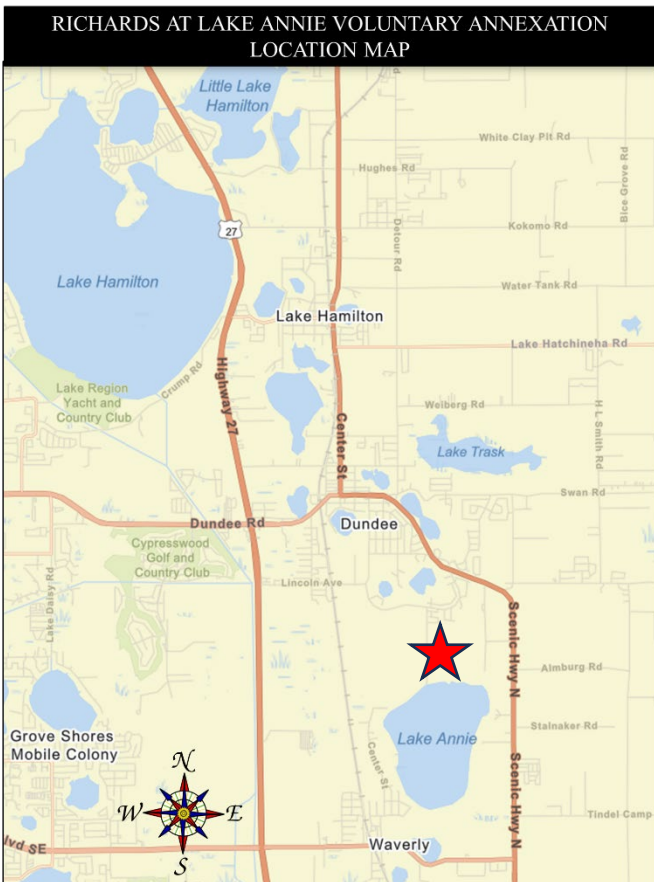


Town of Dundee Town Commission Staff Report Richards at Lake Annie Voluntary Annexation

To:	Town of Dundee Town Commission
Agenda Date:	December 10, 2024
Department:	Planning and Zoning
Request:	The Town will consider first reading of Ordinance 24-11 Richards at Lake Annie Voluntary Annexation
Applicant:	Benjamin E. Crosby
Property Owner:	Richards Restaurants, Inc
Location:	Located in the Town of Dundee
Area Size & Parcel Number(s)	67.8 +/- acres, 272834-830000-000353, 272834-853000-000353, and 272834-853000-000410
Staff Recommendation (DRC):	Approval to move forward to second reading
Prepared By:	Lorraine Peterson, Development Director



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STAFF ANALYSIS:

The Town of Dundee has received a petition for voluntary annexation by the applicant Benjamin E. Crosby. and owner Richards Restaurants, Inc.

The general location of the proposed land to be annexed is south of Camp Endeavor Blvd., west of Scenic Hwy. N (S.R. 17), east of Hwy. 27, and north of Waverly Rd. and consists of three parcels: 272834-830000-000353, 272834-853000-000353, and 272834-853000-000410. The proposed area consists of approximately 67.8 +/- acres.

The proposed Ordinance 24-11 was prepared by Town Staff and Consultants. If approved at this first reading, the public hearing for the second (adoption) and final reading will be held on December 10, 2024.

CONCURRENCY:

Potable Water-

- There is an 8” water main on the westside of AT Race Road (0.37 miles north)
- The Town of Dundee will be the service provider.
- The Town of Dundee will be the service provider

Sanitary Sewer-

- There is an 8” gravity main on the westside of AT Race Road (0.37 miles north)
- The Town of Dundee will be the service provider.
- Available sanitary sewer capacity

Solid Waste-

- The Town of Dundee will be the service provider.
- There is available landfill capacity for solid waste for the next 65 years at 3.47lbs pcd.

Parks, Recreation and Open Spaces-

- East Central Park is the nearest recreational area at 2.41 +/- miles southwest of the proposed annexation site. East Central Park is located at the corner of Lake Mable Loop Rd. and Lake Trask Rd. The park consists of the following:
 - Three 200 foot and one 300-foot lit baseball fields
 - Basketball court
 - Racquetball court

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- Football/Soccer fields
- Two sand volleyball courts
- Five horseshoe pits
- Seven small picnic pavilions
- Nearly mile long jogging and walking trail with 14 fitness stations
- Four press boxes
- Seating for 200
- Two playgrounds with rubberized surfaces

Roads-

- Campbell Road
-local road, urban minor collector road, unpaved
- AT Race Road
-local road, urban minor collector, unpaved road,
- Scenic Hwy. (S.R. 17)
-state road, urban collector, current LOS B, paved road, 30'wide road, link (Waverly Rd to Main St. @ Center St 5206N and 5206S)
- Available peak hour capacity is 640 going north and 640going south.

Sources: 2022 Roadway Network Database-TPO and TOD Townwide Traffic Analysis
All concurrency must be met during the site development plan process

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SURROUNDING USES:

Table 1 below lists the Future Land Use (FLU) designations, zoning and the existing uses surrounding the subject site that are immediately adjacent.

Table 1 Surrounding Uses

Northwest Town of Dundee FLU: Low Density Residential Zoning: RSF-2 Modern-Density Single Family Residential	North Town of Dundee FLU: Low Density Residential Zoning: RSF-2 Modern- Density Single Family Residential	Northeast Town of Dundee FLU: Low Density Residential Zoning: RSF-1 Low Density Single Family Residential
West Polk County FLU: A/RR (Agricultural Rural Residential Single Family Home	Subject Site Polk County FLU: A/RR (Agricultural Rural Residential)	East Polk County FLU: A/RR (Agricultural Rural Residential) Single Family Home
Southwest Town of Dundee FLU: Water Bodies Zoning: Water Bodies Lake Annie	South Town of Dundee FLU: Water Bodies Zoning: Water Bodies Lake Annie	Southeast Town of Dundee FLU: Water Bodies Zoning: Water Bodies Lake Annie

Source: Central Florida Regional Planning Council, Florida Department of Transportation, Polk County Property Appraiser, Town of Dundee and site visit by Town staff

STAFF RECOMMENDATION:

Staff recommends approval of Ordinance 24-11 to move on to second reading the public hearing of Ordinance 24-11.

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Attachments:

Ordinance 24-11

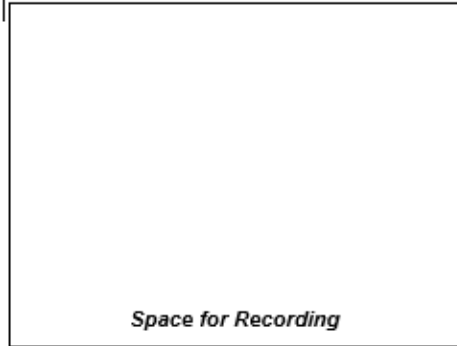
MOTION OPTIONS:

1. I move the Town Commission **approve Ordinance 24-11 at second reading/public hearing**, an Ordinance for the voluntary annexation for Richards at Lake Annie, a request by the applicant Benjamin E. Crosby.
2. I move the Town Commission **approve with conditions Ordinance 24-11 at second reading/public hearing**, an Ordinance for the voluntary annexation for Richards at Lake Annie, a request by the applicant Benjamin E. Crosby.
3. I move the Town Commission **deny Ordinance 24-11 at second reading/public hearing**, an Ordinance for the voluntary annexation for Richards at Lake Annie, a request by the applicant Benjamin E. Crosby.

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Ordinance No. 24-11
Richard's Restaurant, Inc.



ORDINANCE NO. 24-11

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF DUNDEE, FLORIDA, EXTENDING THE CORPORATE LIMITS OF THE TOWN OF DUNDEE, FLORIDA, SO AS TO INCLUDE THEREIN ADDITIONAL TERRITORY LYING CONTIGUOUS AND ADJACENT TO THE PRESENT BOUNDARIES OF THE TOWN OF DUNDEE, FLORIDA; DESCRIBING SAID ADDITIONAL TERRITORY; REDEFINING THE BOUNDARIES OF THE TOWN OF DUNDEE TO INCLUDE SAID PROPERTY; PROVIDING FOR THE INCORPORATION OF RECITALS; PROVIDING FOR THE REPEAL OF ALL ORDINANCES IN CONFLICT HEREWITH; PROVIDING FOR SEVERABILITY; PROVIDING FOR THE ADMINISTRATIVE CORRECTION OF SCRIVENER'S ERRORS; PROVIDING BUSINESS IMPACT ESTIMATE; 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

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

WHEREAS, pursuant to the Moratorium and legislative findings, which constitute a material basis for the Town's adoption of the Moratorium, the purpose of the Moratorium is to implement a temporary cessation on the acceptance and processing of applications for *residential development orders* and *residential development permits* for real property located within the corporate limits of the Town of Dundee, Florida; and

WHEREAS, on or about February 23, 2024, pursuant to Section 171.044, Florida Statutes (2024), the owner/applicant, **Richards Restaurants, Inc.**, an active Indiana corporation authorized to transact business in the State of Florida, submitted an applicant-initiated petition (the "Petition") to voluntarily integrate territory into the corporate limits of the Town of Dundee, Florida; and

WHEREAS, a copy of the Petition is attached hereto as **Composite Exhibit "A"** and made a part hereof by reference; and

WHEREAS, pursuant to the *Articles of Incorporation of Richards Restaurants, Inc.* (the "Articles"), **Richards Restaurants, Inc.**, is formed for the purpose of engaging in the business of human food consumption, both wholesale and retail, and the operation and management of restaurants and/or any interest therein, amongst others; and

WHEREAS, copies of the State of Florida, Division of Corporations, Detail by Entity Name for Richards Restaurants, Inc., and the Articles are attached hereto as **Composite Exhibit "B"** and made a part hereof by reference; and

WHEREAS, pursuant to the terms and conditions set forth in the Moratorium, the Moratorium does not apply to any development in the *General Retail Commercial (CC)*, *Highway Commercial (CH)*, and *Service Commercial (CS)* zoning districts; and

WHEREAS, on January 25, 2022, the Town entered into that certain *Agreement For Transfer of Public Roads between The Town of Dundee, Florida and Polk County, Florida For Campbell Road From The North Boundary of The County Boat Ramp Property North to Camp Endeavor Boulevard in Dundee, Florida* (the "ROW Agreement"); and

WHEREAS, pursuant to the ROW Agreement and applicable County Deed, Polk County retained ownership of a portion of Campbell Road in order to ensure uninterrupted access to the boat ramp located immediately adjacent to the real property which is the subject of this Ordinance; and

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WHEREAS, copies of the ROW Agreement and applicable County Deed are attached hereto as **Composite Exhibit "C"** and made a part hereof by reference; and

WHEREAS, pursuant to Section 171.044 of the Florida Statutes, the real property which is the subject of this Ordinance is *reasonably compact* and *contiguous* to the corporate limits of the Town of Dundee, Florida; and the subject real property will become a part of the unified corporate area with respect to municipal services and benefits; and

WHEREAS, on December 10, 2024, after considering all the facts and testimony presented by the Town, interested and/or aggrieved parties, and citizens in attendance, the Town Commission voted to approve the applicant-initiated request for voluntary annexation as set forth in this **Ordinance No. 24-11**; and

WHEREAS, on December 10, 2024, the Town Commission, at a duly notice public meeting, found that the approval of this **Ordinance No. 24-11** preserves, enhances, and encourages the most appropriate use of land consistent with 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 and adoption of this **Ordinance No. 24-11** is intended and necessary to enhance the present advantages that exist within the corporate limits of the Town of Dundee, Florida; and this **Ordinance No. 24-11** is intended to promote, protect, and improve the public health, safety, and general welfare of the citizens and residents of the Town of Dundee, Florida.

NOW, THEREFORE BE IT ENACTED BY THE PEOPLE OF THE TOWN OF DUNDEE, FLORIDA:

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 adoption of this Ordinance, and the Town Commission of the Town of Dundee, Florida, hereby adopts the above-referenced factual recitals as the legislative findings supporting the adoption of this Ordinance.

Section 2. Voluntary Annexation Petition.

Pursuant to Section 171.044, Florida Statutes (2024), the *applicant-initiated* petition to voluntarily integrate territory into the corporate limits of the Town of Dundee, Florida, is attached hereto as **Composite Exhibit "A"** and incorporated herein by reference.

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Section 3. Annexation.

The Town Commission of the Town of Dundee, Florida, does hereby annex into the corporate limits of the Town of Dundee, Florida, the real property as legally described and depicted (i.e., location map) in **Composite Exhibit "D"** attached hereto and made a part hereof by reference.

This **Ordinance No. 24-11** shall be subject to that certain *Agreement For Transfer of Public Roads between The Town of Dundee, Florida and Polk County, Florida For Campbell Road From The North Boundary of The County Boat Ramp Property North to Camp Endeavor Boulevard in Dundee, Florida*, and applicable County Deed (collectively referred to as the "ROW Agreement") which are attached hereto as **Composite Exhibit "C"** and made a part hereof by reference.

As a condition of approval for this **Ordinance No. 24-11**, the owner/applicant, **Richards Restaurants, Inc.**, an active Indiana corporation authorized to transact business in the State of Florida, and any and all assignees and/or successors-in-interest to same shall perform any further act(s) necessary to ensure uninterrupted access to the Boat Ramp Property which is depicted and identified in the ROW Agreement (see **Composite Exhibit "C"**).

Section 4. Conflicts.

All ordinances in conflict herewith are hereby repealed to the extent necessary to give this Ordinance full force and effect, provided, however, that nothing herein shall be interpreted so as to repeal any existing ordinance or resolution relating to means of securing compliance with the *Town of Dundee Land Development Code (LDC)* unless such repeal is explicitly set forth herein.

Section 5. Severability.

The provisions of this Ordinance are severable. If any section, subsection, sentence, clause, phrase of this Ordinance, 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, Florida, hereby declares that it would have passed this Ordinance, 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 Ordinance 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 Ordinance shall remain in full force and effect. If any section, subsection, sentence, clause or phrase of this Ordinance is, for any reason held to be unconstitutional, such decision shall not affect the validity of the remaining portions

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of this Ordinance. The Town of Dundee, Florida, by and through its Town Commission, hereby declares that it would have passed this Ordinance, 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 and Codification.

It is the intention of the Town Commission that sections of this Ordinance may be renumbered or re-lettered and the word "ordinance" may be changed to, "section", or such other appropriate word or phrase in order to accomplish such intentions; and regardless of whether such inclusion in the Code of Ordinances of the Town of Dundee is accomplished, sections of this Ordinance may be renumbered 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. A certified copy of this enacting Ordinance shall be located in the Office of the Town Clerk of the Town of Dundee, Florida.

Pursuant to Section 171.044, Florida Statutes (2024), within seven (7) days after this Ordinance No. 24-11 is passed and adopted by the Town Commission, copies of this Ordinance No. 24-11 shall be filed with the Clerk of the Circuit Court in and for Polk County, Florida; Polk County, a political subdivision organized and existing under the laws of the State of Florida; and the Department of State. The City Clerk shall also make copies available to the public for a reasonable publication charge.

Section 7. Business Impact Estimate.

On October 1, 2023, Senate Bill 170 ("SB 170"), Chapter 2023-309, Laws of Florida, was enacted amending Section 166.041, Florida Statutes, requiring a local government to prepare a *business impact estimate* before the enactment of an ordinance. Section 166.041(4)(c)1, as amended, provided that municipal ordinances enacted to implement Part II of Chapter 163, Florida Statutes, were not subject to the *business impact estimate* requirement.

On October 1, 2024, Senate Bill 1628 ("SB 1628"), as codified under Chapter 2024-145, Laws of Florida, becomes effective and further amends Section 166.041, Fla. Stat. (2023), by creating express exclusion(s) for *comprehensive plan* and *land development regulation amendments* initiated by an application by a private party other than the municipality.

In this instance, this Ordinance is enacted pursuant to an applicant-initiated request to amend the corporate limits of the Town of Dundee, Florida for municipal ordinances enacted to implement *development orders* and *development permits*, as defined by Section 163.3164, Florida Statutes (2024) and certain amendments to the Town of Dundee 2030 Comprehensive Plan which are *applicant-initiated*.

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In this instance, **Ordinance No. 24-11** arises out of an *applicant-initiated* request for voluntary annexation of certain real property into the corporate limits of the Town of Dundee, Florida. **Ordinance No. 24-11** is an official action of the Town Commission which enables the Town to issue development approval(s) and permit(s) for the development of the subject real property; and, at the same time, **Ordinance No. 24-11** operates to amend the legal description for the Town's corporate limits and Future Land Use Map (FLUM) element of the Town of Dundee 2030 Comprehensive Plan. As such, pursuant to applicable Florida law, this **Ordinance No. 24-11** is exempt and does not require a business impact estimate.

Section 8. Effective Date.

This **Ordinance No. 24-11** shall become effective upon passage by the Town Commission of the Town of Dundee, Florida, immediately following second reading and adoption public hearing.

INTRODUCED AND PASSED, on First Reading, with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 12th day of November, 2024.

PASSED AND DULY ADOPTED, on Second Reading and public hearing with a quorum present and voting, by the Town Commission of the Town of Dundee, Florida, this 10th day of December, 2024.

TOWN OF DUNDEE

MAYOR – Sam Pennant

Attest:

TOWN CLERK – Lita O'Neill

Approved as to Form:

TOWN ATTORNEY – Frederick J. Murphy, Jr.