

**POLK COUNTY  
LAND USE HEARING OFFICER  
STAFF REPORT**

<b>DRC Date:</b>	<b>June 13, 2024</b>	<b>CASE #:</b>	<b>LDLVAR-2024-27 (Lunn Road Liquor Store)</b>
<b>LUHO Date:</b>	<b>July 25, 2024</b>	<b>LDC Section:</b>	<b>Section 224 Table 2.4</b>

**Request:** The applicant is requesting a variance to allow separation reduction for an Alcohol Package Store (3PS License) within 2,500 feet of Religious Institutions.

**Applicant:** Prem Luitel

**Property Owner:** Saskatchewan Georgia LP

**Location:** 5044 Lunn Road, Compass Point Plaza, southeast corner of Lunn Road and West Pipkin Road, west of Old Highway 37, east of Waring Road, south of the city of Lakeland in Section 11, Township 29, Range 23.

**Parcel ID#:** 232911-000000-043120 & 043010

**Size:** ±1.3 acres

**Land Use Designation:** Convenience Center (CC)

**Development Area:** Transit Supportive Development Area (TSDA)

**Case Planner:** Erik Peterson, AICP

**Summary:**

The applicant established Everest Food & Beverage, a retail store specializing in beer, wine, and tobacco products sales in the Compass Pointe shopping plaza in January of 2021. The applicant is applying for a package liquor sales license (3PS) to broaden their market share. However, there are three religious institutions within 2,500 feet of the property (See Exhibit 2). Section 224 of the Land Development Code (LDC) prohibits the sale of liquor beverages within 2,500 of a religious institution or Kindergarten through 12<sup>th</sup> Grade public or private School. Through LDC Section 930, a property owner (or agent of) may request a variance to the 2,500 feet of separation from the Land Use Hearing Officer. Alcohol separation distance is measured from property line to property line. Therefore, approval of this variance will apply to the entire shopping plaza and any future building expansions or additions within the property.

The area is undergoing some significant changes. The roadway abutting the shopping plaza is in the process of being widened from 2 to four-lanes and a median. This traffic facility improvement is due to the amount of residential and industrial growth in the area west of Lunn Road. This 13,600 square foot shopping plaza was constructed in 2007 and has been a very successful business

location for small scale retail, food, professional, and personal service businesses ever since. It is comprised of 10 suites that can be individually occupied or combined for larger businesses.

Staff finds that the request meets the following criteria listed in Section 931:

- The request **will not be injurious to the area involved or otherwise detrimental to the public welfare** because there are many instances where liquor stores and religious institutions have coexisted in close proximity without any adverse effects.
- **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district** because the area is underserved by many forms of commerce including liquor stores and the widening of the roadway in front of the shopping plaza provides an economic opportunity for this location.
- **The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure**, because the current business in the plaza is limited to beer, wine, and tobacco products. Liquor sales can be added without any structural changes or site development requirements.

Staff recommends approval of a variance to reduce the requirements for separation from religious institutions from 2,500 feet to 150 feet for this site because commerce is supported at this site by policies in the Comprehensive Plan. This approval will be a benefit to nearby consumers and is unlikely to be a detriment to any nearby religious institution or their congregation. Staff recommends that the variance, if approved, be permanent to the shopping plaza.

### **Development Review Committee**

The Development Review Committee, based on the criteria for granting Variances, finds that the applicant's request as written **IS CONSISTENT** with **Section 931** of the Polk County Land Development Code.

**Development Review Committee Recommendation:** Based upon the application, and a recent site visit, the Development Review Committee recommends **APPROVAL of LDLVAR-2024-27**, with the following conditions:

### **CONDITIONS OF APPROVAL:**

1. A variance shall be granted to the shopping plaza for the package alcohol sales distance separation from Religious Institutions listed in Section 224 of the LDC from 2,500 feet to 150 feet.
2. The property owner(s) is responsible for compliance with any further restrictions of record pertaining to the property and this approval shall not be used to supersede authority over those restrictions.

## **GENERAL NOTES**

*NOTE: This staff report was prepared without the benefit of testimony and evidence submitted by the public and other parties at a public hearing.*

*NOTE: Approval of this variance shall not constitute a waiver or an additional variance from any applicable development regulation unless specifically noted in the conditions of approval and consistent with LDC Section 930D.*

*NOTE: All conditions of approval, unless otherwise specified, shall be met prior to the effectiveness and validity of the variance approval.*

*NOTE: All written commitments made in the application and subsequent submission of information made during the application review process, which are on file with the Land Development Division, shall be considered to be binding upon the applicant, provided such commitments are not at variance with the Comprehensive Plan, LDC or other development regulations in effect at the time of development.*

*NOTE: Issuance of a development permit by the county does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the county for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.*

## **DEMONSTRATIONS OF THE CRITERIA FOR GRANTING VARIANCES SUMMARIZED BELOW:**

- 1. Whether granting the variance will be in accordance with the general intent and purpose of this Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare;*

The relationship between liquor stores and religious institutions has proven to be of little or no conflict as a land use in close proximity. All throughout Polk County, there are many instances where liquor stores and religious institutions coexist near each other with no signs of detriment to either. In the unincorporated area, liquor stores are not allowed to be open on Sunday which is the primary day for religious institution operations. In April of this year, a new liquor store was approved amongst three churches and two other liquor stores (case# LDLVAR-2024-10).

This shopping plaza is on the opposite corner of the intersection from a religious institution. The intersection is expanding as a result of the widening of one of the roads. This increases the perceptual distance between the two uses. If there is any concern for a liquor store being across the street from a religious institution, then this change in roadway dynamic should lessen those concerns.

There are no liquor stores within 2½ miles of this intersection. But the developable land in the area is almost entirely built out. Residential development has grown so much that it has prompted a significant roadway improvement. Staff have inventoried the liquor store locations in the south Lakeland area and found that all of them are located along four-lane transportation corridors. The widening of Pipkin Road in front of this shopping plaza is another indicator that the time is right for a liquor store in this area.

2. *Whether special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the applicable land use district;*

The religious institution whose property is closest to the applicant's shopping plaza has been a religious facility since 1988. It is the same year that the shopping plaza property was rezoned from Rural Conservation (RC) to Multi-Neighborhood Commercial (C-2). The shopping plaza was not constructed until 2007. The property lost its commercial designation with the adoption of the Comprehensive Plan in 1991, but was later reapproved for commercial in October of 2004.

The shopping plaza is typical of many throughout Polk County and the Convenience Center (CC) districts. The CC district is intended to serve a market of 2,500 to 5,000 people living in a one-mile radius, according to POLICY 2.110-C1 of the Comprehensive Plan. There are three religious institutions within 2,500 feet of the shopping plaza. There are no liquor stores for over 2½ miles. But there are five liquor stores within five miles of the intersection that are mostly clustered on the major highway (SR 37). All of the liquor stores between Lakeland, Mulberry, and Bartow are located along a four-lane roadway corridor. The road in front of the shopping plaza is currently being widened from two lanes to four lanes.

3. *Whether provided the special conditions and circumstances present in the request do not result from the actions of the applicant;*

The applicant began business at this location selling Beer, Wine, and Tobacco products in January of 2021. There are at least three competitors in a one-mile radius that sell beer, wine, and tobacco. The closest liquor store is over 2½ miles away to the east and no liquor stores for at least five miles to the west. If granted the variance, the applicant will be the closest liquor store in the southwest urbanized area of Lakeland that hosts multiple mid to large residential developments, and the businesses on the south end of the Lakeland Airport such as the GEICO regional headquarters, NOAA Hurricane Center, and various flight schools. There are five liquor stores within a five-mile radius. Four of them are located on South Florida Avenue (SR 37) with a new one that is soon to open after receiving Land Use Hearing Officer approval after the hearing on April 25th.

4. *Whether granting the requested variance will not confer on the applicant any special privilege that is denied by the provisions of this Code and will constitute unnecessary and undue hardship on the applicant;*

This request will enable package liquor to be sold on the 1.3-acre Compass Poite property. This covers the entire district. The applicant's request will confer this privilege on all the suites within the plaza because approval is based on the property boundary. A liquor store request was recently approved in this southwest Lakeland market area after the last hearing on April 25<sup>th</sup> under case number LDLVAR-2024-10.

5. *Whether the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure;*

This approval is the minimum needed to accommodate the use. There are no structural changes or additional parking spaces needed on this site to accommodate the sale of liquor in addition to the sale of other products. Retail sales land uses require one space per 300 square feet and so do liquor stores, according to Section 709, Table 7.10 of the LDC. The applicant represents one suite in a shopping plaza. The total square footage of the plaza is

13,600 square feet requiring a minimum of 46 spaces. There are 55 paved spaces plus an overflow area in the plaza currently. The plaza was designed for expansion, but that is not likely to occur until after the road widening is complete.

6. *Whether that in no case shall a variance be granted which will result in a change of land use that would not be permitted in the applicable land use designation;*

Alcohol package sales may be approved in CC districts without limitations if there are no schools or religious institutions within 2,500 feet. This approval will not change the use of the land.

7. *Whether that in no case shall the Land Use Hearing Officer or the Planning Commission grant a variance which would result in creation of any residual lot or parcel which does not meet the requirements of this Code; and*

Granting this request will not result in the creation of a lot or parcel that does not meet the requirements of the Code. This variance request will not change the size, shape, or use of the property.

8. *Whether that the granting of the variance does not circumvent a condition or the intent of a condition placed on a development by the Planning Commission or the BoCC.*

Granting this request will not circumvent any conditions of approval. This property was rezoned to C-2 (Multi-Neighborhood Commercial) in January of 1988. Liquor stores were permitted if they could meet the 2,500 feet from religious institutions and schools. The Board has never placed additional conditions upon the property. The religious institution across the street was built in 1988. The property lost its commercial designation with the adoption of the Comprehensive Plan in April of 1991, but regained it in October of 2004.

**Surrounding Future Land Use Designations and Existing Land Use Activity:**

The table to follow provides pertinent details of abutting uses and their regulatory parameters.

<p><b>Northwest:</b> RS The Vineyards Church</p>	<p><b>North:</b> RL-1, PUD 81-12 Colonnades Single-Family Subdivision</p>	<p><b>Northeast:</b> RL-1, PUD 81-12 Colonnades Single-Family Subdivision</p>
<p><b>West:</b> OC, RL-3, PD 15-05, PD 03-07 Single-family dwellings</p>	<p><b>Subject Property:</b> Convenience Center (CC) Multitenant Retail Shopping Plaza</p>	<p><b>East:</b> RL-3 Duplexes</p>
<p><b>Southwest:</b> RL-1, PD 06-21 Multifamily Summer Brooke Townhomes</p>	<p><b>South:</b> RL-3 Single-family Residence</p>	<p><b>Southeast:</b> RL-3 Duplexes</p>

There are significant changes underway to the intersection of Lunn and Pipkin Roads. Pipkin Road is under construction to be widened from two lanes to four lanes with a divided median. As a result, the intersection is undergoing changes to accommodate. There will be greater separation

between the Compass Pointe Plaza and the land uses to the north and west. The closest religious institution is opposite Pipkin Road immediately to the northwest corner of the intersections.

**Comments from other Governmental Agencies:**

None.

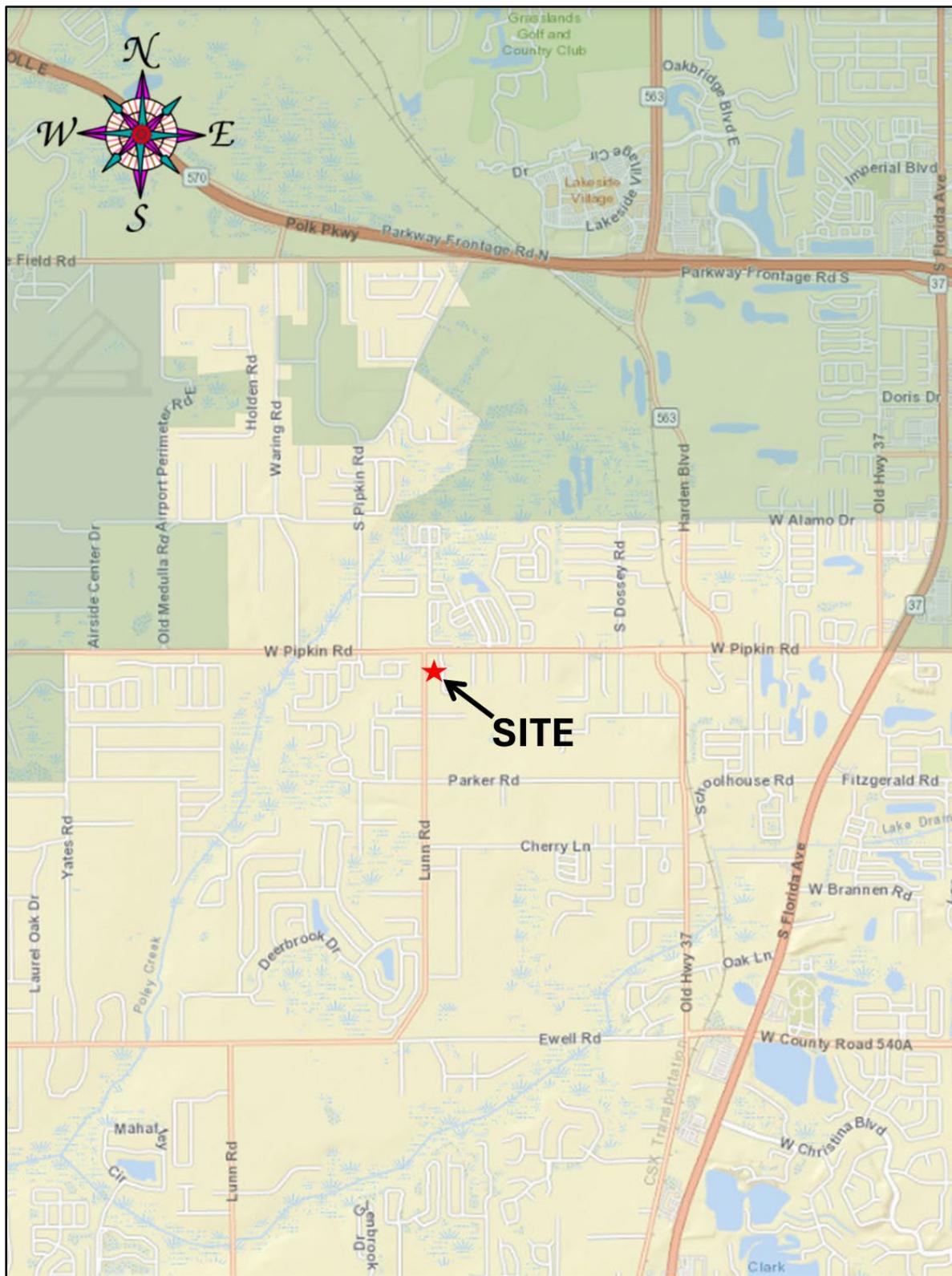
**Exhibits:**

Exhibit 1 – Location Map

Exhibit 2 – 2023 Aerial Context

Exhibit 3 – Future Land Use Map

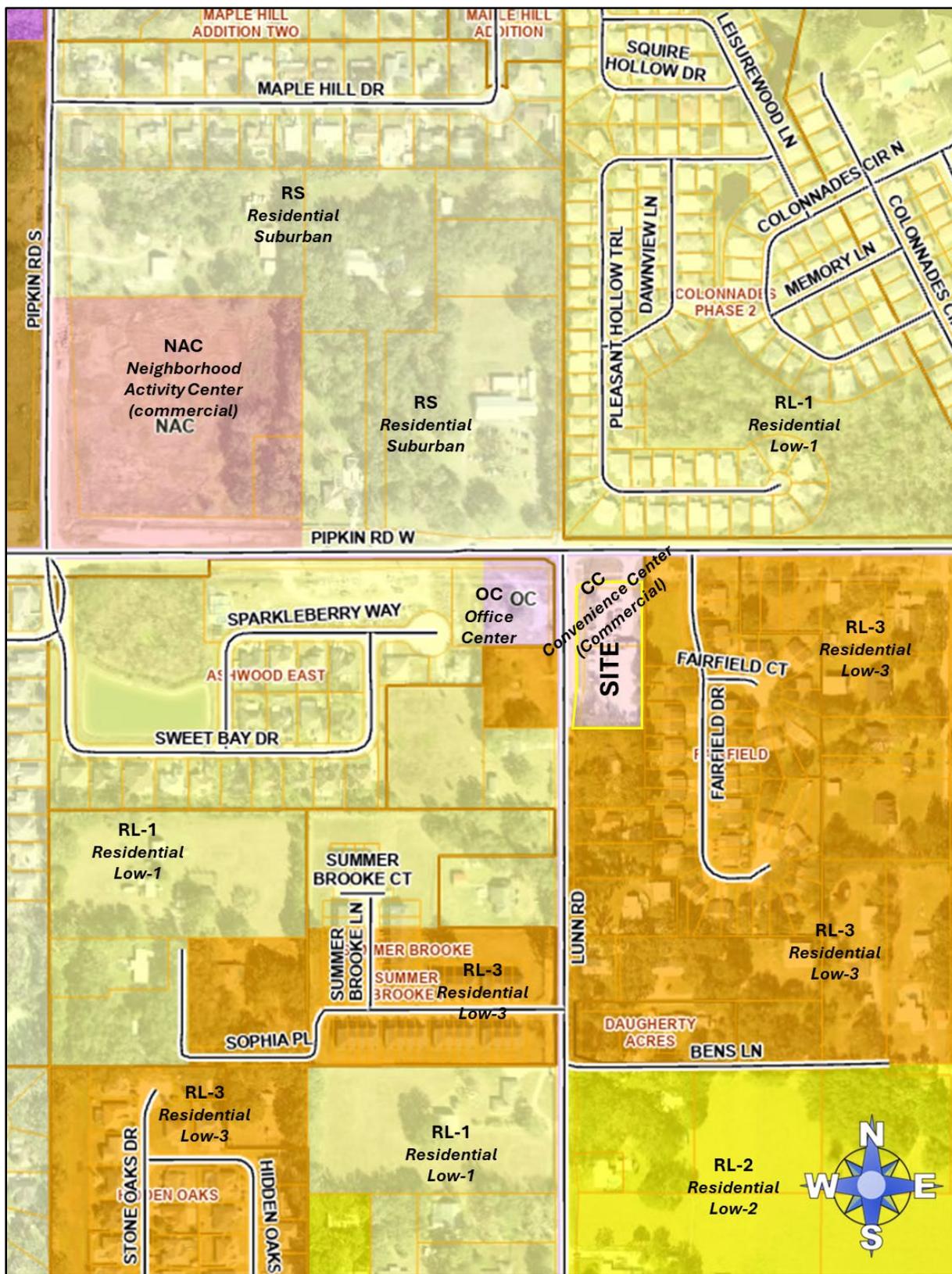
Exhibit 4 – Aerial Close-up



# LOCATION MAP



## 2023 AERIAL CONTEXT



# Future Land Use Map



2023 Aerial Photo (Close-up)