

City of Diamondhead, MS
Request for Council Action

TO: Honorable Mayor and Members of Council
FROM: Mayor Thomas Schafer

Ordinance Resolution Agreement Info Only Work Session Other

AGENDA LOCATION: Consent Agenda Regular Agenda

AGENDA DATE REQUESTED June 18, 2019

ORDINANCE/RESOLUTION CAPTIONS or ISSUE:

Sign Ordinance - Political + PLLC Signs

SUMMARY BACKGROUND:

*Interpreted + Applied in 2013
2015
2017 → Now Interpreted
& Applied
Differently*

IMPACT IF DENIED:

Interference in Political Campaigns

IMPACT IF APPROVED:

Fair + Even Application of ordinance

FINANCIAL IMPACT:

None

REQUIRED SIGNATURES

REQUESTED BY:

Tommy

City Manager:

City Attorney:

COUNCIL ACTION:

Approved Denied Tabled/Deferred Info Only Completed:

City of Diamondhead, MS
Request for Council Action

TO: Honorable Mayor and Members of Council
FROM: Mayor Thomas Schafer

Ordinance Resolution Agreement Info Only Work Session Other

AGENDA LOCATION: Consent Agenda Regular Agenda

AGENDA DATE REQUESTED June 18, 2019

ORDINANCE/RESOLUTION CAPTIONS or ISSUE:

POA Collaborative Committee Request for Assistance with POA Permitting.

SUMMARY BACKGROUND:

Years Ago POA Laid OFF Permitting Staff + Deferred all permitting to the City.

IMPACT IF DENIED:

Nothing -

IMPACT IF APPROVED:

city gets into private space

FINANCIAL IMPACT:

None

REQUIRED SIGNATURES

REQUESTED BY:

City Manager:

City Attorney:

Tommy

COUNCIL ACTION:

Approved Denied Tabled/Deferred Info Only Completed:

Agenda Item 2019-147



5000 Diamondhead Circle • Diamondhead, MS 39525-3260

Phone: 228.222.4626 Fax: 228-222-4390

www.diamondhead.ms.gov

TO: Mayor and City Council and City Manager

FROM: Ronald Jones, Building Official *Ronald*

DATE: June 12, 2019

SUBJECT: Initiate Zoning Map Amendment for the Planning Commission to hold a public hearing to change the zoning district classification of certain property owned by Purcell Company and People's Bank

It is the recommendation of the Building Official for the City Council to authorize the Planning Commission to hold a public hearing to change the zoning district classification of certain property owned by Purcell Company (067G-2-25-010.002 and 067F-2-26-107.000 from PFR to R-2) and People's Bank 067K-2-36-156.000 from PFR to R-1). Please see attached e-mail from Carl Joffe dated 5-31-19, Memorandum from Purcell Company dated 5-31-19 and site location maps.

If you have any questions or comments, please advise.

Attachments

A handwritten signature in black ink, appearing to be 'RJ' or similar initials, located at the bottom left of the page.

Ronald Jones

From: Carl Joffe <carl.joffe2@gmail.com>
Sent: Friday, May 31, 2019 2:24 PM
To: Michael J. Reso
Cc: Ronald Jones; Derek Cusick
Subject: Public Facilities and Recreation (PFR) Zoning of Private Property
Attachments: DH - Zoning (PFR Property Maps).pdf; DH - Zoning (PFR - Watkins Email).pdf; DH - Zoning (PFR - Permitted Uses).pdf; DH - Zoning Memo to DH P&Z Commission 5-31-19 (S).pdf

Follow Up Flag: Follow up
Flag Status: Flagged

Michael,

I would like to meet with you and Ronald Jones at your convenience to discuss your previous indication that the City would be agreeable, pursuant to Section 2.8.6.A. of the Zoning Ordinance, to initiating zoning changes from PFR to R-2 for private property erroneously zoned PFR. Specifically, Tax Parcel # 067F-2-26-107.000 and # 067G-2-25-010.002 owned by Purcell Co., Inc., and Tax Parcel # 067K-2-36-156.000 owned by The Peoples Bank. These properties are more particularly described on the attached maps.

As you will recall, in Case File Number 201900036 at the Planning & Zoning Commission's Meeting of February 26, 2019, the Commission recommended that the PFR zoning of Tax Parcel # 132A-2-03-026.007 be changed to R-2 in order to correct a zoning classification error because the subject property was privately owned, and such PFR zoning was intended only for public or semi-public uses. Prior to incorporation, all of these properties were zoned for residential use.

This mistake was acknowledged during such Meeting by Nita Hensley, a Planning Commissioner and Recording Secretary at the time the original PFR classification was made, as well as by Chris Watson, AICP, of the consulting firm of Bridge & Watson, Inc., who helped develop the City of Diamondhead's 25 Year Comprehensive Plan. A copy of Mr. Watkins email opinion is also attached for your reference. As you are aware, the City Council subsequently adopted the Planning & Zoning Commission's recommendation to approve the requested zoning change to rectify this obvious error pursuant to Section 2.8.1.B.i. of the Zoning Ordinance.

It is also important to note that the proposed zoning change from PFR to R-2 would be a more restrictive use zoning classification. The permitted uses in PFR as a matter of "right" and as "conditional use" are attached for your reference.

In further support of this proposed zoning change, I have attached a Memorandum in support of this requested correction in the zoning classification of these properties.

Please let me know when we could discuss this matter. Thanks,

Carl

TO: Diamondhead Planning & Zoning Commission
FROM: Purcell Co., Inc.
DATE: May 31, 2019

Memorandum

The following memorandum is respectfully submitted in support of Purcell Co., Inc.'s request for a zoning change for Tax Parcel # 067G-2-25-010.002 and Tax Parcel # 067F-2-26-107.000 from their current Public Facilities and Recreation (PFR) zoning classification to R-2 Medium Density Single-Family Residential.

1. The subject properties have been owned by Purcell Co., Inc. (formerly Diamondhead Corporation), the original developer of the Diamondhead Subdivision since 1969. Prior to the incorporation of the City of Diamondhead, these properties were subject to Hancock County zoning regulations and were zoned for residential use.

2. The City of Diamondhead's 25 Year Comprehensive Plan defines "**Public/Semi-Public as uses that are operated primarily for the purpose of providing a public service or delivering a public utility, such as a fire station, post office or electric power sub-station. This also includes non-profit organizations such as churches and cemeteries. Included in this category are facilities such of (sic) the POA.**" (Comprehensive Plan adopted 9-13-12 @ Page 12)

3. The Comprehensive Plan also states that the "**Public Facilities and Recreation classification is intended to reflect the location of existing and/or proposed uses such as churches and cemeteries, educational facilities, and community service facilities. The future land use plan does not designate each and every public/semi-public use whereas many such uses occur as an incidental development to other uses, such as a small park within a new residential area. Therefore, this land use designation is not intended to become a separate zoning classification.**" (Comprehensive Plan @ Page 35) The Comprehensive Plan, adopted only one month prior to the Zoning Ordinance, states that PFR is **not** intended to be a zoning classification, yet properties were mistakenly labeled as in PFR zones.

4. The very language of PFR as set forth in the Comprehensive Plan and the Zoning Ordinance reveal that it is intended for public uses, yet the subject property is vacant land privately owned by Purcell Co., Inc. The PFR zoning map, attached hereto and made a part

hereof as Exhibit "A", identifies all of the property within Diamondhead that is classified as PFR. All of the privately-owned parcels on Exhibit "A" were owned by Purcell Co., Inc. at the time the City adopted its Zoning Ordinance. The fact that these privately-owned parcels were previously zoned residential and are adjacent to residential parcels shows that classification of such parcels as PRF must have been a clerical error or mistake.


5. The Zoning Ordinance itself states that the purpose of a PFR district is ". . . to provide areas for the **continuation and further development of both public and semi-public land uses** within the community. Specifically, the **semi-public land uses expected are those amenities which are owned and operated by the Diamondhead Property Owners Association and form the backbone of recreation and social interaction within Diamondhead.** This zoning district is designed to allow such land uses and facilities with reasonable regulation." (Zoning Ordinance, Section 4.15.1) This again, shows mistake. First, the property at issue is not owned and operated by the Diamondhead Property Owners Association, it is owned by Purcell Co., Inc. **Furthermore, to purposefully force a private property owner to "form the backbone" for recreation and social interaction for a public use would be arbitrary and capricious, amounting to inverse condemnation of private property – an unconstitutional taking without compensation.**

6. The "uses" allowed in PFR districts as a matter of right are public in nature [Note: except for "rental for less than 30 days" and "restaurant"]. The only uses allowed by right in PFR are: Ambulance Facility/Service; Outdoor Amusement Facility; ATM; City Buildings/Facilities; Fire/Police Stations; General Business Office [See: Definition #130, Zoning Ordinance @ Page 32]; Golf Course/Driving Range; Public Parks and Recreation Facilities; Rental for less than 30 days; Restaurant [no lounge]; Water Storage Facility; and Wildlife Sanctuary. One would think that adjoining residential property owners would prefer residential development of the subject properties rather than the development of potential public uses imposed by the current PFR zoning.

Therefore, we respectfully request that the Planning Commission recommend that the current zoning for Tax Parcel # 067G-2-25-010.002 and Tax Parcel # 067F-2-26-107.000 be corrected and their residential zoning classification be restored. Thank you for your consideration.

Sincerely yours,
Purcell Co., Inc.

By:



Carl H. Joffe
General Counsel

CC: Michael J. Reso, City Manager

Kapalama Drive



Parcel # 067G-2-25-010.002

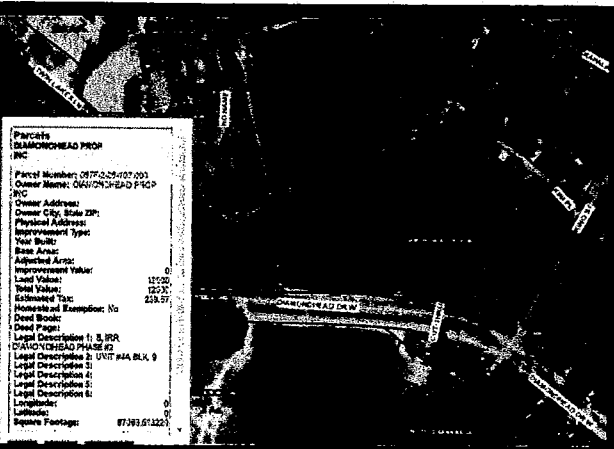
Approximately 2.1 Acres

Surrounding Properties

R-1 & R-2



Twin Lakes Property



Parcel # 067F-2-26-107.000

Approximately 2 Acres

Surrounding Property - R-2

