

# Memorandum

**To:** City of Dacula Mayor and City Council  
**From:** Brittini Nix, Director of Planning & Economic Development  
**Date:** April 13, 2022  
**Subject:** Variance Case: 2022-CD-VAR-02  
**Existing Zoning:** C-2 (General Business District) & C-1 (Neighborhood Commercial District)  
**Size:** 1.47 acres  
**Applicant:** Peter Thakkar  
871 Valla Crucis Ln  
Dacula, GA 30019  
**Owner:** Jalabapa Investments, LLC  
475 Dacula Rd  
Dacula, GA 30019  
**Location:** LL 301 - 5th District, Parcels 027 & 309

## Existing Land Use and Zoning:

The site is located in the northeast quadrant of the Harbins Road and Freeman’s Mill Road intersection. The subject property is comprised of two parcels and totals 1.47-acres. The northern parcel (parcel 309) is zoned C-2 (General Business District) and was rezoned in 2002 pursuant to CD-RZ-02-02 for Towler Village, a “high-end retail neighborhood business” use. It has since remained undeveloped. The southern parcel (parcel 027) is zoned C-1 (Neighborhood Commercial District). Said parcel contains a Kwick Check convenience store and BP gas station.

A vacant drugstore, zoned C-2, is located adjacent to the north. The eastern property boundary is located adjacent to vacant commercial property, which supports a package sewer plant and associated drainage field. To the west, and across Harbins Road, is a mixture of uses and zonings including commercial (C-1), office (O-I), and residential (R-1200).

## The Proposed Rezoning & Development:

The applicant plans to demolish the existing gas station / convenience store and construct a new gas station / convenience store on the subject site. While the use is permitted within the C-2 and C-1 Zoning Districts, the applicant has requested a variance from the City's Buffer, Landscape, and Tree Ordinance.

The Ordinance requires one (1) 6-foot tree every 50 feet within 5-foot wide landscape strips (Article 4, Section 4.2) and for the overall site to contain 16 tree density units per

acre (Article 5, Section 5.3). The applicant proposes planting 9.6 tree density units on-site including five (5) 3” trees on the Freeman’s Mill Road frontage. Application materials state that planting additional trees along the road frontages would impede site distance from the access points, and as such, impose a safety concern for drivers and pedestrians.

Staff notes the property’s existing conditions provide limited options for tree planting. The site is constrained by an existing stormwater easement (east), steep topography (north), and multiple road frontages (south and west) that restrict potential planting locations. In addition, future right-of-way acquisition and road widening could impact the Harbins Road access point and the location of the proposed landscape strips.

The applicant proposes landscaping the road frontages with additional understory plantings / shrubs to exceed Ordinance requirements. In addition, a donation of \$2,500 has been offered in-lieu of tree density units to supplement the reduced number of trees on-site. The donation to the City would be utilized for tree planting and maintenance at the City’s discretion.

**Summary:**

Site conditions prevent the applicant from adhering to the City’s Ordinance without introducing adverse impacts. As such, the requested variance could be considered suitable. The Department recommends the requested variance be approved with conditions at this location.

**Comprehensive Plan:**

The subject parcel is designated as Community Mixed Activity Use Center and Neighborhood Commercial on the City of Dacula’s 2030 Future Land Use Plan.

The analysis of the applications 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 variance will permit a use that is suitable in view of the use and development of an adjacent and nearby property?***

Yes, the proposed use of the site would remain consistent with neighboring properties and would thus be suitable at this location.

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

The variance would not be expected to negatively impact surrounding properties.

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

Yes, the subject property has a reasonable economic use as currently zoned.

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

The proposed use is not expected to increase the burden of use for existing streets, transportation facilities, utilities, or schools.

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

The City of Dacula's Future Land Use Map designates the property for community mixed activity use center and neighborhood commercial. As such, the proposed use and variance would be considered suitable at this location.

**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 and special exception?***

Site conditions limit land availability for planting trees without inhibiting line of sight and vehicular safety.. As such, meeting the requirements of the Buffer, Landscape, and Tree Ordinance could hinder the development and introduce adverse impacts by planting an excess amount of trees in the landscape strips in order to conform to the City's Ordinances.

**Recommendation:**

*Based upon the application, the requested variance is recommended for **approval with the following conditions.***

A. To restrict the use of the property as follows:

1. Retail, service commercial, office, and accessory uses.

B. To satisfy the following site development considerations:

1. Provide a five-foot wide landscape strip outside the dedicated rights-of-way of Harbins Road and Freeman's Mill Road. The landscape strips shall include at least two (2) understory plantings / shrubs per 10 linear feet.
2. Dumpsters shall be screened by a 100 percent (100%) opaque masonry fence or wall matching the buildings, a minimum of six (6) feet in height. Dumpster pickup shall be between the hours of 7:00 AM and 7:00 PM, Monday through Saturday. Dumpster enclosures shall remain closed, locked, and in good repair at all times.
3. Provide five (5) foot wide sidewalks along Winder Highway and Freeman's Mill Road.
4. Billboards/Outdoor Advertising Signs shall be prohibited.

5. Buildings shall be finished with architectural treatments of glass, and/or stone and/or brick, or other suitable materials submitted and considered by the City Council as appropriate to meet this condition.
6. The development shall be limited to monument type ground signs. Monument signs shall have a base matching the architectural treatment of the buildings.
7. Outdoor lighting shall be contained in cut-off type luminaries which do not reflect into nearby properties or roadways.
8. Provide interparcel access driveways between the commercial parcels where practical.
9. No outdoor speakers or public address system shall be allowed.

C. Variances are granted with the following provisions:

1. The applicant / developer shall provide a \$2,500 donation to the City for tree planting and maintenance in-lieu of providing 11.68 tree density units on-site.
2. A variance to replace the landscape strip trees fronting Harbins Road with understory plantings / shrubs is granted. The landscape strip shall include at least two (2) understory plantings / shrubs per 10 linear feet.
3. A minimum of five (5) 3" DBH trees must be planted in the landscape strip fronting Freeman's Mill Road.
4. A minimum of two (2) understory plantings / shrubs shall be planted per 10 linear feet of the Harbins Road and Freeman's Mill Road frontage.
5. The proposed tree species and plantings shall be shown in a landscape plan submitted for review to the City. Approval by the City is required prior to development permit issuance.
6. The southern side setback of parcel R5301 039 and the northern side setback of parcel R5301 027 are waived to accommodate a singular building straddling both parcels.