

# **REZONING CASE: 2020-CD-RZ-03**

**Owner: IMCC Harbins, LLC c/o Inland Mortgage Capital, LLC**

**Applicant: WWP Acquisition, LLC c/o Andersen, Tate & Carr, P.C.**

## **APPROVED CONDITIONS OF ZONING– July 1, 2021**

### **Condition Set #1**

Resulting from regional review (DRI) by the Atlanta Regional Commission (ARC) & the Georgia Regional Transportation Authority (GRTA)

### **Attachment A - GRTA General Conditions**

#### **Pedestrian, Bicycle, and Transit Facilities**

- 1) Provide pedestrian connectivity between all buildings and uses.
- 2) Install sidewalks along the entire property frontage of Harbins Road.

#### **Harbins Road at W Drowning Creek Road**

- 3) Install a traffic signal, if and when warranted, per Gwinnett County Department of Transportation standards and approval.
- 4) Install a southbound left turn lane.
- 5) Install a northbound right turn deceleration lane.
- 6) Install a northbound left turn lane.

### **Attachment B - Required Elements of the DRI Plan of Development: Conditions Related to Altering Site Plan after GRTA Notice of Decision**

The on-site development will be constructed materially (substantially) in accordance with the Site Plan. Changes to the Site Plan will not require re-review from GRTA so long as the following GRTA conditions are included as part of any changes:

- 7) All “Proposed Conditions to GRTA Notice of Decision” set forth in Attachment A are provided.

## **Attachment C – Required Improvements to Serve the DRI**

Pursuant to Section 1-201.R. of the *Procedures and Principles for GRTA Development of Regional Impact Review*, a “Required Improvement means a land transportation service [def. in Section 1-201.N] or access [def. in Section 1-201.A.] improvement which is necessary in order to provide a safe and efficient level of service to residents, employees and visitors of a proposed DRI.”

The Required Improvements in the study network were identified in the Review Package as necessary to bring the level of service up to an applicable standard before the build-out of the proposed project. These requirements are identified in Sections 1 and 2 of this Attachment. Section 1 contains improvements that do not require GRTA approval at this time because they are to be constructed prior to the completion of the DRI Plan of Development. However, GRTA approval shall be required in the event state and/or federal funds are proposed at a later date to be used for any portion of the improvements described in Section 1. Section 2 contains improvements that require GRTA approval prior to the expenditure of state and/or federal funding. Subject to the conditions set forth in Attachment A and Attachment B, GRTA approves the expenditure of state/and or federal funding for the improvements contained in Section 2.

### ***Section 1:***

#### ***General Conditions of Approval to GRTA Notice of Decision:***

##### Pedestrian, Bicycle and Transit Facilities

- 8) Provide pedestrian connectivity between all buildings and uses.
- 9) Install sidewalks along the entire property frontage of Harbins Road.

#### ***Roadway Improvement Conditions to GRTA Notice of Decision:***

##### Harbins Road at W Drowning Creek Road

- 10) Install a traffic signal, if and when warranted per Gwinnett County Department of Transportation standards and approval.
- 11) Install a southbound left turn lane.
- 12) Install a northbound right turn deceleration lane.
- 13) Install a northbound left turn lane.

***Section 2:***

Pedestrian, Bicycle and Transit Facilities

- 14) Include pedestrian connections from the proposed apartment and senior living tracts to the proposed community park on the eastern portion of the project.
- 15) Include pedestrian connections from the proposed apartment tract to the proposed retail/grocer and shops tract.

Harbins Road at W Drowning Creek Road

- 16) Install an eastbound left turn lane.
- 17) Install a southbound right turn deceleration lane.

Harbins Road at New Hope Road

- 18) Monitor traffic conditions and identify needed improvements, as necessary.

## 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 plan prepared by Doulgerakis Consulting Engineers, Inc entitled Inland Pass: A Planned Mixed-Use Development revised on June 17, 2021. 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.
- 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. Nuttal Oak
4. Pin Oak
5. Shumard Oak
6. Lacebark Elm
7. Japanese Zelkova

- 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 insure 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.

### Signage and Advertising

- 23) 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.
- 24) 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, multifamily 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.

### **Condition Set #3**

Approved Conditions of requested variances, variations, and waivers to City ordinances and regulations.

- 1) The maximum number of multi-family units shall not exceed 320.