



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

## **AGENDA**

### **PLANNING AND ZONING COMMISSION**

**Tuesday, March 23, 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 February 23, 2021 Minutes

#### **New Business**

3. Election of Chairperson and Vice Chairperson
4. 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 amendments would add “no net fill” regulations for Article 14: Land alterations and disturbances. New language would be added to Article(s) 14.1, add the word “filling” to the first sentence; 14.1.1, add the paragraph “No development permit is required for the clearing, grubbing (as to clear by digging up by the roots) or clipping of underbrush.”; 14.1.2, add “Zoning Administrator/Building Official.” to the 2nd paragraph; 14.1.3, add “5. All temporary entrances to the site shall have limestone and/or gravel placed from the edge of the asphalt to the property line.”; and new Article 14.1.4 Filling, 1. *Fill permit require*. Excessive filling of land may cause detrimental drainage impacts, elevated grades that are out of scale with surrounding buildings and environment, soil erosion, and other negative community impacts. To mitigate these negative effects and ensure proper stormwater management, no fill may be placed on any parcel of land for the purpose of raising its elevation without first submitting an application for and obtaining a fill permit. 2. *Application to fill land*. An application to fill land shall contain the following: a) Plot plan, drawn to scale, showing the following: i) Existing site topography, elevations, and drainage flow, ii) Proposed site topography, elevation and drainage flow, iii) Volume, type, and area of proposed fill, iv) Distances from surrounding property lines and buildings, b) A statement expressing the purpose of the proposed fill c) Additional related information as may be requested by the Zoning

Administrator, 3. *Fill requirements.* The fill permit application shall demonstrate that the following: a) The least amount of fill is proposed to achieve the purposes of the operation, b) The amount of fill shall be offset so as to achieve no net increase in soil volume on the site, c) Fill shall not exceed a height of 12 inches above adjacent grade, d) Fill standards shall not preclude the excavation and movement of soil from one area of a site to another to establish buildable grade consistent with section 14.1.2 above, e) Fill shall not encroach into any designated draining easements adjacent to side and rear lot lines, f) Fill shall not cause negative impacts to surrounding property, 4. An application to fill land shall be evaluated by the Zoning Administrator/Building Official for compliance with this section. The Zoning Administrator/Building Official shall either approve, approve with modifications, or deny the fill permit application.

#### **Unfinished Business**

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

#### **Commissioners' Comments**

#### **Communication / Announcements**

Next City council Meeting April 6, 2021

Next Planning Commission Meeting April 27, 2021

#### **Adjourn or Recess**



Commissioner  
Commissioner  
Commissioner Bower  
Commissioner Rubar  
Commissioner Hourin  
Commissioner Torguson  
Commissioner Hector

Item No.2.

## MINUTES PLANNING AND ZONING COMMISSION

Tuesday, February 23, 2021

6:00 PM CST

Council Chambers, City Hall  
and via teleconference, if necessary

---

### Call to Order

Commissioner 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 Bower read the Statement of Purpose.

### Pledge of Allegiance

Commissioner Torguson led the Pledge of Allegiance.

### Roll Call

Commissioner Rubar, Layel, Torguson, Hourin, Hector, and Bower. Absent: Bice

Also present City Attorney, Derek Cusick, Building Inspector, Beau King, Code Enforcement Officer Pat Rich, and Minute Clerk, Tammy Braud.

### Confirmation or Adjustments to Agenda

Commissioner Bower, made a motion, second by Commissioner Hourin to approve the Agenda as presented.

### Motion Carried Unanimously

### Approval of Minutes

1. Approval of Minutes of January 26, 2021.

Commissioner Bower made a motion, second by Commissioner Hourin to approve the minutes of January 26, 2021

### Motion Carried Unanimously

### New Business

2. Sweet Rolls Hibachi has filed an application requesting a Conditional Use Permit in accordance with the Zoning Ordinance Table 4.2, Article 4.21.1 (C) and Article 2.5 to allow a mobile food vendor in a C-1 district. The tax parcel number is 132H-1-03-004.008. The street address is 4313 Leisure Time Drive. The case file number is 202000624

Code Enforcement Officer, Pat Rich, addressed and answered questions from the Commissioners.

Commissioner Rubar asked if anyone was present to represent Sweet Rolls.

Owner , Brittany Fortmayer spoke and answered questions from the commissioners.

Commissioner Rubar asked for any public comments. None.

Code Officer, Pat Rich, presented to the Commissioners the recommendation to approve with conditions listed below to the City Council

1. Operate on Thursdays only 11:00am to 6:00 pm.
2. Signage must be conform with ordinances.
3. Permit expires 1 year from issue date.
4. Permit is non-transferable.
5. Must comply with Mississippi Department of Health Regulations.
6. Provide specific written authorizations from adjacent property owners to use their parking area for parking. These authorizations shall be submitted prior to the issue of permit.
7. Applicant shall obtain a business privilege and sales tax permit specifically for the location.

Commissioner Bower made a motion, second by Commissioner Hourin to approve the conditional use permit with conditions listed but amended the conditions to only Thursday with no time limitations, and must provide outside lighting

**Motion Carried Unanimously**

#### **Unfinished Business**

None

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

#### **Commissioners' Comments**

#### **Communication / Announcements**

3. Next City Council meeting March 2, 2021

Next Planning Commission meeting March 23, 2021

Code Officer, Pat Rich ,mentioned to the Commissioners next month's meeting will have a text amendments for net fill .

#### **Adjourn or Recess**

Commissioner Bower ,second by Commissioner Layel to adjourn at 6:21 pm.

**Motion Carried Unanimously**

**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 in accordance with the Zoning Ordinance Article 2.8 Amendment (Rezoning) Procedure.

The proposed text amendments would add “no net fill” regulations for Article 14: Land alterations and disturbances. New language would be added to Article(s) 14.1, add the word “filling” to the first sentence; 14.1.1, add the paragraph “No development permit is required for the clearing, grubbing (as to clear by digging up by the roots) or clipping of underbrush.”; 14.1.2, add “Zoning Administrator/Building Official.” to the 2<sup>nd</sup> paragraph; 14.1.3, add “5. All temporary entrances to the site shall have limestone and/or gravel placed from the edge of the asphalt to the property line.”; and new Article 14.1.4 Filling, 1. *Fill permit require*. Excessive filling of land may cause detrimental drainage impacts, elevated grades that are out of scale with surrounding buildings and environment, soil erosion, and other negative community impacts. To mitigate these negative effects and ensure proper stormwater management, no fill may be placed on any parcel of land for the purpose of raising its elevation without first submitting an application for and obtaining a fill permit. 2. *Application to fill land*. An application to fill land shall contain the following: a) Plot plan, drawn to scale, showing the following: i) Existing site topography, elevations, and drainage flow, ii) Proposed site topography, elevation and drainage flow, iii) Volume, type, and area of proposed fill, iv) Distances from surrounding property lines and buildings, b) A statement expressing the purpose of the proposed fill c) Additional related information as may be requested by the Zoning Administrator, 3. *Fill requirements*. The fill permit application shall demonstrate that the following: a) The least amount of fill is proposed to achieve the purposes of the operation, b) The amount of fill shall be offset so as to achieve no net increase in soil volume on the site, c) Fill shall not exceed a height of 12 inches above adjacent grade, d) Fill standards shall not preclude the excavation and movement of soil from one area of a site to another to establish buildable grade consistent with section 14.1.2 above, e) Fill shall not encroach into any designated draining easements adjacent to side and rear lot lines, f) Fill shall not cause negative impacts to surrounding property, 4. An application to fill land shall be evaluated by the Zoning Administrator/Building Official for compliance with this section. The Zoning Administrator/Building Official shall either approve, approve with modifications, or deny the fill permit application.

In accordance with Article 2.8.2, the City Council shall have jurisdiction with respect to all Text Amendments and Rezoning. The Planning Commission shall review and submit a recommendation to the City Council on Text Amendments and Rezoning.

The Planning and Zoning Commission will consider this application at a special called meeting on **Tuesday, March 23, 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.

## ARTICLE 14: LAND ALTERATIONS AND DISTURBANCES

### 14.1 PURPOSE

The purpose of this Section is to set forth regulations governing the excavation, clearing, filling, and draining of properties within the City of Diamondhead. Because the alteration of land, particularly large areas, impacts hydrologic characteristics of most land areas, it is imperative that the activity takes into account the immediate and long-term impact of such work on adjoining and downstream properties. Specifically, the intent of these regulations is to assure that any land alteration results in a zero increase in sedimentation and storm water volumes and rates beyond that which existed prior to alteration or disturbance.

#### 14.1.1 Clearing and Grubbing, Haul Roads, Waste Areas, Plant Sites, or Other Areas Occupied by the Contractor

Clearing and grubbing on erodible areas, including the construction site, or other areas occupied by the contractor in connection with the work shall include adequate protection for preventing excessive erodible material from entering water or waterways on land not occupied by the contractor and preventing dust created by hauling equipment.

Temporary measures as necessary shall be employed by the contractor from the beginning of the work. These measures may consist of the expeditious use of brush, vegetation or other residue from clearing and grubbing, temporary or permanent terraces, berms, dikes, dams, sediment basins, or other effective means of containing sediment. All temporary or permanent erosion control features shall be maintained in an effective manner so long as essential to the abatement of siltation.

No development permit is required for the clearing, grubbing (as to clear by digging up by the roots) or clipping of underbrush.

#### 14.1.2 Excavation

No excavation of land greater than one thousand (1,000) square feet shall be made, unless and until a development permit has been secured. Excavations shall be made in an acceptable manner to the Zoning Administrator and shall be left in a presentable and acceptable condition when completed:

1. A plot plan, drawn to scale, showing dimension of excavation, depth, slopes, distances from other property, and entrances and exits shall be submitted.
2. Excavations shall be dug on a 3-to-1 slope.
3. Topsoil from pits shall be dressed down on slopes and grassed to prevent erosion.
4. Bottom of pits shall be graded in a generally level contour.
5. Edge of slope at ground level shall be no closer than thirty-five (35) feet from any property line, nor closer than three hundred (300) feet from a public road.
6. The maximum depth of the excavation shall be determined by the Zoning Administrator.

Upon approval, a permit for an excavation shall be issued for a one year period and shall be reviewed and considered for additional periods of time by the Zoning Administrator/Building Official.

### 14.1.3 Land Clearing and Drainage

1. *Structures, grading, and other construction.* The contractor shall perform all work in such a manner and with such protective features to control and contain siltation and dust within the limits of the work. He shall prevent or minimize undesirable siltation and dust in connection with excavation and construction.
2. It is the intent of these specifications that the work shall proceed in a manner and sequence to ensure the earliest possible establishment of permanent erosion control items.
3. Parcels of land greater than one acre: No parcel of property in excess of one acre or series of contiguous lots the combined area of which exceeds one acre shall be cleared prior to submitting to the Zoning Administrator a site clearing plan. Such plans shall include but are not limited to access routes, proposed culvert locations, existing drainage systems on the property, plans for future drainage, and measures to address erosion control and dust. Plans of this nature may be included with and made a part of the building permit application. Erosion and sedimentation controls shall be generally accepted best management practices and may include vegetative fences, silt screens, retention ponds, or other practices deemed appropriate by the Zoning Administrator. The Zoning Administrator may, upon determining that a previously approved erosion control plan is inadequate, issue a stop work notice to the contractor and order corrective measures sufficient to deter siltation of adjoining ditches, properties, or bayous and streams.
4. 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 storm water run-off control measures including retention and/or detention ponds capable of retaining both "during construction" and "post-construction" sediments and of holding a volume of storm water equal to a five-year storm based on south Mississippi average rainfalls for urbanized areas wherein the rainfall duration is one (1) hour at a rainfall intensity of three (3) inches per hour. Run off shall be drained onsite to retention ponds and allowed to discharge at a rate no greater than the average discharge prior to development.
5. All temporary entrances to the site shall have limestone and/or gravel placed from the edge of the asphalt to the property line.

Provisions for the long-term maintenance of permanent storm water control facilities shall be determined prior to the finalization of a project, or prior to issuance of a certificate of occupancy or approval of final plats. Spillways and discharge systems shall be constructed in accordance with accepted engineering practices and shall be maintained in good working order at all times.

### 14.1.4 Filling

1. *Fill permit require.* Excessive filling of land may cause detrimental drainage impacts, elevated grades that are out of scale with surrounding buildings and environment, soil erosion, and other negative community impacts. To mitigate these negative effects and ensure proper stormwater management, no fill may be placed on any parcel of land for the purpose of raising its elevation without first submitting an application for and obtaining a fill permit.
2. *Application to fill land.* An application to fill land shall contain the following:
  - a) Plot plan, drawn to scale, showing the following:
    - i) Existing site topography, elevations, and drainage flow
    - ii) Proposed site topography, elevation and drainage flow



- iii) Volume, type, and area of proposed fill
- iv) Distances from surrounding property lines and buildings
- b) A statement expressing the purpose of the proposed fill
- c) Additional related information as may be requested by the Zoning Administrator
- 3. *Fill requirements.* The fill permit application shall demonstrate that the following:
  - a) The least amount of fill is proposed to achieve the purposes of the operation
  - b) The amount of fill shall be offset so as to achieve no net increase in soil volume on the site
  - c) Fill shall not exceed a height of 12 inches above adjacent grade.
  - d) Fill standards shall not preclude the excavation and movement of soil from one area of a site to another to establish buildable grade consistent with section 14.1.2 above.
  - e) Fill shall not encroach into any designated draining easements adjacent to side and rear lot lines.
  - f) Fill shall not cause negative impacts to surrounding property
- 4. An application to fill land shall be evaluated by the Zoning Administrator/Building Official for compliance with this section. The Zoning Administrator/Building Official shall either approve, approve with modifications, or deny the fill permit application.