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RESOLUTION NO. 25-09

A RESOLUTION OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, CONFIRMING THE TOLLING OF TIME FOR THE DEVELOPMENT RIGHTS, CONDITIONS AND SAFEGUARDS, AND THE TIME PERIODS SET FORTH IN TOWN OF DUNDEE RESOLUTION NO. 22-53 AND FURTHER APPROVING, CONFIRMING, AND/OR RATIFYING THE SITE DEVELOPMENT PLAN FOR THE XTREME CAR CENTER, INC., ON AND/OR FOR REAL PROPERTY TOTALING APPROXIMATELY 1.24 +/- ACRES AND FURTHER IDENTIFIED AS POLK COUNTY PROPERTY APPRAISER PARCEL IDENTIFICATION NUMBER 272828-844000-005020; MAKING FINDINGS; AUTHORIZING THE TOWN MANAGER TO TAKE ALL NECESSARY FURTHER ACTION(S); PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, the Town of Dundee (the "Town") is a Florida municipal corporation vested with home rule authority pursuant to the Municipal Home Rule Powers Act (F.S. Chapter 166) and Article VIII, §2 of the Florida Constitution; and

WHEREAS, pursuant to Section 2(b), Article VIII of the Florida Constitution and Chapter 166, Florida Statutes, the Town is vested with governmental, corporate and proprietary powers to enable it to conduct municipal government, perform municipal functions, and render municipal services, including the general exercise of any power for municipal purposes; and

WHEREAS, Xtreme Car Center, Inc. (the "Owner"), an active Florida corporation, is the owner of the real property which is located at 217 Dundee Road, Florida (hereafter the

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“Property”); and

WHEREAS, Owner was conveyed fee simple ownership of and/or for the Property by virtue of that certain Corporate Warranty Deed dated December 31, 2020, and recorded in Official Records Book 11525, Page 1, Public Records of Polk County, Florida (hereafter the “Owner Deed”); and

WHEREAS, copies of the Owner Deed and depiction of the Property are attached hereto as **Composite Exhibit “A”** and made a part hereof by reference; and

WHEREAS, the Property has a Town of Dundee zoning designation of General Retail Commercial (CC); and

WHEREAS, on June 28, 2023, Senate Bill 250 (“SB 250”), as codified under *Chapter 2023-304, Laws of Florida*, was signed into law and, except as otherwise stated in SB 250, went into effect on July 1, 2024; and

WHEREAS, SB 250 amended Section 252.363, Florida Statutes (2023), extending the tolling and extension of *development order(s)* and *development permit(s)* (as such term(s) are defined in §163.3164, *Florida Statutes*) during a declared state of emergency issued by the Governor; and

WHEREAS, pursuant to SB 250, the amendment(s) to Section 252.363, Florida Statutes (2023), applied retroactively to September 28, 2022; and

WHEREAS, on Friday, September 23, 2022, the Governor of the State of Florida (the “Governor”) issued Executive Order 22-218, as subsequently amended by Executive Order 22-219, declaring that a State of Emergency existed for the entire State of Florida, inclusive of Polk County, as a consequence of Hurricane Ian; and

WHEREAS, on January 10, 2023, at a duly noticed public meeting, the Town Commission of the Town of Dundee (the “Town Commission”) passed and approved *Town of Dundee Resolution No. 22-53* (the “Resolution”); and

WHEREAS, the Resolution approved the *site development plan* and *special exception* for Xtreme Car Center, Inc., for certain automobile sales and minor automotive repair with conditions and/or safeguards; and

WHEREAS, a copy of the Resolution is attached hereto as **Exhibit “B”** and made a part hereof by reference; and

WHEREAS, on February 14, 2025, the Governor issued Executive Order 25-42 (the “Order”) extending the Executive Order 22-218, as previously extended by Executive Order 24-287, renewing and extending the state of emergency and all provisions of Executive

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Order 22-218, as amended, for sixty (60) days following the effective date of the Order (extended to April 15, 2025); and

WHEREAS, a copy of the Order is attached hereto as **Exhibit “C”** and made a part hereof by reference; and

WHEREAS, pursuant to applicable Florida law, the Resolution is a *development order and/or development permit* (as such term(s) are defined in §163.3164, *Florida Statutes*); and

WHEREAS, pursuant to *Section 252.363 of the Florida Statutes*, as retroactively amended by SB 250 and effective September 28, 2022, the declaration of a state of emergency issued by the Governor *tolls* the period remaining to exercise the rights under a *development order, development permit*, or other authorization for a period of 24-48 months in addition to the duration of the emergency declaration (i.e., the *tolled* period); and

WHEREAS, pursuant to *Section 252.363 of the Florida Statutes*, as amended, beginning on the effective date of the Resolution (effective January 10, 2023) (see **Exhibit “B”**), the development right(s), the condition(s) and safeguards, and the time period(s) set forth in the Resolution have been tolled and remain tolled in accordance with the terms of the Order (see **Exhibit “C”**); and

WHEREAS, on September 10, 2024, at a duly noticed public meeting, the Town Commission passed and adopted *Town of Dundee Ordinance No. 24-09* (the “Moratorium”) establishing a moratorium on and/or for the acceptance and processing of applications for annexations, rezonings, building permits, planned developments, master planned communities, development order(s), and development permit(s); and

WHEREAS, pursuant to the terms and conditions of the Moratorium, the Moratorium does not apply to development located on real property with a zoning designation of General Retail Commercial (CC); and

WHEREAS, the Town of Dundee, Florida, has complied with all requirements and procedures in processing and adopting this **Resolution No. 25-09**; and

WHEREAS, on March 11, 2025, at a duly noticed public meeting, the Town Commission discussed and confirmed the tolling of the development rights and time periods set forth in the Resolution (see **Exhibit “B”**), and the Town Commission further confirmed and ratified the current Xtreme Car Center, Inc., site development plan ; and

WHEREAS, the March 11, 2025, Town of Dundee Staff Report, site development plan, and supporting documentation are attached hereto as **Composite Exhibit “D”** and made a part hereof by reference; and

WHEREAS, the Town Commission finds that the approval of this **Resolution No. 25-09** preserves, enhances, and encourages the most appropriate use of land consistent with applicable Florida law, the public interest, and the *Town of Dundee 2030 Comprehensive Plan* policies, goals, and objectives; and

WHEREAS, the Town Commission of the Town of Dundee, Florida, finds that the approval of this **Resolution No. 25-09** is intended to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; is consistent with the public interest and this **Resolution No. 25-09** is intended to promote, protect, and improve the public health, safety, and general welfare of the employees, citizens, and residents of the Town of Dundee, Florida.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, AS FOLLOWS:

Section 1. Incorporation of Recitals.

The above-referenced factual recitals (WHEREAS clauses) and referenced exhibits are incorporated herein as true and correct statements which form a factual and material basis for the passage of this **Resolution No. 25-09**, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the passage of this **Resolution No. 25-09**. The above factual recitals are hereby incorporated herein and serve as a factual and material basis for the passage of this **Resolution No. 25-09**.

Section 2. Confirmation and Approval.

The Town Commission of the Town of Dundee, Florida (the "Town Commission"), having been otherwise fully advised in the premises hereby confirms the *tolling* of the development rights, conditions and safeguards, and the time periods set forth in *Town of Dundee Resolution No. 22-53* (the "Resolution") (see **Exhibit "B"**) in accordance with applicable Florida law; and the Town Commission further approves, confirms, and/or ratifies the current Xtreme Car Center, Inc., site development plan (see **Composite Exhibit "D"**).

Section 3. Authorization.

The Town Manager, or her/his designee, is hereby authorized to take any and all necessary further action(s) to effectuate the intent of this **Resolution No. 25-09** which includes, but shall not be limited to, directing and authorizing a certified copy of this **Resolution No. 25-09** to be recorded in the public records of Polk County, Florida.

Section 4. Conflicts.

All resolutions in conflict with this **Resolution No. 25-09** are repealed to the extent necessary to give this **Resolution No. 25-09** full force and effect.

Section 5. Severability.

The provisions of this **Resolution No. 25-09** are severable. If any section, subsection, sentence, clause, phrase of this **Resolution No. 25-09**, or the application thereof shall be held invalid, unenforceable, or unconstitutional by any court, administrative agency, or other body with appropriate jurisdiction, the remaining section, subsection, sentences, clauses, or phrases under application shall not be affected thereby. The Town Commission of the Town of Dundee hereby declares that it would have passed this **Resolution No. 25-09**, and each section, subsection, clause, or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses, and phrases be declared invalid, unenforceable, or unconstitutional, or unenforceable. If any word, sentence, clause, phrase, or provision of this **Resolution No. 25-09** for any reason is declared by any court of competent jurisdiction to be invalid, unenforceable, or unconstitutional, then all remaining provisions and portions of this **Resolution No. 25-09** shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this **Resolution No. 25-09** is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions of this **Resolution No. 25-09**. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this **Resolution No. 25-09**, and each section, subsection, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses and phrases be declared unconstitutional.

Section 6. Administrative Correction of Scrivener's Errors.

It is the intention of the Town Commission that sections of this **Resolution No. 25-09** may be renumbered or re-lettered and the word "resolution" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and sections of this **Resolution No. 25-09** may be re-numbered or re-lettered and the correction of typographical and/or scrivener's errors which do not affect the intent may be authorized by the Town Manager or designee, without need of public hearing, by filing a corrected or re-codified copy of same with the Town Clerk.

Section 7. Effective Date.

This **Resolution No. 25-09** shall take effect immediately upon passage by the Town Commission of the Town of Dundee, Florida, *nunc pro tunc* to March 11, 2025..

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READ, PASSED AND ADOPTED at a duly called meeting of the Town Commission of the Town of Dundee, Florida, assembled on the 8th day of April, 2025.

TOWN OF DUNDEE

Samuel Pennant, Mayor

ATTEST WITH SEAL:

Erica Anderson, Town Clerk

Approved as to form:

Frederick J. Murphy, Jr., Town Attorney