798.41

Homestead Exemption: Yes

Deed Book: 2010

Deed Page: 7309

Legal Description 1: 25-26 BLK 4 UN 6  
DIAMONDHEAD P

Legal Description 2: H#2

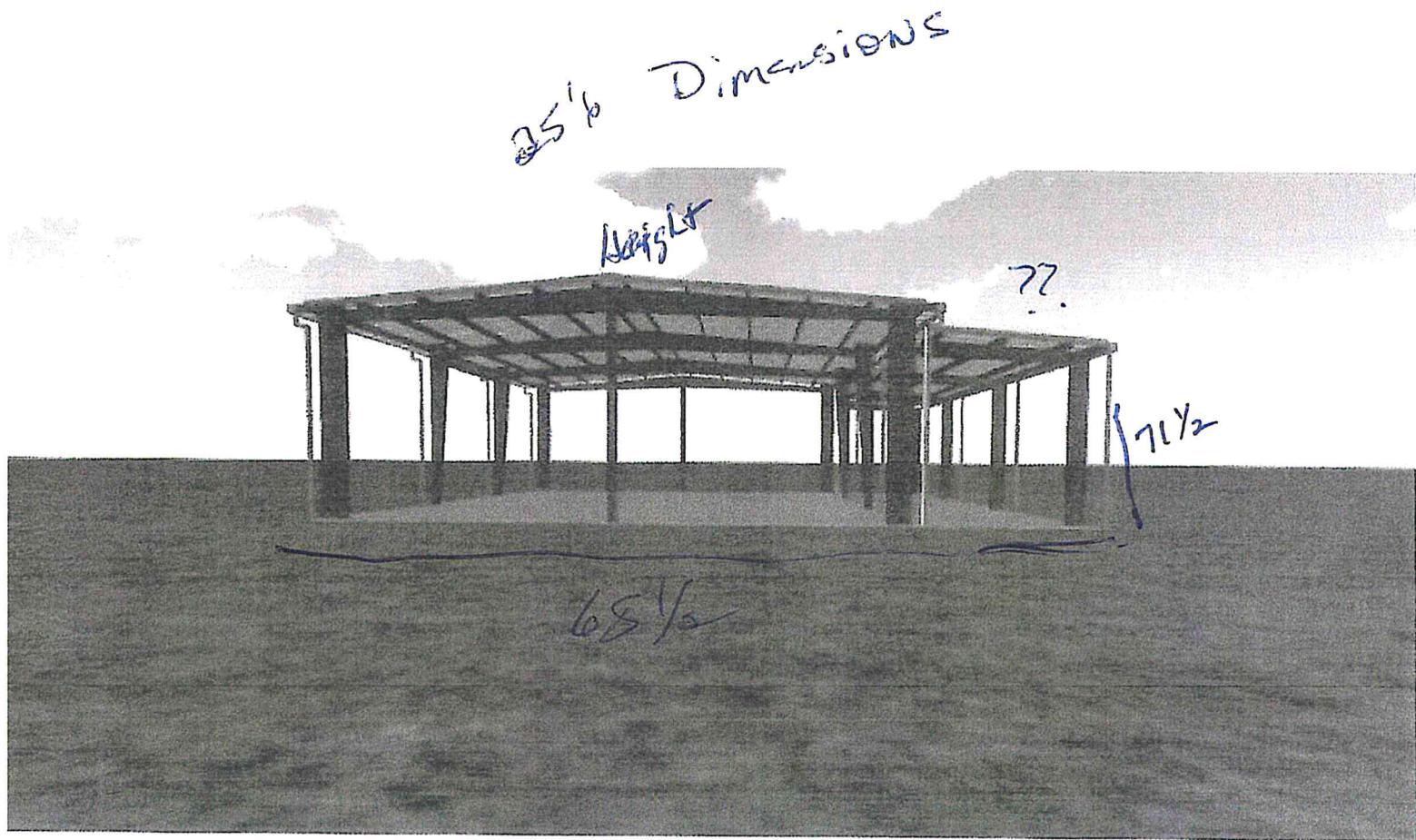
Legal Description 3: H#3

Close Export Print Labels

57 100 53 39 50 52 100 77 77 153

DIAMONDHEAD DR W.

Page 9



Concrete PAD  $68\frac{1}{2} \times 71\frac{1}{2}$

**Owner City, State ZIP:** DIAMONDHEAD, MS 395250000  
**Physical Address:** 8438 KIMO CT  
**Improvement Type:** RES  
**Year Built:** 2012  
**Base Area:** 2897  
**Adjusted Area:** 4836  
**Improvement Value:** 494390  
**Land Value:** 60000  
**Total Value:** 554390  
**Estimated Tax:** 6798.41  
**Homestead Exemption:** Yes  
**Deed Book:** 2010  
**Deed Page:** 7309  
**Legal Description 1:** 25-26 BLK 4 UN 6 DIAMONDHEAD P  
**Legal Description 2:** H#2  
**Legal Description 3:**  
**Legal Description 4:**  
**Legal Description 5:**  
**Legal Description 6:**  
**Longitude:** -89.37469675  
**Latitude:** 30.39538154  
**Square Footage:** 53761.078536987305

Sketches

Sketch Sketch Name

067M-1-35-175\_00001-Model.gif

Condos

**NUCOR BUILDING SYSTEMS**

Nucor Buildings Group – TX  
 600 Apache Trail - Terrell, TX 75160  
 - Phone: (972) 524-5407 - Fax: (972) 524-5417

**eQuote****1) ORDER INFORMATION****Project Name:** GULF COAST GOLF CARTS**Buyer Name:** METAL BUILDING AND SUPPLIES**Buyer Address:** 3521 HWY 43 NORTH

PICAYUNE, MS 39466

United States

**Buyer Contact:** KAUL BUDDY**Contact Phone:** (769) 242-2630**Contact Fax:** (769) 242-2631**Contact Mobile Phone:** (504) 421-8326**Contact Email:** BUDDY.MBAS@YAHOO.COM**Buyer P.O. #:****(For Reference Only)****End Customer:** TBD**Order Type:** Production Order**Anchor Bolt Drawings:** 1 sets**Erection Drawings:** 1 sets**Permit Drawings:** 1 sets**ShakeoutPro:** No**Send Drawings Via:**  Mail  Email (.pdf format only)**Shipping/Jobsite****Address:** Diamondhead, MS 39525

United States

**Jobsite County:** Hancock**Est. # of Trucks:** 1**Freight Method:** EXW Loaded Allowed to Shipping Address**Ferry Transport:** N/A**Building End Use:** 4G - Community residential**Quote Requested:****Requested Delivery:****Buildings in this Order:** 2**Building Warranty:** One Year**Shipping Instructions:****2) BUILDING DESCRIPTION****BUILDING INFORMATION**

Building Name	Building Profile	Building Width	Building Length	Distance to Ridge	Actual Eave Ht.		Roof Slope		Structural Steel Color	
					FSW	BSW	FSW	BSW	Primary	Wall Sec.
COVER	Gable Symmetrical	51'-0"	70'-0"	25'-6"	18'-0"	18'-0"	1:12"	1:12"	RP	RP
LEAN - TO	Lean-To	14'-0"	70'-0"	N/A	14'-10"	16'-0"	1:12"	N/A	RP	RP

\* Unless noted in Special Requirements all structural members not fabricated of prepainted or galvanized material or treated with a corrosion resistant coating are painted with one coat of shop primer. The coat of shop primer is intended to protect the steel for only a short period of exposure to ordinary atmospheric conditions.

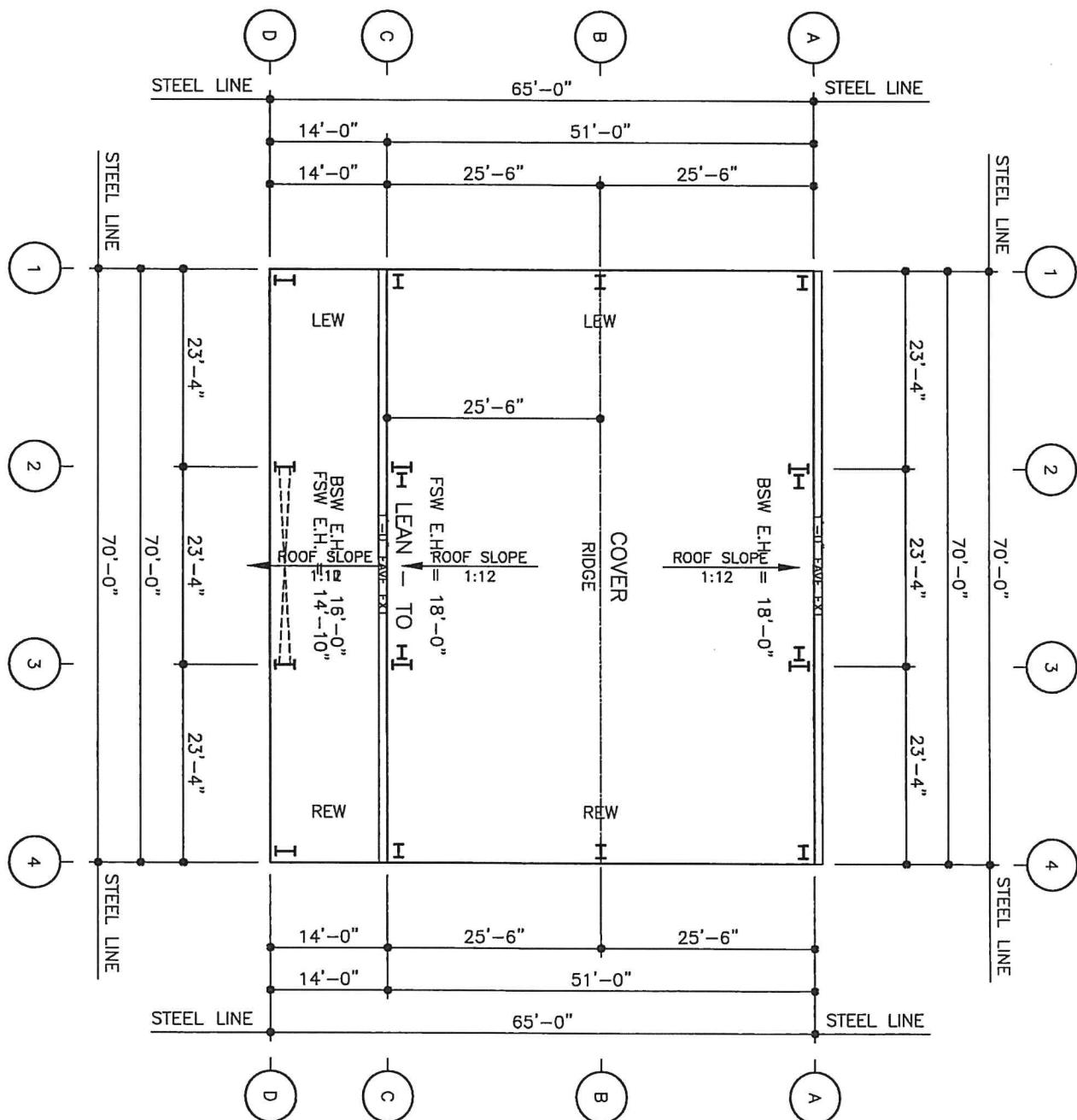
**ROOF SECONDARY INFORMATION**

Building Name	Secondary Type	Purlin Tie-in	Roof Sec. Color	Purlin Depth*	Typical Purlin Spacing
COVER	Purlins	None	RP	Per NBS	Per NBS
LEAN - TO	Purlins	None	RP	Per NBS	Per NBS

\* All program generated depth and spacing is subject to change in final design.

**SIDEWALL AND ENDWALL SPACING**

Building Name	Sidewall Bay Spacing (From LEW)	FSW Soldier Column Spacing (From LEW)	BSW Soldier Column Spacing (From LEW)	Left Endwall (LEW) Column Spacing (From FSW)	Right Endwall (REW) Column Spacing (From FSW)
COVER	3@23'-4"	N/A	N/A	2@25'-6"	2@25'-6"
LEAN - TO	3@23'-4"	N/A	N/A	1@14'-0"	1@14'-0"



09.23.2021

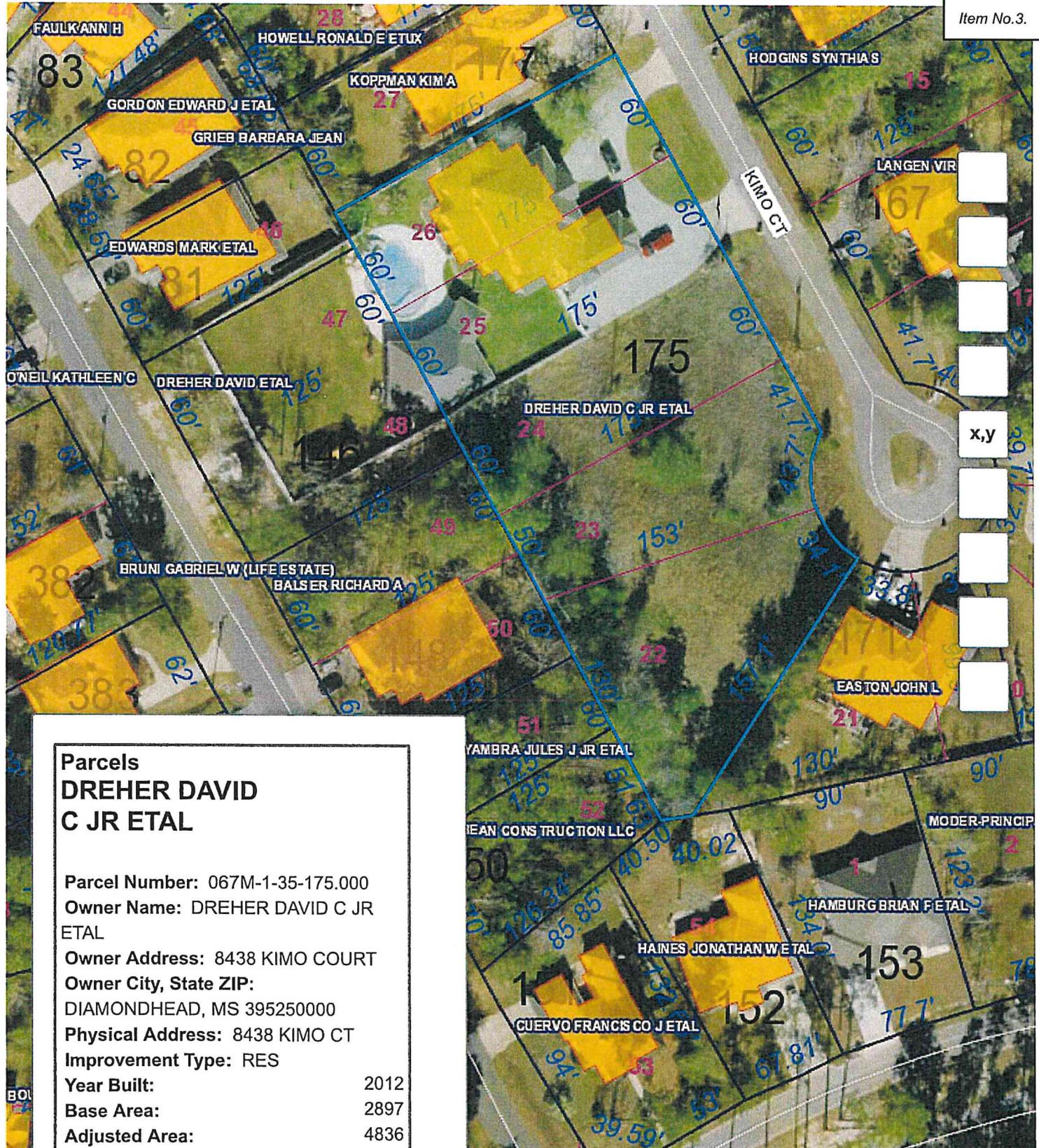
09.23.2021

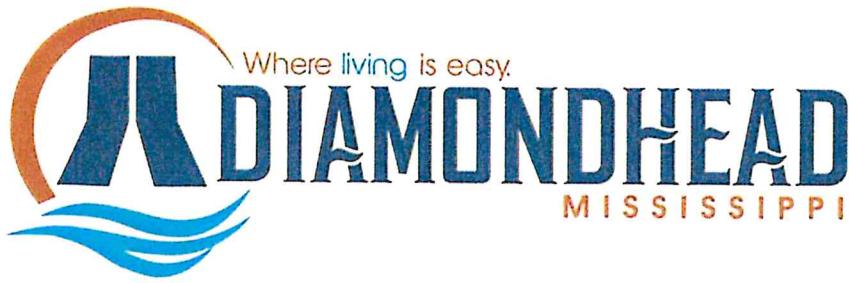


Item No.3.

09.23.2021

Item No.3.





5000 Diamondhead Circle ·  
Diamondhead, MS 39525-3260  
Phone: 228.222.4626 Fax: 228-222-4390  
[www.diamondhead.ms.gov](http://www.diamondhead.ms.gov)

TO: David Dreher and adjacent property owners

FROM: J. Pat Rich *J. Pat Rich*

Planning & Zoning Administrator

DATE: October 8, 2021

SUBJECT: Variance application request before the Planning & Zoning Commission

David Dreher has filed an application requesting 2 variances from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of a roof over a concrete slab basketball court totaling 4875 sf. and 25' 6" high. This would be the second accessory building at this address.

The property address is 8438 Kimo Court. The tax parcel number is 067M-1-35-175.000. The property is in an R-2 zoning district. The maximum square footage allowed for an accessory structure is 800 sf. The variance requested is 4,075 sf. The maximum height allowed is 25'. The variance requested is 6". There shall only be one accessory structure on a property. The variance requested is a second accessory building on this property. The Case File Number is 202100343.

In accordance with the Comprehensive Zoning Ordinance Article 2.6.4, the Planning Commission may recommend to the Mayor and City Council a variance be granted as the variance was applied for or in a modified form or subject to conditions or the application may be denied. A variance may be revocable, may be granted for a limited period, or may be granted subject to conditions as the Planning Commission or Mayor and City Council may prescribe.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, October 26, 2021, at 6:00 p.m.** The public hearing will be held at Diamondhead City Hall in the Council Chambers at 5000 Diamondhead Circle in Diamondhead, MS 39525. Interested members of the public are invited to attend. This meeting will also be live streamed for your convenience.

If you have any questions or comments or would like to review the application, you may contact the Building Department at the above address and/or at 228-222-4626.

**NOTICE OF PUBLIC HEARING  
PLANNING AND ZONING COMMISSION  
DIAMONDHEAD, MS**

David Dreher has filed an application requesting a variance from the Zoning Ordinance (Article 4.18.3 D ii) to allow the construction of a roof over a concrete slab basketball court totaling 4875 sf. and 25' 6" high. This would be the second accessory building at this address.

The property address is 8438 Kimo Court. The tax parcel number is 067M-1-35-175.000. The property is in an R-2 zoning district. The maximum square footage allowed for an accessory structure is 800 sf. The variance requested is 4,075 sf. The maximum height allowed is 25'. The variance requested is 6". There shall only be one accessory structure on a property. The variance requested is a second accessory building on this property. The Case File Number is 202100343.

In accordance with the Comprehensive Zoning Ordinance Article 2.6.4, the Planning Commission may recommend to the Mayor and City Council a variance be granted as the variance was applied for or in a modified form or subject to conditions or the application may be denied. A variance may be revocable, may be granted for a limited time period, or may be granted subject to conditions as the Planning Commission or Mayor and City Council may prescribe.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, October 26, 2021, at 6:00 p.m.** The public hearing will be held at Diamondhead City Hall in the Council Chambers at 5000 Diamondhead Circle in Diamondhead, MS 39525. Interested members of the public are invited to attend. This meeting will also be live streamed for your convenience.

If you have any questions or comments or would like to review the application, you may contact the Building Department at the above address and/or at 228-222-4626.