



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

AGENDA

PLANNING AND ZONING COMMISSION

Tuesday, December 14, 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 October 26, 2021 minutes.

New Business

3. Presentation by Robert Barber with Orion Planning to update the Commission on Short Term Rental ordinance progress. This is for information and discussion only. No vote will be taken
4. Janet Harmon-Curvey and John A. Curvey have filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a covered patio (36.26' x 11.4') within 17.9' of the rear property line. Additionally, to construct a masonry fireplace (3'x6') within 14.9' of the rear property line. The property address is 7518 Augusta Way. The tax parcel number is 067M-2-35-007.000. The property is in an R-1 zoning district. The rear yard setback is 20'. The variance requested for the covered patio is 2.1' and the fireplace is 5.1'. The Case File Number is 202100459.
5. B&G Food Enterprises, LLC, has filed an application requesting Planning Commission Review as required by the Zoning Ordinance (Article 4.21.1 B) to allow the construction of a drive-in restaurant, Taco Bell. The property address is 4405 Aloha Drive. The tax parcel number is 131E-1-13-006.002. The property is in a C-1 General Commercial zoning district. Drive-in restaurants are considered permitted uses with the review and approval in accordance with the Planning Commission review provisions set forth in the Zoning Ordinance (Article 2.4). The Case File Number is 202100483.
6. The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to reduce the number of publication days and increase the number of mail notices in the Zoning Ordinance (Ord. 2012-006) and Subdivision Regulations (Ordinance 2020-001). Case File Number is 202100493. The proposed text amendments would make the

following changes to Appendix A – Zoning, Article 2.9 – Public Notice Procedure, Section 2.9.1.A – change “300 feet” to “400 feet”; Section 2.9.1.B – change “three hundred (300) feet” to “four hundred (400) feet”; Section 2.9.6.B – change “three hundred (300) feet” to “four hundred (400) feet”; Section 2.9.7.A.ii – change “Two (2) publication days” to “One publication day” and Subdivision Regulations Article III – Procedures, Article 301.6 – change “three hundred feet (300’)” to “four hundred feet (400’)” ; Article 303.2.3 – change “three hundred feet (300’)” to “four hundred feet (400’)” ; Article 320.4.e and Article 320.5.b – “change 300 to 400”.

7. The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to require the use of 100-year storm events in the Zoning Ordinance (Ord. 2012-019) and Stormwater Runoff, Illicit Discharges, and Illegal Connections Ordinance (Ord. 2013-030). Case File Number is 202100494. The proposed text amendments would make the following changes to Zoning Ordinance Article 14 – Land Alterations and Disturbances, Article 14.1.3.D – Land Clearing and Drainage, – change “5-year storm” to “100-year storm”, insert a period after "urbanized areas", remove "wherein the rainfall is one (1) hour at a rainfall of three (3) inches per hour." and add "The approximate value for "I" precipitation intensity in inches per hour, shall be obtained from the NOAA Website at <http://hdsc.nws.noaa.gov/hdsc/pfds/>. This website provides precipitation intensity information." before "Runoff shall be drained...". In Stormwater Runoff, Illicit Discharges, and Illegal Connections Ordinance Chapter 24- Stormwater Management, Section 24-10 (a) – Stormwater Detention Standards and Requirements – add "100-year" after "50-year" to “two-year, five-year, ten-year, 25-year and 50-year, 24-hour storm events.”

Unfinished Business

Open Public Comments to Non-Agenda Items

Commissioners' Comments

Communication / Announcements

8. The next City Council meeting is December 21, 2021 at 6:00 pm.
The next Planning Commission meeting is January 25, 2022 at 6:00 pm.

Adjourn or Recess



Commissioner F
Commissioner
Commissioner Debrow
Commissioner Rubar
Commissioner Hourin
Commissioner Torguson
Commissioner Hector

Item No.2.

MINUTES

PLANNING AND ZONING COMMISSION

Tuesday, October 26, 2021

6:00 PM CST

Council Chambers, City Hall
and via teleconference, if necessary

Call to Order

Chairman Rubar called the meeting to order at 6:00 p.m.

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.

Commissioner Debrow read the Statement of Purpose.

Pledge of Allegiance

Commissioner Torguson led the Pledge of Allegiance.

Roll Call

Commissioner Flowers, Layel, Debrow, Torguson, Chairman Rubar. Also present City Attorney Derek Cusick, Building Official Ronald Jones, Development Coordinator Pat Rich, Building Inspector Beau King, Minute Clerk Tammy Braud. Absent: Hourin, Hector

Confirmation or Adjustments to Agenda

Commissioner Debrow made a motion, second by Commissioner Flowers to approve the agenda as presented.

Motion Passed Unanimously

Approval of Minutes

1. Approval of August 24, 2021 minutes.

Commissioner Flowers made a motion, second by Commissioner Layel, to approve the minutes of August 24, 2021.

Motion Passed Unanimously

New Business

2. 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.

Development Coordinator, Pat Rich presented the case ,and answered questions from the commissioners.

David Dreher spoke to the commissioners, and answered their questions.

Chairman Rubar asked for public comments.

Development Coordinator, Pat Rich read a letter he received into record from residents of Kimo Ct..

Development Coordinator, Pat Rich read the staff report that recommends to deny the variance with reasons listed in report .

Commissioner Flowers made a motion, second by Commissioner Debrow to deny the variance based on reasons listed in the staff report to the City Council.

Roll Call

Ayes: Flowers, Torguson, Layel, Debrow, Rubar Nays: None Absent: Hourin , Hector

Motion Passed

3. 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.

Development Coordinator, Pat Rich presented to the Commissioners. Mr. Rich stated that this request was made by the City Council . Mr. Rich read the staff report that recommended approving.

Commissioner Layel made a motion, second by Commissioner Flowers to accept the recommendation to approve the text amendment to the City Council.

Roll Call

Ayes: Torguson, Debrow, Layel, Flowers, Rubar Nays: None Absent: Hourin, Hector

Motion Passed Unanimously

4. Approval of 2022 Planning and Zoning Commission Calendar.

Commissioner Torguson made a motion, second by Commissioner Debrow to accept the 2022 Planning & Zoning Calendar.

Motion Passed Unanimously

Unfinished Business

None

Open Public Comments to Non-Agenda Items

None

Commissioners' Comments

None

Communication / Announcements

There are no agenda items for November 9, 2021, Planning Commission meeting.

The next Planning Commission meeting is December 14, 2021.

Adjourn or Recess

Commissioner Flowers made a motion, second by Commissioner Layel to adjourn the meeting at 6:43 p.m.

Motion Passed Unanimously



5000 Diamondhead Circle ·
Diamondhead, MS 39525-3260
Phone: 228.222.4626 Fax: 228-222-4390
www.diamondhead.ms.gov

TO: Janet Harmon-Curvey, John A. Curvey and adjacent property owners

FROM: J. Pat Rich 
Development Coordinator

DATE: November 24, 2021

SUBJECT: Variance application request before the Planning & Zoning Commission

Janet Harmon-Curvey and John A. Curvey have filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a covered patio (36.26' x 11.4') within 17.9' of the rear property line. Additionally, to construct a masonry fireplace (3'x6') within 14.9' of the rear property line.

The property address is 7518 Augusta Way. The tax parcel number is 067M-2-35-007.000. The property is in an R-1 zoning district. The rear yard setback is 20'. The variance requested for the covered patio is 2.1' and the fireplace is 5.1'. The Case File Number is 202100459.

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~~ December 14, 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**

Janet Harmon-Curvey and John A. Curvey have filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a covered patio (36.26' x 11.4') within 17.9' of the rear property line. Additionally, to construct a masonry fireplace (3'x6') within 14.9' of the rear property line.

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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, December 14, 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.



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



APPLICATION FOR VARIANCE REQUEST

Case Number: 202100459Date 11/1/2021Applicant: Janet Harmon-Curvey, John A. CurveyApplicant's Address: 7518 Augusta Way Diamondhead, MS ³39525Applicant's Email Address: curvey32@hotmail.comApplicant's Contact Number: (Home) _____ (Work) _____ (Cell) 812-344-6844 Janet
228-364-2522 JohnProperty Owner: Janet Harmon-Curvey, John A. CurveyOwner's Mailing Address: 7518 Augusta Way Diamondhead, MS 39525Owner's Email Address curvey32@hotmail.comOwner's Contact Number: (Home) _____ (Work) _____ (Cell) 812-344-6844 Janet
228-364-2522 JohnTax Roll Parcel Number: 067M-2-35-007.000Physical Street Address: 7518 Augusta WayLegal Description of Property: Glen Eagle STD, PH 1, Lot 177Zoning District: R-1 RYSB 20'State Purpose of Variance: (Front/Side/Rear/Lot Size/Parking/Building/Coverage)
(Signage-Size-Height) _____

To build a covered patio (36.26' x 11.4') with 17.9' of the rear
property line. Additionally to construct a masonry fireplace
within 14.9' of the rear property line.

REQUIRED ITEMS:

- A. A statement describing the variance request and all the reasons why it complies with the criteria for variances provided in Section 2.6.5, specifically.

THE CONDITIONS FOR GRANTING A VARIANCE: (SEE ATTACHED SHEET #4)

- 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?
- ② WOULD LITERAL INTERPRETATION OF THE ZONING ORDINANCE DEPRIVE THE OWNER/APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES IN THE SAME ZONING DISTRICT?
- ③ ARE THE SPECIAL CONDITIONS OR CIRCUMSTANCES NOT CAUSED BY THE OWNER/APPLICANT?
- ④ WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

- ~~B.~~ The property address and the name and mailing address of the owner of each lot within 300 feet of the subject property and a map with parcels keyed to the ownership and address data.

- ~~C.~~ Site plans, preliminary building elevation, preliminary improvement plans, or other maps or drawings, sufficiently dimensioned as required to illustrate the following, to the extent related to their variance application:

- i. Existing and proposed location and arrangement of uses on the site, and on abutting sites within 100 feet.
- ii. Existing and proposed site improvements, buildings, and other structures on the site, and any off-site improvements related to or necessitated by the proposed use. Building elevations shall be sufficient to indicate the general height, bulk, scale, and architectural character.
- iii. Existing and proposed topography, grading, landscaping, and screening, irrigation facilities, and erosion control measures.
- iv. Existing and proposed parking, loading, and traffic and pedestrian circulation features, both on the site and any off-site facilities or improvement related to or necessitated by the proposed use.
- v. The Zoning Administrator may request additional information necessary to enable a complete analysis and evaluation of the variance request, and determination as to whether the circumstances prescribed for the granting of a variance exist.
- vi. A fee established by the City Council shall accompany the application. A single application may include request for variances from more than one regulation applicable to the same site, or for similar variances on two or more adjacent parcels with similar characteristics.

- D. Payment of fee for Variance request: \$100.00 as per Ordinance 2012-020

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 Tuesday, Dec 14, 2021 at 6:00 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 AProperty Owner Janet Harmon-Curvey, John A. CurveyStreet Address 7518 Augusta Way Diamondhead, MS 39525
Statement Describing Variance Request

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: Not aware if other homes built in same era (2003)
are affected by the current 20' rear set back or not.

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

Response: Many nearby neighbors enjoy screened patios. If our variance
is denied, it will affect the esthetics of the rear view of the
home because the new const. will not match up to the furthest rear
footprint of the home.

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

Response: Special conditions/circumstances are not caused
by owners/applicants.

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

Response: The requested variance would not give us any special
privileges or rights. Many of our neighbors enjoy screened outdoor areas
attached to their homes. Our, unfortunately, was built in 2003 before
Diamond head was a city. With this variance we cannot construct the
screened outdoor patio area ~~that would match our current set back footprint of 17'9" from property line~~

Subject: 7518 Augusta Way Variance Request - Additional Information

We purchased the property in December 2019. Since then, we've really enjoyed the home and Diamondhead. We especially have enjoyed watching the golfers during the day and other residents as they traverse the cart path in the evenings. While we've owned the home, we've made a number of improvements to the property. With that same spirit in mind, we thought it would be nice to incorporate more of the outdoors into our daily living environment. As much as we enjoy sitting outside, we know it would be that much more enjoyable if we had a screened-in back patio.

As we've started to plan on making the addition, we discovered that our home (which was built in 2003) extends into the 20 foot property set back by about 2 feet. As we understand it, the portion of the home that sits inside the set back is essentially grandfathered. The screened-in patio that we would add would essentially be an extension of the original footprint of the house and therefore also extend into the 20 foot set back by about 2 feet. By keeping the design within the footprint it would make the addition symmetrical and aesthetically appealing.

Here are some additional notable items:

1. The addition would not obstruct our neighbors' view of the golf course or neighborhood.
2. The addition would sit approximately 50 feet from the cart path on the Cardinal's 6th hole.
3. The construction would include a masonry fireplace and would meet or exceed the standards that the home and surrounding homes have in place today.
4. We would employ a contractor that is well established and has a strong reputation for quality work in Diamondhead.

Thank you for your consideration.

The image shows two handwritten signatures in blue ink. The top signature is written in a cursive style and appears to read "Jeff Harmon-Cum". The bottom signature is more stylized and abstract, consisting of several overlapping loops and lines.

HARMON-CURVEY JANET ETAL

Parcel Number: 067M-2-35-007.000
Owner Name: HARMON-CURVEY JANET ETAL
Owner Address: 7518 AUGUSTA WAY
Owner City, State ZIP: DIAMONDHEAD, MS 39525
Physical Address: 7518 AUGUSTA WAY
Improvement Type: RES
Year Built: 2003
Base Area: 2794
Adjusted Area: 3282
Actual Total Value: 377260
Taxable Total Value: 377260
Estimated Tax: 4405.94
Homestead Exemption: Yes
Deed Book: 2019
Deed Page: 15659
Legal Description 1: LOT 107 GLEN EAGLE PHASE 1
Legal Description 2:
Legal Description 3:
Legal Description 4:
Legal Description 5:
Legal Description 6:
Longitude: -89.370773
Latitude: 30.392772
Square Footage: 12604.986008

Sketches

Sketch	Sketch Name
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	067M-2-35-007_00001-Model.gif
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Condos

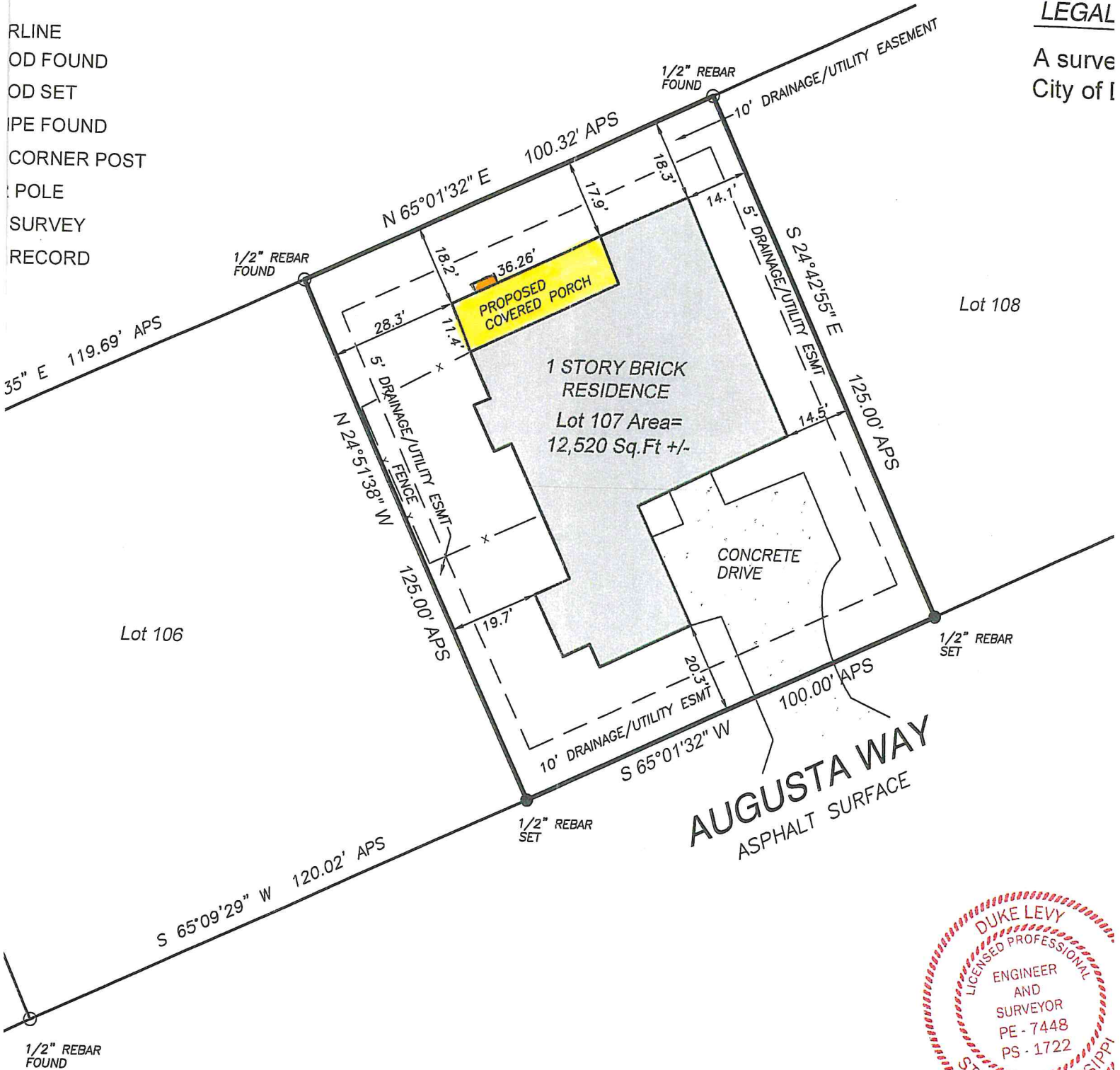
PLOT PLAN

Item No.4.

LEGAL

A survey
City of I

RLINE
OD FOUND
OD SET
IPE FOUND
CORNER POST
POLE
SURVEY
RECORD



or easements of
vidence, or any
's close. No
o obtain or show
location of any
Mississippi
l only if print has
ination was
n can be made

REFERENCES:

- 1) DEED BOOK 2016 PAGE 14597
- 2) PLAT OF GLEN EAGLE S/D, PHASE 1





5000 Diamondhead Circle ·
Diamondhead, MS 39525-3260
Phone: 228.222.4626 Fax: 228-222-4390
www.diamondhead.ms.gov

TO: B & G Food Enterprises, LLC, and adjacent property owners

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

DATE: November 24, 2021

SUBJECT: Variance application request before the Planning & Zoning Commission

B&G Food Enterprises, LLC, has filed an application requesting Planning Commission Review as required by the Zoning Ordinance (Article 4.21.1 B) to allow the construction of a drive-in restaurant, Taco Bell.

The property address is 4405 Aloha Drive. The tax parcel number is 131E-1-13-006.002. The property is in a C-1 General Commercial zoning district. Drive-in restaurants are considered permitted uses with the review and approval in accordance with the Planning Commission review provisions set forth in the Zoning Ordinance (Article 2.4). The Case File Number is 202100483.

Before any permit is issued for any use designated in Article 4 as requiring Planning Commission Review, the procedures of this Section shall be followed to more effectively administer, enforce, and implement the purposes, intent, and requirements of this Ordinance. It is the intent of this section to afford the Planning Commission the right of review and approval over site plans for development of those uses designated in Article 4 as requiring Planning Commission Review.

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**

B&G Food Enterprises, LLC, has filed an application requesting Planning Commission Review as required by the Zoning Ordinance (Article 4.21.1 B) to allow the construction of a drive-in restaurant, Taco Bell.

The property address is 4405 Aloha Drive. The tax parcel number is 131E-1-13-006.002. The property is in a C-1 General Commercial zoning district. Drive-in restaurants are considered permitted uses with the review and approval in accordance with the Planning Commission review provisions set forth in the Zoning Ordinance (Article 2.4). The Case File Number is 202100459: 483

Before any permit is issued for any use designated in Article 4 as requiring Planning Commission Review, the procedures of this Section shall be followed to more effectively administer, enforce, and implement the purposes, intent, and requirements of this Ordinance. It is the intent of this section to afford the Planning Commission the right of review and approval over site plans for development of those uses designated in Article 4 as requiring Planning Commission Review.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, December 14, 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.

City of Diamondhead
5000 Diamondhead Circle
Diamondhead, MS 39525



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

CASE NO. 202100483

DATE October 22, 2021

APPLICANT: B&G Food Enterprises, LLC

APPLICANT'S ADDRESS: PO Drawer 3608 Morgan City, LA 70381

APPLICANT'S TELEPHONE: (HOME) _____ (WORK) 985-384-3333

PROPERTY OWNER: Diamondhead Commercial Development

MAILING ADDRESS: PO Box 6326. Diamondhead, MS 39525

TELEPHONE NUMBER: (HOME) _____ (WORK) (228) 216-6919

TAX ROLL PARCEL NUMBER: 131E-1-13-006.002

STREET ADDRESS OR LEGAL DESCRIPTION OF PROPERTY: _____

4405 Aloha Drive Diamondhead, MS 39525

STATE PURPOSE OF REQUEST: The development requires commission
approval to operate drive-up service at this location.

REQUIRED ITEMS:

- A. A graphic site plan, drawn to a scale of not less than one inch to fifty feet (1" = 50') and sufficiently dimensioned as required to show the following:
- i. The date, scale, north point, title, name of owner, and name of person(s) preparing the site plan.
 - ii. The location, dimensions, and area of each lot, the locations, dimensions and height of proposed buildings, structures, streets and any existing buildings in relation to property and street lines. If the application relates to property which is scheduled to be developed in successive stages, such plans shall show the relationship of the portion scheduled for initial development to the proposed layout of the entire property.
 - iii. The location of existing and proposed site improvements including parking and loading areas, pedestrian and vehicular access, utility or service areas, fencing and screening, and lighting.
 - iv. The location, dimensions (numbers shown), and arrangements of all open spaces and yards, landscaping, fences, and buffer yards including methods and materials to be employed for screening as required in Section 5.4.4.

STATEMENT OF UNDERSTANDING

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

The application fee of \$250.00 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 Public Hearing will be held on December 14, 2021 at 6:00 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.

Carl P. Blum
Signature of Applicant

See Attached
Signature of Property Owner

____ For Official Use Only ____

100.00
☒ \$250.00
☒ 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 ()

AFFIDAVIT OF AUTHORIZATION
TO ACT FOR DIAMONDHEAD COMMERCIAL DEVELOPMENT, LLC
A LIMITED LIABILITY COMPANY

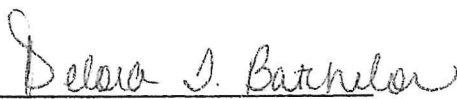
The undersigned, James Grotkowski, being the duly authorized representative of **DIAMONDHEAD COMMERCIAL DEVELOPMENT, LLC** (the "Company") who is authorized by the Company's articles of organization or operating agreement to grant the authority granted herein. The said Appearer hereby certifies that the Company is a limited liability company or domestic limited liability company, organized under the laws of the Mississippi Secretary of State to do business in the State of Mississippi pursuant to a certificate of authority issued by the Mississippi Secretary of State.

The Appearer does hereby authorize and empower **CARL P. BLUM** to represent and act for and in the name of the said **DIAMONDHEAD COMMERCIAL DEVELOPMENT, LLC** in all matters concerning any relative to the application and representation of the said Company before the City of Diamondhead, Planning and Zoning Department.

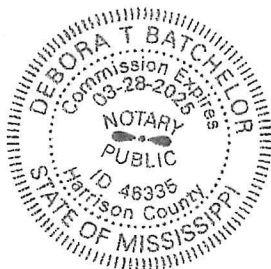
The Said **CARL P. BLUM** is authorized to sign all documents in connection with the forgoing for and in the name of **DIAMONDHEAD COMMERCIAL DEVELOPMENT, LLC**, and to take all such actions in its name as may, in the sole and exclusive judgement of **CARL P. BLUM**, be necessary to accomplish expressed above.


James Grotkowski,
Authorized Representative

Sworn to and subscribed before me this 11th day of this
November, 2021



NOTARY PUBLIC



After Recording Return To:

MEMORANDUM OF LEASE

This Memorandum of Lease ("Memorandum") is entered into by and between DIAMONDHEAD COMMERCIAL DEVELOPMENT ("Landlord") and HAMER REAL ESTATE HOLDINGS, LLC ("Tenant").

1. Grant of Lease: Term.

(a) Landlord leases to Tenant, and Tenant leases from Landlord that certain tract of land more particularly described on Exhibit A attached to this Lease and incorporated herein for all purposes ("Land") for a term of 20 years, subject to the provisions of that certain Ground Lease ("Lease") between the parties dated September 8, 2021. The provisions of the Lease are incorporated herein by this reference.

(b) The Lease grants to Tenant five (5) five (5) year options to renew the term of the Lease on the terms set out therein.

(c) The Lease provides that so long as Tenant is not in default beyond any cure period which may be provided for in this Lease, Landlord shall not allow the use of any of any real property leased or owned by Landlord or its affiliates (other than the Premises) or located within one (1) mile of the Premises (a) for the sale of prepared Mexican food, or (b) any use which interferes with access to the Premises or visibility from streets adjacent to the Premises of Tenant Improvements, including Tenant's building and signs.

(d) The Lease grants to Tenant certain other rights as set out therein.

2. Purpose. This Memorandum is prepared for the purpose of recordation only and in no way modifies the provisions of the Lease. If any provisions in this Memorandum are inconsistent with provisions contained in the Lease, the provisions in the Lease prevail.

3. Miscellaneous. The parties have executed this Memorandum of Lease on the dates and at the places indicated in their acknowledgements but as of the date set out above.

4. Franchisor Rights. Landlord and Tenant have granted Taco Bell Franchisor, LLC, a Delaware limited liability company, and its affiliates certain conditional rights, including possession, in and to the Premises.

LANDLORDTENANT

DIAMONDHEAD COMMERCIAL

DEVELOPMENT

HAMER REAL ESTATE HOLDINGS, LLC

By: [Signature]
 Name: James Grotkowski
 Title: managing member

By: [Signature]
 Name: Gregory J. Hamer, Jr.
 Title: Authorized Representative

STATE OF LOUISIANA

§
§
§

PARISH OF ST. MARY

This instrument was acknowledged before me on February 25, 2021, by Gregory J. Hamer, Jr., Authorized Representative of HAMER REAL ESTATE HOLDINGS, LLC, a Louisiana limited liability company, on behalf of said limited liability company as its free act and deed.

[Seal]

[Signature]
 Notary Public in and for the
 STATE OF LOUISIANA

BRIAN M. TRANCHINA
 NOTARY PUBLIC (BR#1623)
 STATE OF LOUISIANA
 My commission is for life

STATE OF Mississippi§
§
§COUNTY OF Hancock

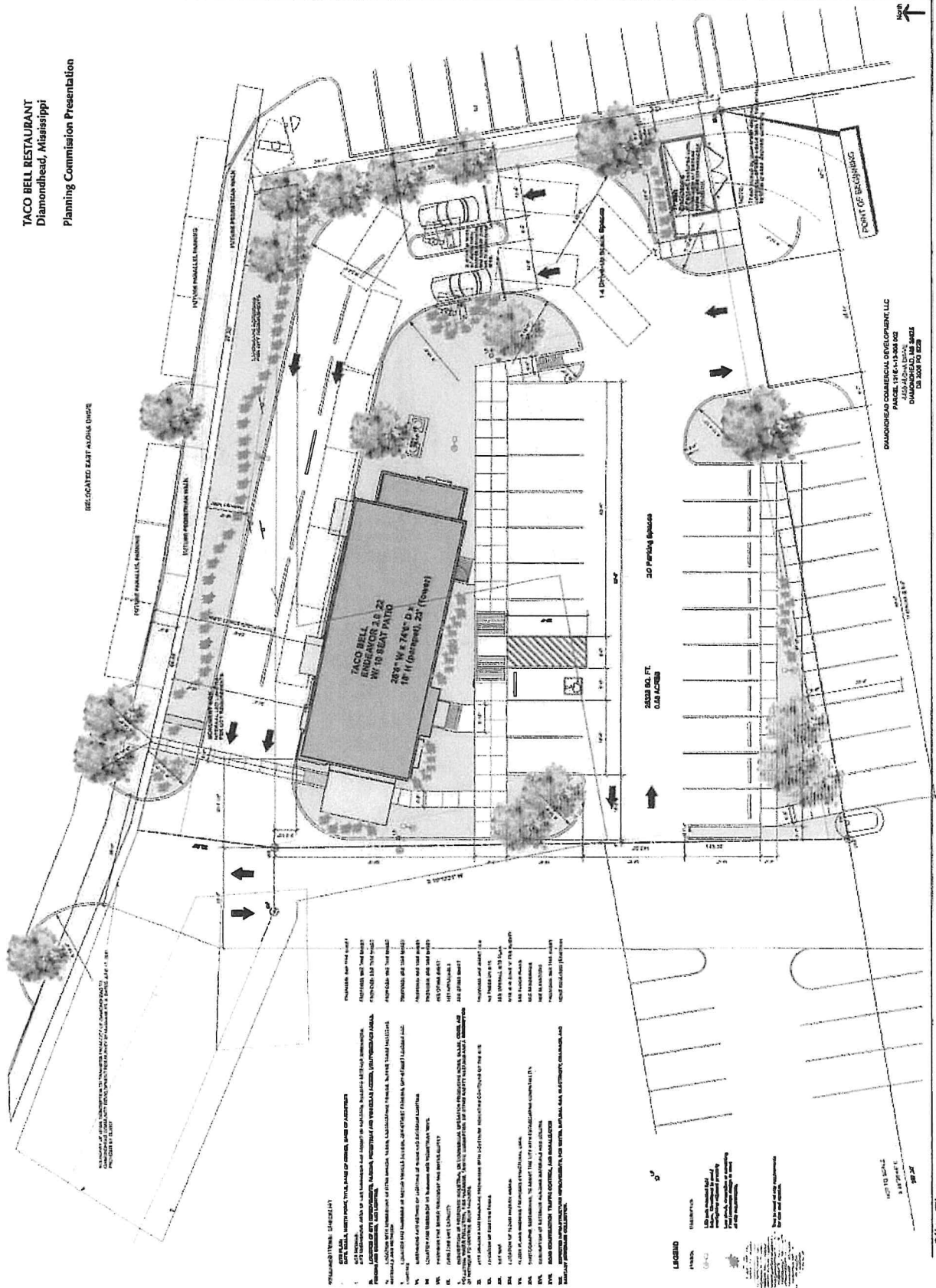
This instrument was acknowledged before me on September 20, 2021 by Mary Mitchell, James Grotkowski of DIAMONDHEAD COMMERCIAL DEVELOPMENT, a Mississippi limited liability company, on behalf of said limited liability company as its free act and deed.

[Seal]



[Signature]
 Notary Public in and for the
 STATE OF Mississippi

TACO BELL RESTAURANT
Diamondhead, Mississippi
Planning Commission Presentation



Overall Site Plan

SITE PLAN:







**TACO RESTAURANT
Diamondhead, Mississippi****WRITTEN STATEMENT:****Transportation:**

The site is easily accessible from I-10 to the south of the site and from the adjacent residential areas of the city. Access from East Aloha Drive will be provided by a relocated driveway used in common with the existing shopping center behind the Taco Bell site. Ride sharing and delivery services should reduce the number of trips to the site by local customers. No public transportation is available at this time.

Water Supply

Water service is available from the City of Diamondhead.

Waste Disposal

The Owner will contract with local waste disposal companies for removal of trash and service for grease waste and the 1,000 gallon grease trap.

Fire and Police Protection

Fire protection is provided by the Diamondhead Fire District. Police protection is provided by the City of Diamondhead Police Department. The building and site will be designed to meet the latest NFPA 101 Life Safety Code and International Building Code requirements as well as all ADA provisions. The building will include an extensive alarm and camera security system which will provide notification if emergency services are required.

Traffic Concerns

We do not expect the additional traffic generated by the restaurant to have a significant effect on the adjacent street since the highest traffic counts are at lunch time and after 6:00 PM which are complementary to adjacent retail traffic patterns and counts that peak at different times. Estimated evening peak traffic to the site is an additional 34 trips. No additional access points are being added to the street since we will be relocating the existing entrance drive to the shopping center slightly to the east. In addition, this location will be one of the first in the country to feature a double drive-up lane thereby increasing the speed of service and therefore reducing the needed stack space. Typically, we provide a seven car stack space. Here we have 14 stack spaces before any conflict with access driveways or parking on the site. Twenty parking spaces are provided including one van accessible handicapped space.

Appropriate Development for Site

The property is zoned properly for its intended use with the exception of drive-up service. We are requesting approval from the City Planning Commission and City Council as required by City ordinance to include drive-up service in the design of the project. Since 60 to 80% of gross sales for a typical Taco Bell location are derived from drive-up service, the project will not proceed without this approval.

The City is already in the process of constructing the relocated East Aloha Drive project which will slow down traffic and result in the long term in additional street fronted shopping and increased pedestrian traffic. Our building is oriented as requested by the City to become a part of that fabric as it develops over the next few years. We adjusted the relationship to the street front and the location of parking as we developed the final site plan while consulting with city officials. We've also included a covered patio area overlooking the street to further enhance the idea of a walkable urban concept.

TACO RESTAURANT

Diamondhead, Mississippi

Comments:

Description of Exterior Building Materials

The building is constructed of wood frame with pre-fab wood trusses on a concrete slab. Exterior materials include painted cement board siding (Hardie Board) and pre-finished copper colored metal wall panels at the corner tower and above the side entrance canopy.

Accents include a pre-finished lean to patio cover at the front of the building with a painted metal railing, a dark bronze entrance canopy, and dark bronze eyebrow covers over the dark bronze aluminum storefront door and window system. Graphic panels are used in three locations on the building sides for accent colors. The building is painted in light colors with dark gray and purple accents. Accent lighting provides an enhanced sense of activity and fun.

See attached color renderings and elevations.

Description of Planned Operations:

B & G Food Enterprises, LLC will operate a standard prototype, 22 seat Taco Bell restaurant with a 10 seat outdoor patio. The menu will consist of tacos, burritos, quesadillas, and all typical Taco Bell fare. Service options will include dine in, take out, drive-up, app orders, and delivery to a limited area.

The pandemic has changed restaurant operations and will result in a long term movement to additional drive-up, app orders, and delivery service. Most chain restaurant groups are reducing seat counts and increasing throughput for drive-up service. Keeping service times to a minimum is necessary to achieve good customer service to an increasingly impatient customer base.

The restaurant serves breakfast, lunch, dinner, and late night customers. Normal operating hours are approximately 7:00 AM to 2 AM.

Great care has been taken to be good neighbors to surrounding businesses. The drive-up order area is located away from any other tenants in the shopping center to reduce noise pollution from that area. Lighting will use restricted LED pole lights to keep our lighting on the property. Ample stacking space is a feature of the site design so that stacked vehicles will not block adjacent driveways and will have no impact on traffic on E Aloha Drive. Landscape screening is provided along the street frontage along with a number of trees and highly planted areas near the building and at the drive-up order area. We also use black concrete in the drive-up lanes to mask any oil stains from idling vehicles.

Roads and Infrastructure:

The site has available utilities suitable for restaurant development. Water and sewer service is available at the site as well as subsurface drainage. Contact has been made with all utility providers. We do note that natural gas service is not available. Most restaurants use gas for cooking equipment, hot water heating, and heating. We are investigating installing a propane gas system rather than going to an all-electric installation due to the high cost of power versus gas.

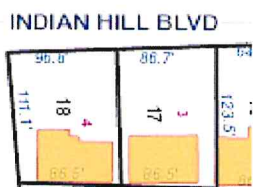
Roof Design:

The roofing system is a two-ply modified bitumen product with white reflective granules over a thick sloped, tapered insulation system with a minimum slope of 1/4" per foot. Roof drains with overflow drains and a scupper or tied in to the subsurface stormwater system. Parapet walls are capped with cap flashing and the parapet walls are covered with pre-painted metal siding panels. Rooftop HVAC systems are utilized.

Submitted By:

Carl P. Blum AIA
Architect

DIAMONDHEAD PRN



INDIAN HILL BLVD

KALANI DR

4.1 AC

GEM CITY PROPERTIES LLC

**DIAMONDHEAD
COMM DEV LLC**

Parcel Number: 131E-1-13-006.002

Owner Name: DIAMONDHEAD COMM

DEV LLC

Owner Address: PO BOX 6326

Owner City, State ZIP:

DIAMONDHEAD, MS 39525

Physical Address: 4405 ALOHA DRIVE

Improvement Type: M51

Year Built:

2007

Base Area:

544

Adjusted Area:

891

Actual Total Value:

91281

Taxable Total V

91281

Estimated Tax:

56.54

Homestead Exemption: No

Deed Book: 2021

Deed Page: 11316

Legal Description 1: PT J B LADNER

CLAIM 13-8S-14W

Legal Description 2:

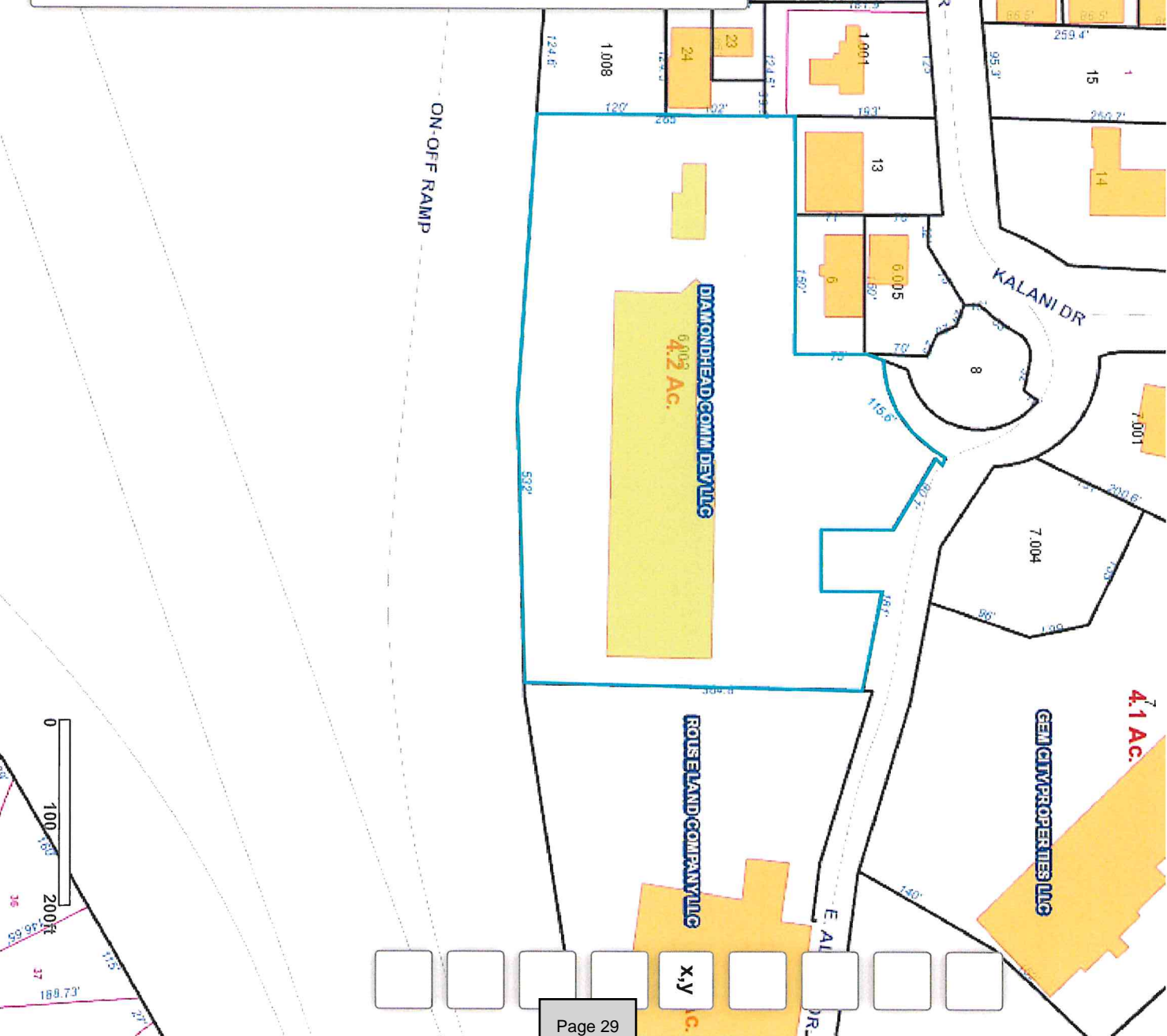
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**NOTICE OF PUBLIC HEARING
PLANNING AND ZONING COMMISSION
DIAMONDHEAD, MS**

The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to reduce the number of publication days and increase the number of mail notices in the Zoning Ordinance (Ord. 2012-006) and Subdivision Regulations (Ordinance 2020-001). Case File Number is 202100493.

The proposed text amendments would make the following changes to Appendix A – Zoning, Article 2.9 – Public Notice Procedure, Section 2.9.1.A – change “300 feet” to “400 feet”; Section 2.9.1.B – change “three hundred (300) feet” to “four hundred (400) feet”; Section 2.9.6.B – change “three hundred (300) feet” to “four hundred (400) feet”; Section 2.9.7.A.ii – change “Two (2) publication days” to “One publication day” and Subdivision Regulations Article III – Procedures, Article 301.6 – change “three hundred feet (300’)” to “four hundred feet (400’)”; Article 303.2.3 – change “three hundred feet (300’)” to “four hundred feet (400’)”; Article 320.4.e and Article 320.5.b – “change 300 to 400”.

The City Council shall have jurisdiction with respect to all Text Amendments. The Planning Commission shall review and submit a recommendation to the City Council on Text Amendments.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, December 14, 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.

2.9. - PUBLIC NOTICE PROCEDURE.

Section 2.9.1 through Section 2.9.7 shall be known as the Public Notice procedure. The purpose of this Procedure shall be to establish the minimum requirements for notice to be given with respect to procedural actions and public hearings required by the Zoning Regulations.

2.9.1 *Planning Commission: Conditional Use Permits.*

Notice or public hearing for consideration of a Conditional Use Permit by the Planning Commission shall be given as follows:

- A. Notice shall be given by mail to the owner of each site within ~~300~~ 400 feet of the subject property at least fifteen (15) days prior to the date of the hearing.
- B. At the option of the Zoning Administrator, notice may be given by mail to the owner of any site more than ~~three~~ four hundred ~~(300)~~ (400) feet from the subject property at least fifteen (15) days prior to the date of the hearing.
- C. Notice may be given by mail to any civic organization having interest in the application.
- D. Notice shall be given by publication of a legal notice in a newspaper of general circulation at least fifteen (15) days prior to the date of the hearing.
- E. Notice shall be posted at the street frontage of the subject site no less than fifteen (15) days prior to the date of the hearing.

2.9.6 *Planning Commission: Variance.*

Notice of public hearing for consideration of a variance by the Planning Commission shall be given as follows:

- B. Notice shall be given by mail to the owner of each site within ~~three~~ four hundred ~~(300)~~ (400) feet of the subject property at least fifteen (15) days prior to the date of the hearing.

2.9.7 *Notice Requirement Defined.*

- A. Requirements for notice and publication contained in this Section shall have the following meanings:
 - ii. Publication shall refer to the date of publication of a legal notice in a newspaper of general circulation in the City of Diamondhead. ~~Two (2)~~ One (1) publication days shall be sufficient.

303. - Procedure for Approval of Final Plat and Replat of an Existing Lot

303.2.3 Notice of the proposed re-plat application and of the time and place of hearing shall be published in an official paper, or a paper having a general circulation in the City of Diamondhead at least fifteen (15) days prior to the date of the hearing. In addition, the aforementioned hearing notice shall be mailed via first class mail to property owners located within ~~three~~ four hundred feet ~~(300')~~ (400') of the proposed re-plat fifteen (15) days prior to the date of the hearing.

320. - Variances.

320.5 b. Notice shall be given by mail to the owner of each site within ~~300~~ 400 feet of the subject property at least 15 days prior to the date of the hearing.

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

The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment to require the use of 100-year storm events in the Zoning Ordinance (Ord. 2012-019) and Stormwater Runoff, Illicit Discharges, and Illegal Connections Ordinance (Ord. 2013-030). Case File Number is 202100494.

The proposed text amendments would make the following changes to Zoning Ordinance Article 14 – Land Alterations and Disturbances, Article 14.1.3.D – Land Clearing and Drainage, – change “5-year storm” to “100-year storm” and Stormwater Runoff, Illicit Discharges, and Illegal Connections Ordinance Chapter 24- Stormwater Management, Section 24-10 (a) – Stormwater Detention Standards and Requirements – change “two-year, five-year, ten-year, 25-year and 50-year, 24-hour storm events.” to “100-year, 24-hour storm events.”

The City Council shall have jurisdiction with respect to all Text Amendments. The Planning Commission shall review and submit a recommendation to the City Council on Text Amendments.

The Planning and Zoning Commission will consider this application at its next regularly scheduled meeting on **Tuesday, December 14, 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.

Zoning Ordinance

ARTICLE 14. - LAND ALTERATIONS AND DISTURBANCES

14.1. - PURPOSE.

14.1.3 *Land Clearing and Drainage.*

- D. Parcels of land greater than three (3) acres: Proposed new developments in excess of three (3) acres shall not be cleared until an overall project plan has been submitted to and approved by the Zoning Administrator. Such plans shall, in addition to the above referenced requirements, include detailed stormwater runoff control measures including retention and/or detention ponds capable of retaining both "during construction" and "post-construction" sediments and of holding a volume of stormwater equal to a ~~five-year~~ 100-year storm based on south Mississippi average rainfalls for urbanized areas. ~~The appropriate values for "I", precipitation intensity in inches per hour, shall be obtained from the NOAA Website at <http://hdsc.nws.noaa.gov/hdsc/pfds/>. This website provides precipitation intensity information.~~ Runoff shall be drained on-site to retention ponds and allowed to discharge at a rate no greater than the average discharge prior to development.

Stormwater Ordinance

CHAPTER 24 – STORMWATER MANAGEMENT

Sec. 24-10. - Stormwater detention standards and requirements.

- (a) It is prohibited to place fill material or construct impervious cover or construct or place any other structure on such person's property or perform any excavation or grading in a manner which alters the flow of surface water across said property in a manner which damages any adjacent property. No final subdivision plat, subdivision construction plan, site plan or building permit shall be approved by the city unless it can be demonstrated by the owner or developer of such property that the proposed development will not result in damage to any adjacent or downstream property. This will be certified by a professional engineer's submittal of sufficient data and calculations based upon the two-year, five-year, ten-year, 25-year and 50-year, ~~100-year~~, 24-hour storm event.