

City of Diamondhead



5000 Diamondhead Circle, Diamondhead, MS 39525

Phone: (228) 222.4626

FAX: (228) 222-4390

www.diamondhead.ms.gov

STAFF REPORT TO CITY COUNCIL

DATE: September 30, 2015

CASE FILE NUMBER: 201500278

APPLICANT: Diamondhead Country Club and Property Owners Association

PROPERTY OWNER: Diamondhead Country Club and Property Owners Association
represented by Darrel Kinchen

TAX PARCEL NUMBER: 067G-2-25-010.000

PHYSICAL STREET ADDRESS: 98182 Golf Club Drive

LEGAL DESCRIPTION:

ZONING DISTRICT: Public Facilities and Recreation

TYPE OF APPLICATION: Conditional Use Approval

NATURE OF REQUEST: An application requesting a Conditional Use Permit from the Zoning Ordinance (Article 2.5) to allow the use and operation of a dog park.

DATE OF PUBLIC HEARING BEFORE PLANNING COMMISSION: September 22, 2015

RECOMMENDATION TO CITY COUNCIL: To deny the conditional use permit to allow the use and operation of a dog park. Commissioners voted 4 ayes and 2 nays with 1 absent (Miller).

Article 2.5.8

Legislative Disposition

The Mayor and City Council shall examine all such applications, reports, and recommendations transmitted to it and shall take further action as it deems necessary and desirable to approve, disapprove, modify, or remand to the Planning Commission for further considerations. No land or structure for which the application for Conditional Use Permit has been denied by the Mayor and City Council shall be considered again by the Planning Commission or the Mayor and City Council for the same classification for at least one (1) year from the date such application was denied.

ATTACHMENTS: Application

Public Comments

Letter of Objection from Purcell Company

Letter of Objection from Joe Baker

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



Office 228-222-4626
Fax 228-222-4390
www.Diamondhead.ms.gov

APPLICATION FOR CONDITIONAL USE

RECEIVED
AUG 27 2015
BY: RJ 11:20 A.M.

CASE NO. 2015 00278

DATE August 25, 2015

APPLICANT: Diamondhead Country Club & Property Owners Assn.

APPLICANT'S ADDRESS: 5300 Diamondhead Circle

APPLICANT'S TELEPHONE: (HOME) N/A (WORK) 228-255-1900 Ext. 125

PROPERTY OWNER: DCC & POA - (for DCC & POA Darrell Kinchen)

MAILING ADDRESS: Same

TELEPHONE NUMBER: (HOME) N/A (WORK) Same

TAX ROLL PARCEL NUMBER: # 0676-2-25-010.000

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: 98182 Golf Club Drive

STATE PURPOSE OF REQUEST: Organize the space And use for Dog walk Park.

ZONING DISTRICT P.F.R. (Public for Recreation) Now

STATEMENT OF UNDERSTANDING

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

The application fee of \$500.00 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 designated 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 change 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 9-22-15 at 5:30 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.

Diamondhead Country Club +
Property Owners Assn. Inc.
Signature of Applicant

for Deco POA - Travell Kingston
Signature of Property Owner

_____ For Official Use Only _____

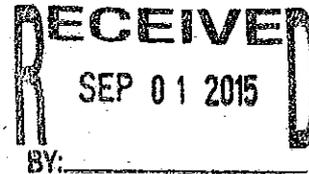
- \$500.00
- Copy of Deed, Lease or Contract
- Site Plan
- Parking Spaces
- List of Property Owners NA ()

- Application Signed
- Written Project Description
- Drainage Plan NA ()
- Notarized Statement NA ()

DIAMONDHEAD

COUNTRY CLUB & PROPERTY OWNERS ASSOCIATION

September 1, 2015



Narrative regarding the Proposed Dog Park

To: Diamondhead City/Planning and Zoning Commission
Via: Ronald Jones, Diamondhead Building Official
From: Diamondhead Country Club and Property Owners Association Inc.

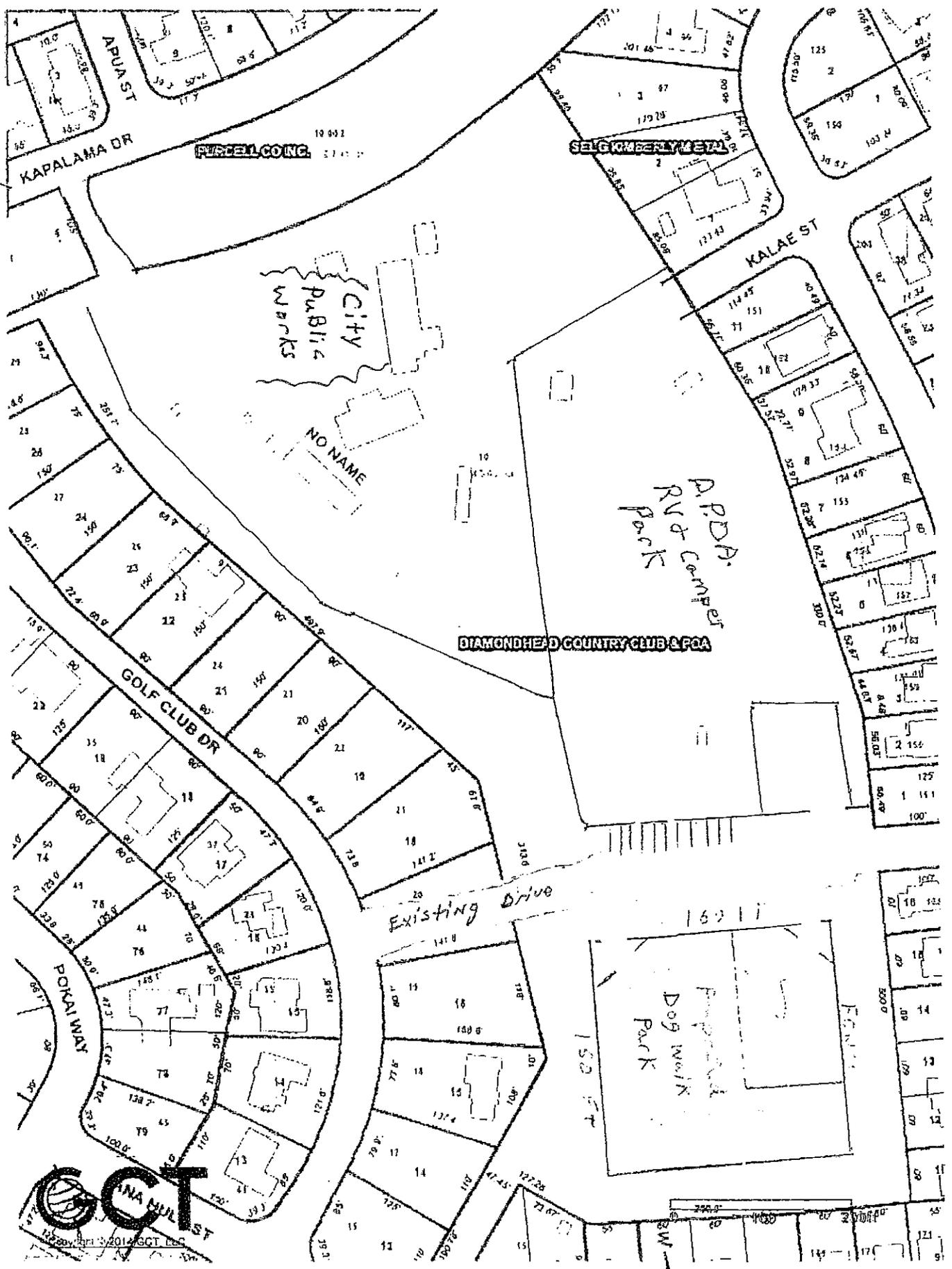
Diamondhead POA is requesting a Conditional use permit to put in a Dog Walk Park at the former Equestrian Facility location (presently used as open green space and leashed dog walk area). This Property is Zoned PFR. The entrance to the site is from Golf Club Drive between Ana Hulu Street and Kapalama Drive.

The proposed dimensions of the fenced area are 160 FT. X 160 FT. This will consist of a large dog area and a small dog area. Both the large and small fenced areas will have their own common entrance, with double gated areas to leash and unleash, to prevent dogs from getting free in the open park area. We believe the Dog Walk Park as proposed in the RFP Zone will be in harmony with and complementary to the surrounding community.

- There will be a 130 Ft. buffer distance from the proposed Dog Walk Park (Fence), and all abutting residents. (See proposed plot plan)
- The park will be open from sun up until dusk 7 days a week
- The Dog Park will be operated by the group of volunteers that have solicited both the City and the POA to permit the park
- The Diamondhead POA will ensure the volunteer group complies with the rules of operation established by the POA
- The grounds will be kept in a clean, wholesome and well maintained condition
- The Dog Walk Park rules will be prominently posted
- Waste receptacles will be provided
- Diamondhead POA reserves the right to terminate the use and remove the fencing that creates the Dog Park should the volunteer group fail to properly maintain the grounds or enforce the established rules
- The areas adjacent to the proposed Dog Park are firm ground adequate for temporary parking of automobiles and golf carts. This area is presently used as access and egress to boat trailer storage

If you have any questions, please do not hesitate to contact Darrell Kinchen 228-255-1900
EXT.125 R/ *Darrell Kinchen*

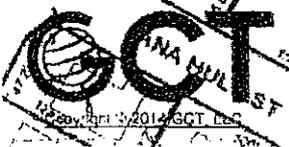
Address - 98182 GOLF CLUB DRIVE



Plot Plan

Decorative Green Fence

Proposed Location



DATE	1/25/58
BY	J. H. ...
PROJECT	...
...	...

THIS SURVEY WAS MADE IN ACCORDANCE WITH THE PROVISIONS OF THE MISSISSIPPI SURVEYING ACT OF 1942, AS AMENDED. THE SURVEY WAS MADE BY THE SURVEYOR AT HIS OWN RISK AND WITHOUT LIABILITY TO THE STATE OF MISSISSIPPI. THE SURVEYOR HAS NOT BEEN ADVISED OF ANY ENCUMBRANCES AFFECTING THE LAND SURVEYED. THE SURVEYOR HAS NOT BEEN ADVISED OF ANY RIGHTS OF WAY OR EASEMENTS AFFECTING THE LAND SURVEYED. THE SURVEYOR HAS NOT BEEN ADVISED OF ANY OTHER MATTERS AFFECTING THE LAND SURVEYED.

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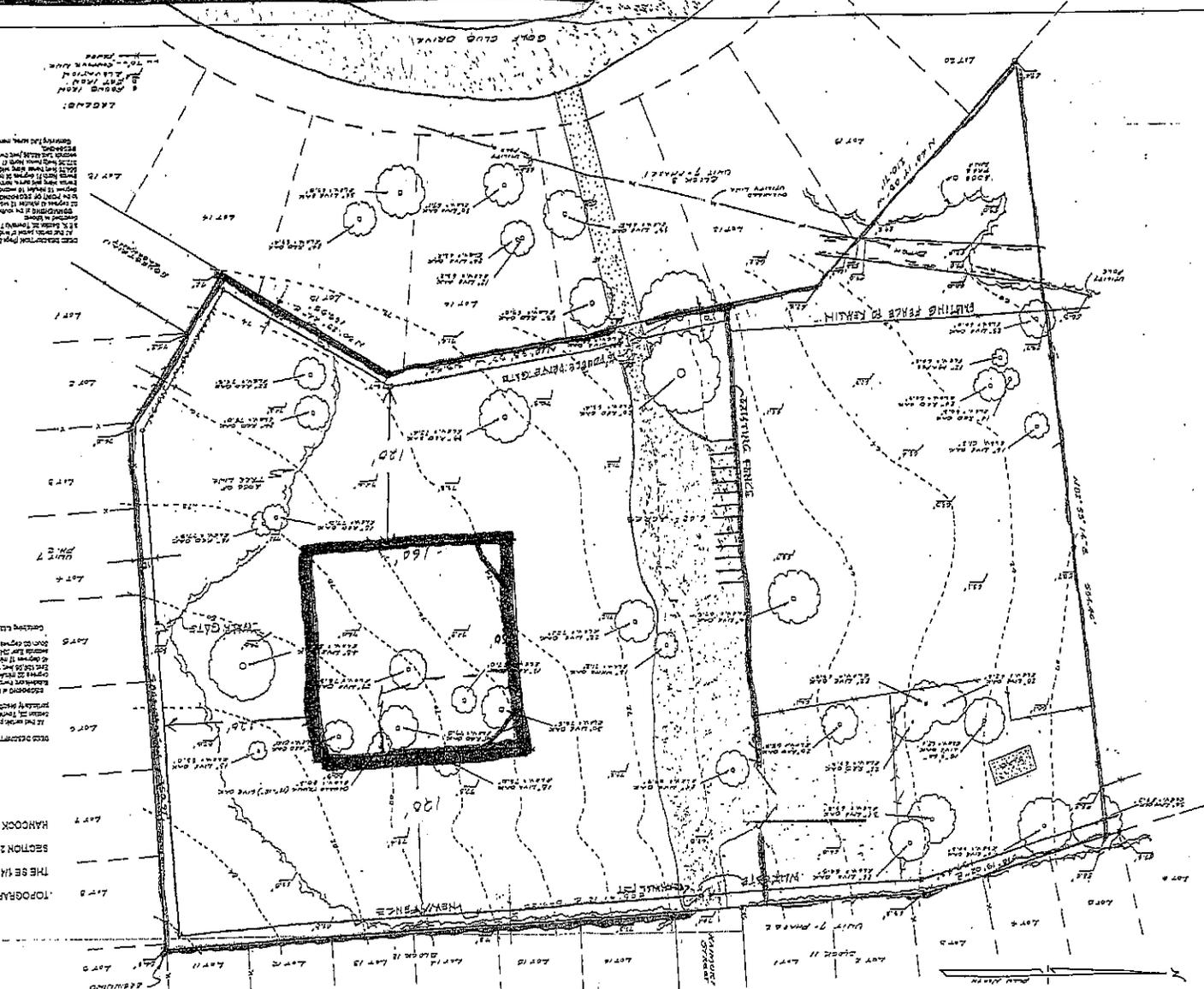
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1. [REDACTED]
2. EXISTING DRIVE/PARKING
3. [REDACTED]

TOPOGRAPHIC SURVEY OF A PARCEL OF LAND SITUATED IN THE SE 1/4 OF THE SW 1/4 AND THE SW 1/4 OF THE SE 1/4 SECTION 25 TOWNSHIP 7 SOUTH RANGE 14 WEST HANCOCK COUNTY, MISSISSIPPI



Public Comments
PLANNING AND ZONING COMMISSION
Diamondhead, Mississippi
Diamondhead City Hall Council Chambers
September 22, 2015
5:30 p.m. CST

Case File Number 2015-00278

The Diamondhead POA represented by Darrel Kinchen has filed an application requesting a Conditional Use Permit from the Zoning Ordinance (Article 2.5) to allow the use and operation of a dog park. Case File Number 201500278.

Joe Baker, neighbor to the proposed park site spoke in opposition to the park location. He explained that he does not oppose the dog park, but would rather see it located in area that would not affect the residents. He suggested new dogs entering the neighborhood to use the park would cause issues with the neighborhood animals. He and his wife enjoy the outdoors by sitting on their porch, something he fears may no longer possible.

Sandra Gray expressed concerns regarding the potential hazard with a curve at the entrance to the park causing traffic problems

Lora Kolberta representing Four Paws Community Group explained the proposed site as already being used for off-leash exercise. She further indicated that Mr. Kinchen had informed her the POA Board of Directors had approved the land use for the park.

Building Official Jones introduced for the record, a letter of objection from Purcell Co., Inc. citing the park as an unacceptable amenity to Purcell as it was originally agreed upon with DHPOA the subject site would become a soccer or baseball area. The letter also suggested "faux wrought iron" could be permitted rather than chain link enclosures.

Commissioner Garrison introduced questions regarding policing, upkeep, and management of the facility.

Mark Boyd DHPOA General Manager then explained there were no alternative sites available. He suggested the proposed site is the only land owned by the POA that could house the park. In response to Commissioner Garrison regarding the operation of the park, he explained volunteer operation. If in fact the park was not successfully operated, the fencing would be removed and the park closed.

Ed Sutherland expressed his concerns with regard to non-defined responsibility such as no policing and operations by volunteer group being managed based on agreement with the POA.

Commissioner Hensley moved, seconded by Commissioner Bower to deny a Conditional Use Permit from the Zoning Ordinance (Article 2.5) to allow the use and operation of a dog park at 98182 Golf Club Drive. Case File Number 201500278.

Darrel Kinchen, DHPOA having requested permission to do so, read aloud a narrative from DHPOA outlining the conditional use request, proposed dimensions, volunteer agreement terms and general operation of the park.

A vote was then called on the motion to deny and was passed by the following voted:

Ayes: Bice, Bower, Garrison, and Hensley. Nays: Malley and Smith. Absent: Miller.

Ronald Jones

From: Carl Joffe <carl.joffe2@gmail.com>
Sent: Friday, September 18, 2015 3:02 PM
To: Ronald Jones
Cc: tcgarrison@cableone.net; malleyent@aol.com; ejbice@gmail.com; gbower@cableone.net; millerma1007@aol.com; babrogsmith@aol.com; hensleyjc121@gmail.com
Subject: Planning & Zoning Commission - Case File Number 201500278 Dog Park
Attachments: DH - Dog Park Ltr P&Z City.pdf; DH - Supplemental Agree. 6,abc.pdf; Biloxi Dog Park.JPG; Wrought Iron Fence (Aluminum).jpg

Mr. Jones,

Attached please find Purcell Co., Inc.'s formal objection to the requested Conditional Use Permit for a Dog Park in Case File Number 201500278. Please include the attached letter and attachments in the case file for consideration at the Tuesday, September 22, 2015 Planning Commission meeting. Thank you for your assistance.

Sincerely,

Carl Joffe
Purcell Co., Inc.
4401 E. Aloha Drive
Diamondhead, MS 39525
228-255-9130

PURCELL CO., INC.

September 18, 2015

Ronald R. Jones, Building Official
City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525

RE: Conditional Use Permit - Dog Park
Case File Number: 201500278
Our Files: DH 2002, DH 3478 & DH 3244

Dear Mr. Jones:

Please accept this letter as the formal objection of Purcell Co., Inc. to the proposed establishment of a Dog Park on Tax Parcel 067G-2-25-010.000. The subject property was formally owned by Purcell Co., Inc. ("Purcell"), and is subject to use restrictions outlined in that certain Supplemental Agreement, Section "6.(a),(b) &(c)", by and between the Diamondhead Country Club & Property Owners Association, Inc. ("DHPOA") and Purcell. The said Supplemental Agreement is recorded in Book 97 at Page 491 of the official land records in the Office of the Chancery Clerk of Hancock County. A copy of said Section 6. is attached for your reference.

This subject property was originally designated as Riding Stables, but that facility was closed at the DHPOA's request with Purcell's consent with the understanding that the DHPOA would in the future construct a soccer or baseball field(s) on the property, or other replacement amenity acceptable to Purcell.

It is our further understanding that the proposed Dog Park will initially not have the required parking and restroom facilities normally required by the City's zoning ordinance. We also understand that the Dog Park will be enclosed with a chain link fence which would not be permitted under the present language of the zoning ordinance. And even if the present zoning ordinance were to be amended to allow chain link fencing, Purcell strenuously objects to the use of a chain link for the proposed Dog Park since same would constitute an unacceptable eyesore in our opinion. The attached photo of Biloxi's Dog Park enclosed with a chain link fence is attached for your reference. In the event that the City elects to grant the conditional use of this property as a Dog Park, the use of aluminum "faux wrought iron" fencing would be much more aesthetically acceptable. A photo of such "faux wrought iron" is attached for your information and reference.

For the foregoing reasons, we respectfully request that the Planning and Zoning Commission recommend denial of the Conditional Use Permit for this Dog Park. Thank you for your consideration.

Sincerely yours,



Carl H. Joffe
Counsel

CC: Planning & Zoning Commissioners
Darrel Kinchen, DHPOA
Artis E. James, Jr.
Holcomb Hector

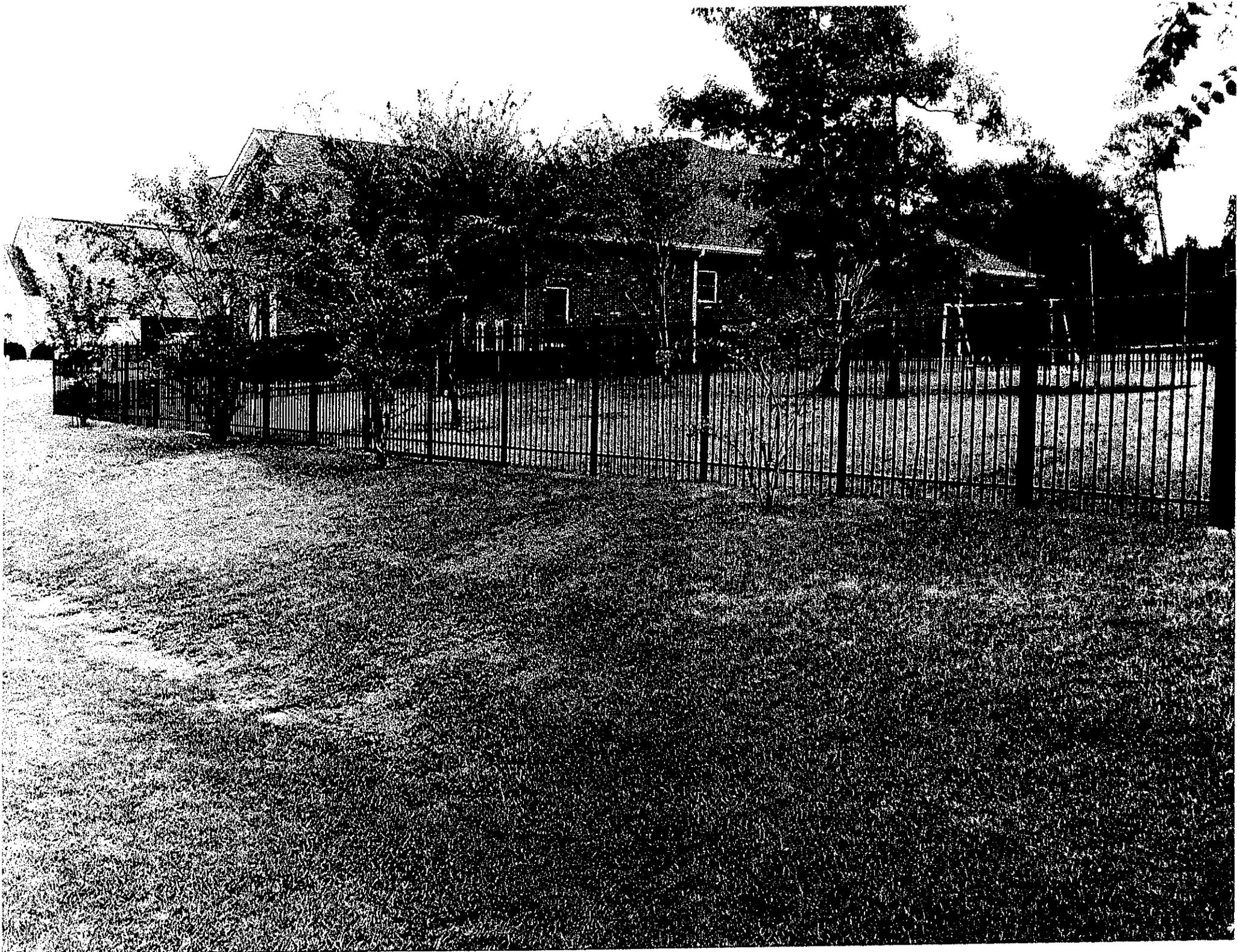
6.. OBLIGATIONS OF ASSOCIATION TO MAINTAIN AND PROVIDE SERVICES. On January 1, 1985, Purcell will turn over to Association possession of the Subject Property and the Common Facilities located thereon. From and after said date, Association will operate and maintain the Common Facilities, provide security guard service, and subsidize the Diamondhead Fire District to the extent necessary to continue its present operations, all for the benefit of owners of lots and real property in Diamondhead.

a. OPERATION AND MAINTENANCE OF COMMON FACILITIES. The Association shall be responsible for the exclusive management and control of the Common Facilities. Association agrees, pursuant to Exhibits A and B attached hereto, to manage, operate and maintain said Common Facilities to the same standard as such facilities and areas have been previously maintained, operated and managed by Purcell. Included in the maintenance and operation of Common Facilities is the provision for security services and maintenance of green spaces adjacent to the streets, lakes and recreational areas of Diamondhead.

b. LIABILITY. In further consideration of the conveyance contemplated herein, Purcell shall not be liable for any loss or damage arising out of any failure of Association to maintain the Common Facilities as above provided from and after January 1, 1985; or arising out of the acts or failure to act on the part of Association in furtherance of its duty to maintain and operate the common facilities and provide services from and after January 1, 1985; and Association agrees to indemnify, defend and hold harmless Purcell from any and all claims, demands, loss or damage arising on account thereof. Purcell acknowledges that Association had no obligation or responsibility to maintain or operate the Common Facilities prior to such conveyance.

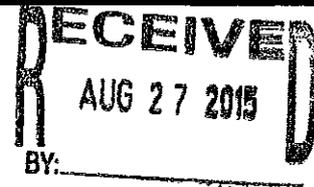
c. BREACH. Failure of the Association to operate and maintain the Common Facilities to the standards hereinabove set forth shall constitute a material breach of this Agreement.





Ronald Jones

From: JOE BAKER <joejbaker@bellsouth.net>
Sent: Thursday, August 27, 2015 12:02 PM
To: Ronald Jones
Subject: abosure to dog park



dr sirs I have recently found out the poa wants to put a dog park in my back yard at 98182 golf club drive. I am very opposed to this and wonder why anyone would put a dog park in a reidental neighborhood. my neighbor has two large dogs that bark at everything that moves,we have worked out our differcents at this time but if a dog park is put in next to us these dogs will bark all the time along with every other dog in the neighborhood. They say we have a noise ordenance but who would enforce it everytime a dog barks. as stated I am opposed to this. thank you joe baker 9819 anahulu st.