



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

## **AGENDA**

### **PLANNING AND ZONING COMMISSION**

**Tuesday, May 23, 2023**

**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 February 28, 2023 minutes.

#### **New Business**

3. Phil Latapie is appealing the Building Official's decision of a violation of the Zoning Ordinance Article 14. Land Alterations and Disturbances at property located on 98190 Golf Club Drive owned by Mr. Latapie. The parcel number is 067G-2-25-024.000.
4. **PUBLIC HEARING** concerning revising Article 11 - Tree Ordinance.
5. Motion to approve a public hearing to discuss revising Article 9. - Fences, to add to 9.8.C "If fences installed by the property owner in the easement must be removed by the city to service the drainage system, the cost of removal and/or replacement shall be the responsibility of the property owner."

#### **Unfinished Business**

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

#### **Commissioners' Comments**

#### **Communication / Announcements**

6. The next City Council meeting is Tuesday, June 6, 2023.  
The next Planning Commission meeting is Tuesday, June 27, 2023.

#### **Adjourn or Recess**



Commissioner B  
Commissioner B  
Commissioner Cook  
Commissioner Debrow  
Commissioner Flowers  
Commissioner Layel  
Commissioner Nicaud

Item No.2.

## **MINUTES**

### **PLANNING AND ZONING COMMISSION**

**Tuesday, February 28, 2023**

**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 6:05 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 Layel read the Statement of Purpose.

#### **Pledge of Allegiance**

Commissioner Bennett led the Pledge of Allegiance.

#### **Roll Call**

Present at the meeting were: Chairman Flowers, Commissioners Layel, Bennett, Nicaud. Absent from meeting were: Commissioners Debrow, Cook, Brewer.

Also present were: City Attorney ,Melissa Williams,City Attorney, Derek Cusick, via teleconference, Building Official, Ronald Jones, Development Coordinator, Pat Rich, Building Inspector, Beau King. Absent : Minute Clerk, Tammy Braud.

#### **Confirmation or Adjustments to Agenda**

Motion was made by Commissioner Layel, second by Commission Bennett to accept the Agenda as presented.

#### **Motion Passed Unanimously**

#### **Approval of Minutes**

1. Approval of January 24, 2023 minutes.

Motion was made by Commissioner Bennett, second by Commissioner Layel to accept the minutes of January 24, 2023 .

### **Motion Passed Unanimously**

#### **New Business**

2. Dennis Mitchell, Jr. has filed an application requesting a variance from the Zoning Ordinance (Article 4.19) to construct a residence within 9'2 ½" of the side yard property line. The property address is 1430 Hanakealoha Place. The tax parcel number is 132R-0-10-118.000. The property is in a R-2 zoning district. The side yard setbacks are 10'. The variance requested is 9 ½". The Case File Number is 202300000.

Development Coordinator, Pat Rich presented the case to commissioners.

Chairman Flowers asked if someone was present to speak on behalf of the variance.

Mr. Dennis Mitchell spoke and answered questions from the Commissioners.

Chairman Flowers asked for any public comments. None.

Development Coordinator, Pat Rich read the staff report recommending to approve the variance based on the findings listed in the report.

Commissioner Bennett made a motion, second by Commissioner Layel to accept the recommendation and approve to the City Council.

### **Motion Passed Unanimously**

3. Diamondhead POA/The Camphouse Restaurant has filed an application requesting a variance from the Zoning Ordinance (Article 10.6) to place an additional 50 square feet of signage on the front wall of the restaurant. The property address is 3410 Yacht Club Circle. The tax parcel number is 131M-2-11-058.000. The property is in a C-2 zoning district. The maximum square footage for wall mounted signs is 150 square feet. The variance requested is 50 square feet. The Case File Number is 202300025.

Development Coordinator, Pat Rich presented the case to the Commissioners.

Chairman Flowers asked if anyone was present to represent Diamondhead P.O.A./Camphouse.

Gary Knoblock with Lighting Quick Signs, spoke and answered questions from commissioners.

Chairman Flowers asked for any public comments. None.

Development Coordinator, Pat Rich read the staff report recommending to deny the variance for reasons listed in the report.

Commissioner Bennett made a motion ,second by Commissioner Layel to accept the recommendation and deny the variance to the City Council

### **Motion Passed Unanimously**

4. Cure Land Company, LLC, represented by Carlene Alfonso has filed an application requesting a map amendment (Rezoning) in accordance with the Zoning Ordinance Article 2.8 (Amendment (Rezoning Procedure). The Case File Number is 202300023. Cure Land Company, LLC desires to change the current zoning from C-1 (General Commercial District) to R-3 (High Density Single

Family Residential). The physical address is 5410 Gex Drive. The tax parcel number is 132A-2-03-028.000. The purpose of the zoning change is for condominium development. The parcel of property is generally described as being bounded on the west by Diamondhead Drive North, the north by the Duck Pond and Lakeview Court, the east by Diamondhead Drive East and Prestige Properties and the south by Universal Storage and a vacant parcel owned by Tara Corp. The parcel of property is legally described as 8.72 Acre Pt. J B Ladner Claim 13-8-14.

Commissioner Layel recused herself from the meeting at 6:29 p.m.

City Attorney, Derek Cusick advised that due to the fact there was no longer a Quorum, the meeting has ended. The Public Hearing will be held at the City Council meeting on March 7, 2023 at 6:00 p.m.

Commissioner Layel returned at 6:36 p.m.

## **Unfinished Business**

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

### **Commissioners' Comments**

### **Communication / Announcements**

5. The next City Council meeting is Tuesday, March 7, 2023.  
The next Planning Commission meeting is March 28, 2023.

## **Adjourn or Recess**

Commissioner Layel made a motion, second by Commissioner Nicaud to adjourn the meeting at 6:37 p.m.

### **Motion Passed Unanimously**

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H. Flowers, Chairman  
Planning & Zoning



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## **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 stormwater 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:

- A. A plot plan, drawn to scale, showing dimension of excavation, depth, slopes, distances from other property, and entrances and exits shall be submitted.
- B. Excavations shall be dug on a 3-to-1 slope.
- C. Topsoil from pits shall be dressed down on slopes and grassed to prevent erosion.
- D. Bottom of pits shall be graded in a generally level contour.
- E. 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.
- F. 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.***

- A. 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.
- B. 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.
- C. 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.

- 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 100-year storm based on south Mississippi average rainfalls for urbanized areas. 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. 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.

Provisions for the long-term maintenance of permanent stormwater 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.

- E. All temporary entrances to the site shall have limestone and/or gravel placed from the edge of the asphalt to the property line.

#### 14.1.4 Filling.

1. *Fill permit required.* 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/Building Official.
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) Fill shall not encroach into any designated draining easements adjacent to side and rear lot lines;
  - c) Fill shall not encroach into any designated side and rear yard setbacks;
  - d) 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.

( Res. No. 2021-054 , 7-20-2021; Res. No. 2021-086 , 12-21-2021)



# CITY OF DIAMONDHEAD

5000 Diamondhead Circle  
Diamondhead, MS 39525  
(228) 222-4626 FAX (228) 222-4390

## DEVELOPMENT PROJECT

<b>PERMIT #:</b> 202200230		<b>DATE ISSUED:</b> 5/05/2022	
		<b>MUST COMMENCE BY:</b> 5/05/2023	
<b>JOB ADDRESS:</b> 98190 GOLF CLUB DR			
<b>PARCEL ID:</b>		<b>BLK #:</b>	
<b>SUBDIVISION:</b>		<b>ZONING:</b>	
<b>LOT #:</b>		<b>SFHA:</b>	
<b>OWNER:</b>	PHILP LATAPIE	<b>CONTRACTOR:</b>	PHILP LATAPIE
<b>ADDRESS</b>	206 LAKESIDE VILLE	<b>ADDRESS:</b>	206 LAKESIDE VILLE
<b>CITY, STATE ZIP:</b>	DIAMONDHEAD MS 39525	<b>CITY, STATE ZIP:</b>	DIAMONDHEAD MS 39525
<b>PHONE:</b>		<b>PHONE:</b>	
<b>VALUATION:</b>	\$ 0.00	<b>APPLICANT:</b>	PHILP LATAPIE
<b>SQ FT</b>	0.00		
<b>OCCP TYPE:</b>			
<b>CNST TYPE:</b>			
<b>DESCRIPTION OF WORK:</b>			

<b>TOTAL</b>	\$ 100.00
<b>PREVIOUSLY PAID</b>	\$- 100.00
<b>BALANCE DUE</b>	\$ 0.00

I HEREBY CERTIFY THAT I HAVE READ AND EXAMINED THIS DOCUMENT AND KNOW THE SAME TO BE TRUE AND CORRECT.  
I HAVE RECEIVED A PRINTED RECEIPT FOR THE AMOUNT THAT I HAVE PAID TO THE BUILDING DEPARTMENT.

*Phil Latapie*  
\_\_\_\_\_  
Applicant Signature  
*5/27/2022*  
\_\_\_\_\_  
Date

*Ben Vain*  
\_\_\_\_\_  
Approval Signature  
*5/19/22*  
\_\_\_\_\_  
Date

200000  
230

Leave 9  
trees

98190 GOLF  
Club  
Dr

Item No.3.

APPENDIX A: THE CITY OF DIAMONDHEAD  
LAND DEVELOPMENT PERMIT APPLICATION

PERMIT# \_\_\_\_\_  
FEE: \_\_\_\_\_

APPLICANT: Phil Latapie  
MAILING ADDRESS: 200 Lakeside Village CITY: DIAMONDHEAD STATE: MS ZIP: 39525  
TELEPHONE: 228 249 4285 FAX: \_\_\_\_\_ EMAIL: latapiephil@yahoo.com

OWNER: \_\_\_\_\_  
MAILING ADDRESS: \_\_\_\_\_ CITY: \_\_\_\_\_ STATE: \_\_\_\_\_ ZIP: \_\_\_\_\_  
TELEPHONE: \_\_\_\_\_ FAX: \_\_\_\_\_ EMAIL: \_\_\_\_\_

PROPERTY:  
ADDRESS (IF KNOWN): \_\_\_\_\_ ZONING DISTRICT: \_\_\_\_\_  
TAX PARCEL ID NUMBER: \_\_\_\_\_ BLOCK: \_\_\_\_\_ LOT: \_\_\_\_\_ RANGE: \_\_\_\_\_ SECTION: \_\_\_\_\_ TOWNSHIP: \_\_\_\_\_  
FLOOD ZONE: \_\_\_\_\_ DFRIM MAP/PANEL NO: \_\_\_\_\_ PLOT AREA: \_\_\_\_\_ SQ. FT. / ACRES (CIRCLE ONE)  
ENGINEER OF RECORD: \_\_\_\_\_ LAND SURVEYOR: \_\_\_\_\_

ATTACHED (WHEN APPLICABLE):  
SWPP: \_\_\_\_\_ SNOI: \_\_\_\_\_ NO RISE CERTIFICATE: \_\_\_\_\_ APPROVED TREE SURVEY, REMOVAL & MITIGATION PLAN: \_\_\_\_\_  
SCOPE OF WORK PROPOSED: (ATTACH SUPPORTING DOCUMENTATION)

Clear lot

APPLICANT MUST PROVIDE THE FOLLOWING, AT THE TIME OF THE APPLICATION:

1. SITE PLAN - PROVIDE THE EXISTING AND PROPOSED ELEVATION OF ALL PROPERTY CORNERS, NATURAL DRAINAGE, APPROVED DRAINAGE PLAN AND ANY WOODED AREAS.
2. BUILDING FINISH FLOOR ELEVATIONS, BASED ON D.F.E. (WHEN APPLICABLE); INVERT ELEVATIONS OF ALL CULVERTS, DRAINAGE APPURTENANCES, CURB INLETS, CATCH BASINS, DITCH FLOW LINES OR NATURAL DRAINWAYS ALONG WHICH THE PROPERTY OWNER PROPOSES TO DISCHARGE STORM WATER.
3. A TOPOGRAPHIC MAP DELINEATING THE PROPERTY'S GRADES AND/OR SLOPE LINES LEADING AWAY FROM ANY BUILDINGS.
4. TRANSVERSE AND CROSS SECTIONS OF ANY EXISTING SWALES, DITCHES OR NATURAL DRAINWAYS.
5. IF PROPOSED IMPROVEMENTS TO STORM WATER RUNOFF IS BY OPEN DITCH OR STORM DRAINAGE SYSTEM, THE FOLLOWING WILL APPLY:
  - a. POST CONSTRUCTION RUNOFF SHALL NOT EXCEED PRECONSTRUCTION DISCHARGE RATE
  - b. A PROFESSIONAL CIVIL ENGINEER, LICENSED IN THE STATE OF MISSISSIPPI SHALL PROVIDE DETAILED CIVIL ENGINEERING DOCUMENTS AND CALCULATIONS, IN ACCORDANCE WITH THE CITY OF DIAMONDHEAD'S STORMWATER PREVENTION AND MAINTENANCE ORDINANCE, FOR CITY REVIEW AND COMMENT. THESE SHALL INCLUDE, BUT NOT BE LIMITED TO,
    - i. FINISH INVERTS AND ELEVATIONS AT ALL INLETS, OUTLETS, CHANGES IN SLOPE OR RETENTION / DETENTION R
    - ii. STORM DRAIN SYSTEMS INSTALLED WITHIN CITY RIGHTS-OF-WAY MUST CONSIST OF REINFORCED CONCRETE PIPE.
    - iii. CROSS SECTIONS AND TRANSVERSE DETAILS.
6. STORM WATER PREVENTION PLAN (SWPP) AND/OR STORMWATER NOTICE OF INTENT (SNOI) FROM THE MDEQ, AS APPLICABLE.
7. TREE SURVEY, REMOVAL AND MITIGATION PROPOSAL

APPLICANT ACKNOWLEDGEMENT

I UNDERSTAND AND CONFIRM; THAT THE ISSUANCE OF THIS PERMIT IS CONTINGENT UPON THE INFORMATION PROVIDED TO THE CITY OF DIAMONDHEAD BEING TRUE AND ACCURATE; THAT ALL PLANS AND SUPPORTING DATA HAVE BEEN PROVIDED. I AGREE TO COMPLY WITH ALL REGULATIONS OF THE CITY OF DIAMONDHEAD AND THE MISSISSIPPI DEPARTMENT OF ENVIRONMENTAL QUALITY AND ANY OTHER AGENCY HAVING JURISDICTIONAL INTEREST IN THIS PERMIT. NO WORK IS TO BE COMMENCED OR GROUND DISTURBANCE CONDUCTED UNTIL SUCH TIME AS THIS PERMIT IS ISSUED BY THE AUTHORITY HAVING JURISDICTION. THIS PERMIT MAY BE REVOKED AT ANY TIME THAT THE OWNER OR HIS/HER AGENT FAILS TO COMPLY WITH THE ORDINANCES AND REGULATIONS OF THE CITY OF DIAMONDHEAD, MS.

APPLICANT SIGNATURE Philip Latapie DATED: 5/5/11  
PRINT NAME ABOVE SIGNATURE

DO NOT WRITE BELOW THIS LINE - COD USE ONLY

APPLICATION APPROVED: \_\_\_\_\_ DATED: \_\_\_\_\_  
PRINT NAME ABOVE SIGNATURE

FINAL INSPECTION: \_\_\_\_\_ DATED: \_\_\_\_\_  
PRINT NAME ABOVE SIGNATURE





**Parcels**  
**067G-2-25-**  
**024.000**

Parcel Number: 067G-2-25-024.000  
Owner Name: LATAPIE PHIL  
Owner Address: GOLF CLUB DR  
Owner City, State ZIP:  
DIAMONDHEAD, MS 39525  
Physical Address: 0  
Improvement Type:  
Year Built: 0  
Base Area: 0  
Adjusted Area: 0  
Actual Total Value: 12000  
Taxable Total Value: 0  
Estimated Tax: 224.53  
Homestead Exemption: No  
Deed Book: 2022  
Deed Page: 7621  
Legal Description 1: 21 BLK 3 UN 7 PH

Close Export Print Labels



5000 Diamondhead Circle · Diamondhead, MS 39523

Phone: 228.222.4626 Fax: 228-222-4390

[www.diamondhead.ms.gov](http://www.diamondhead.ms.gov)

**COPY**

April 20, 2023

Mr. Phil Latapie  
206 Lakeside Villa  
Diamondhead, MS 39525

Re: Violation of the City of Diamondhead Ordinance for Stormwater Runoff, Illicit discharges, and Illegal Connections (Chapter 24); Violation of the Zoning Ordinance Article 14.1.4 Filling  
98190 Golf Club Drive- parcel number 067G-2-25-024.000

Dear Mr. Phil Latapie:

Fill has been placed upon this lot without authorization. A fill permit has not been applied nor a fill permit has not been issued (Zoning Ordinance Article 14.1.4 Filling). A stop work order was placed on the property and it has been removed. The Storm Water Ordinance (Section 24-10) also prohibits the placement of fill which alters the flow of surface water across said property in a manner which damages any adjacent property.

You are hereby directed to remove all fill from the property and bring the lot back to original grade. These corrective actions shall be completed by 5:00 p.m. on Friday, April 28, 2023. Upon completion, will you please notify this office for an inspection?

The penalties for failure to correct the violations set forth in this letter are noted in Chapter 24-19 of the City of Diamondhead Ordinance for Stormwater Runoff, Illicit discharges and Illegal Connections under Penalties and Prosecution.

The determination of the stormwater violations may be appealed to the City Council by filing a written notice of appeal within 30 days of service of notice of violation. The determination of the Zoning violation may be appealed to the Planning Commission by filing a written notice of appeal within 10 days of service of notice of violation by filing with the Zoning Administrator a notice of appeal which specify the grounds thereof.

If you have any questions or comments, please advise. Thank you in advance for your immediate attention to these matters.

Sincerely,

A handwritten signature in black ink that reads 'Ronald R. Jones'.

Ronald Jones, CBO  
Building Official

**Ronald Jones**

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**From:** Ronald Jones  
**Sent:** Thursday, April 20, 2023 2:00 PM  
**To:** latapiephil@yahoo.com  
**Cc:** Beau King; Pat Rich; Steven J Torone  
**Subject:** stormwater/Zoning violation; 98160 Golf Club Drive  
**Attachments:** stormwater violation; 98190 Golf club drive.pdf

Good afternoon,

Please remove the fill placed on 98160 Golf Club Drive.

Sincerely,

Ronald Jones, CBO  
City of Diamondhead



04.20.2023





04.20.2023





5000 Diamondhead Circle · Diamondhead, MS 39523

Phone: 228.222.4626 Fax: 228-222-4390

[www.diamondhead.ms.gov](http://www.diamondhead.ms.gov)

**COPY**

May 4, 2023

Mr. Phil Latapie  
206 Lakeside Villa  
Diamondhead, MS 39525

Re: Appeal hearing for Violation of the Zoning Ordinance Article 14.1.4 Filling  
98190 Golf Club Drive- parcel number 067G-2-25-024.000

Dear Mr. Latapie:

Your appeal of the above violation will be heard by the Planning Commission on May 23, 2023, at 6:00 pm in the Council Chambers at City Hall. You will be allowed to submit your case to the Commission. We will include the pictures you previously sent in their package. If you have additional items you would like to present, you may do so at the meeting or have them to me by Tuesday, May 16<sup>th</sup> and I will include them in their package. If you present them at the meeting make sure you have 10 copies for the Commissioners, Legal and Staff.

If you have questions about your appeal, please contact me.

Respectfully,

A handwritten signature in blue ink, appearing to read 'J. Pat Rich', is written over a horizontal line.

J. Pat Rich  
Development Coordinator

**Pat Rich**

---

**From:** Pat Rich  
**Sent:** Thursday, May 4, 2023 9:21 AM  
**To:** latapiephil@yahoo.com  
**Subject:** Appeal of Zoning Ordinance Violation  
**Attachments:** 98190 Golf Club Drive.P&Z Appeal.Latapie.docx

Phil,

Please see the attached official notification of your appeal before the Planning Commission.

J. Pat Rich  
Development Coordinator

City of Diamondhead  
5000 Diamondhead Circle  
Diamondhead, MS 39525  
228-242-1613



05.16.2023





05.16.2023



April 27, 2023

Amy Perry

**From:** PHIL LATAPIE <latapiephil@yahoo.com>  
**Sent:** Wednesday, April 26, 2023 10:43 AM  
**To:** Amy Perry  
**Subject:** prnt



Diamondhead City  
Council,

I am writing this letter in appeal to Zoning Ordinance Article 14.1.4 This in reference to Lot 21, 98120 Golf Club Dr. As shown in the fotos provided, there are no problems with obstruction of drainage whatsoever. There is a foto, #5 shows the tip soil for my gardens and yard pictured on the property. I am not impeding my neighbors yard with any drainage' Foto 1 is from the right side of the property. it is in its natural state. Foto 2 is the left side of the property, in its natural state. In foto 3, it shows where my culvert will be placed in accordance with the slope of the land. The foto shows where my neighbors culvert is placed. Foto 4 shows the rear yard, again, in its natural state. Foto 5 shows where the topsoil was placed, again, not impeding any drainage. I want to apply for my fill permit where i need some fill under my homes instruction.

Thanks,

Philip A.Latapie







2

Item No.3.

RECEIVED  
APR 27 2023  
By: \_\_\_\_\_





3

RECEIVED  
APR 27 2020  
RV



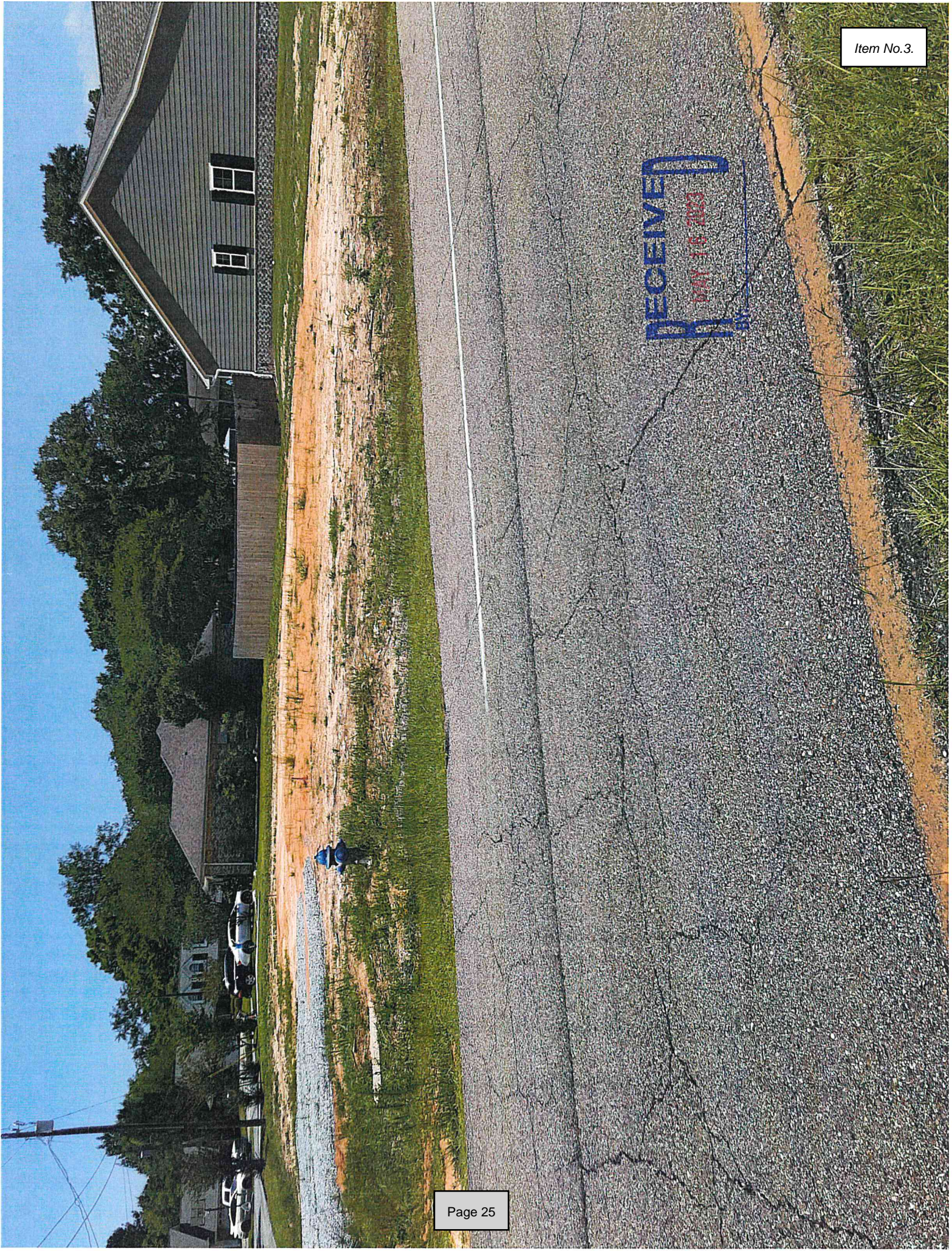




RECEIVED  
JUN 11 2009







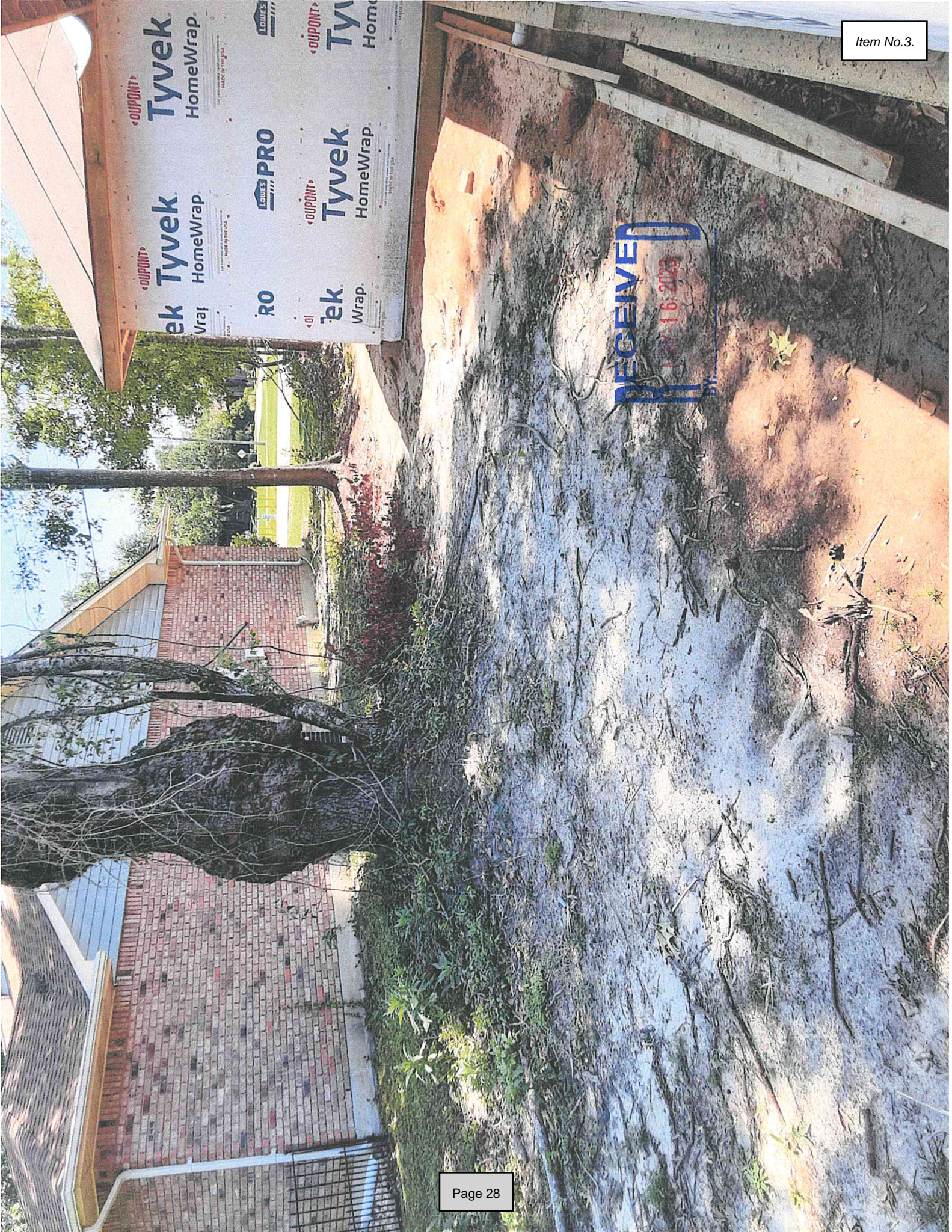






RECEIVED  
MAY 16 2023  
BY: \_\_\_\_\_





Item No.3.



ARTICLE 11. - TREE ORDINANCE<sup>[3]</sup>

Footnotes:

--- (3) ---

**Editor's note**— Ord. No. [2012-019.4](#), adopted October 1, 2019, in effect, repealed art. 11, §§ 11.1—11.8 and enacted a new art. 11 as set out herein. Former art. 11 pertained to similar subject matter.

## 11.1. - PURPOSE AND SCOPE.

The purpose of this Article is to provide for the protection and continuance of the heavy tree canopy that currently exists within the City of Diamondhead by prohibiting the unnecessary removal of mature protected trees upon private property. The provisions of this Article shall apply to all protected trees having a caliper diameter of six (6) inches or more as measured at five (5) feet above adjacent grade and growing on privately owned property. Protected trees are defined as Live Oak Trees (*Quercus virginiana*) and Southern Magnolia Trees (*Magnolia grandiflora*).

It is further the scope of this Article to provide certain planting limitations to protect trees and the like from unnecessary trimming and to protect utility systems from damage and/or destruction due to tree growth.

(Ord. No. [2012-019.4](#), 10-1-2019)

## 11.2. - RESIDUAL TREE DENSITY.

11.2.1 *Number of Trees Based on Lot Size:*

SITE AREA (NET SQUARE FEET)	REQUIRED TREES
0 to 10,000 (approx. ¼ acre)	1 tree/1,000 sq. ft.
10,000 to 110,000 (approx. ¼—2.6 acres)	10 trees for first 10,000 sq. ft., plus 1 tree/2,500 sq. ft. over 10,000 sq. ft.
Over 110,000	50 trees for first 110,000 sq. ft., plus 1 tree/5,000 sq. ft. over 110,000 sq. ft.

11.2.2 *Tree Relocation or Replacement.* As a condition to the granting of a tree removal permit, the applicant may be required to:

1. Relocate those protected trees which would otherwise be destroyed to another location upon the site; or
2. Replace those protected trees which will be destroyed with suitable replacement trees elsewhere within the site; or
3. Replace those protected trees which will be destroyed with suitable replacement trees within a City right-of-way, easement, or public property, upon approval by the City Manager and City Council.

(Ord. No. [2012-019.4](#), 10-1-2019)

### 11.3. - PERMIT REQUIRED PRIOR TO TREE DESTRUCTION.

Except as provided and permitted herein, it shall be unlawful to cut down, remove, deface, burn, poison or take any other action that results ultimately in the destruction of any protected tree designated in this Article on private property which has a trunk diameter of at least six inches (6") when measured at a point five feet (5') above ground level from the base of such tree unless a proper permit is issued under the provisions of this Article.

(Ord. No. [2012-019.4](#), 10-1-2019)

### 11.4. - PERMIT PROCESS.

Any person, firm, partnership, corporation, or other entity seeking permission to take any action which may result in the removal or destruction of a protected tree, as defined in this Article, shall first make application to the Zoning Administrator. An administrative fee of \$25.00 will be assessed to the applicant. If the Zoning Administrator determines a City Arborist is needed, the applicant must pay the City Arborist fee prior to the issuance of a permit to remove any protected tree.

(Ord. No. [2012-019.4](#), 10-1-2019)

### 11.5. - PERMIT APPLICATION CONTENTS.

Any person, firm, partnership, corporation or other legal entity seeking permission to cut down, remove, deface, burn, poison, or take any other action that results ultimately in the destruction of any protected tree designated in this Article shall first make written application to the Zoning Administrator which shall contain the following information:

- A. The plat map describing the property on which the protected tree or trees are located naming streets adjacent to the property and showing the location of the protected tree or trees on said plat. The map may be prepared by the petitioner (compass direction shall be shown on the map). The map shall be legible.
- B. Protected trees to be affected shall be so denoted on the map by a circle and numbered in sequence so that they may be identified by the same code with any written material accompanying the map. Protected trees must be listed by species.
- C. An explanation or description of the work or alteration to be performed on each protected tree and the reasons therefore.
- D. The name, legal residence, mailing address, email address, and phone number of the property owner making the request and the same information of the person or firm doing the work.

(Ord. No. [2012-019.4](#), 10-1-2019)

### 11.6. - APPLICATION REVIEW.

11.6.1 *Standard of Review.* The Zoning Administrator shall review the application and, in his discretion, may consult with the City Arborist in reaching the decision of whether to grant or deny the application. In reviewing the application, the following criteria shall be taken into consideration:

- A. The health of the protected tree or trees, if proposed to be removed for health reasons.

- B. The location of any buildings or appurtenances existing or proposed upon a piece of property, and whether or not a more suitable design or location is available to avoid removing a protected tree.
- C. The effects an existing protected tree is having or is expected to have upon buildings or appurtenances existing on the property.
- D. The species of the tree.
- E. Other conditions that may be unique to the situation revealed in the application, including the economic hardship that would be imposed upon the applicant were the permit denied.

11.6.2 *Appeals Process.* The Zoning Administrator shall receive and review applications for any work proposed to be done which may result in destruction of any protected tree or trees covered by this Article. An applicant may appeal the Zoning Administrator's decision within ten days to the Planning and Zoning Commission. The Planning and Zoning Commission's finding shall be final.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.7. - VARIANCE PROCEDURE.

*See City of Diamondhead Code of Ordinances Section 2.6.1—2.6.7—Variance Procedures*

Section 11.7 shall be known as the Variance Procedure. This procedure is intended to provide relief from the terms of the Tree Ordinance when, because of special circumstances applicable to the property, the strict application of the Tree Ordinance deprives such property of privileges enjoyed by other property in the vicinity and under identical zoning classification, and to ensure that any adjustment thereby authorized shall not constitute a grant of special privileges inconsistent with the limitations upon other properties in the vicinity and the district in which such property is situated.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.8. - TREES ON PUBLIC PROPERTY.

All trees of any kind, regardless of size, located on public property belonging to the City of Diamondhead shall not be removed, cut down or destroyed by any means except upon action of the City Manager. The City Manager shall report the removal or destruction of protected trees on public property in his/her City Manager's Report to the City Council.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.9. - EXEMPTION FOR PUBLIC UTILITIES.

Any public utility operating within the City of Diamondhead may, upon order of the City Manager, be exempt from the provisions of this Ordinance, upon a finding that the services provided by them are necessary for the general health, safety and welfare of the citizens of the City of Diamondhead, but such cutting, removal, defacing, burning, poisoning or taking of any other action that would ultimately result in the destruction of any protected tree designated in this Ordinance shall be limited to the amount necessary in order to provide such utility.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.10. - PLANTINGS NOT TO INTERFERE WITH UTILITIES.

It shall be unlawful for any tree or shrub to be planted in close proximity to an overhead utility such that said planting will come into conflict with and potentially damage or destroy said utility.

It is the intent of this Section that plantings occur in such a location that they achieve mature height without the necessity of trimming or pruning to avoid overhead utility lines, thus destroying the symmetry of the planting.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.11. - PROHIBITED ACTS.

It shall be unlawful to "clear cut," or remove all trees, regardless of size or species, from a parcel of property. Any person, firm, partnership, corporation or other entity that clear cuts a parcel of property shall be subject to the penalties listed in Section 11.12 of this Ordinance.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.12. - PENALTIES.

Any person, partnership, firm or corporation violating any of the provisions of this Ordinance shall be guilty of a misdemeanor and, upon conviction thereof, shall be subject to the maximum fine allowed by law and the cost of prosecution or in default of the payment thereof, shall be punished by imprisonment for a period not to exceed thirty (30) days for each offense, or by both such fine and imprisonment in the discretion of the Court, together with the cost of such prosecution (Sec. 1-14.—General Penalty).

(Ord. No. [2012-019.4](#), 10-1-2019)

#### 11.13. - CONFLICT WITH OTHER LAWS.

Whenever the requirements of this Article are at variance with the requirements of any other lawfully adopted rules, regulations or ordinances, the most restrictive or that imposing the higher standards shall govern.

This Ordinance, having been unanimously adopted shall become effective 30 days upon the adoption thereof, with a single publication of the ordinance prior to becoming effective and being recorded and published in the ordinance book in the same manner as required by State Law of other ordinances.

(Ord. No. [2012-019.4](#), 10-1-2019)

#### Residents Suggestions for Tree Ordinance

- Stated goal of preserving all healthy, mature trees.
- Expand list of protected trees.
- Committee/Board with professional to make recommendations in public meeting.
- Include protecting dripline.
- Improve and expand mitigation for protected trees, replacement sizes, maintenance period, public property, increase canopy, mitigation trust.
- Moratorium for violations.
- Incentives for preservation.
- Replace any tree that is removed.
- Enforce existing ordinance.
- Keep non-protected trees to prevent soil erosion.
- Increase penalties.

**Pat Rich**

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**From:** Margaret Dutton <peggydutton4@gmail.com>  
**Sent:** Friday, May 5, 2023 4:27 PM  
**To:** Jon McCraw; Ronald Jones; Pat Rich; DerekCusick@yahoo.com  
**Subject:** New Tree Ordinance

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Gentlemen:

Since you are accepting input on the new tree ordinance, I would like to submit my request for provisions that require:

1. A stated goal of preserving all healthy, mature trees as much as possible.
2. A specific and extended list of protected trees native to the area and the circumference at which they are protected. Gulfport's ordinance, for example, includes: live oak, southern magnolia, swamp chestnut oak, sweet bay, sweet gum, overcup oak, shumard oak, nuttall oak, American holly, bald cypress, red maple, and willow oak that has a single or multiple trunk with a total caliper trunk of 8 inches or a circumference of 25 inches or more.
3. A committee, board, or the like that includes an arborist, horticulturist or other qualified professional to make recommendations and/or decisions on tree permits in publicly held meetings. This would immediately increase transparency in decision making and therefore greater trust. The P&Z would be appropriate if at least one relevant, qualified professional participated as advisor.
4. Trees on public property (including easements) are protected by required permit for nearby construction and regulations concerning required fencing around their dripline and prohibiting paving or soil compaction within it or any cutting or harming during construction.
5. Required mitigation for protected trees removed or harmed either with or without a permit — that is, planting of trees of a certain size on the site with required maintenance for a time or on approved public property so that the overall extent of the tree canopy is not lost, and preferably is increased. Biloxi, for example, requires a 2 to 1 replacement and allows, as one option, payment into a mitigation trust so the city can purchase and plant the trees.
6. A moratorium placed for specified times on any project — subdivision or single lot — during which tree permit regulations are violated to the extent that a protected tree or trees are removed or significantly cut or damaged.
7. Incentives if possible for owners/builders to preserve trees above and beyond regulations.

Many thanks for all you do.

Margaret (Peggy) Dutton

**Pat Rich**

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**From:** Kim Koppman <kim@grandriverclothing.com>  
**Sent:** Thursday, May 18, 2023 4:06 PM  
**To:** Pat Rich  
**Subject:** Regarding the tree ordinance

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hi, I am Kim Koppman  
10418 Malahini Place  
Diamondhead

I, like many in Diamondhead left the New Orleans area to enjoy everything the coast offers and we love it here. One of the draws to move here is that Diamondhead reminds us of the beautiful oaks and pines of the Northshore in Louisiana.

It was in our POA guidelines that no trees are removed without replacing it on your property.

Seeing what Elliot Homes has done to our beautiful CITY OF TREES, makes me and so many more sick. Builders are clear cutting spots to build their homes and nobody in the city is monitoring this. It looks awful, seeing cookie cutter homes built on a vast area of trees that were ripped out of our scenery.....And that devalues property valuation.

Doing such to a large piece of Diamondhead property degenerates our Beauty and creates havoc with drainage. The trees themselves absorb so much water that we usually have no worries about flooding like LA.. ...the removal of trees means more drainage problems, besides looking ugly.

I don't know how they get away with killing Live Oaks , but it truly is a black eye on The city of Diamondhead.

The builders should plan reparations by planting new trees around their homes.

In fact, we should return to our former POA rules of not allowing trees to be removed without replacing them.

We are a unique community and it's so well planned....why would we desecrate it?

I pray that this is addressed at the meeting.

Thank you,

Kim Koppman

Sent from my iPad

## Pat Rich

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**From:** Piji White <pjiipiercew45@gmail.com>  
**Sent:** Friday, May 19, 2023 2:35 PM  
**To:** Pat Rich  
**Subject:** Wish we could reinforce below  
**Attachments:** 2012-019.4.pdf *Existing Tree Ordinance*

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Thanks again for meeting with me the other day about living tree legacy! I really appreciate your input exclamation



**Pat Rich**

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**From:** Charles Whitmore <nwhitmore1@hotmail.com>  
**Sent:** Saturday, May 20, 2023 2:34 PM  
**To:** Pat Rich; Pat Rich  
**Subject:** Suggestions for Diamondhead Tree Ordinance

**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello. This message from Ned Whitmore. 228-313-3513. 308 Highpoint Dr

It sounded like a lot of work was done in the past on tree preservation ordinance - much of which sounded like it was nixed.

Attached pdf doc is the tree (and other matters) ordinance for Sacramento. Section 4 to end of the doc especially interesting and could contain useful ideas, language and info.

The website link is:

<https://www.cityofsacramento.org/Public-Works/Maintenance-Services/Trees/Permits-Ordinances>

Get [Outlook for Android](#)

**Pat Rich**

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**From:** Anne Reaver <areaver@aol.com>  
**Sent:** Monday, May 22, 2023 10:51 AM  
**To:** Nancy Depreo; Gerard Maher; Charles "Chuck" Clark; Jon McCraw; Pat Rich  
**Subject:** Tree Ordinance

[EXTERNAL EMAIL] DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

I would like to take this opportunity as a citizen of Diamondhead to make a few suggestions/comments on a possible tree ordinance. I thought that in Oct 2019 there was an ordinance for the Protection and Continuance of the Heavy Tree Canopy in Diamondhead enacted. This could be a good starting place.

My suggestions would be

Protect Live Oaks (and additional oak trees) and Magnolias as a minimum. There are some trees such as pine that don't need protection but could stay in place to prevent soil erosion.

Permits should be issued for tree removal and the ordinance should address the process for clearing lots or plating subdivisions with fines. Owners/subdivisions should have to submit a copy of their survey noting what trees they will leave and what will be cut. Then city inspector approves. Protection of tree roots needs to be included (ie fencing/barrier around the roots or tree canopy. Heavy equipment can damage roots and this damage isnt seen for several years.

A tree board of possibly 5 members appointed by the mayor/council and the members should be residents of Diamondhead. At least 2 members should be professionals in related fields (arborist, horticulturalist, forester, landscape architect etc.). Remainder of members from the community. At first appointment have 2 serve for 4 years and the remainder for 5 years so all don't rotate off at the same time.

If protected trees or clear cutting of lots have penalties in place that are severe enough that people will think twice before just cutting. Replacement trees need to be a specific size and a certain number.

We all need to work together to preserve our trees and the open spaces that we have. Thank you for your consideration of my suggestions. Anne Reaver

Sent from my iPad