

To: Ronald R. Jones and Pat Rich, CBO Building Officials

Subject: Request for Conditional Use Permit

First, I would like to thank you for the opportunity to obtain a Conditional Use Permit. Please allow me to share a little bit about me and my perspective on some of the issues that have come up.

I am an Army veteran, a registered nurse, a widowed, sole female proprietor who started a business to give people visiting Diamondhead a quality place to stay. I started my business "Resorts On The Coast" with my first townhouse in Highpoint. Even with the Covid-19 crisis, I found it to be hugely successful and the guests have been wonderful. I have had a variety of people come through such as couples visiting their grandchildren, couples just wanting a get-away together, families who were just interested in the nearby beaches, individuals who have contracts at Stennis and needed a place to stay and numerous guests who have come to golf. The one thing they all had in common when I spoke with them is that they were concerned that it was getting harder and harder to find nice accommodations in Diamondhead. This sparked my interest in being able to offer accommodations for more people who want to visit Diamondhead as a group. I have geared my marketing to Family Reunions, Off Campus Business Meetings, and golf groups coming for tournaments. I wanted a place where they could golf, relax, cook and eat together.

Mr. Donald Walter presented a petition to the neighbors and I have no idea how it was presented or what he told them. He certainly did not present it to me to give me the opportunity to vote no. So, I would like to speak to the most common objections of having a vacation rental in your neighborhood.

Mr. Walter describes the access to Fairway Estates. He states that short term rentals reduce the safety and convenience of vehicular and pedestrian circulation in the vicinity and that it generates additional traffic that presents a potentially dangerous traffic situation in front of 7604 near a blind section of Fairway Dr. The entrance is engineered for two directional traffic, separated by an island which creates a safety barrier. Regardless of how the entrance is described, it has no bearing on my situation. Apparently, Mr. Walter has no idea what a vacation rental is. This is not a retail store generating tons of traffic coming and going. The property has ample parking for 6 cars so there will never be any reason to park on the street. The vacation rental will not bring in any more traffic than if Mr. Walter had family come visit once-a-month. This is my home, and these are my guests. Vacation rentals do not generate pedestrian or vehicular traffic beyond that is reasonably expected to be generated by a residential unit. I have consulted with Leigh Simpson & Associates, a national company, who states traffic safety in front of 7604 Fairway is the least of this City's worries. No intersection in this City is busier than Aloha Drive and Gex Drive. There are double yellow lines on Aloha Drive, yet traffic can turn left into Burger King crossing 2 lanes. At the very least there should be some type of barrier preventing that left turn. People can enter Burger

King on Gex Drive and also with a right-hand turn from Aloha Drive. Traffic safety definition lines to prevent head on collisions or accidents are not visible on the streets with the exception of one area of Golf Club Drive. Areas in the City need safety barriers to prevent vehicles from driving off the road and into the ditches. One example is on Alakoko Place where the ditch is not maintained because of its depth, which is at least 5-foot-deep on a curve.

Mr. Walter points out R-1 "Purpose" stating that short term rentals allow use of this property which does not perform a function appropriate to the Fairway Estates residential environment. Running a vacation rental out of one's home is no different than selling Amway or Avon from home or babysitting in the home. Since Covid-19 there are more businesses than ever running from homes. Furthermore, I am not conducting any business in the home at all. All business transactions are done on the internet. This is nothing more than a home occupation. In the February 28, 2019 version of the Code of Ordinances. Part II, Appendix A, Article 4.18 B states that home occupations are allowed within the City of Diamondhead subject to securing a permit from the zoning administrator.

The Supreme Courts of Texas, in Tarr v Timberwood ruled that occupants to whom Tarr rented to, used the home for a 'residential purpose' no matter how short-lived.

Washington Supreme Court, Wilkinson v Chiwawa Communities Association, ruled that if a vacation renter uses a home for the purposes of eating, sleeping and other residential purposes, this use is residential, not commercial, no matter how short the rental duration. It also stated that the owner's receipt of rental income whether on short or long-term rentals in no way detracts or changes the residential characteristics of the use by the tenant. Nor does the payment of business and occupational taxes or lodging taxes detract from the residential character of such use to make the use commercial in character.

Again, a third ruling, in Florida's First District Court of Appeals in Santa Monica Beach POA v Acord, ruled in favor of the owner because the uses of the tenant were for residential use and not commercial. So, as you can see courts in Florida, Texas, and California, as well as the California Coastal Commission, have found and upheld appeals that define vacation rentals as a residential use, rather than a commercial one.

While a hotel is a hotel today and will be the same hotel tomorrow, a vacation rental could be occupied by resident owners this week, short-term renters over a holiday weekend, and then go back to being a full-time residence again. Vacation rentals are without question, a residential use, and enjoy this flexibility under the law. Attempts to commercialize or redefine vacation rentals as hotels are tantamount to a ban or severely limiting action by states and municipalities because commercialization could ultimately wipe out this activity due to zoning restrictions like yours in Diamondhead. It might also make other owners susceptible to infrastructure changes such as fire and safety upgrades, ADA requirements, and health inspections. Because vacation rentals are a residential use, the implementation of commercial requirements effectively changes the nature of the structure and would act as a deterrent to those looking to

offer their homes as a vacation rental accommodation for travelers. The City of Diamondhead is going to need to address this zoning restriction regardless of my asking for a variance. With that said, allowing vacation rentals in the R1 areas is no different than allowing them in the condominium complexes. There are full time residents in Highpoint as well as vacation rentals and long-term rentals. In fact, my neighbor, Mike Turner, is a full time resident and has had no concerns or complaints regarding my visitors. Having a vacation rental on Fairway Drive is no different than having one on Highpoint Drive.

Mr. Walter's first bullet point – that short term rentals in Fairway Estates would detract from the basic elements of this well balanced and attractive residential area. I have spent a quarter of a million dollars to make this happen at my Fairway property. It is a beautiful property that I am very proud of. I would be happy for each of you to visit the AIRbnb or VRBO website to view my property for yourselves. I have single handedly cleaned the yard after 2 hurricanes to include the area of the golf course all the way to the cart path. I have painted shutters and updated the interior of my home. Whether or not my home is my full-time residence, or a vacation rental does not change the attractiveness of my home. I have improved this property extremely from its dilapidated condition and I have only had it for 3 months. If Mr. Walter thinks that my residence detracts from the attractiveness of the neighborhood, then why did he not take it up with the previous owner?

Bullet point # 2 is that Mr. Walter thinks that a vacation rental will have a negative effect on property values. Craig Kalkut, vice president of government affairs at the American Hotel & Lodging Association states that a home with "rentable" features might sell for more money according to some realtors. He also said there is evidence that vacation home sales are going up because these sorts of platforms have become a more common way to book a vacation. There is not a lot of data regarding this argument but all you have to do is ask a local realtor what impact a "mother-in-law suite" or a "pool house" has on the value of a home and they will tell you that the value is increased because of the rental potential.

Vacation rentals can bring a positive economic impact to a city or county in several ways. For example, they can provide a city with an additional income through tax revenues. At the same time vacation rental guests can benefit the community in the terms of economic infusion because guests will spend their money in other visitor related amenities such as restaurants, bars and golf courses. This provides the tax revenue to operate this city. Additionally, it can help residents make ends meet or enable young families to go on a holiday while retirees stay in their home. Many cities are approving vacation rentals in the hope to attract tourists as they currently lack good lodging as is the case in Diamondhead.

Another argument is that many people think that vacation rentals are just party houses that create noise. Noise and parties were one of the reasons that I opted to use the house as a vacation rental instead of looking for a long-term tenant. I felt short-term guests would create less wear and tear and that I would have more control over who

was in the house. Platforms like AirBnB, VRBO and Home Away include rating systems that evaluate both guests and hosts. Hosts can set rules prohibiting parties and specifying parking rules. My rental has ample parking for 6 automobiles and there will not be parking on the street. Hosts who get loud or unruly guests can turn to the rental platforms for recourse; in dire cases, guests may be asked to leave the property. However, there is ample motivation for guests to be on their best behavior because they know hosts will rate them following their stay. Conversely, living next to a loud long-term renter can be a big problem, and it can take more than a year to evict an un-neighborly tenant. In addition, the City of Diamondhead has a noise ordinance so my guest will be under even more supervision. Since I have been doing business, I have not had one complaint regarding my properties or guests.

Another argument is that some people think that living next to a vacation rental is like living next to a vacant house. The argument here is the lack of a consistent neighbor who is in the house every day. Most short-term guests stay over the weekend, so when a house is rented Thursday through Sunday each week, it is vacant Monday through Wednesday. The argument that the house is unoccupied half the time doesn't hold water for several reasons.

First, a vacation rental looks nothing like a vacant house. Vacant houses have peeling paint, overgrown yards. Vacant homes do not contribute to the neighborhood for example the home next to Patty Willis. That home has been vacant for years, is unsightly and is even a hazard due to a swimming pool. I could point out a few more Diamondhead houses that do not contribute to the neighborhood. My property has a maintained yard, new paint, clean windows. On the days it is unoccupied, I am cleaning and doing maintenance. I keep my properties in top condition because I want good ratings from my guests.

Second, the vacant-house argument reaches into the realm of trying to control how neighbors use their home. If the house was occupied by a long-term renter or owner who travels three days a week for a job, neighbors could not possibly expect the City to entertain complaints about the house being vacant.

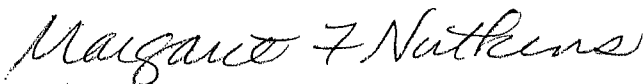
I had put a sign on my mailbox. This is my residence and I do receive mail for Resorts On The Coast at this mailbox. I understand how that can be interpreted as advertising, so I have removed the sign. I was happy that I put the sign up as I have been up front about what I am trying to accomplish. I am not hiding anything from anyone.

In closing, I want to be among other people across the City operating short-term rentals that are not within the condominium complexes. At the time of this writing, there were at least 9 on the same websites as mine. Some were whole house rentals; some were private rooms for rent and one had a guest suite for rent. All I know is that we are all renting with care and thought. I am sensitive to my neighbor's concerns and I care about the neighborhood my home is in. I am asking for a variance but want you to know that this ordinance could prove costly for vacation rental owners and seemingly aims to force regular folks like me out. This would leave those out-of-town corporate hosts without local competition. Local hosts like me spend their money in

Diamondhead and we always recommend local businesses to our guests. If we are all driven away that will only leave corporations and money that does not go back into Diamondhead. As a vacation rental host and neighborhood advocate, I would like to see locals – not out of town corporations – flourish within neighborhoods and Diamondhead as a whole.

I would like to say that the granting of the proposed Conditional Use Variance will not be detrimental to the public health, safety and general welfare. It will not adversely affect the established character and planned character of the surrounding vicinity. It will not be injurious to the uses, planned uses, property, or improvements adjacent to, and in the vicinity of the home. The granting of the Variance is consistent and compatible with the intent of the goals, objectives and policies of the City's Comprehensive Plan. All conditions necessary to lessen any impacts of the proposed use are conditions that can be monitored and enforced. The use will not introduce hazardous conditions at the site and there will be no public health, safety or community endangerment.

Please take into consideration my thoughts and concerns for a growing City of Diamondhead and a growing business called "Resorts On The Coast". Thank you.



Margaret F Nutkins

December 8, 2020

CC: Leigh Simpson & Associates