



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

## **AGENDA**

### **PLANNING AND ZONING COMMISSION**

**Tuesday, September 27, 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 August 23, 2022 minutes.

#### **New Business**

3. Willie Kerner has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory building (utility shed) within 6' of the primary structure. The property address is 63715 Diamondhead Drive North. The tax parcel number is 068Q-1-41-079.000. The property is in a R-2 zoning district. The setback from the primary structure is 10'. The variance requested is 4'. The Case File Number is 202200412.
4. Ralph E. Hays has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a roof over an existing patio within 19' of the rear property line on the golf course. The property address is 7435 Mahalo Hui Drive. The tax parcel number is 067N-2-35-048.001. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 1'. The Case File Number is 202200423.

#### **Unfinished Business**

5. The City of Diamondhead represented by J. Pat Rich, Development Coordinator, has filed an application requesting a text amendment in accordance with the Zoning Ordinance Article 2.8 Amendment (Rezoning) Procedure. The proposed text amendment is to add a Short-Term Rental ordinance. The proposed changes will be in Article 4.21.1 - Conditions Governing Permitted Uses Table 4.2, add "Short-Term Rental, Use by Right Review in R-1, R-2, R-3, R-4 and MH"; add conditions as note "19" after Table 4.2 "19. Short-Term Rentals in R-1 and R-2 Zoning Districts shall not be within 1000 linear feet from property to property of another short-term rental". Add new Short-Term Rental Ordinance (attached). The Case File Number is 202200281.

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

**Commissioners' Comments**

**Communication / Announcements**

6. The next City Council meeting is Tuesday, October 4, 2022, at 6pm.

The next Planning Commission meeting is Tuesday October 25, 2022 at 6pm.

**Adjourn or Recess**



Commissioner Flowers  
Commissioner Bennett  
Commissioner DeBrow  
Commissioner Bennett  
Commissioner Cook  
Commissioner Nicaud  
Commissioner Brewer

Item No.2.

**MINUTES**  
**PLANNING AND ZONING COMMISSION**  
**Tuesday, August 23, 2022**  
**6:00 PM CST**  
Council Chambers, City Hall  
and via teleconference, if necessary

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**Call to Order**

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

**Statement of Purpose**

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 Brewer read The Statement of Purpose.

**Pledge of Allegiance**

Chairman Flowers led the Pledge of Allegiance.

**Roll Call**

Present at the meeting were: Chairman Flowers, Commissioners Layel, DeBrow, Nicaud, Bennett, Brewer, Cook. Also present were City Attorney, Derek Cusick, Building Official, Ronald Jones, Development Coordinator, Pat Rich, Building Inspector, Beau King, Minute Clerk, Tammy Braud.

**Confirmation or Adjustments to Agenda**

A motion was made by Commissioner Layel, second by Commissioner DeBrow to approved the Agenda as presented

**Motion Passed Unanimously**

**Approval of Minutes**

Approval of June 28, 2022, minutes.

Commissioner Bennett made a motion, second by Commissioner Layel to approve Minutes of June 28, 2022 as presented.

**Motion Passed Unanimously**

**New Business**

The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment in accordance with the Zoning Ordinance Article 2.8 Amendment (Rezoning) Procedure. The proposed text amendment is the requirement to submit the facades of proposed structures to determine compatibility. The Case File Number is 202200360. The proposed changes will be in Article 12.8.1 Architectural Compatibility adding sub-section D. Add text Article 12.8.1 D. Any developer, builder and/or person who develops and plats subdivisions shall submit the facades (elevations) for all sides of the structure depicting the above building design items listed in 12.8.1 C. This information shall be submitted before any building permits are reviewed and issued. Based on the number of proposed platted lots, the developer, builder and/or person shall submit the minimum number of required different facades in sufficient detail to determine compatibility with the surrounding neighborhood.

Number of lots	Required Plans
1-10	5
11-20	10
21-30	15
31-40	20
40 plus	25

Building Official, Ronald Jones, and Building Inspector, Beau King spoke to the commissioner and answered their questions about the "ordinance's architectural standards".

Chairman Flowers asked for any Public Comments.

Jacob Ainswoith spoke to Commissioners about concerns he had about the building of new homes.

Motion was made by Commissioner DeBrow, second by Commissioner Bennett to amended the purposed text amendment to say that any house facade can only be repeated once, and the same house could not be adjoining, across street, or in a cul-de-sac.

**Motion Passed Unanimously**

The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text/map amendment in accordance with the Zoning Ordinance Article 2.8 Amendment (Rezoning) Procedure. The proposed text/map amendment would set the required minimum square footage for residential structures for selected areas that were not established when the Zoning Ordinance was adopted on October 15, 2012. The Case File Number is 202200361.

Building Inspector, Beau King , spoke to Commissioners about square footage to certain areas that were not established. Development Coordinator, Pat Rich presented a map with square footage.

Chairman Flowers asked for Public Comments.

Jon Ritten, Paulette Synder, spoke to commissioners about property values.

Commissioner DeBrow made a motion, second by Commissioner Nicaud to recommend the purposed Text Amendment to the City Council with changes. All lots adjoining the golf course are

minimum 2,000 square feet and lots not adjoining the golf course are minimum 1,800 square feet except in R-3 Zoning Districts which are minimum of 1,000 square feet north of Golf Club Drive and minimum 1,200 square feet south of Golf Club Drive.

### **Motion Passed Unanimously**

The City of Diamondhead represented by Ronald Jones, Building Official, has filed an application requesting a text amendment in accordance with the Zoning Ordinance Article 2.8 Amendment (Rezoning) Procedure. The proposed text amendment is to create Zoning Districts and Use Regulations for Medical Cannabis Facilities. The proposed changes are Article 4.21.1 - Conditions Governing Permitted Uses Table 4.2: Chart of Determinate Uses, Other Non Residential Uses, add "Medical Cannabis Cultivation Facility<sup>17</sup>", and "Medical Cannabis Processing Facility<sup>17</sup>", Use by Right in I and not allowed in other zoning classifications; "Medical Cannabis Dispensary Facility<sup>17,18</sup>", "Medical Cannabis Research Facility<sup>17</sup>" and "Medical Cannabis Testing Facility<sup>17</sup>", Use by Right in C-1 and C-2 and not allowed in other zoning classifications; "Medical Cannabis Transportation Facility<sup>17</sup>", Use by Conditional Use in I and not allowed in other zoning classifications; add conditions as note "17" after Table 4.2 "17. The main point of entry of a medical cannabis establishment shall not be located within one thousand (1,000) feet of the nearest property boundary line of any school, church, or childcare facility. A medical cannabis establishment may receive a waiver to this distance restriction by receiving approval from the school, church, or childcare facility and by applying for a waiver with its respective licensing agency, provided the main point of entry of the cannabis establishment is not located within five hundred (500) feet of the nearest property boundary line of any school, church, or childcare facility in accordance with Mississippi Senate Bill 2095. A business privilege license is required." and note "18. No medical cannabis dispensary may be located within a one thousand five hundred (1,500) feet radius from the main point of entry of the dispensary to the main point of entry of another medical cannabis dispensary in accordance with Mississippi Senate Bill 2095. The Case File Number is 202200359.

Development Coordinator , Pat Rich, spoke to commissioners and answered their questions.

Chairman Flowers asked for any Public Comments. None

Commissioner Brewer made a motion, second by Commissioner Layel to accept the recommendation with a closer look at the hours of operation ( 8a.m.-7 p.m.), signage, and language .

### **Motion Passed Unanimously**

### **Unfinished Business**

Presentation of the final draft for Short Term Rental Ordinance.

City Attorney, Derek Cusick gave the Commissioners a proposed ordinance on Short Term Rentals.

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

David Maples, spoke on changing the Industrial area of zoning on the south side to Residential.

**Commissioners' Comments**

**Communication / Announcements**

The next City Council Meeting is Tuesday, September 6, 2022.

The next Planning Commission meeting is Tuesday, September 27, 2022.

**Adjourn or Recess**

Commissioner DeBrow made a motion, second by Commissioner Brewer to adjourn the meeting at 8:19 p.m.

**Motion Passed Unanimously**

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Heather Flowers, Chairman  
Planning & Zoning



RECEIVED  
JUN 22 2022  
BY: *JR*

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

APPLICATION FOR VARIANCE REQUEST

Case Number: 202200412

Date 06/20/2022

Applicant: Willie Kerner

Applicant's Address: 63715 Diamondhead Dr. North

Applicant's Email Address: williekeener@yahoo.com

Applicant's Contact Number: (Home) \_\_\_\_\_ (504) (Work) 361-2715 (504) (Cell) 327-0274

Property Owner: Willie Kerner

Owner's Mailing Address: 63715 Diamondhead Dr. N, Diamondhead, MS

Owner's Email Address williekeener@yahoo.com

Owner's Contact Number: (Home) \_\_\_\_\_ (504) (Work) 361-2715 (504) (Cell) 327-0274

Tax Roll Parcel Number: 0688 -1-41-079.000

Physical Street Address: 63715 Diamondhead Dr. North

Legal Description of Property: Lot 1 in block 3 of Diamondhead phase 1 amended

Zoning District: R-2 Plot of units  
2+6

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

Seeking approval of building a shed the  
size 10' x 14' x 12' in the rear of the  
property.

40' RYSB Variance Residence Variance

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 <sup>Sept 27</sup> ~~July 26, 2022~~ 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.

Willie A. Kemmer  
Signature of Applicant

Willie A. Kemmer  
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 Willie Kerner

Street Address 63715 Diamondhead Dr. North

Statement Describing Variance Request  
Seeking approval of building a shed on  
the rear of the property.

**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: No

- 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: There are other properties in the area  
that have sheds that are outside of  
the guidelines.

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

Response: yes

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

Response: No



DIAMOND

ANELA DR

75.9'

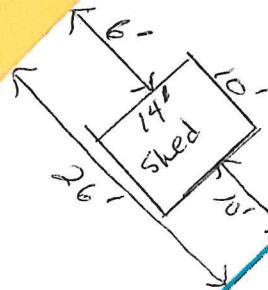
105'

1

KERNER WILHE D SR ETAL

121.4'

41 Variance



STRITZEL DAVID L ETUX

30'



X,Y

MOHREY





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

TO: Willie Kerner and adjacent property owners

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

DATE: September 9, 2022

SUBJECT: Variance application request before the Planning & Zoning Commission

Willie Kerner has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory building (utility shed) within 4' of the rear property line.

The property address is 63715 Diamondhead Drive North. The tax parcel number is 068Q-1-41-079.000. The property is in a R-2 zoning district. The rear yard setback for accessory structures is 10'. The variance requested is 6'. The Case File Number is 202200412.

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, September 27, 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.

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

Willie Kerner has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of an accessory building (utility shed) within 4' of the rear property line.

The property address is 63715 Diamondhead Drive North. The tax parcel number is 068Q-1-41-079.000. The property is in a R-2 zoning district. The rear yard setback for accessory structures is 10'. The variance requested is 6'. The Case File Number is 202200412.

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, September 27, 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.



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

APPLICATION FOR VARIANCE REQUEST

Case Number: 202200 423

Date 8/29/22

Applicant: Ralph E. Hays

Applicant's Address: 7435 Mahalo Hui Dr

Applicant's Email Address: hays.rufus@gmail.com

Applicant's Contact Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) 601/209-8089

Property Owner: Ralph E. Hays

Owner's Mailing Address: 7435 Mahalo Hui Dr

Owner's Email Address hays.rufus@gmail.com

Owner's Contact Number: (Home) \_\_\_\_\_ (Work) \_\_\_\_\_ (Cell) 601/209-8089

Tax Roll Parcel Number: 067N-2-35-048.001

Physical Street Address: 7435 Mahalo Hui Dr

Legal Description of Property: Lot 15, Block 21, Unit 10, Diamondhead, Phase 2

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

State Purpose of Variance: (Front/Side/Rear/Lot Size/Parking/Building/Coverage)  
(Signage-Size-Height) To place an open cover over existing  
A.T.O within 6' of rear property line on Golf course.  
14' variance

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 September 27, 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.

Ralph E. Hays  
Signature of Applicant

Ralph E. Hays  
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 Ralph E. Hayes

Street Address 7435 Mahalo Hui Dr

Statement Describing Variance Request

REQUEST TO ADD A COVER OVER THE EXISTING PATIO

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: This home was built with 3 sets of windows/floors  
rear of home but no cover was completed @ that time. The  
patio was poured in 1991 but not covered. All homes in this area  
have some sort of rear patio cover.

- 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: YES, I HAVE SURVIVED CANCER THREE TIMES & WISH TO ENJOY  
MY BACK PATIO w/o THE EXTREME SUN BOTH IN THE MORNING & AFTERNOON  
ADJACENT PROPERTIES ALL HAVE SOME SORT OF COVER FROM THE SUN.

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

Response: No, I only wish to complete the construction from  
1991.

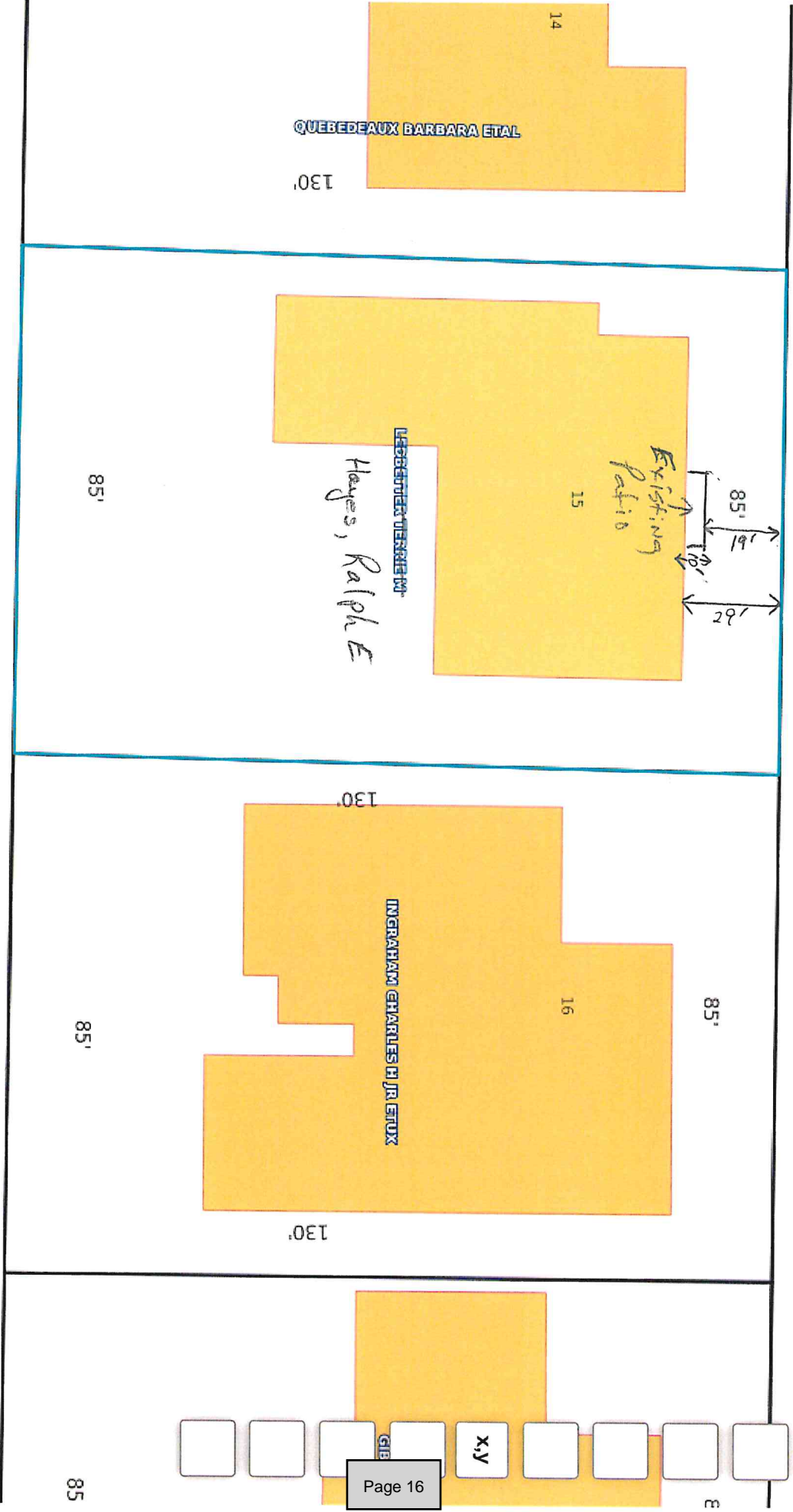
- 4. WOULD THE REQUESTED VARIANCE NOT GIVE THE OWNER/APPLICANT ANY SPECIAL PRIVILEGES OR RIGHTS NOT SHARED BY OWNERS OF SIMILAR PROPERTIES?

Response: No, the cover would only give me some of the same  
privileges as my neighbors.

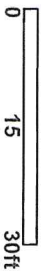
Therefore, I respectfully request the approval of  
this variance request.

1' Variance RYSB

DIAMONDHEAD COUNTRY CLUB & POA



MAHALO HUI DR







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

TO: Ralph E. Hays and adjacent property owners

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

DATE: September 9, 2022

SUBJECT: Variance application request before the Planning & Zoning Commission

Ralph E. Hays has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a roof over an existing patio within 6' of the rear property line on the golf course.

The property address is 7435 Mahalo Hui Drive. The tax parcel number is 067N-2-35-048.001. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 14'. The Case File Number is 202200423.

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, September 27, 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.

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

Ralph E. Hays has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to allow the construction of a roof over an existing patio within 6' of the rear property line on the golf course.

The property address is 7435 Mahalo Hui Drive. The tax parcel number is 067N-2-35-048.001. The property is in a R-2 zoning district. The rear yard setback is 20'. The variance requested is 14'. The Case File Number is 202200423.

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, September 27, 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.







ARTICLE \_\_\_\_ - SHORT TERM RENTAL UNITS

Sec. \_\_\_\_\_ - Definitions.

The following words, terms, and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

*Licensed premises* means the premises specified in an approved application for a license under this chapter which are owned or in the possession of the licensee and within which such licensee is permitted to provide a short-term rental in accordance with the provisions of this article.

*Local contact person* means the person designated by the owner or the owner’s authorized agent or representative who is responsible for the day-to-day operations of the short-term rental unit living within 25 miles of the unit and who may be contacted and will be available 24 hours per day, seven days per week for the purpose of:

- (1) Responding within 60 minutes in person to complaints regarding the condition, operation, or conduct of occupants of the short-term rental unit; and
- (2) Taking remedial action to resolve any such complaints within a reasonable period of time after notification by a city, water & sewage, or fire department representative.

The local contact person may be the owner or agent of the owner. As shall be appropriate under the circumstances the local contact person (in addition to the owner) shall be subject to any enforcement action as shall be commenced by the city. The local contact person shall be required to adhere to all laws and regulations of the city, county and state as shall be applicable to their activities in this regard.

*Owner* means the persons or entities that hold legal and/or equitable title to the licensed premises.

*Premises* means the same as the term “dwelling,” which is a room or suite of rooms with a single kitchen used for the residential use and occupancy of one family, including a single-family residence or residential condominium unit or any other residential real estate improvement that is located in a zoning district within which short-term rental is allowed pursuant to the ordinances of the city, and which is rented to persons other than the owner.

*Short-term rental unit* means any dwelling or portion thereof that is available for use or is used for accommodations or lodging of guests, paying a fee or compensation for a period of less than 30 consecutive days. The term “short-term rental” does not include any hospital, convalescent or nursing home, shell houses, group homes, or sanitarium or any similar facility

associated with a hospital providing rooms for medical patients and their families. The term “short-term rental unit” shall also not include mobile homes, manufactured homes, travel trailers, tents, recreational vehicles, campers or other similar vehicles or similar type of structures and does not include a bed and breakfast facility that is permitted separately by city ordinance. Proof of ownership of the premises may be established via warranty deed, quitclaim deed, or property tax statement. Short-term rental units are not to be used to distribute retail products or personal services to invitees for marketing or similar purposes. The outdoor display of goods and merchandise for sale is prohibited. Short-term rental units will not be allowed to be used as an outdoor venue for weddings, receptions, parties, or similar activities or functions, except in such zones where otherwise allowed in the city’s code.

(Ord. No. \_\_\_\_ Sec. \_\_\_\_\_)

Sec. \_\_\_\_\_ - Permit required.

It is unlawful to conduct or operate a short-term rental without having obtained a permit pursuant to the provisions of this article. Therefore:

- (1) A short-term rental permit is required for each short-term rental unit.
- (2) Applications may be made for short-term rental and permits granted, where appropriate, in all R-1, R-2, R-3, R-4, and MH zones, as identified in the city’s zoning maps and ordinances implementing same. In all R-1, R-2 and MH zones, short term rentals shall not be within 1,000 linear feet from property to property of another short-term rental.
- (3) The permit process requires an application completed in accordance with the following which may be obtained at the Building Department:
  - a. The application shall contain such information as the Building Department shall from time to time reasonably require, including, but not limited to, the location/address of the short-term rental unit, number of bedrooms, the number of persons the short-term rental proposes to accommodate, the name of the property owner and warranty deed, sales tax collection certificate, and the name, address, email, and telephone number of the local contact person who is available for contact, a copy of the proposed rental agreement, proposed parking plan (reviewed and determined upon signing and inspection by the Building Department), rules applicable to renters, and a plan for waste management.
  - b. The city does not enforce private restrictive covenants. Approval of any short-term rental shall not legalize any use of a structure otherwise prohibited by any restrictive covenant or applicable law as shall be determined by a court of competent jurisdiction.

- c. The application shall include a statement from the building official and fire department affirming that the structure to be rented is otherwise in compliance with all applicable zoning requirements, building and fire codes, including, but not limited to, smoke and carbon monoxide detectors, emergency means of egress, fire extinguishers, GFCI outlets in wet locations, and that all applicable property taxes, fees and other charges have been paid.
  - d. A nonrefundable application fee of \$200.00 or such fee as shall be established by order of the city council hereafter shall be paid by the applicant at the time of filing the application with said application fee concerning the costs of inspection, enforcement, and administrative expenses and time affiliated with the processing of the application.
  - e. If the Building Department shall determine that any applicant is not entitled to a permit, the applicant upon receipt of written notification may appeal such decision within 10 days thereof and seek Planning and Zoning Commission approval upon an advertised hearing. The Planning and Zoning Commission shall schedule an advertised hearing of such matter as set forth in the Planning and Zoning Ordinance in the same manner as is set forth for the appeal of a decision of the Building Official.
  - f. As the conclusion of the public hearing, the Planning and Zoning Commission shall approve or disapprove the application and send its decision. If the applicant is aggrieved by the decision of the Planning and Zoning Commission, the applicant, within 10 days thereof may appeal such decision to the City Council to be heard at the next regularly scheduled meeting of the City Council. The appeal before the City Council shall be confined to the record made before the Planning and Zoning Commission unless the City Council decide, in their sole discretion, to receive additional evidence. The City Council shall consider the appeal and render its decision with respect to the issuance or denial of the permit, setting forth its reasons for such. Any aggrieved person may appeal such decision to the circuit court in the time and manner provided by law.
- (4) The short-term rental unit will be considered a residential R-3 occupancy under the city's International Residential (IRC) and International Building (IBC) Codes.
- (5) Each short-term rental permit shall expire one year from the date of issuance of the permit and is non-transferable. Renewal application must be submitted no later than 30 days prior to permit expiration.
- (6) A renewal permit may be obtained by the payment of \$100.00, or such fee as may be established by order of the City Council hereafter and filing an application for



renewal with the Building Department. Permit renewal process will include staff review of city records and other documentation pertaining to complaints, if any, that have been received about the specific short-term rental unit under consideration. Filed complaints that are in violation of zoning codes, building codes, property maintenance codes and/or applicable laws or regulations will be considered as part of the renewal process. Applicable local, state, and federal laws or regulations may serve as basis for denying a permit renewal. If permit renewal is denied, the Building Department shall provide notice as to the reasons for denial, and if applicable, the applicant shall be allowed 10 days to correct any deficiencies itemized. At the expiration of 10 days, an applicant may appeal the denial of the permit renewal to the Planning and Zoning Commission. The appeal must be in writing and must be filed within 10 days of receipt of the final denial of the permit renewal. The appeal process thereafter will follow the process set forth herein above for the original permit.

(7) Short-term rental permits are not transferable. Upon sale or any type of transfer of the property, any permit issued pursuant to the terms set forth herein, shall automatically expire. Any new owners shall be required to apply for a new permit in accordance with this article. The new permit shall be for a period of one year from the date approved.

(Ord. No. \_\_\_\_ Sec. \_\_\_\_\_)

Sec. \_\_\_\_\_ - Rules and regulations of short-term rental units.

(a) *Occupancy.* The maximum occupancy for each short-term rental shall be as determined by the building official based on the inspection of the premises and applicable codes, laws, and regulations. Each permit shall specify the maximum number of occupants, which may be limited due to building codes and/or parking constraints. A short-term rental unit shall be considered as a residential R-3 occupancy for lodging house (transient) with five or fewer guest rooms and ten or fewer occupants. (See 2018 IBC Section 310.4. Commentary.)

(b) *Number of Vehicles.* The maximum number of vehicles will be determined upon site inspection by the building official. This determination will take into consideration availability of off-street parking conditions and other relevant considerations unique to the site. If is required that the applicant/owner provide off-street parking. Recreational vehicles and campers parked at short-term rental units must not be used for habitation during the rental period and must be parked in accordance with the applicable ordinances of the city.

- (c) *Noise.* Property owners and local contact persons shall ensure that the occupants of the short-term rental are aware of city noise ordinances and state laws regarding disturbing the peace. No radio receiver, musical instrument, phonograph, compact disc player, loudspeaker, karaoke machine, sound amplifier or any machine, device or equipment that produces or reproduces any sound that shall disturb the public peace of the neighborhood shall be played outside of any short-term rental unit or be audible from the usable area of any adjacent residences between the hours of 9:00 p.m. and 7:00 a.m.
- (d) *Premises and garbage management.* It shall be the duty of every local contact person and/or owner to keep all of the rooms in connection with the short-term rental provided for the use of guests in clean and sanitary condition and to provide each guest with affective protection against flies, mosquitoes and other vermin. Each Licensed Premises must provide two garbage containers. Garbage shall be disposed of in covered containers and placed in the rear of the residence until scheduled pick-up locations. No on-site outdoor advertising signs will be permitted on the premises.
- (e) *Posting of permits and rules.* Short-term rental unit permits and rules shall be posted inside the rental unit in a conspicuous location, i.e., the rear of the main entry door, readily visible to all tenants. The rules shall include occupancy; parking limits; noise rules; and garbage management. A written copy of the ordinance from which this article is derived shall be always available for inspection with the unit. The current name, address, and telephone number of the local contact person shall also be posted within the unit. No unit shall be rented to an individual that is less than 25 years of age and all renters must be present during the rental period.
- (f) *Complaints and dispute resolutions.* Complaints regarding violation of this article must first be directed to the local contact person. If the local contact person is unable to resolve the issue and/or the issue relates to public safety, then the concerned party shall contact the Building Department. The city police department shall have an updated list provided by the Building Department of all local contact persons and owners for short-term rental units in case complaints are received after regular city office hours. Verified complaints concerning noncompliance with the terms of this article may be considered in determining whether a permit shall be revoked or renewed.

(Ord. No. \_\_\_\_\_, Sec. \_\_\_\_\_)

Sec. \_\_\_\_\_ - Denial, suspension, or revocation of a license.

Conditions for denial of permit or revocation of permit to operate a short-term rental unit shall include, but in no way limited to, the following:

- (1) The applicant failed to conform to the conditions set forth herein for the current or previous year.
- (2) Guests and/or users of the property were issued three or more noise ordinance and/or disturbing the peace citations during the previous or current year and the owner/local contact person subsequently failed to take the appropriate corrective action to prevent such disturbances after being notified by the city to do so.
- (3) Any reasonable or rational factors or combination of factors, including, but not limited to, inadequate lot size, inadequate off-street parking, lack of response from owner or local contact person to resolve complaints, filed complaints of violation of the zoning code, building code, property maintenance code and/or applicable laws or regulations (may be a basis for suspending or denying a permit) where the owner or local contact person failed to take reasonable steps to prevent such violations.
- (4) The Building Department is authorized to revoke permits under the aforementioned circumstances. A permitted owner shall be provided written notice of the reasons the permit is subject to revocation. The applicant shall be allowed 10 days from the date written notice is issued and transmitted to the applicant to correct defective conditions. If the condition is not corrected within 10 days to the reasonable satisfaction of the Building Department, the permit for the short-term rental unit may be revoked by issuing such order. Upon receipt of such by the owner or local contact person, the unit shall immediately cease operation. The owner may appeal the order revoking the permit. The owner’s appeal must be in writing and filed with the Building Department within 10 days of entry of the order. The revocation order shall remain in full force and effect during the pendency of the appeal. The appeal shall be presented to the Planning and Zoning Commission at the next available scheduled meeting following the filing of the appeal. The owner must be afforded notice and the opportunity to be heard. The decision of the Planning and Zoning Commission shall be final unless within 10 days of the issuance of the decision the owner shall file an appeal to the City Council.

(Ord. No. \_\_\_\_\_, Sec. \_\_\_\_\_)

Sec. \_\_\_\_\_ - Violations.

Any persons or users who allow such use of a residential property in violation of this article shall be guilty of a misdemeanor. For the purposes of prosecution of violations of this article, each day that any violation occurs (rental without a permit) is deemed to constitute a separate violation. Those found guilty of a first violation of this article shall be fined, for the

first offense, not less than \$300.00 and, for second and subsequent offenses within any 12-month period, not less than \$500.00 and not to exceed \$1,000.00, plus court costs and assessments, if any.

(Ord. No. \_\_\_\_\_, Sec. \_\_\_\_\_)

Secs. \_\_\_\_\_ Reserved.

4.21. - CHART OF PERMITTED USES.

4.21.1 *Conditions Governing Permitted Uses.*

Permitted uses shall be governed by conditions set out in the three categories as follows:

- A. *Uses by Right.* The land uses contained within the Schedule of Uses set forth herein and denoted with an "R" are considered permitted uses without further approval of the City of Diamondhead, unless otherwise required by this or any other ordinance or requirement of the City. Uses by Right are subject to any permits or administrative approvals required by the City of Diamondhead.
- B. *Uses Requiring Planning Commission Review.* The land uses contained within the Schedule of Uses set forth herein and denoted with a "P" are considered permitted uses with the review and approval in accordance with the Planning Commission review provisions set forth in Section 2.4 of this ordinance.
- C. *Conditional Uses.* The land uses contained within the Schedule of Uses set forth herein and denoted with a "C" are considered conditional uses and require the review and approval in accordance with the conditional use provisions set forth in Section 2.5 of this ordinance. Additionally, these uses are declared to possess such characteristics of unique or special form that each specific use shall be considered on an individual case and shall be subject to conditions imposed thereon for the protection of the health, safety and general welfare of the City of Diamondhead.

Table 4.2: Chart of Determinate Uses		
Alphabetical listing of uses by zoning districts	R-1 = Low density single-family R-2 = Medium density single-family R-3 = High density single-family R-4 = High density multi-family MH = Manufactured home C-1 = General commercial	C-2 = Interstate commercial/gaming/resort T = Technology I = Industrial PR = Preservation PFR = Public facilities & rec.
R = Use by right P = Use by planning commission review C = Use by conditional use		

Uses	Zoning Classification										
	R-1	R-2	R-3	R-4	MH	C-1	C-2	T	I	PR	PFR
<i>Agricultural Use (General)</i>	-	-	-	-	-	-	-	-	-	R	-
<i>Residential Uses</i>											
Single-family unit	R	R	R	R	R	-	-	-	-	-	-
Two-family units (duplex)	-	-	P	P	-	-	-	-	-	-	-
Multi-family units (apartment)	-	-		P	-	-	-	-	-	-	-
Condominium units			P					-			
Townhouse unit	-	-	P	P	-	-	-	-	-	-	-
Zero lot line unit (patio homes)	-	-	P	P	-	-	-	-	-	-	-
Short-Term Rental <sup>19</sup>	R	R	R	R	R	-	-	-	-	-	-
<i>Other Non - Residential Uses</i>											
Bed and breakfast	C	C	C	-	-	-	-	-	-	-	-
Rental, leasing, or subletting of properties for 30 days or less	R	R	R	R	R	R	R	-	R	R	R

**Notes:**

- <sup>1</sup> The building containing the use shall not be located within two hundred (200) feet of an exclusive residential zoning district.
- <sup>2</sup> The use shall not be located within a five-hundred-foot (500) radius of any other regulated use.
- <sup>3</sup> No building containing a use of this nature shall be established within four hundred (400) feet of any church, temple, synagogue, or other regularly established place of worship, or any school.
- <sup>4</sup> The Zoning Administrator or his representative is hereby authorized to enter, examine and survey, during business hours, any premises in the City of this nature for the purpose of enforcing the provisions of this article. This section shall not restrict or limit the right of entry vested in any other person under any other provision of law.
- <sup>5</sup> Liquor stores and similar establishments shall conform to the requirements of Mississippi Code Annotated Section 67-1-51. Permits; distance regulations; prohibition on ownership of more than one package retailer's permit; prohibition on ownership of additional permits by persons living in same household.
- <sup>6</sup> Reserved.
- <sup>7</sup> Telephone exchanges shall not include administrative office, shop, or garage.
- <sup>8</sup> Requires a minimum site area of three (3) acres.
- <sup>9</sup> Private schools offering general courses, but not including business or commercial school or college.
- <sup>10</sup> Does not include those whose activities are providing services customarily carried on as a business.
- <sup>11</sup> The primary function is the retail sale of gasoline, accessories, washing, polishing, and tune-up.
- <sup>12</sup> Studio for professional work or teaching of any form of fine arts, photography, music, drama, dance, but not including commercial gymnasium.
- <sup>13</sup> Reserved.
- <sup>14</sup> No merchandise can be stored or displayed within the yard setback abutting any street.
- <sup>15</sup> Massage parlors or similar shall comply with the following:
- a. Applicants for businesses permits shall provide proof of licensing and certification by a nationally recognized school of massage therapy.
  - b. No person other than a licensed therapist or student in the process of obtaining a message therapy license may provide services while under the supervision of a certified therapist.
  - c. All massage therapy towels, linens, and related devices shall be sterilized by a modern and approved method of sterilization before initial use and after having been used upon one patron prior to using the same upon another patron.
  - d. No person suffering from an infectious or communicable disease shall work or be employed in a massage establishment nor shall such person be accommodated as a patron within a massage establishment.
- <sup>16</sup> Day Care Centers or Similar shall be allowed as a Conditional Use in the residential zoning districts only as a home occupation. No separate, freestanding building shall be located in the residential zoning districts and utilized exclusively for Day Care Centers or Similar.

**19 Short-term Rentals in R-1 and R-2 Zoning Districts shall not be within 1000 linear feet from property to property of another short-term rental.**

### CERTIFICATION

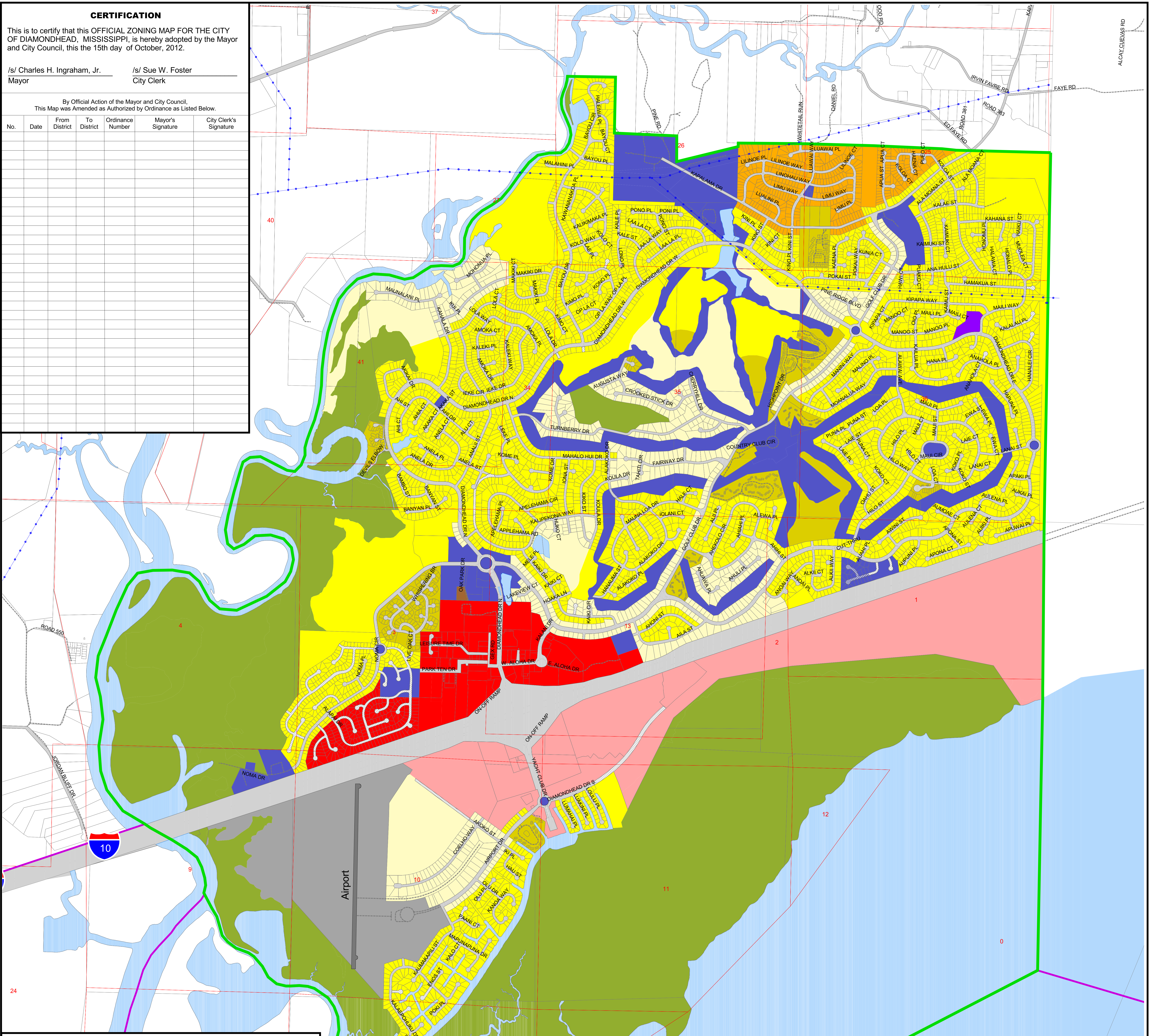
This is to certify that this OFFICIAL ZONING MAP FOR THE CITY OF DIAMONDHEAD, MISSISSIPPI, is hereby adopted by the Mayor and City Council, this the 15th day of October, 2012.

/s/ Charles H. Ingraham, Jr.  
Mayor

/s/ Sue W. Foster  
City Clerk

By Official Action of the Mayor and City Council,  
This Map was Amended as Authorized by Ordinance as Listed Below.

No.	Date	From District	To District	Ordinance Number	Mayor's Signature	City Clerk's Signature



### LEGEND OF SYMBOLS

**Zoning Districts:**

- R-1 Low Density Single Family
- R-2 Medium Density Single Family
- R-3 High Density Single Family
- R-4 High Density Multi-Family
- MH Manufactured Homes/Single Family
- C-1 General Commercial
- C-2 Interstate Commercial/Gaming/Resort
- PR Preservation
- PFR Public Facilities & Recreation
- I Industrial
- T Technology

**Map Symbols:**

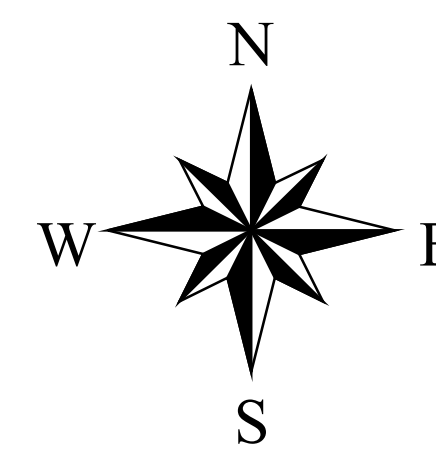
- Diamondhead City Limits
- Bay St. Louis City Limits
- Section Lines
- Open Right-of-Way
- Unopen Right-of-Way
- Waters Ways & Features
- Gas Pipelines
- Electric Transmission Lines
- Parcels

Note:  
Zoning designations are presented in a generalized fashion. Street rights-of-way or water bodies which have no zoning designation should be interpreted as bearing the zoning designation adjacent thereto to the centerline of said right-of-way or water or otherwise to the limits thereof.

**BRIDGE & WATSON, INC.**  
URBAN AND REGIONAL PLANNING CONSULTANTS AND LAND PLANNERS  
608 McLEARY ROAD POST OFFICE BOX 1482 OXFORD, MS 38655 FAX (662) 234-0997 MAILBOX@PLANNING-CONSULTANTS.COM TEL. (662) 234-0958

# Official Zoning Map Diamondhead, Mississippi

Adopted by the Mayor and City Council Monday, October 15, 2012



This map is accurate for planning purposes only.

Data Sources:  
MARIS (MSTM) data;  
US Census Bureau 2010 TIGER Data;  
US Fish and Wild Life Service;

September 27, 2012