

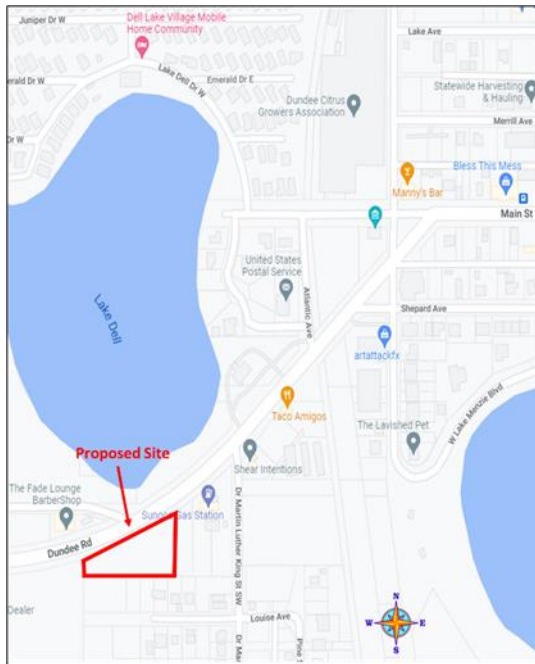
TOWN OF DUNDEE

REQUEST FOR SPECIAL EXCEPTION

STAFF REPORT

Planning and Zoning Date:	December 15, 2022	Project Type:	Special Exception
Town Commission Date:	January 10, 2022	Project Name:	Xtreme Car Care Inc.
Applicant:	Wilbert Munoz	Project Planner:	Lorraine Peterson, Development Director

Request:	Special Exception: Auto Sales and Minor Repair
Location:	Located on the south side of Dundee Road, north of Louise Avenue, west of Dr. Martin Luther King Street, east of Bay Street, Town of Dundee, in Section 28, Township 28, Range 27.
Property Owner:	Xtreme Car Center INC
Parcel Size/number:	1.24 +/- acres 272828-844000-005020
Development Area:	
Future Land Use and Zoning:	FLU=Commercial / Zoning= General Retail Commercial (CC)
DRC/Staff Recommendation:	Discretion of the Town Commission
Planning & Zoning Vote:	December 15, 2022 – Recommended Approval
Town Commission Vote:	Pending Hearing
Public Comment:	None
DEO*	N/A *Department of Economic Opportunity (DEO)



Location Map



Zoning Map

Summary:

This is an applicant-initiated request by Mr. Wilbert Munoz (owner) for a Special Exception to permit an auto sales and minor repair shop located at 217 Dundee Road in Dundee Florida. The proposed site is in the Future Land Use (FLU) district of commercial and the Zoning district of general retail commercial (CC). The zoning district summary tables list minor automotive repairs and auto sales as a special exception use. Mr. Munoz was granted a special exception for this property for the same use in December of 2020, but the special exception approval expired.

Property Information:

The site is situated on 1.24 +/- acres with lot frontage on Dundee Road (Attached Aerial Photo Map). It is on the south side of Dundee Road, north of Louise Avenue, west of Dr. Martin Luther King Street, east of Bay Street, Town of Dundee, in Section 28, Township 28, Range 27. The proposed site has an existing Future Land Use (FLU) designation of commercial and the Zoning classification of general retail commercial (CC).

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. Land Surrounding the subject site has a Future land Use designation of General Retail Commercial (CC), with the exception of the properties located to the south and southeast, which have a FLU of Medium Density Residential (MDR) and zoning designations of Service Commercial (CS), General Retail Commercial (CC), Industrial (IL) and Two Family Residential (RTF).

Table 1 Surrounding Uses

Northwest FLU:COM/Commercial Zoning: CS/Service Commercial Multi-unit commercial	North FLU: COM/Commercial Zoning: CC/General Retail Commercial Vacant/Lake Dell	Northeast FLU: COM/Commercial Zoning: RSF-1/Low Density Single Family Residential Town of Dundee Building Services
West FLU: COM/Commercial Zoning: CC/General Retail Commercial Vacant	Subject Site 217 Dundee Rd. FLU: COM/Commercial Zoning: CC/General Retail Commercial Vacant	East FLU:COM/Commercial Zoning: CC/General Retail Commercial Gas station/convenience store
Southwest FLU: CIC/Commercial/Industrial Corridor Zoning: IL/Industrial Multi-unit commercial	South FLU: MDR/Medium Density Residential Zoning: RTF/Two Family Residential Single Family Home	Southeast FLU: MDR/ Medium Density Residential Zoning: RTF/Two Family Residential Single Family Home

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

Request:

The applicant is requesting that the property be used for minor car repairs and automotive sales. The use of minor car repairs and the sale of automobiles is permitted in the General Retail Commercial (CC) zoning classification through the approval of a special exception. The requested use is consistent with the Land Development Code.

The applicant will build a 1800 square foot building as a mechanic shop along with customer and employee parking spaces (see attached Exhibit 5 - Proposed Site Plan). The proposed hours of operation will be 8am – 7pm.

Special Exception Information:**DEVELOPMENT:**

According to the Land Development Regulations, the development and use of the site of an approved special exception must be in accordance with the approved site plan and application materials. The approved site plan shall be filed with the development director, and all development shall be in compliance with that plan.

CONDITIONS:

The Planning and Zoning Board may recommend, and the Town Commission may impose, any conditions or safeguards found to be necessary to ensure the compatibility of the special exception with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of off-street parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of the Land Development Regulations and may result in a revocation of any special exception, in addition to any other remedy for such violation provided in the Regulations.

EXPIRATION:

Once approved, a special exception can continue indefinitely unless it expires. The Land Development Regulations include provisions for the expiration of a special exception. The special exception approval will expire if one of the following conditions is met:

1. If a special exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval.
2. If a time limit is established as a condition of approval.
3. If the approved use is abandoned for 180 days or more.

DENIAL:

The Planning and Zoning Board may recommend denial of any application for any special exception, and the Town Commission may deny any application for special exception, for one or more of the following reasons:

1. It is inconsistent with the Town of Dundee comprehensive plan.
2. It would violate the concurrency management standards in article 6 of the LDRs.
3. It does not meet the requirements of the applicable special exception regulations.
4. It would endanger the public health and safety.

5. It would substantially injure the value of adjoining properties.
6. It would not be compatible with the area in which it is to be located.

Land Development Code:

The relevant sections of the Land Development Code that are applicable to the project request:

- Section 7.05.00- Procedure for Obtaining a Special Exception
- Section 7.05.01- Application
- Section 7.05.02- Review of proposed Special Exception
- Section 7.05.03- Expiration or Abandonment of Special Exception Use
- Article 9 – Definitions-Minor Automotive Repairs
-

Land Development Code Sections:

- **SECTION 7.05.00** Procedure for obtaining a special exception states Special exceptions shall be granted only for those activities specified as special exception uses in section 2.02.00. Approved special exceptions shall be subject to development standards provided in article 3. The planning and zoning board shall hear and decide applications for special exceptions authorized under this code in the manner prescribed below.
- **SECTION 7.05.01** Application states (A) *Application; fees.* All requests for special exceptions shall be submitted in writing to the development director, together with all applicable fees as provided by resolution. (B) *Contents.* The application shall contain the following items, as applicable: 1. A legal description and street address of the property. 2. Notarized authorization of the owner if the applicant is other than the owner or an attorney for the owner. 3. Site plan or sketch plan drawn to scale showing: a. The dimensions of the property; b. The existing and proposed location of structures on the property including signage, vehicular accessways and circulation areas, offstreet parking and loading areas, sidewalks, refuse and service areas, required yards and other open spaces, and landscaping or buffer areas; c. The measurements of existing and proposed adjacent rights-of-way, setbacks, distances between buildings, widths of accessways and driveways, and sidewalks. 4. A tabular summary describing the proposed use of the property including: a. Existing and proposed use of property; b. Conditions on the use, such as hours of operation, numbers of residents, etc.; c. Area of the property, pervious and impervious areas, and existing and proposed structures; d. Number of required and provided offstreet parking and loading spaces, existing and proposed density, and number of existing and proposed units.
- **SECTION 7.05.02** Review of proposed special exception states (A) *Completeness review.* Within five working days of receipt of an application for a special exception, the development director shall: 1. Determine that the information is incomplete and inform the applicant in writing of the deficiencies. 2. Determine that the plan is complete and proceed with the following procedures. (B) *Report to planning and zoning board.* The development director shall submit a written report containing his/her recommendations on the proposed special exception to the planning and zoning board prior to the meeting at

which the application will be heard. A copy of the report shall be made available to the applicant. The planning and zoning board review shall include a concurrency management review of the proposed use pursuant to the standards and procedures in article 6 of this code. (C) *Planning and zoning board hearing.* The planning and zoning board shall hold a public hearing on each application and shall forward its recommendations to the town commission. (D) *Decision by town commission.* The town commission shall hold a public hearing after due public notice on all recommendations for special exceptions from the planning and zoning board. By majority vote, it may accept, reject, modify, return or continue and seek additional information on those recommendations. (E) *Conditions and safeguards.* The development and use of the site of an approved special exception shall be in accordance with the approved site plan and application materials. The approved site plan shall be filed with the development director, and all development shall be in compliance with that plan. The planning and zoning board may recommend and the town commission may impose on the grant of any special exception any conditions or safeguards found to be necessary to ensure the compatibility of the special exception with surrounding properties or the community in general. These may include, but are not limited to, requiring restrictions on hours of operation and size of buildings, additional landscape and buffer areas, limiting vehicular access points and location of offstreet parking, and similar conditions. Violation of any such condition or safeguard shall be deemed a violation of this code and may result in a revocation of any special exception, in addition to any other remedy for such violation provided in this code. (F) *Denial.* The planning and zoning board may recommend denial of any application for any special exception, and the town commission may deny any application for special exception, for one or more of the following reasons: 1. It is inconsistent with the Town of Dundee comprehensive plan. 2. It would violate the concurrency management standards in article 6 of this Code. 3. It does not meet the requirements of the applicable special exception regulations. 4. It would endanger the public health and safety. 5. It would substantially injure the value of adjoining properties. 6. It would not be compatible with the area in which it is to be located. (G) *Findings.* The town commission shall make written findings, based on one or more of the reasons listed above, in support of a denial of an application for a special exception. (Ord. No. 12-12, § 1, 2-14-12)

- **SECTION 7.05.03** Expiration of abandonment of special exception use states if a special exception does not begin to serve the purpose for which it was granted permission within 180 days from the date of approval, it shall expire. Once initiated, the special exception use may continue indefinitely or until the expiration of any time limit established as a condition of approval. However, if such use is abandoned for 180 days, it shall expire.
- **ARTICLE 9** Minor automotive repairs states activities conducted at a service garage involving maintenance or small-scale mechanical work on motor vehicles. This shall include inspection, maintenance, repair or replacement of the following: Batteries. Brake systems. Carburetors and fuel systems. Ignition and electrical systems. Oil, antifreeze and other fluids. Tires. Also included are auto washing and detailing, and the tuning and adjustment, but not disassembly or removal, of engines and transmissions.

PUBLIC FACILITIES AND SERVICES ANALYSIS:

The proposed special exception application does not demonstrate any negative impact on the Town's public facilities and services. A brief discussion of the impact to transportation, recreation, schools, and water and sewer facilities follows.

Access and Transportation Facilities:

A. Available Capacity

Table 6 below displays the available capacity for Dundee Road (SR 540) and the surrounding road network. There is available capacity in the PM Peak Hour for maximum buildout.

Table 6 Roadway Link Concurrency

Link #	Road Name	Current Level of Service (LOS)	Available Peak Hour Capacity	Minimum LOS Standard	5-Year Peak Hr. Projected LOS
8103E	Dundee Road/SR 540 (US 27 to SR 17 (Scenic Highway))	D	360	E	D
8103W		D	342	E	D

Source: Polk County Transportation Planning Organization Roadway Network Database April 2022

B. Roadway Conditions

Dundee Road (SR 540) is an urban collector that runs east and west, as an urban collector road it is monitored by the Polk County TPO with a LOS of D and has a pavement width of 25 feet.

Recreation:

Not impacted since the proposed use is not residential.

Public Schools:

Nearest Elementary, Middle, and High School

The schools zoned for the proposed property, are shown in Table 2, include Elbert Elementary, Dension Middle and Haines City Senior High School. The applicant does not need to address capacity for the proposed project as it is not anticipated to generate a use impacting school concurrency. General Retail Commercial (CC) does permit Group Homes.

Table 2: Schools

Name of School	Proposed Use Estimated Demand	% Capacity 2022-2023 School Year	Available Seats	Average Driving Distance from Subject Site
Elbert Elementary School (zoned)	N/A	69%	271	5 ± miles driving distance
Dension Middle School (zoned)	N/A	60%	480	6 ± miles driving distance
Haines City Senior High School (zoned)	N/A	89%	324	6.7 ± miles driving distance

Source: Polk County School Board, GIS

Utilities:

Due to the Town's deficiency related to potable water concurrency, the applicant and Town shall negotiate and enter into a Concurrency Developer's Agreement and, if applicable, a Water Supply Allocation Agreement.

Nearest Sheriff, Fire, and EMS Station:

Table 3 below displays that the nearest Sheriff District office is northeast and south of the site and the Fire and Emergency Management Station is located northeast of the site.

Table 3 Public Safety Information

	Name of Station	Distance Response Time
Sheriff*	Polk County Sheriff Office Southeast District Office, 4011 Sgt Mary Campbell Way, Lake Wales	5 +/- miles South Priority 1: 12:48 Priority 2: 24:54
Sheriff*	Polk County Sheriff Office Southeast District Office, 135 E Main Street, Town of Dundee	0.5 +/- miles NE Priority 1: 000 Priority 2: 000
Fire/ EMS	Town of Dundee Fire and Rescue, 118 Merrill Ave, Dundee	0.5 +/- miles NE 5 min. response

Source: Polk County Sheriff's Office and Town of Dundee Fire and Rescue. *Response times are based on September 2022 data. Fire/EMS times are based on an average

Sheriff response times are not as much a function of the distance to the nearest sheriff's substation, but more a function of the overall number of patrol officers within the Town at the time of a call.

RECOMMENDED CONDITIONS OF APPROVAL:

Staff has reviewed the application for special exception and has provided the following recommendations for conditions of approval:

1. Completion of a transportation analysis.
2. Negotiate and enter into a Concurrency Developer's Agreement and, if applicable, a Water Supply Allocation Agreement.
3. A knee wall and/or wrought iron fence be installed on the portion of property facing Dundee Road.
4. All repair work shall occur inside the building (see attached Exhibit 5);
5. Repair work shall not occur between 7:00 pm and 8:00 am.
6. No parking shall be permitted on any unpaved portion of the property located at 217 Dundee Road (see attached Exhibits 1-3);
7. The applicant shall design the building to meet and comply with the intent of the Dundee Vision Plan which includes, but shall not be limited to, building aesthetics;
8. The requirement that a special exception begin to serve the purpose for which it was granted permission within 180 days from the date of approval is extended to 12 months to permit the applicant time to complete site plan approval, construction plan approval, and construction; and
9. Notwithstanding other applicable provisions of the Town of Dundee Land Development Code, for purposes of this condition, the term(s) **Abandon/Abandonment** shall also mean the intentional and voluntary relinquishment of the approved use(s). The temporary cessation of the approved use(s) does not operate to effect an abandonment of the use(s). For purposes of this condition, "temporary cessation" means a temporary cessation of a use for a period of time not to exceed 120 consecutive days. In the event of discontinuance of a use for a period of time exceeding 120 consecutive days or a period of time totaling 180 calendar days within a calendar year, the use shall be deemed abandoned. An order of the Town of Dundee Code Enforcement Special Magistrate finding that the subject real property failed to strictly adhere to the condition(s) prescribed by Resolution 22-53 shall constitute an abandonment of the Special Exception.

MOTION OPTIONS:

1. I move **approval of the Special Exception request** by Wilbert Munoz to obtain a special exception for a minor automotive repair shop and automotive sales on approximately 1.24 +/- acres zoned General Retail Commercial (CH) located at 217 Dundee Road.

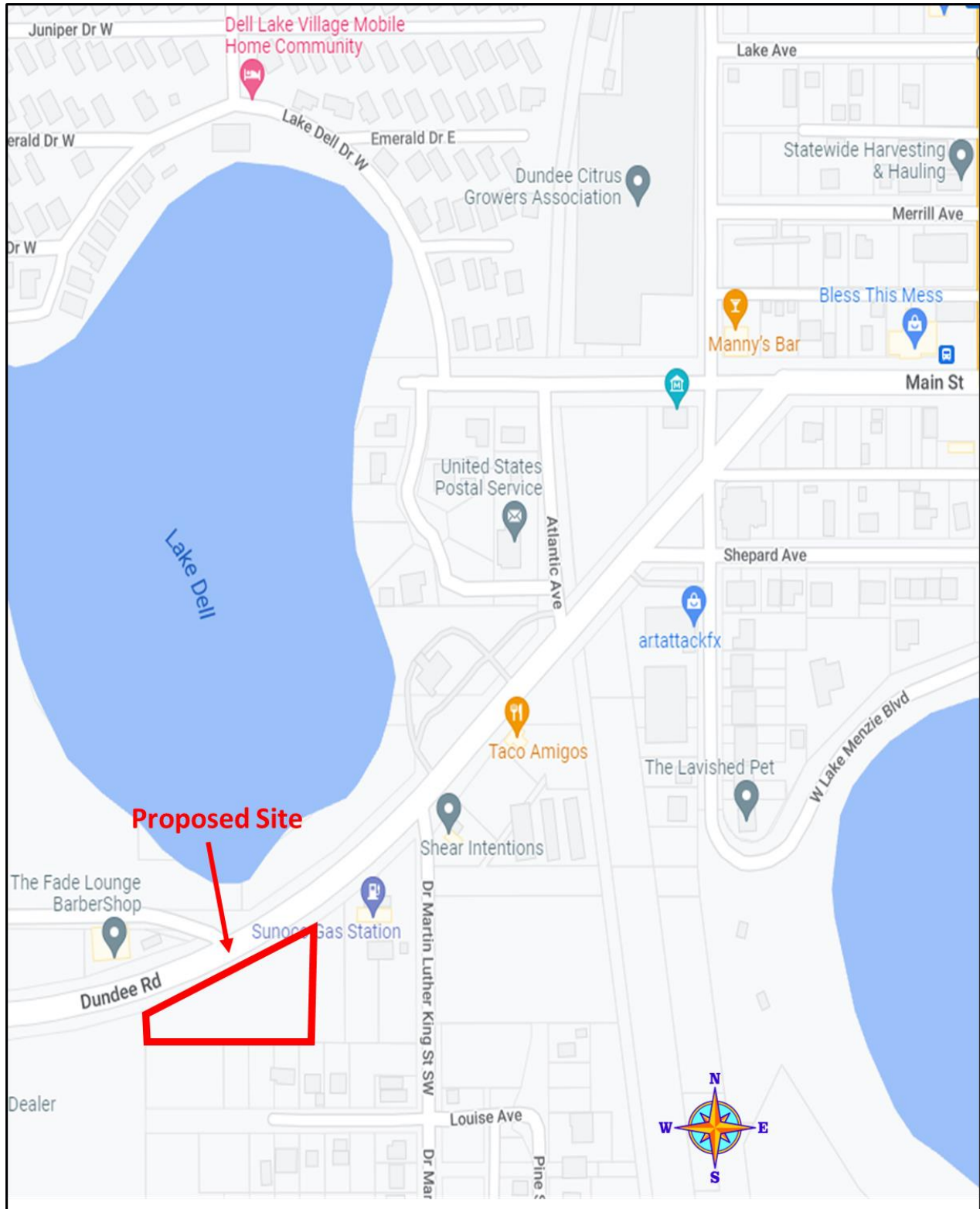
2. I move **approval of the Special Exception request with changes** for the request by Wilbert Munoz to obtain a special exception for a minor automotive repair shop and automotive sales on approximately 1.24 acres zoned General Retail Commercial (CC) located at 217 Dundee Road.

3. I move **continuation of this item until a date certain.**

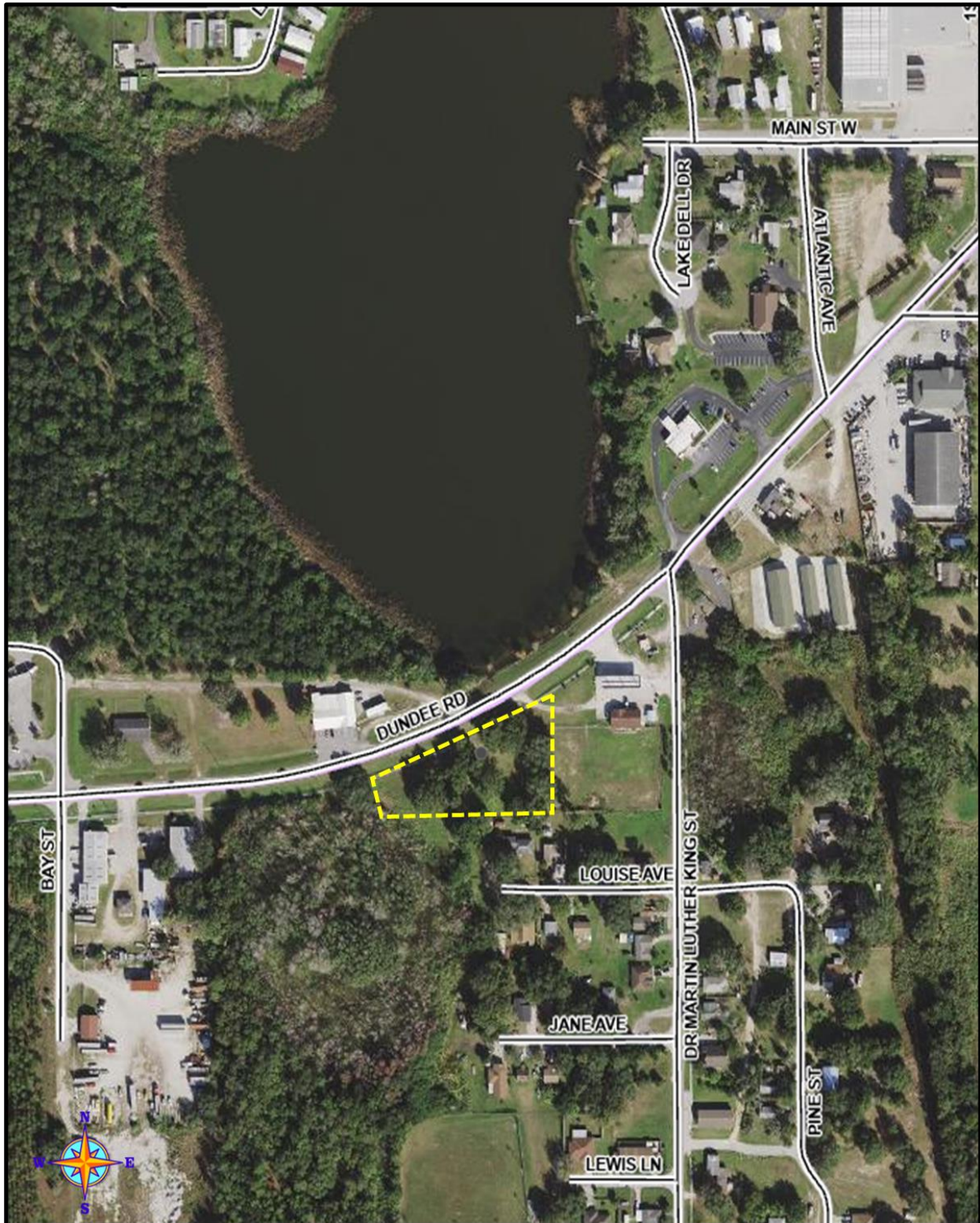
Exhibits:

- Exhibit 1 Location Map
- Exhibit 2 Aerial Context Map
- Exhibit 3 Aerial Close Up
- Exhibit 4 Current Zoning Map
- Exhibit 5 Applicant's Site Plan Map
- Exhibit 6 Permitted and Special Exception Uses
- Exhibit 7 Affidavit of Publication

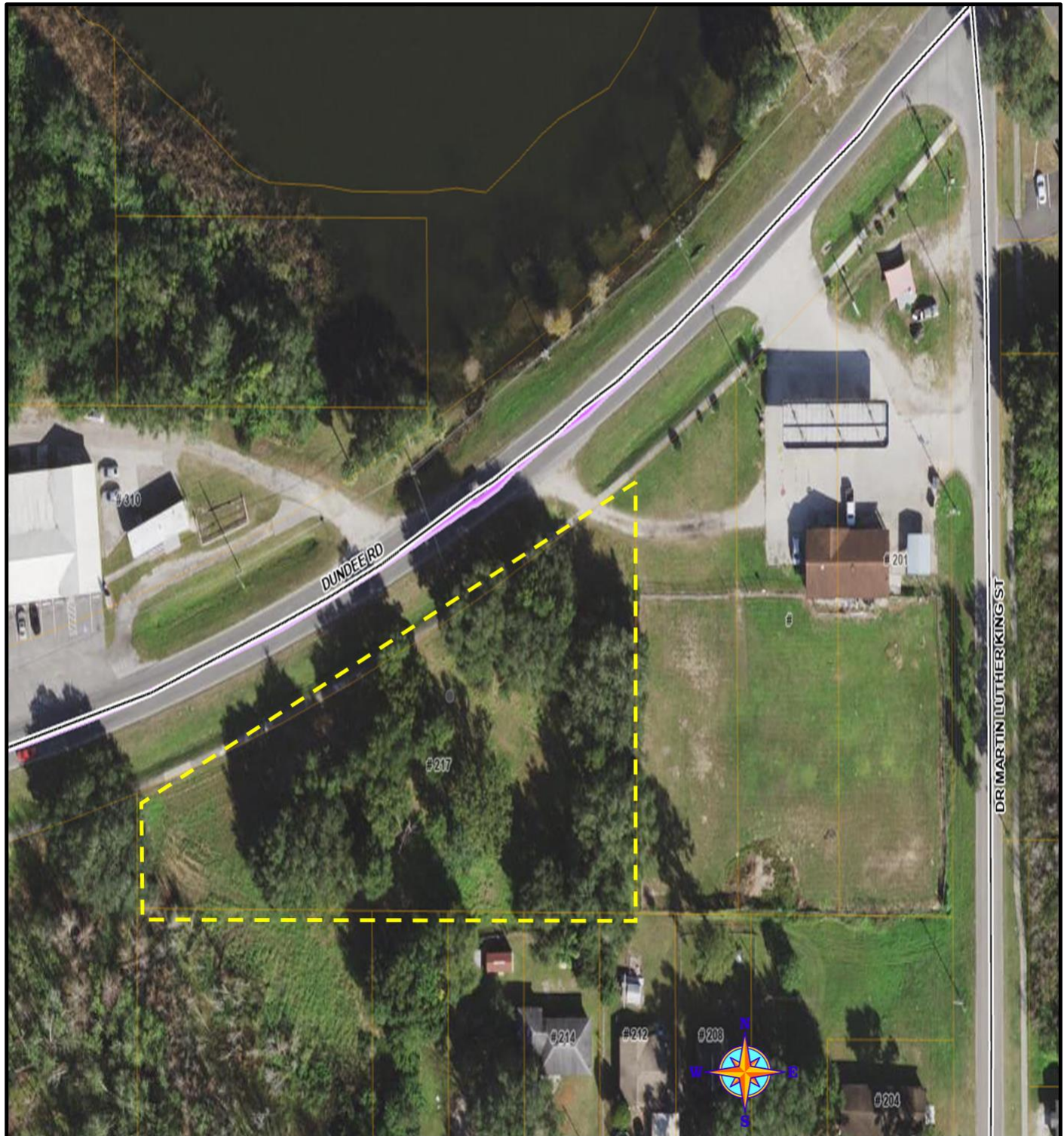
Applicant's submitted documents and ordinance as separate files



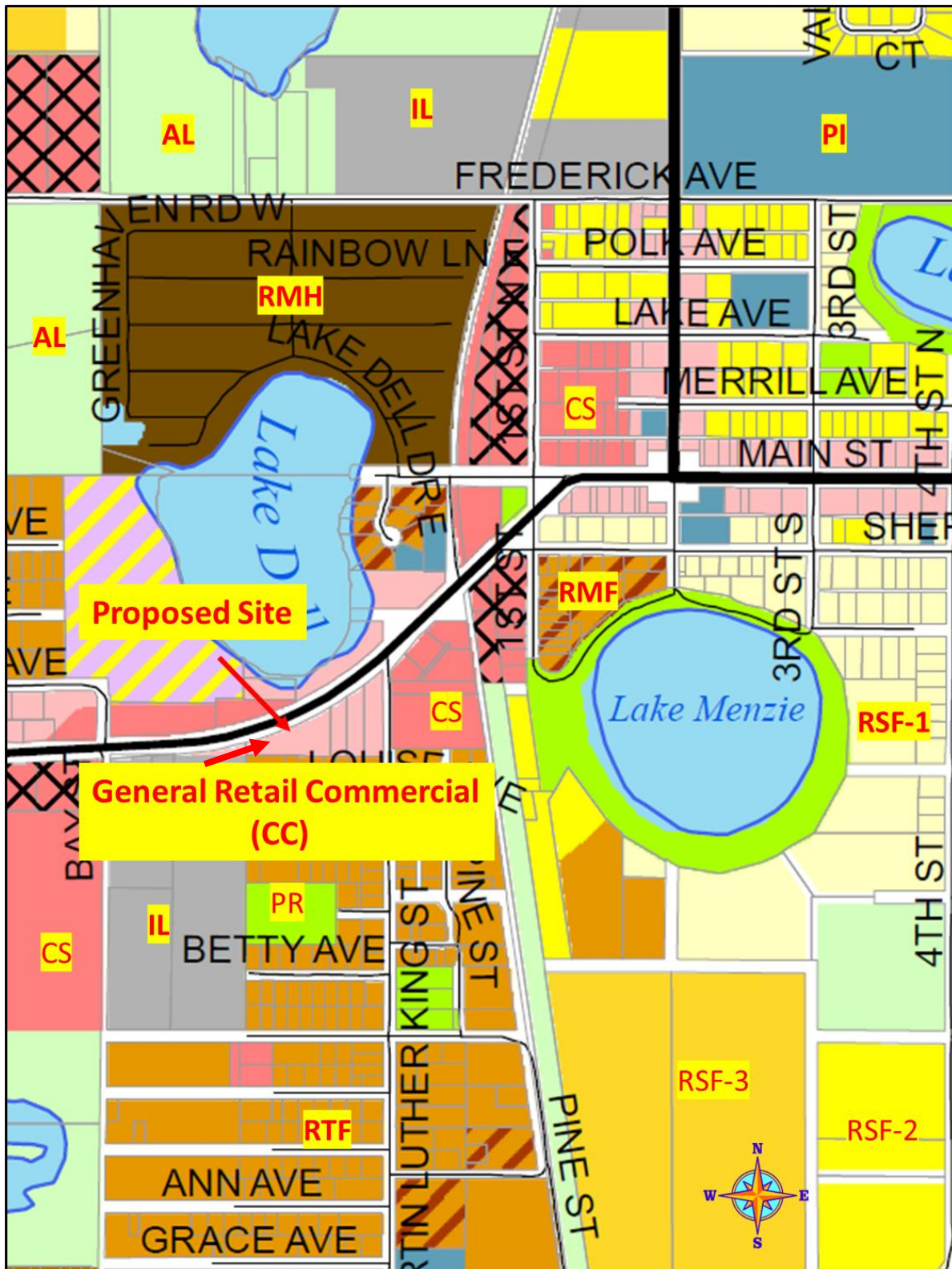
LOCATION MAP



AERIAL MAP CONTEXT



AERIAL MAP CLOSE UP



ZONING MAP
General Retail Commercial (CC)



Town Commission Staff Report
Lorraine Peterson

	Church Civic center/auditorium Community center Day care facilities-Adult or child** Museum Public Library Athletic facility Golf course and country club, not including miniature golf Park, passive, no facilities (open space) Park Playground * Permitted in conjunction with the requirements of section 2.01.12. ** Permitted in conjunction with the requirements of section 2.01.13.		
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PERMITTED AND SPECIAL EXCEPTION AND USES

AFFIDAVIT OF PUBLICATION
Winter Haven Sun
 Published Weekly
 Winter Haven, Polk County, Florida

Case No. 11/17 Helicopter RD ROW
 STATE OF FLORIDA
 COUNTY OF POLK

Before the undersigned authority, Anita Swain, personally appeared who on oath says that she is the Classified Advertising Legal Clerk of Winter Haven Sun, a newspaper published at Winter Haven in Polk County, Florida; that the attached copy or reprint of the advertisement, to the right, being a Public Notice, was published in said newspaper by print in the issues of or by publication on the newspaper's website, if authorized, on:

November 02, 2022

Affiant further says that the Winter Haven Sun newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes.

Anita Swain
 Anita Swain

Sworn to and subscribed before me this 2nd day of November 2022 by Anita Swain, who is personally known

Barbara Rakoczy
 Barbara Rakoczy, Clerk, Notary Number: #H1103214
 Notary expires: March 10, 2025

00036780 00106339

Jean Garcia
 Town of Dundee
 202 Main Street
 Dundee, FL 33838

BARBARA RAKOCZY
 Notary Public State of Florida
 Commission # HH 103214
 My Commission Expires
 March 10, 2025

PUBLIC HEARING NOTICE
TOWN OF
DUNDEE PLANNING
& ZONING BOARD

Please take notice that the Town of Dundee Planning & Zoning Board will hold a public hearing Thursday November 17, 2022, at 5:30 p.m. in the Town of Dundee Commission Chambers at 300 East Main Street, Dundee, Florida to hear the following items:

REQUEST FOR RIGHT OF WAY VACATION - PORTION OF HELICOPTER ROAD BETWEEN TINKLE CAMP ROAD AND BEALE ROAD NORTH

A REQUEST TO VACATE OPENED, UNPAVED, RIGHTS-OF-WAY INCLUDING A PORTION OF HELICOPTER ROAD FROM TINKLE ROAD NORTH TO TINKLE CAMP ROAD. PORTION OF MAINTAINED RIGHT-OF-WAY AS DEPICTED ON MAP BOOK 6, PAGES 187 THROUGH 188 OF THE PUBLIC RECORDS OF POLK COUNTY, FLORIDA, THAT LIES ALONG THE ABOVE DESCRIBED CORRIDOR. ALL LOTS AND BEING IN SECTION 11, TOWNSHIP 2N, RANGE 27 EAST, POLK COUNTY, FLORIDA.

AND
SPECIAL EXCEPTION FOR AUTO SALES AND MINOR AUTO REPAIRS

A REQUEST BY MR. WILBERT MUNOZ IN COMPLIANCE WITH ZONING ORDINANCE TO OBTAIN A SPECIAL EXCEPTION FOR AUTOMOBILE SALES AND MINOR AUTOMOBILE REPAIRS ON 1.24 +/- ACRES ZONED GENERAL RETAIL COMMERCIAL (GC) LOCATED AT 207 DUNDEE ROAD, FURTHER DESCRIBED AS PARCEL IDENTIFICATION NUMBER 27-28-00-0000-00000.

Any person who might wish to appeal any decision made by the Town of Dundee Planning and Zoning Board, Polk County, Florida, in public hearing or meeting to be held at the time will need a record of the proceedings, and for such purpose, but also may need to ensure that a verbatim record of the proceedings is made which will include the testimony and evidence upon which such appeal is to be heard. Any person with disabilities requiring accommodations in order to participate should contact the Town Clerk prior to the meeting.

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 Daily Commercial | Ocala StarBanner
 News Chief | Hearsay-172496
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PROOF OF PUBLICATION

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 Tampa FL 33602-4429

STATE OF WISCONSIN, COUNTY OF BROWN

The Ledger-News Chief, a newspaper printed and published in the city of Lakeland, and of general circulation in the County of Polk, State of Florida, and personal knowledge of the facts herein state and that the notice herein proposed was published in said newspaper in the issue dated or by publication on the newspaper's website, if authorized, on:

07/17/2022, 07/24/2022

and that the fees charged are legal.
 Sworn to and subscribed before on 07/24/2022

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Anita Swain
 Notary, State of Wisconsin of Brown
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 State of Wisconsin

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