

RESOLUTION AUTHORIZING THE MAYOR AND CITY COUNCIL (THE GOVERNING BODY OF THE CITY OF DIAMONDHEAD, MISSISSIPPI (THE CITY)), TO ABANDON ITS EXISTING DRAINAGE EASEMENT AND TO ACQUIRE, BY DONATION, A NEW DRAINAGE/UTILITY EASEMENT LOCATED WITHIN THE CITY FROM DONORS, ELLIOTT HOMES AND PAUL AND LINDA MELANCON

WHEREAS, the Mayor and City Council (the Governing Body) of the City of Diamondhead, Mississippi (the City), acting for and on behalf of the City, hereby finds and determines as follows:

1. The City currently possesses a 5' drainage/utility easement on each side of the common property line between two lots owned by Elliott Homes and Paul and Linda Melancon (specifically Lots 58 and 59, Diamondhead Phase 1, Unit 8, Block 4);
2. The City is authorized to acquire real property pursuant to Miss. Code Annotated '21-17-1;
3. Elliott Homes and Paul and Linda Melancon, due to the sizes of the aforementioned lots, have a need to relocate said drainage/utility easement and have expressed a willingness to donate the new drainage/utility easement legally described in a survey completed by Crosby Surveying and attached hereto as Exhibit A to this resolution;
4. The City is willing to accept the donation of the aforementioned drainage/utility easement described in a survey completed by Crosby Surveying and attached hereto as Exhibit A and, further, the City hereby abandons the drainage/utility easement previously donated by owners of Lots 58 and 59, Diamondhead Phase 1, Unit 8, Block 4).

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY, AS FOLLOWS:

SECTION 1. That the Governing Body of the City will accept the donation of the aforementioned drainage/utility easement on Lots 58 and 59, Diamondhead Phase I, Unit 8, Block 4 and the Governing Body of the City will hereby abandon the previous drainage/utility easement with respect to said lots identified in paragraph 1 above.

SECTION 2. That the Governing Body of the City does hereby authorize the City Attorney to prepare any and all documentation related to the acquisition of the aforementioned

drainage easement by donation and for the City Manager to execute any necessary documentation to effectuate the donation of the subject drainage easement. It is agreed and understood that Elliott Homes and Paul and Linda Melancon will be responsible for the filing of all necessary documents with the Chancery Clerk of Hancock County, Mississippi and further will be responsible for the expense of physically moving the drainage on said lots to reflect the new survey.

The above and foregoing resolution, after having been first reduced to writing, was introduced by Councilmember _____, seconded by Councilmember _____ and the question being put to a roll call vote, the result was as follows:

	Aye	Nay	Absent
Councilmember Depreo	___	___	___
Councilmember Moran	___	___	___
Councilmember Morgan	___	___	___
Councilmember Koennen	___	___	___
Councilmember L'Ecuyer	___	___	___
Mayor Schafer	___	___	___

The motion having received the affirmative vote of a majority of all of the members of the Governing Body, the Mayor declared the motion carried and the resolution adopted, this the _____ day of _____, 2019.

MAYOR

ATTEST:

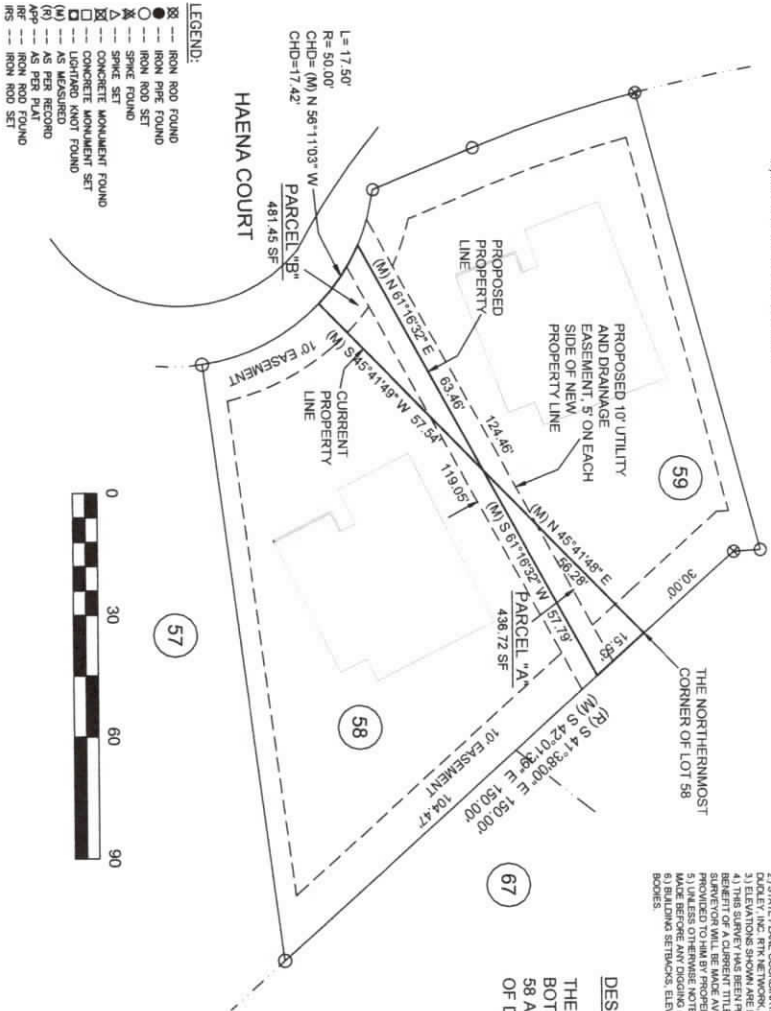
CITY CLERK

SEAL)

Exhibit A

REFERENCE MATERIALS:
1) RECORDED SUBDIVISION PLAT

- NOTES:**
- 1) FIELD SURVEY PERFORMED WITH A COMBINATION OF TOPCON GPS RECEIVER AND TOPCON GPT11, ROBOTIC TOTAL STATION.
 - 2) STATE PLANE COORDINATES AND BEARINGS SHOWN HEREON ARE DERIVED BY COMBINATION OF GPS STATIC OBSERVATION AND DUAL FREQUENCY GPS (DGPS) BEARING.
 - 3) ELEVATIONS SHOWN ARE BASED ON NAVD83.
 - 4) THIS SURVEY HAS BEEN PREPARED BY CLIENT AND LIMITED RESEARCH IN COURTHOUSE WITHOUT THE BENEFIT OF A CURRENT TITLE REPORT. THIS SURVEY MAY NOT BE RELIED UPON AS A SUBSTITUTE FOR A CURRENT TITLE REPORT 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 USED TO LOCATE ALL UTILITIES. THIS SURVEY DOES NOT GUARANTEE THE ACCURACY OF ANY UTILITIES NOTED OR THE LOCATION OF UTILITIES NOTED.
 - 6) BEARINGS OTHER THAN NORTH ARE REFERRED TO AS TRUE UNLESS OTHERWISE NOTED.
 - 7) UNLESS OTHERWISE NOTED, ALL BEARINGS AND DISTANCES ARE IN FEET AND DECIMALS THEREOF.
 - 8) BEARINGS AND DISTANCES ARE REFERRED TO AS TRUE UNLESS OTHERWISE NOTED.



DESCRIPTION FOR UTILITY AND DRAINAGE EASEMENTS TO BE VACATED

THE PLATTED 5 FEET WIDE UTILITY AND DRAINAGE EASEMENTS LYING ON BOTH SIDES AND ADJACENT TO THE COMMON LOT LINE BETWEEN LOTS 58 AND 59, BLOCK 4, DIAMONDHEAD SUBDIVISION, PHASE 1, UNIT 8, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI.

DESCRIPTION FOR NEW 10' WIDE UTILITY AND DRAINAGE EASEMENT

A 10 FEET WIDE UTILITY AND DRAINAGE EASEMENT LYING ON BOTH SIDES AND ADJACENT TO A LINE BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHERNMOST CORNER OF LOT 58, BLOCK 4, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI;
THENCE ALONG THE EAST LINE OF SAID LOT 58, S42°01'39"E 15.53 TO THE POINT OF BEGINNING OF THE CENTERLINE OF HEREIN DESCRIBED EASEMENT; THENCE S61°16'32"W 121.25 TO THE END OF SAID CENTERLINE OF EASEMENT, LYING ON THE EAST MARGIN OF HAENA COURT.

DESCRIPTION FOR PARCEL "A"

A PORTION OF LOT 58, BLOCK 4, DIAMONDHEAD SUBDIVISION, PHASE 1, UNIT 8, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI AND BEING DESCRIBED AS FOLLOWS:
BEGINNING AT THE NORTHERNMOST CORNER OF LOT 58, BLOCK 4, DIAMONDHEAD SUBDIVISION, PHASE 1, UNIT 8, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI; THENCE ALONG THE EAST LINE OF SAID LOT 58, S42°01'39"E 15.53; THENCE S61°16'32"W 57.79 TO THE LINE BETWEEN LOTS 58 AND 59; THENCE ALONG SAID LINE, N45°41'48"E 56.28 TO THE POINT OF BEGINNING, CONTAINING 436.72 SQUARE FEET.

DESCRIPTION FOR PARCEL "B"

A PORTION OF LOT 59, BLOCK 4, DIAMONDHEAD SUBDIVISION, PHASE 1, UNIT 8, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI AND BEING DESCRIBED AS FOLLOWS:
COMMENCING AT THE NORTHERNMOST CORNER OF LOT 59, BLOCK 4, DIAMONDHEAD SUBDIVISION, PHASE 1, UNIT 8, CITY OF DIAMONDHEAD, HANCOCK COUNTY, MISSISSIPPI; THENCE ALONG THE LINE BETWEEN LOTS 58 AND 59, S45°41'48"W 56.28 TO THE POINT OF BEGINNING; THENCE CONTINUE ALONG SAID LINE, S45°41'48"W 57.54 TO THE EAST MARGIN OF HAENA COURT; THENCE ALONG A CURVE OF SAID EAST MARGIN OF HAENA COURT TO THE LEFT, HAVING A RADIUS OF 50.00', AN ARC LENGTH OF 17.50' AND A CHORD BEARING AND DISTANCE OF N56°11'03"W 17.42'; THENCE N61°16'32"E 63.46' TO THE POINT OF BEGINNING, CONTAINING 481.45 SQUARE FEET.

- LEGEND:**
- IRON ROD FOUND
 - IRON PIPE FOUND
 - IRON ROD SET
 - ▲ SPIKE SET
 - CONCRETE MONUMENT FOUND
 - CONCRETE MONUMENT SET
 - LIGHTED KNOT FOUND
 - LIGHTED KNOT SET
 - APP AS PER RECORD
 - APP AS PER PLAT
 - RR IRON ROD FOUND
 - RR IRON ROD SET



SURVEY CLASS - "B"		FOR: MY COTTAGE HOMES, LLC	
SCALE: 1" = 30'		BEARINGS SHOWN HEREON ARE DERIVED BY: STATE PLANE GRID(2301 NS EAST) BY GPS OBSERVATION	
CROSBY SURVEYING			
PROFESSIONAL LAND SURVEYING			
716 LIVE OAK DRIVE			
BILOXI, MISSISSIPPI 39532			
PHONE: 228-234-1649			
DATES OF FIELD WORK:		DRAWN BY: CAC	
PARTY CHIEF: CC		DRAWING NUMBER: 16154 LOTS 58 AND 59	
INSTRUMENT MAN: MM		REVISIONS:	
ROOMMAN: CC			



Mr. Ronald Jones
City of Diamondhead
5000 Diamondhead Cir,
Diamondhead, MS 39525



June 4, 2019

Re: Lot 58, Block 4, Diamondhead Phase 1, Unit 8

Mr. Ronald Jones,

Please accept this as a formal request to abandon the existing drainage and utility easements currently on Lot 58, Block 4, Diamondhead Phase 1, Unit 8. At the same time, please accept this request for the donation of new drainage and utility easements on the same property.

Please contact me with any additional information needed to process this request.

Sincerely,

Kenneth Jones
VP of Land
1402 Pass Road
Gulfport, MS 39501

Mr. Ronald Jones
City of Diamondhead
5000 Diamondhead Cir,
Diamondhead, MS 39525

June 4, 2019

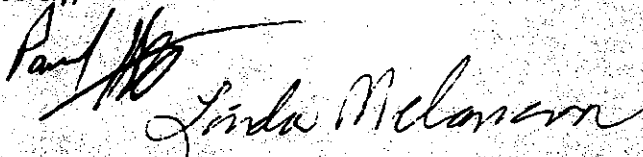
Re: Lot 59, Block 4, Diamondhead Phase 1, Unit 8

Mr. Ronald Jones,

Please accept this as a formal request to abandon the existing drainage and utility easements currently on Lot 59, Block 4, Diamondhead Phase 1, Unit 8. At the same time, please accept this request for the donation of new drainage and utility easements on the same property.

Please contact me with any additional information needed to process this request.

Sincerely,

A handwritten signature in cursive script, appearing to read "Paul & Linda Melancon". The signature is written in dark ink and is positioned above the typed name.

Paul & Linda Melancon
10822 Haena Ct.
Diamondhead, MS 39525

Grantors:

Elliott Homes
1402 Pass Road
Gulfport, MS 39507
(228) _____

Paul and Linda Melancon
10822 Haena Court
Diamondhead, MS 39525
(228) _____

Grantee:

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525
(228) 222-4626

Prepared by and Return to:

Derek R. Cusick, Esq.
Symmes, Estes & Cusick, PLLC
2200 25th Avenue
Gulfport, MS 39501
(228) 896-8962

STATE OF MISSISSIPPI

COUNTY OF HANCOCK

INDEXING INSTRUCTIONS

**Part of the Lots 58 and 59,
Diamondhead Phase 1, Unit 8,
Block 4, City of Diamondhead,
Hancock County, Mississippi
TITLE NOT EXAMINED**

RIGHT OF ENTRY AND PERMANENT DRAINAGE/UTILITY EASEMENT

FOR AND IN CONSIDERATION of the sum of Ten and no/100 Dollars (\$10.00), cash

in hand paid, and other good and valuable considerations, we, Elliott Homes and Paul and Linda Melancon, the owners of the property listed above, hereby grant a Right of Entry and a Permanent Drainage/Utility Easement to CITY OF DIAMONDHEAD, MISSISSIPPI from the public right of way to the drainage/utility easement located on this property for maintenance of said drainage/utility easement. The Permanent Drainage Easement/Utility shall be described as follows:

A 10 feet wide utility and drainage easement lying on both sides and adjacent to a line being described as follows:

Commencing at the northernmost corner of Lot 58, Block 4, Diamondhead Subdivision Phase 1, Unit 8, City of Diamondhead, Hancock County, Mississippi, thence along the east line of said Lot 58, S42°01'39"E 15.53' to the Point of Beginning of the centerline of herein described easement; thence S61°16'32"W 121.25' to the end of said centerline of easement, lying on the east margin of Haena Court.

See attached survey thereto incorporated herein by reference as Exhibit "A".

We also hereby further grant a Right of Entry for the property to CITY OF DIAMONDHEAD, MISSISSIPPI, its agents or assigns, for the construction and maintenance of said easement.

We hereby further agree not to construct, plant or place anything within the Permanent Drainage/utility Easement that will interfere with the CITY OF DIAMONDHEAD, MISSISSIPPI-S subservient rights. This Permanent Drainage/Utility Easement shall be limited to and for the exclusive use of CITY OF DIAMONDHEAD, MISSISSIPPI, its agents or assigns, for its drainage needs.

We hereby further agree to hold harmless CITY OF DIAMONDHEAD, MISSISSIPPI, along with its project engineers, project administrators and all other employees, agents, servants, successors and assigns of the CITY OF DIAMONDHEAD, MISSISSIPPI, for any and all

claims, demands, suits and losses of any nature whatsoever which may result from or be claimed to have resulted from the construction and maintenance of the drainage easement including, but not limited to, personal injury, death, damage to buildings, fixtures and appurtenances, as well as hidden damage to property including trees, shrubs, sod, bushes or any vegetation, lost wages, attorneys= fees and any other loss or damage whatsoever.

Said new drainage easement replaces the existing drainage easement that has been formally abandoned by the City of Diamondhead, Mississippi described as follows:

The platted 5 feet wide utility and drainage easements lying on both sides and adjacent to the common lot line between lots 58 and 59, Block 4, Diamondhead Subdivision Phase 1, Unit 8, City of Diamondhead, Hancock County, Mississippi.

It is further acknowledged that the drafter of this instrument performed no title search prior to preparing this instrument.

WITNESS our signatures on this the ____ day of _____, 2019.

ELLIOTT HOMES

By: _____

Its: _____

STATE OF MISSISSIPPI

COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, the undersigned authority, a notary public in and for the aforesaid jurisdiction, the within named _____, who acknowledged that he signed, executed, and delivered the above and foregoing instrument on the day and year therein set forth and mentioned having been first duly authorized to do so.

GIVEN UNDER MY HAND, and official seal of the office this the ___ day of _____
2019.

NOTARY PUBLIC

My Commission Expires:

(SEAL)

PAUL MELANCON

STATE OF MISSISSIPPI

COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, the undersigned authority, a notary public in
and for the aforesaid jurisdiction, the within named _____, who acknowledged
that he signed, executed, and delivered the above and foregoing instrument on the day and year
therein set forth and mentioned.

GIVEN UNDER MY HAND, and official seal of the office this the ___ day of
_____ 2019.

NOTARY PUBLIC

My Commission Expires:

(SEAL)

LINDA MELANCON

STATE OF MISSISSIPPI

COUNTY OF HANCOCK

PERSONALLY APPEARED BEFORE ME, the undersigned authority, a notary public in and for the aforesaid jurisdiction, the within named _____, who acknowledged that she signed, executed, and delivered the above and foregoing instrument on the day and year therein set forth and mentioned.

GIVEN UNDER MY HAND, and official seal of the office this the ___ day of _____ 2019.

NOTARY PUBLIC

My Commission Expires:

(SEAL)