



5000 Diamondhead Circle · Diamondhead, MS 39525

Phone: 228-222-4626 Fax: 228-222-4390

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

TO: Mayor, City Council and City Manager

FROM: J. Pat Rich, Development Coordinator *J. Pat Rich*

DATE: November 9, 2022

SUBJECT: 982 Ala Moana Place Side Yard Setback Variance Request

J. White Homes, LLC, represented by Jason White has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a single-family residence within 9'3" of both side yard property lines. The side yard setbacks are 10'. The variance requested is 9" on each side yard setback for a total of 1'6".

At its regular meeting on November 8, 2022, the Planning Commission voted 6-0 to recommend approving the variance as requested. This will allow an 1,462 square foot brick home to be built on the lot. The public notice was published in the newspaper and mailed to property owners within 400'. There was one objection to the variance.



## AGENDA

### PLANNING AND ZONING COMMISSION

Commissioner Bennett  
Commissioner Brewer  
Commissioner Cook  
Commissioner Debrow  
Commissioner Flowers  
Commissioner Layel  
Commissioner Nicaud

Tuesday, November 08, 2022

6:00 PM CST

Council Chambers, City Hall  
and via teleconference, if necessary

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#### **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 October 25, 2022 minutes.

#### **New Business**

*Passed 6-0*

3. J. White Homes, LLC, represented by Jason White has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a single family residence within 9'3" of both side yard property lines. The property address is 982 Ala Moana Place. The tax parcel number is 067J-1-36-054.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9" on each side yard for a total of 1'6". The Case File Number is 202200464.

*Passed 6-0*

4. Hasselvander, LLC, represented by Brian Hasselvander, has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a deck within 15'6" from the rear property line. The property address is 3416 Lumahai Place. The tax parcel number is 131M-2-11-050.000. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 4'6". The Case File Number is 202200466.
5. Approval of the 2023 Planning & Zoning Commission Calendar.

#### **Unfinished Business**

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

#### **Commissioners' Comments**

#### **Communication / Announcements**

6. The next City Council meeting is Tuesday November 15, 2022.

The next Planning Commission meeting is December 13, 2022.



# City of Diamondhead

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## STAFF REPORT TO PLANNING COMMISSION

DATE: November 7, 2022

CASE FILE NUMBER: 202200464

APPLICANT: J. White Homes, LLC

TAX PARCEL NUMBER: 067J-1-36-054.000

PHYSICAL STREET ADDRESS: 982 Ala Moana Place

ZONING DISTRICT: R-2 Medium Density Single-Family Home

TYPE OF APPLICATION: Variance

NATURE OF REQUEST: allow the construction of a single-family residence within 9'3" of both side yard property lines. The side yard setback is 10'.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: November 8, 2022

### 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 or 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 **approve** the variance as petitioned.

The staff recommends **approving** the variance based on the following findings of fact.

- A. That special conditions and circumstances *do* 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. *The lot is irregular shaped with the front on a cul-de-sac and narrows towards the rear.*
- 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. *Most homes surrounding the property are brick.*
- C. That special conditions and circumstances, if any, *do not* result from the actions of the applicant. *The applicant designed this project in March, 2021, when the setbacks were 8'.*
- 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 *does* observe the spirit of the Ordinance.
- G. The Variance *will* 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.

The applicant is a custom home builder who began this proposed build in March, 2021, when the side yard setback was 10'. The building plan is for brick exterior which encroaches on the revised setback of 8'. The brick exterior enhances the look of the neighborhood and adds value to the surrounding property.



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

### APPLICATION FOR VARIANCE REQUEST

Case Number: 2022 004604

Date 10/6/2022

Applicant: J White Homes, LLC JAson J White M.M

Applicant's Address: 296 Beauvoir Rd Ste 100-173

Applicant's Email Address: jwhite2030@bellsouth.net

Applicant's Contact Number: (Home) Same (Work) \_\_\_\_\_ (Cell) 985-209-0835

Property Owner: J White Homes, LLC JAson J White M.M

Owner's Mailing Address: 296 Beauvoir Rd Ste 100-173

Owner's Email Address: jwhite2030@bellsouth.net

Owner's Contact Number: (Home) Same (Work) Same (Cell) 985-209-0835

Tax Roll Parcel Number: 0675-1-36-054.000

Physical Street Address: 982 Ala Moana Place

Legal Description of Property: 22 BLK 1 Diamondhead Phase II 2 Unit #7

Zoning District: R-2

State Purpose of Variance: (Front/Side/Rear/Lot Size/Parking/Building/Coverage)  
(Signage-Size-Height) Applying for 9 inches variant on the left and  
right side. Please reference sheet 1

10' 5 1/2" 9' 3" on each side

## STATEMENT OF UNDERSTANDING

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

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.

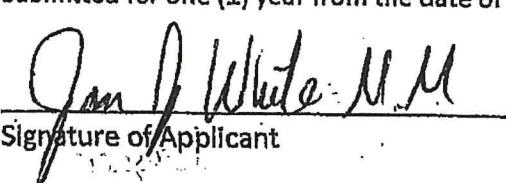
That additional information may be required by the Planning Commission prior to final disposition.

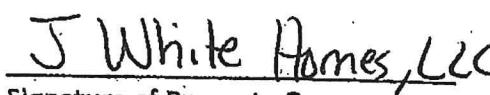
The City Council will not accept new case evidence once the recommendation has been made by the Planning Commission. If new evidence needs to be presented, the applicant will need to request that the matter be referred back to the Planning Commission for review.

The Public Hearing will be held on November 8, 2022 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

## REQUIRED ITEM A

Property Owner J White Homes, LLC

Street Address 982 Ala Moana Place

Statement Describing Variance Request

Applying for a 9 inch Variance on the left and right side set back. I designed this house when the set back were 8 feet. With this approval I would be able to build a brick house

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: Yes the New code changed to a 10 side set back on September 7th 2021.

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: Other properties where able to build with 8 foot side set back prior to September 7, 2021.

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

Response: Yes. I started the design before purchasing the lot from the seller. The purchase was delayed by uncontrollable factor from the seller

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

Response: By providing the 9 inch variance, <sup>this</sup> would allow J White Homes to build a house with brick. This would be better for the Diamondhead Community aesthetics.

To Whom It Concerns

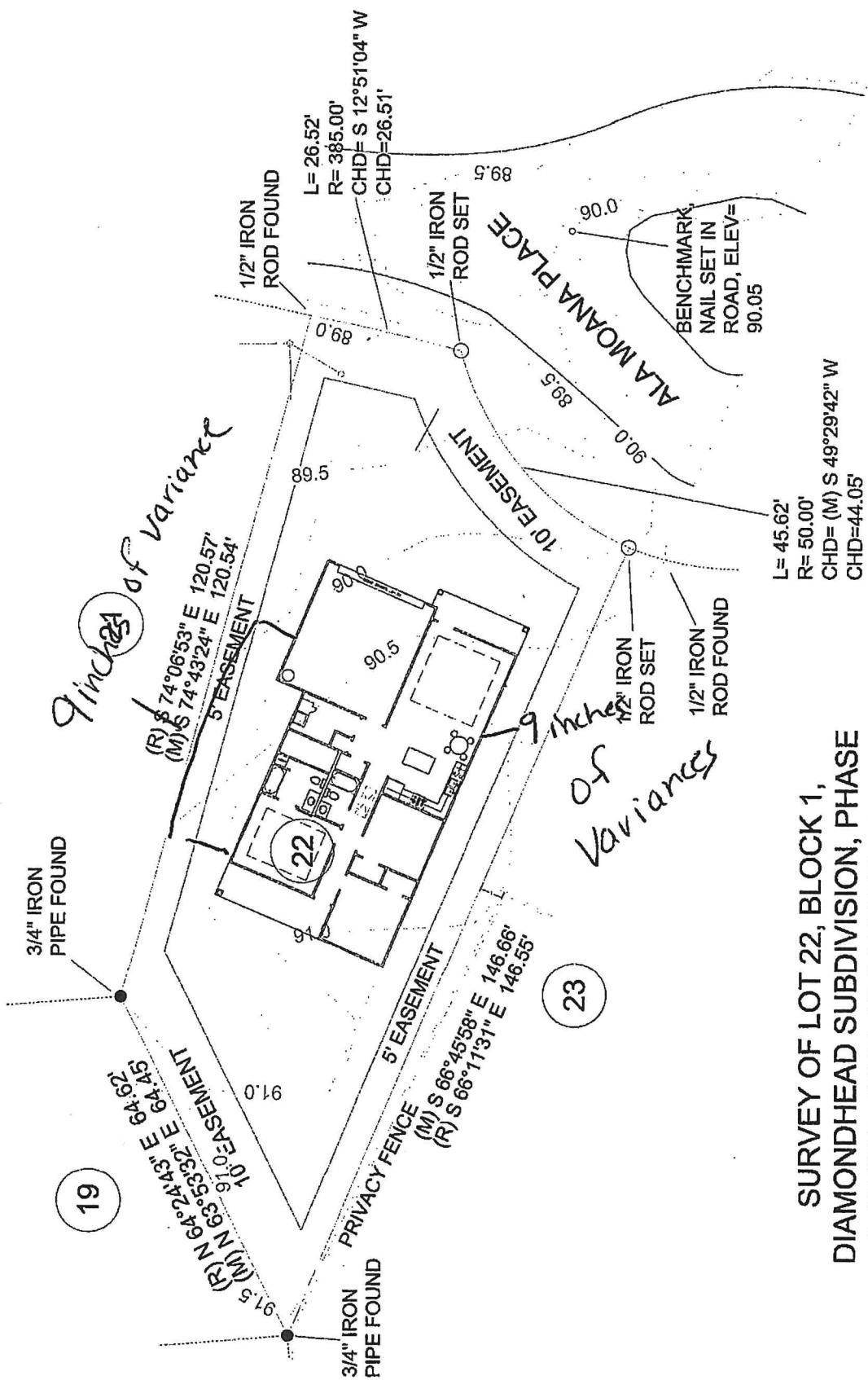
J White Homes, LLC is applying for a 9 inches variant side set back on the left and right side for 982 Ala Moana Place. The parcel # is 067J-1-36-054.000. The reason I am applying for this variance is because I started designing this house plan before the side set back changed from 8 feet to 10 feet. The side set back changed to 10 feet on September 7, 2021. I started the purchase process of 982 Ala Moana Place back on March 2021. The closing was delayed due to some uncontrollable reason from the seller. The right side of this lot faces the back yard of two homes which have 20 feet set-backs. The left side is vacant lot. This lot is not a square lot. It provides 38 feet of buildable area in the front and 32.3 in the rear. Several houses in the surrounding area have 8 feet side set-backs.

I appreciate your consideration in this matter.

Thanks

Jason J White M.M

J White Homes, LLC



**SURVEY OF LOT 22, BLOCK 1,  
DIAMONDHEAD SUBDIVISION, PHASE  
2, UNIT 7, CITY OF DIAMONDHEAD,  
HANCOCK COUNTY, MISSISSIPPI**

**NOTES:**

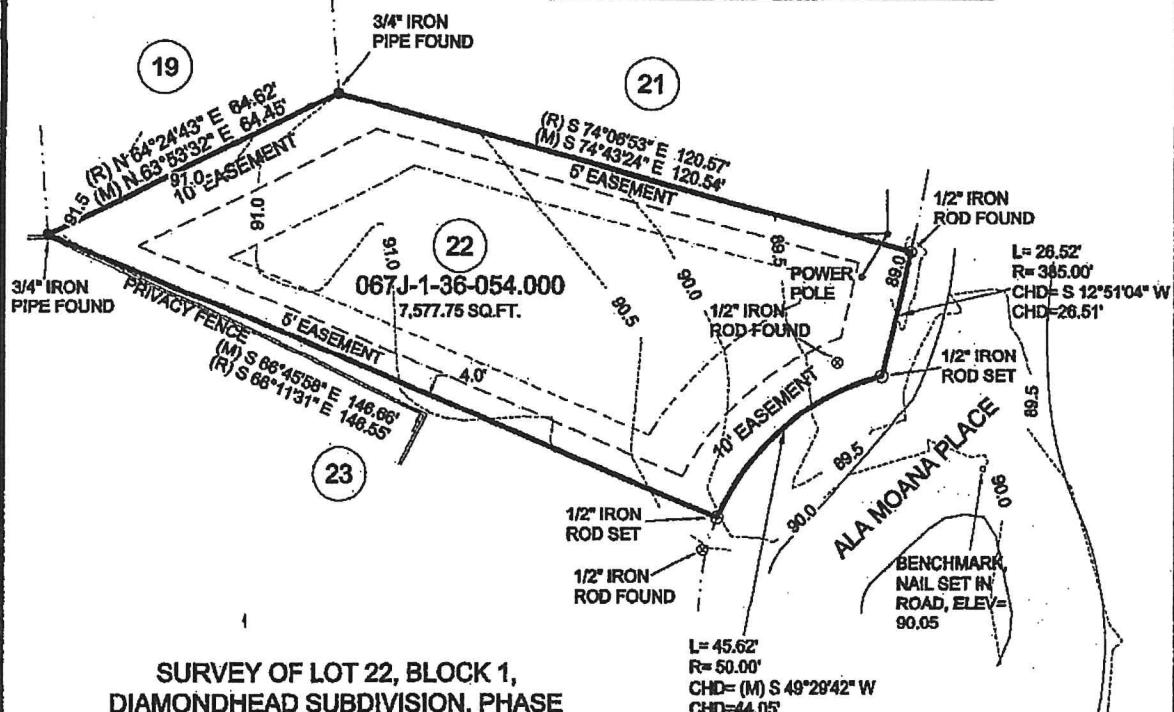
- 1.) FIELD SURVEY PERFORMED WITH A COMBINATION OF TOPCON GR5 GPS RECEIVER AND TOPCON GPT-9005A ROBOTIC TOTAL STATION.
- 2.) STATE PLANE COORDINATES AND BEARINGS SHOWN HEREON ARE DERIVED BY COMBINATION OF GPS STATIC OBSERVATION AND EARL DUDLEY, INC. RTK NETWORK, AND ARE BASED ON SPC (2301 MS E).
- 3.) ELEVATIONS SHOWN ARE BASED ON NAVD88, GEOD 2009.
- 4.) THIS SURVEY HAS BEEN PREPARED BY INFORMATION PROVIDED BY CLIENT AND LIMITED RESEARCH IN COURTHOUSE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT. THIS SURVEY MAY NOT SHOW ALL EASEMENTS AND OTHER RESTRICTIONS OF RECORD. SURVEYOR WILL BE MADE AVAILABLE TO ADD SUCH FEATURES TO THIS SURVEY IF A CURRENT TITLE REPORT OR ABSTRACT OF TITLE IS PROVIDED TO HIM BY PROPER AUTHORITY.
- 5.) UNLESS OTHERWISE NOTED THIS SURVEY IS LIMITED TO ABOVE GROUND AND VISIBLE UTILITIES. A MISSISSIPPI ONE CALL SHOULD BE MADE BEFORE ANY DIGGING @ 1-800-227-8477.
- 6.) BUILDING SETBACKS, ELEVATIONS, WETLAND DETERMINATION AND ET CETERA TO BE PRESCRIBED BY APPROPRIATE GOVERNING BODIES.

**LEGEND:**

- -- IRON ROD FOUND
- -- IRON PIPE FOUND
- -- IRON ROD SET
- ✗ -- SPIKE FOUND
- △ -- SPIKE SET
- -- CONCRETE MONUMENT FOUND
- -- CONCRETE MONUMENT SET
- -- LIGHTARD KNOT FOUND
- (M) -- AS MEASURED
- (R) -- AS PER RECORD
- APP -- AS PER PLAT
- IRF -- IRON ROD FOUND
- IRS -- IRON ROD SET



A horizontal scale with numerical markers at 0, 30, 60, and 90. A thick black bar is positioned horizontally across the scale, starting at the 0 mark and ending at the 60 mark.



SURVEY OF LOT 22, BLOCK 1,  
DIAMONDHEAD SUBDIVISION, PHASE  
2, UNIT 7, CITY OF DIAMONDHEAD,  
HANCOCK COUNTY, MISSISSIPPI

#### REFERENCE MATERIALS:

### 1.3 RECORDED SUBDIVISION PLAT

THIS IS TO CERTIFY THAT I HAVE MADE A SURVEY OF THE PROPERTY SHOWN HEREON AND THAT ALL DIMENSIONS AND OTHER DATA SHOWN ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF.

~~CLIFFORD A. CROSBY P.I.S.~~

DATE

THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE "X" ACCORDING TO  
MAP NUMBER 28045C0263D DATED OCTOBER 16, 2009

SURVEY CLASS - "B"  
SCALE: 1" = 30'

FOR:  
J. WHITE HOMES

BEARINGS SHOWN HEREON ARE DERIVED BY:  
GPS OBSERVATION, STATE PLANE GRID, MS EAST

**CROSBY SURVEYING**  
**PROFESSIONAL LAND SURVEYING**  
716 LIVE OAK DRIVE  
BILOXI, MISSISSIPPI 39532  
PHONE: 228-234-1649  
  
EMAIL: [cliffordcrosby@cableone.net](mailto:cliffordcrosby@cableone.net)

DATE OF FIELD WORK: 8/5/2022

**PARTY CHIEF: DM**

INSTRUMENT MAN: TM

RODMAN: DM

DRAWN BY: CAC

DRAWING NUMBER: 16154 LOT 22

REVISED:

2022 1754  
Recorded in the Above  
Deed Book & Page  
02-02-2022 11:20:50 AM  
Timothy A Kellar  
Hancock County

Prepared by:  
**David B. Pilger**  
Attorney at Law  
1406 Bienville Blvd., Suite 101  
Ocean Springs, MS 39564  
(228) 215-0011

Return To:  
**David B. Pilger**  
Attorney at Law  
1406 Bienville Blvd., Suite 101  
Ocean Springs, MS 39564  
(228) 215-0011

File No. B223121S

**INDEXING INSTRUCTIONS:** Lot 27, Blk 1, Diamondhead, Unit 7, Phase 2, Hancock County, MS

STATE OF MISSISSIPPI  
COUNTY OF HANCOCK

**WARRANTY DEED**

FOR AND IN CONSIDERATION OF the price and sum of TEN AND NO/100 DOLLARS (\$10.00), cash in hand paid, and other good and valuable consideration, the receipt and sufficiency of all of which is hereby acknowledged, **Knight Investment Company, LLC, a Mississippi limited liability company**, do hereby sell, convey and warrant unto **J White Homes, LLC, a Mississippi limited liability company**, as joint tenants with right of survivorship and not as tenants in common, all of that certain tract, piece or parcel of land situated in Hancock County, Mississippi, together with all improvements, buildings, fixtures, and appurtenances thereunto belonging, and being more particularly described as follows, to-wit:

**Lot 27, Block 1, Diamondhead, Unit 7, Phase 2, a subdivision according to the map or plat thereof on file and of record in the office of the Chancery Clerk of Hancock County, Mississippi, in Plat Book 4, at Page 48.**

This being the same property as that conveyed to **Knight Investment Company, LLC, A Mississippi limited liability company**, by instrument recorded in Deed Book BB 249, Page 407, Land Deed Records of Hancock County, Mississippi.

The Corporate Resolution of **Knight Investment Company, LLC, a Mississippi limited liability company** is attached hereto as Exhibit "A".

2022 1755  
Deed Book & Page

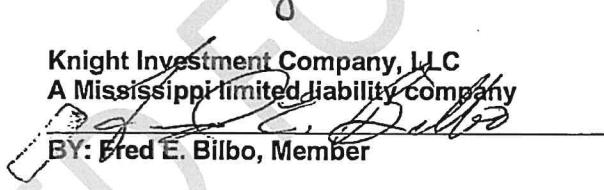
If this property is bounded by water, this conveyance includes any natural accretion, and is subject to any erosion due to the action of the elements. Such riparian and littoral rights as exist are conveyed herewith but without warranty as to their nature or extent. If any portion of the property is below the mean high tide watermark, or is coastal wetlands as defined in the Mississippi Coastal Wetlands Protection Act it is conveyed by quitclaim only.

Grantor quitclaims any and all oil, gas, and other minerals owned, if any, to Grantee. No mineral search was requested or performed by preparer.

This conveyance is subject to any and all covenants, rights of way, easements, restrictions and reservations of record in the office of the Chancery Clerk of Hancock County, Mississippi.

It is agreed and understood that the taxes for the current year have been pro-rated as of this date on an estimated basis, and when said taxes are actually determined, if the proration as of this date is incorrect, the Parties hereto agree to make all necessary adjustments on the basis of an actual proration.

WITNESS MY SIGNATURE, on this the 25<sup>th</sup> day of January, 2022.

  
Knight Investment Company, LLC  
A Mississippi limited liability company

BY: Fred E. Bilbo, Member

#### CORPORATE ACKNOWLEDGMENT

STATE OF MISSISSIPPI  
COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named Fred E. Bilbo, the duly appointed member of **Knight Investment Company, LLC, a Mississippi limited liability company**, who acknowledged before me that he signed, executed and delivered the above and foregoing instrument on the day and year thereof, for the use and purposes therein mentioned, for and on behalf of the aforesaid entity, after first having been duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, on this the 25<sup>th</sup> day of January, 2022.

(AFFIX SEAL)

My commission expires: \_\_\_\_\_



  
NOTARY PUBLIC

2022 1756  
Deed Book & Page

CORPORATE RESOLUTION

In a duly called meeting of all of the Members/Managers/Shareholders of the below named Company, it was unanimously approved by all of the Members/Managers/Board of Directors that **Fred E. Bilbo**, Member, has complete authority to execute any and all documents pertaining to the sale on behalf of the below name company for the property located at 9812 Ala Moana Place, Diamondhead, MS 39525 being described as:

**Lot 27, Block 1, Diamondhead, Unit 7, Phase 2, Hancock County, Mississippi, a subdivision according to the map or plat thereof on file and of record in the office of the Chancery Clerk of Hancock County, Mississippi, in Plat Book 4, at Page 48.**

So, approved and acknowledged this, the 25<sup>th</sup> day of January, 2022.

**Knight Investment Company, LLC  
A Mississippi Limited Liability Company**

  
BY: Fred E. Bilbo, Member

CORPORATE ACKNOWLEDGMENT

STATE OF MS  
COUNTY OF Hancock

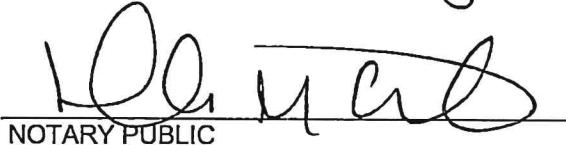
PERSONALLY APPEARED BEFORE ME, the undersigned authority in and for the jurisdiction aforesaid, the within named **Fred E. Bilbo, Member of Knight Investment Company, LLC, a Mississippi Limited Liability Company**, who acknowledged before me that he signed, executed and delivered the above and foregoing instrument on the day and year thereof, for the use and purposes therein mentioned, for and on behalf of the aforesaid entity, after first having been duly authorized so to do.

GIVEN UNDER MY HAND AND OFFICIAL SEAL, on this the 25<sup>th</sup> day of January, 2022.

(AFFIX SEAL)

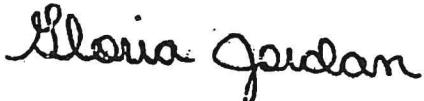
My commission expires:



  
NOTARY PUBLIC

Hancock County  
I certify this instrument was filed on  
02-02-2022 11:20:50 AM  
and recorded in Deed Book  
2022 at pages 1754 - 1756  
Timothy A. Keller





Close

Expo 92

### Print Labels

**Deed Page:** 401  
Copyright © 2014 GCT, LLC

Copyright © 2014 GCI, LLC

**Physical Address:** 982 ALA MOANA PL  
**Improvement Type:**  
**Year Built:** 0  
**Base Area:** 0  
**Adjusted Area:** 0  
**Actual Total Value:** 0  
**Taxable Total Value:** 6750  
**Estimated Tax:** 126.36000000  
**Homestead Exemption:** No  
**Deed Book:** BB249  
**Deed Page:** 401

Parcels  
067J-1-36-  
054.000

NOTICE OF PUBLIC HEARING  
PLANNING AND ZONING COMMISSION  
DIAMONDHEAD, MS

J. White Homes, LLC, represented by Jason White has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a single family residence within 9'3" of both side yard property lines.

The property address is 982 Ala Moana Place. The tax parcel number is 067J-1-36-054.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9" on each side yard for a total of 1'6". The Case File Number is 202200464.

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, 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, November 8, 2022, 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.