

# Memorandum

**To:** City of Dacula Planning Commission/  
City of Dacula Mayor and City Council

**From:** Hayes Taylor, City Planner

**Date:** February 26, 2024 (*Revised February 27, 2024*)

**Subject:** Change of Conditions Case: 2024-CD-COC-02

**Proposed Zoning:** PMUD (Planned Mixed-Use District)

**Existing Zoning:** PMUD (Planned Mixed-Use District)

**Size:** 1.22 acres

**Proposed Use:** Commercial/Fast-food

**Applicant:** WREG Harbins, LLC  
1958 Monroe DR NE  
Atlanta, Georgia 30319  
404-872-8666

**Owner:** WREG Harbins, LLC  
1958 Monroe DR NE  
Atlanta, Georgia 30319  
404-872-8666

**Location:** LL 300 - 5th District, Parcel 145

## Existing Land Use and Zoning:

The subject property totals 1.22 acres and is located in Out Lot A in the northwestern portion of the Harbins 316 development along Harbins Rd. Harbins 316 was zoned PMUD (Planned Mixed-Use District) pursuant to 2020-CD-RZ-03. Within the development there are various uses including a gas station, commercial uses, multi-family living, and senior living, currently under development. Within the planned mixed-use development, there is an existing fast-food restaurant with a drive-thru lane.

## The Proposed Development:

The applicant has requested a change of conditions to amend 2020-CD-RZ-03 Zoning Condition Set #2, Condition #5. The existing conditions limit the mixed-used development to one (1) fast food restaurant with a drive-thru and/or curbside service. The applicant is requesting to change Condition #5 to allow for an additional fast food establishment with curbside service.

The site plan depicts a proposed commercial fast-food restaurant (2,325 square feet) and a proposed urgent care facility (4,550 square feet) occupying a 6,875 square foot building with

no outdoor seating in Out Lot A with three (3) access points from Out Lot B, and none from Harbins Road. Automotive traffic from Harbins Rd must pass through the parking lot of Out Lot B, which contains a gas station designed for heavier automotive use. The application materials show the proposed curb service pick up lane for Chipotle on the northwest side of the building, accessible from a one-way drive, with a ten (10) foot landscape buffer on the southwest and northwest parcel boundaries. Site plans show that of the 1.22 acres, roughly 1.09 acres (48,000 square feet) will be impervious surface. Of the impervious surface area 6,875 square feet (0.15 acres) is the building footprint, roughly 18,556 square feet (0.426 acres) is the parking footprint, 3,700 square feet (0.09 acres) is dedicated to pedestrian walkways, and the remaining impervious acreage is dedicated to automotive traffic.

The letter of intent asserts that the “limited-service pick-up window” will not undermine the intent of the present set of conditions set by council because there are no menu boards or call boxes, decreasing “impulsive” vehicular traffic. Staff notes that the proposed end-user, Chipotle, would not be considered a fast food restaurant per the definition listed under Condition #5 (2020-CD-RZ-03), if there is no drive-thru or curb service use.

Council has set a policy to protect the City, citizens, and traveling public from excessive drive-thru and automotive traffic along Harbins Road (see 2020-CD-RZ-03 and 2022-CD-RZ-02) by limiting the number of fast food restaurants with drive-thru/curb services lanes to one (1) per development. The policy serves the purpose of traffic calming and assuring traffic flow on Harbins Road and internally in commercial parcels nearby. The policy further advances the goal of enhancing air quality by limiting extended vehicle idling. The requested change of conditions would modify this policy, break said precedent, and could lead to the proliferation of drive-thru/curb service lanes along this emerging commercial corridor.

The City of Dacula’s 2050 Comprehensive Plan designates the subject property and the surrounding area as the Emerging Commercial character area. Emerging Commercial land uses are identified as “commercial, office, and public/institutional” buildings with mixed-use character that facilitate “increased connectivity, and transportation model options” (The City of Dacula 2050 Comprehensive Plan, page 66). The proposed commercial food chain use falls within potentially permissible uses; however, the encouragement of expanded automotive transport within a mixed-use development conflicts with the character area’s policy recommendation.

**Summary:**

The requested change of conditions to allow for an additional curb service lane within the Harbins 316 development conflicts with the City’s policy goals outlined in the land use considerations for the Emerging Commercial Comprehensive Plan character area. As such, the Department recommends the requested change of conditions be denied.

**Comprehensive Plan:**

The subject parcel is designated as an Emerging Commercial on the City of Dacula's 2050 Future Development Map and designated Innovation District on the Gwinnett County 2040 Unified Plan.

The Dacula 2050 Comprehensive Plan describes the Emerging Commercial character areas as being "more pedestrian oriented" nodes with "mixed-use buildings" with "non-residential uses... oriented towards the street with direct pedestrian access, outdoor patios, plazas etc." (page 66).

The analysis of the application should be made based upon the "Standards Governing Exercise of the Zoning Power" as stated in Section 1702 of The 2000 Zoning Resolution of the City of Dacula.

***1. Whether the proposed change of conditions will permit a use that is suitable in view of the use and development of an adjacent and nearby property?***

Given the council precedent limiting automotive use in proximal parcels, the proposed change of conditions for an additional drive-thru/curb service is unsuitable. Furthermore, the use could be considered incompatible with the policies outlined in the character area description in the Dacula 2050 Comprehensive Plan.

***2. Whether the proposed change of conditions will adversely affect the existing use or usability of adjacent or nearby properties?***

The change of conditions could expand vehicular traffic within the outparcel and disincentivize pedestrian foot traffic from the nearby multi-family living, and senior living, currently under development.

***3. Whether the property to be affected by the proposed change of conditions has a reasonable economic use as currently zoned?***

Yes, the property has reasonable economic use as currently zoned and with its present conditions.

***4. Whether the proposed change of conditions will result in a use which will or could cause an excessive or burdensome use of existing streets, transportation facilities, utilities, or schools?***

Excessive and burdensome use of utilities or schools would not be expected should the request be approved with adequate measures to control traffic along Harbins Rd. The proposed change could contribute to increased burdens on existing streets and transportation facilities.

***5. Whether the proposed change of conditions is in conformity with the policy and intent of the Land Use Plan?***

The proposed change of conditions furthers dependence on a singular mode of transportation and may deter pedestrian use which may be considered oppositional to the land use considerations within the character area description.

6. *Whether there are other existing or changing conditions affecting the use and development of the property which give supporting grounds for either approval or disapproval of the proposed change of conditions?*

There is a clear Council precedent limiting drive-thru lane traffic within developments. The consequences of diverting from said precedent should be taken into consideration.

**Recommendation:**

Based on the application, the requested change of conditions is recommended for denial. If the City Council approves the change of conditions application, the following conditions are recommended:

*The Department notes the Planning Commission unanimously recommended approval with staff's recommended conditions for 2024-CD-COC-02 at the Public Hearing on February 26, 2024.*

*Changes from 2020-CD-RZ-3, Conditions Set #2 are below. Additions are shown in **bold** and deletions in ~~strikethrough~~.*

**Condition Set #2**

Conditions of the City of Dacula

Concept Plan and Land Use

- 1) The property shall be developed in accordance with the conceptual site plans prepared by Doulgerakis Consulting Engineers, Inc entitled Inland Pass: A Planned Mixed-Use Development **and Harbins 316-Outlot A Multi-Tenant Commercial** revised on June 17, 2021, **and December 14, 2023, respectively**. Any substantial deviation from the approved conceptual plan and / or remaining conditions of zoning shall be resubmitted to the City Council for consideration. The City Administrator shall determine what constitutes substantial deviation.
- 2) The following uses in the PMUD Zoning District shall be prohibited and made part of the owner's restrictive covenants: adult entertainment establishments, log splitting operations or storage lots, mobile home leasing or sales lots, taxi cab, limousine, or other for hire vehicle services (excluding public or private ambulatory services), solid waste transfer stations, the storage or warehousing of caustic or hazardous materials, animal rendering plants, bulk petroleum or natural gas plant and/or storage facilities, landfills, composting facilities, fertilizer manufacturing, foundries, heavy equipment rental or repair, hardship mobile homes, incinerators, junkyards, lawnmower repair shops, livestock feedlots, materials recovery facility, pawn shops, title loan and check cashing facilities, poultry houses, the raising of dangerous animals for profit or gain, privately owned septic

treatment facilities, stack houses, stand-alone crematories, truck stops and/or semi storage lots.

- 3) The following uses in the PMUD Zoning District shall be allowed with the approval of a Special Use Permit by the Mayor and City Council of the City of Dacula: contractor's offices with outdoor storage, machine/welding/radiator or muffler repair shops, vehicle rental (without driver), churches and/or religious facilities that are not located in a standalone building or structure, automotive sales lots, general auto repair, tire stores, muffler shops, boat sales establishments, crematories as an accessory to a funeral home, equipment rental sales or service (excluding heavy equipment) with associated outside storage, helicopter landing pads, mini-warehouse / personal storage facilities, fleet vehicle parking lots, tattoo and body piercing parlors, pool or billiard halls, liquor and/or package stores, van, moving or truck rental ( i.e. U-Haul, Ryder) or any other non-specified commercial and/or industrial business or use that could require outside storage.
- 4) All forms of on-site outdoor storage shall be subject to Special Use Permit approval by the Mayor and City Council. Garages within the multifamily and senior living projects shall be allowed.
- 5) Only one (1) fast food restaurant with or without drive-thru windows and/or curbside service shall be permitted. A fast food restaurant shall be defined as any establishment which dispenses food for consumption on or off the premises, and which has the following characteristics: a limited menu, items prepared in advance or prepared or heated quickly, no table orders, and food served in disposable wrapping or containers. Said definition shall exclude restaurants with drive-thru services whose primary product focuses on specialty coffees or donuts and exclude restaurants without a drive thru in a multi-tenant building. **One (1) restaurant located within a multitenant building may have drive-thru / curbside service limited to a single "pick-up window" provided there are no menu boards/call boxes and all food orders take place off site and in advance.**
- 6) The senior living facility shall include improvements to accommodate and assist the senior age group. Necessary improvements and services include elevators, interior corridors, larger hallways (minimum width of 72 inches or compliant with ADA requirements, whichever is greater), resident programming, on-site staff to assist with the needs of residents, and off-site transit / shuttle bus services for residents. In addition, seven (7) of the following amenities / services shall be provided: social clubs, a weekly schedule of activities, nail and hair salon, on-site physical therapy, water aerobics, massage and meditation rooms, wine bar, game rooms, movie theatre, and/or a community concierge.
- 7) The maximum number of senior living units shall not exceed 180.

### Architectural Design

- 8) The fronts and visible sides of non-residential building exteriors shall be constructed of brick, stone, stacked stone, stucco, EIFS, tilt-up concrete, and/or glass. The rear of the structures shall be finished with brick, stone, stucco, tilt-up concrete, glass, split faced block (CMU), painted block on the rear of the structures, or any combination thereof. Non-residential structures may contain accents of fiber-cement siding in addition to the primary construction materials. The Department of Planning and Development shall decide what is considered rear of the structure (if any). All non-residential buildings shall be constructed with flat roofs with architectural treatments to include canopies and varying parapet heights. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. The appearance of flat roof structures shall be avoided. Mansard style roofs shall be prohibited. Ground mounted mechanical, HVAC and like systems shall be screened on all sides by an opaque wall of brick, stucco, split faced block or wood. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or surface parking areas of the development. Architectural design shall lend the appearance of multi-tenant occupancy; facades of multi-tenant buildings shall have varied parapet height. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.
- 9) Residential building exteriors shall, at a minimum, be constructed of fiber cement siding with accents of brick, stone, stacked stone, stucco, or cedar shake on all sides. Vinyl siding shall be prohibited except as used for maintenance free accent elements such as soffits, and window casings. Residential buildings shall be constructed with a pitched roof, minimum 4 to 12 pitch, or flat roof with architectural treatments to include canopies and parapets of varying heights to avoid the appearance of a flat roof. A combination of pitched roofs and architectural parapet treatments shall be allowed with City approval. Ground mounted mechanical, HVAC and like systems shall be screened from public view by an opaque wall of brick, stucco, split faced block or wood, or landscaping. Elevated or roof mounted mechanical, HVAC and like systems shall be positioned in such a way as to not be visible from the front street level or parking areas of the development. Final architectural plans and color palate shall be submitted to the Department of Planning and Development for approval.
- 10) Architectural design of multi-family and senior living facilities shall be developed in accordance with the elevations/renderings received on March 28, 2021. Any substantial deviation shall be resubmitted to the City Council for consideration. The City Administrator or his/her designee shall determine what constitutes substantial deviation. Color changes shall not constitute a substantial deviation.
- 11) Multi-family and senior living facilities shall be limited to a maximum of 5-stories.
- 12) Attached residential units shall be a minimum of 720 square feet for single bedroom, 1,000 square feet for two bedroom, and 1,200 square feet for three bedrooms.

- 13) Any accessories provided such as railings, benches, trash receptacles and / or bicycle racks shall complement the building design and style.
- 14) Chain link fence shall be prohibited except around the stormwater management ponds and the multifamily and senior living dog parks. All chain link fences shall be black vinyl.
- 15) All trash dumpsters shall be screened by an enclosure using the same exterior building material as the adjacent occupied buildings. Pickup shall be limited to the hours of 7:00 a.m. to 9:00 p.m. Monday through Saturday. Dumpster enclosures shall remain closed, locked, and in good repair at all times.

#### Landscaping and Parking

- 16) A ten (10) foot wide landscape strip from the proposed ROW shall be provided along the entire tract frontage of Harbins Road. The landscape strip shall be planted so as to not impede site distance along Harbins Road.
  - a. Provide non-ornamental shade trees spaced 30-feet on-center along the Harbins Road right-of-way and both sides of the private drive. All street trees shall be a minimum 3-inch caliper (dbh) at the time of planting. Street trees shall be planted at least six-feet from back-of-curb subject to review and approval of the City of Dacula and Gwinnett Department of Transportation.

Street trees shall be of one or a combination of the following species:

1. Willow Oak
2. Overcup Oak
3. Nuttall Oak
4. Pin Oak
5. Shumard Oak
6. Lacebark Elm

- 17) A fifty (50) foot wide landscape strip measured from the property line shall be provided along the southern property line of the multi-family tract. The landscape strip shall be planted with a minimum of two (2), 6-foot high trees staggered every 15 linear feet and supplemented with understory plantings.
- 18) Provide a 20-foot wide landscaped buffer along the rear boundary line of the retail tract as shown on the concept plan. The landscape buffer shall be planted with a row of Leyland Cypress or Cryptomeria trees, planted 20-foot on center, and include a 6-foot height decorative fence. Said fence shall be maintained by the property owner and be in good repair at all times.
- 19) Provide a 10-foot wide landscaped buffer along the side and rear property lines of developing parcels, units, or phases. Landscape buffers shall be planted with a single

row of Leyland Cypress or Cryptomeria trees, planted 30-foot on center. The buffer can be eliminated after a Building Permit has been issued on adjacent property.

- 20) A parking lot landscape plan shall be submitted to the City for approval prior to a development permit issuance. At a minimum, the landscape plan shall include monument sign locations and should ensure that each parking island/strip will have a minimum of one (1) ornamental shade tree per 25 feet. Fifty (50) percent of all parking area trees shall be a minimum of 2-inch dbh caliper and fifty (50) percent shall be a minimum of 3-inch dbh caliper.
- 21) Parking lot lighting shall be directed in toward the property so as not to shine directly into adjacent properties.
- 22) Natural vegetation shall remain on the property until issuance of a land disturbance permit.
- 23) **Curb service lanes must have protruding corners with adequate landscaping to protect the curb service lane from street view. The subject site, pursuant to 2024-CD-COC-02, with drive-thru and/or curb service must have raised pedestrian crosswalks, and a bicycle rack protected by a canopy or the building awning to encourage multi-modal activity. The additional requirements will be submitted with the landscape plan for the City's approval.**

#### Signage and Advertising

- 24) The subject site shall be limited to two (2) planned multi-use center signs along Harbins Road. Each sign is limited to a maximum 150-square foot of advertising space. Monument signs shall not exceed a maximum 20-foot in height for Harbins Road, signs shall be constructed with a brick or masonry base (minimum two feet in height) matching the materials of the buildings. Signs shall be located so as to not impede site distance along Harbins Road. Internally illuminated and indirect lighting shall be allowed for signage at the project entrance(s) along Harbins Road. Sign location and design criteria are subject to review and approval by the City of Dacula.
- 25) Ground signage shall be limited to one monument-type sign for each commercial out lot / out parcel fronting Harbins Road and one monument-type sign per road frontage abutting each of the specified tracts: retail/grocer tract, office/commercial/industrial tract, multi-family tract, and senior living tract. Each sign is limited to a maximum 50-square foot of advertising space. Monument signs shall not exceed a maximum of 6-foot in height and shall be constructed with a brick base (minimum two feet in height) matching the materials of the buildings. Neon signs shall be prohibited. Signs shall be set back 15-feet from right-of-way of Harbins Road and located so as to not impede site distance along Harbins Road. Sign location and design subject to review and approval by the City of Dacula.



- 25) Temporary signage shall be regulated and/or permitted as stated in Article XII (Signs and Advertising) of the City of Dacula Zoning Resolution with the following exceptions:
  - a. Business specific temporary signage must be mounted flush onto or against existing permitted structures within the development.
  - b. Temporary signage shall be prohibited on individual residential units.
- 26) Live human advertisement shall be prohibited within the subject area. To include, but not necessarily be limited to, sign spinners, twirlers, dancers, clowns, and / or other similar temporary advertising methods commonly provided by costumed or animated humans.
- 27) Tents, free-standing-canopies, streamers or roping decorated with flags, tinsel, decorative balloons, hot-air balloons or other similar materials shall be prohibited on the site. Yard and sail signs shall be permitted for residential leasing purposes only.
- 28) Oversized signs or billboards shall be reviewed and permitted separately and must abide by the procedures and regulations as stated in Article XII of the Zoning Resolution.

#### Transportation and Infrastructure

- 29) A Traffic Impact Study shall be provided prior to the issuance of a development permit. Prior to the issuance of the first certificate of occupancy, the applicant shall make any improvements recommended by the traffic impact study, provided the improvements are approved by the City of Dacula and Gwinnett County Department of Transportation respectively. All design and construction will be subject to Gwinnett County D.O.T. review and approval.
- 30) Provide a Signal Warrant Study for the signalization of the intersection of West Drowning Creek Road and Harbins Road to the City of Dacula and Gwinnett County Department of Transportation for review. If it is determined by the signal warrant study that a signal is warranted, and the signal is approved by the Gwinnett County D.O.T., The developer shall incur all costs of the required signal including studies, design with interconnect to adjoining signals, any additional right of way/easements, utility relocations and construction. The developer shall also contract for the installation of the signal by a D.O.T. approved contractor. All design and construction will be subject to Gwinnett County D.O.T. review and approval. The signal will be installed and operational prior to the issuance of the first certificate of occupancy. The developer shall provide documentation to the City verifying payment for materials and installation of the traffic signal.
- 31) Include Interconnect with the signalized intersections of SR 316 and Harbins Road.
- 32). Coordinate with the Georgia Department of Transportation (DOT) for their project PI#0013899 located on SR 316 University Parkway

- 33) All intersection/street widening/entrance plans for Harbins Road shall be submitted and are subject to review and approval by the City of Dacula and the Gwinnett County Department of Transportation.
- 34) Street widening and road improvements, to include the first 400 linear feet of the new two-lane private drive with planted median, shall be installed and functional prior to the issuance of a certificate of occupancy for any portion of the development.
- 35) It shall be the responsibility of the applicant to secure at no cost to the City and/or Gwinnett County, all necessary right-of-way to implement the required improvements.
- 36) Ownership and maintenance of drives, roads, side streets, alleys, and/or parking lots found on the subject site shall be the responsibility of the developer and/or private property owner.
- 37) All new utility lines shall be located underground. The developer shall be responsible for the relocation of public or private utilities and stormwater infrastructure.
- 38) Utilities shall be placed on the developer's property whenever possible, appropriate access and maintenance easements shall be filed at the time of final plat approval for any one parcel or section of the subject development.
- 39) Provide inter-parcel access (curb cuts) where possible to contiguous parcels of the mixed use development.
- 40) All vehicular access onto the proposed private drive must meet the City of Dacula's project access improvement standards of a public road. All improvements shall be provided by the developer.
- 41) A five-foot sidewalk shall be required adjacent to Harbins Road right-of-way. The sidewalk location shall be reviewed and approved by the City of Dacula and Gwinnett County Department of Transportation.
- 42) Five-foot wide sidewalks shall be required adjacent to both sides of the proposed private drive. Sidewalks shall be constructed with an additional 2-foot by 8-foot pad approximately every 300 linear feet to accommodate pedestrian amenities such as benches, planters, and trash containers. All such required amenities shall be decorative, commercial-quality fixtures. Sidewalk design and placement of any of these amenities shall be reviewed and approved by the City of Dacula.
- 43) Provide decorative light poles / fixtures along Harbins Road right-of-way and the interior private drive. Streets lights shall be staggered, 150 feet on-center. Light poles shall be black and a maximum 20 feet high. All street lighting shall be subject to review and approval of the City of Dacula and Gwinnett County Department of Transportation. Where applicable, streetlights shall be placed adjacent to required pedestrian amenity sidewalk pads. The property owner shall be responsible for street light maintenance and lighting fees. A separate lighting plan showing type of light and locations shall be submitted to the City for review and approval.

- 44) Applicant shall construct a southbound right turn deceleration lane along Harbins Road at W Drowning Creek Road with any modification or variation from design approved in writing by the Director of Gwinnett Department of Transportation.

#### Private Access

- 45) The free-standing multi-family residential and senior living portion(s) of the mixed use development may be gated, with controlled resident access, both vehicular and pedestrian.
- 46) It is the responsibility of the owner and/or developer to provide pass codes, keys, and/or up to date contact information for controlled entrance locations to the Dacula Marshal's Department, Gwinnett County Police Department, and Gwinnett County Fire Department.
- 47) Contact information for any maintenance associations, homeowner associations, and/or private security company's shall be submitted and updated regularly with the Dacula Marshal's Department.
- 48) Provide controlled access for all residential apartment pods. Controlled access shall consist of gates, swing fences, entry posts, or other similar mechanism to control vehicular or pedestrian movement within residential (apartment) pods.

#### Grading and Phasing

- 49) Prior to the issuance of a Land Disturbance Permit or Development Permit for mass grading, the Developer or Land Owner will submit a "Bond Stabilization and Landscape Plan" to the City of Dacula which will provide for the permanent stabilization of disturbed area(s) via rye grass seeding, tree replanting and landscaping in accordance with the City's Development Regulations and these conditions of zoning. Tree replanting along the frontage of Harbins Road and both sides of the private drive shall include non-ornamental shade trees spaced 30-feet on-center, six feet from the right-of-way or pavement edge of the private drive. All street trees shall be a minimum 2-inch caliper (dbh) at the time of planting. Interior replanting of disturbed areas shall include five (5) two-inch caliper trees (DBH) per acre.

Once the "Bond Stabilization and Landscape Plan" has been approved by the City Administrator, and prior to the issuance of any Land Disturbance or Development Permit, Developer or Land Owner shall post a performance bond in favor of the City of Dacula to guarantee the replanting of the disturbed acreage in accordance with the City's Development Regulations and these conditions of zoning. The performance bond amount shall be equal to \$15,000.00 per acre disturbed. The bond shall be in the form of a Letter of Credit from an FDIC insured institution or an insurance company in good standing with the Georgia Insurance Commissioner's office, authorized to do business in Georgia, and rated "A" or better by the rating agency A.M. Best. The Surety must also be listed on the

U.S. Department of Treasury's Circular 570. The City staff shall approve the form of the performance bond and the qualifications of the surety prior to execution of the bond.

In the event that Developer/Land Owner has not obtained a building permit within twelve (12) months of the issuance of the Land Disturbance or Development Permit, whichever is first issued, then the City of Dacula will redeem the performance bond [or equivalent security acceptable to the City of Dacula] to fund the implementation of the Bond Stabilization and Landscape Plan. The performance bond [or equivalent security acceptable to the City of Dacula] will terminate and/or be surrendered or returned once the improvements shown in the Bond Stabilization and Landscape Plan have been completed or a building permit is issued on any parcel of the development.

- 50) Site grading adjacent to the main project entrance shall be consistent in elevation to the right-of-way of Harbins Road to ensure adequate sight distance.