

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, November 12, 2024 – 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



AGENDA

CALL TO ORDER

INVOCATION AND PLEDGE OF ALLEGIANCE

ADOPT THE AGENDA

CONSENT AGENDA

1. Set a public hearing for December 10, 2024 – Conditional Zoning Application for a K-5 school at 105 Dow Rd.

Applicant: Seaside Chapel
2. Budget Amendment/Transfer
3. Approval of Council Meeting Minutes from October 8, 2024

SPECIAL PRESENTATIONS

4. Presentation of Annual Financial Audit
5. Manager's Update

PUBLIC COMMENT

Public Comment allows the public the opportunity to address Town Council. Please direct your comments to Council only. Speakers should restrict comments to no more than three minutes. Items or questions presented during this time will not be discussed by Council. However, the topic may be deferred to Town staff or a Town committee for follow-up. Please be sure to state your name and address, and speak directly into the microphone for those watching online.

PUBLIC HEARINGS

6. Text Amendment to amend Article 7, Sec. 7.3 Definitions to add a Building Footprint definition. Applicant: North Pier Holdings, LLC.
7. Approval of Financing Terms, Resolution of Necessary Finding and Reimbursement Resolution for a new Boardwalk Restroom

ITEMS OF BUSINESS

- [8.](#) Discussion to consider amending the Wrecker/Towing Regulations.

COUNCIL COMMENTS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Sr Planner **DEPARTMENT:** Community Development

MEETING: Town Council November 14, 2024

SUBJECT: Set a public hearing for December 10, 2024 – Conditional Zoning Application for a K-5 school at 105 Dow Rd.

Applicant: Seaside Chapel

BACKGROUND:

ACTION REQUESTED:

Adopt the consent agenda.

RECOMMENDED MOTION:



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 11/12/2024

SUBJECT: Budget Amendment/Transfer

BACKGROUND:

I have received a budget amendment and/or transfer request. As you know, transfers require only your notification whereas amendments require your approval. Listed below you will find a description of the amendment and/or transfer. I have also attached a copy of the supporting documentation for the appropriations.

Appropriations:

Appropriate \$233,964 loan proceeds to revenue account 10-350-010 and expense account 10-580-074 Environmental Capital Over \$10,000 for the purchase of a new Load & Pack Can Machine.

Transfers:

Transfer \$4,605 from account 10-550-045 Marina Contract Service to account 10-550-015 Marina M&O Buildings to cover cost of Marina restroom ramp replacement.

Transfer \$3,700 from account 30-811-015 WWC M&O Buildings to account 30-811-060 WWC I&I Removal Program to cover smoke testing of lines.

BUDGET IMPACT:

No budget impacts.

ACTION REQUESTED:

Approve the budget amendment and/or transfer as presented by the Finance Director.



7200 6103570
TOWN OF CAROLINA BEACH
MASTER ACCT
1121 N LAKE PARK BLVD
CAROLINA BEACH, NC 28428-4130

We have completed this wire transfer request. Your TRUIST acct has been credited for the net amount shown below.

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*****
TRN DATE          20241023          TRN NUM  00025951
AMOUNT           233,964.00        ACCOUNT # DDA - ██████████7461
REFERENCE #
DATE              10/23/2024
TIME              16:54:18
BENEFICIARY      TOWN OF CAROLINA BEACH
ORIGINATOR TO BENE INFO  TOWN OF CAROLINA BEACH LN PROCEEDS
                  LN # 7402976181
ORIGINATOR       ATLANTIC UNION BANK
ORIGINATING BANK NAME  ATLANTIC UNION BANK
ORIGINATING BANK #   051403164
ORIGINATING BANK INFORMATION

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Thank you for banking with TRUIST. Please call your local TRUIST branch or call 1-844-4-TRUIST (1-844-487-8478) for questions regarding this wire transfer.



Budget Transfer Request for Marina Restroom Ramp

From Sheila Nicholson <sheila.nicholson@carolinabeach.org>

Date Mon 2024-10-14 4:20 PM

To Debbie Hall <debbie.hall@carolinabeach.org>

Cc Bruce Oakley <Bruce.Oakley@carolinabeach.org>; Jarrett Anderson <jarrett.anderson@carolinabeach.org>;
Larry Denning <larry.denning@carolinabeach.org>

Debbie,

To cover the cost of replacing the ramp at the Marina restrooms, please transfer \$4,605 from 10-550-045 to 10-550-015.

Please let me know if you have any questions.

Thanks!

Sheila P. Nicholson

Administrative Services Officer

Town of Carolina Beach

sheila.nicholson@carolinabeach.org

(910)458-2995

DISCLAIMER:

E-mail correspondence to and from this address may be confidential and/or subject to the North Carolina Public Records Law and may be disclosed to third parties.

Lynn Barbee
Mayor

Joe Benson
Council Member

Deb LeCompte
Council Member



Jay Healy
Mayor Pro Tem

Mike Hoffer
Council Member

Bruce Oakley
Town Manager

TOWN OF CAROLINA BEACH
1121 N. Lake Park Boulevard
Carolina Beach, North Carolina 28428

BUDGET TRANSFER REQUEST

To: Debbie Hall, Finance Director

From: Mark Meyer, Public Utilities Director

Re: Budget transfer

Date: October 31, 2024

Budget transfer amount: \$ 3,700

From: 30-811-015 (Buildings)

To: 30-811-060 (WWC I & I Removal Program)

Explanation: WWC Cover Smoke Testing and GPR

Mark Meyer

Director of Public Utilities, Town of Carolina Beach



AGENDA ITEM COVERSHEET

PREPARED BY: Kim Ward, Town Clerk

DEPARTMENT: Clerk

MEETING: Town Council Meeting 11/12/2024

SUBJECT: Approval of Council Meeting Minutes

BACKGROUND:

Attached are the meeting minutes from October 8, 2024.

ACTION REQUESTED:

Review and consider approving under the consent agenda.

CAROLINA BEACH

Town Council Regular Meeting

Tuesday, October 08, 2024 – 6:00 PM

Council Chambers, 1121 N. Lake Park Boulevard, Carolina Beach, NC



MINUTES

CALL TO ORDER

Mayor Barbee called the meeting to order at 6:00 PM, followed by the invocation given by Lifepoint Carolina Beach Pastor Jen Nau, followed by the Pledge of Allegiance.

PRESENT

Mayor Lynn Barbee
Mayor Pro Tem Deb LeCompte
Council Member Jay Healy
Council Member Joe Benson
Council Member Mike Hoffer

ALSO PRESENT

Town Manager Bruce Oakley
Finance Director Debbie Hall
Town Clerk Kim Ward
Community Development Director Jeremy Hardison
Town Attorney Noel Fox

ADOPT THE AGENDA

ACTION: Motion to adopt the agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

CONSENT AGENDA

1. Approve Ordinance number 24-1239 amending the budget for the Ocean Sidewalk Project. Appropriate \$126,297.27 to account 46-580-074 Ocean Sidewalk Capital Project fund as follows: \$15,740.04 interest earned on Grant Funds, \$9,000 from account 46-581-074 CBAN Improvements and \$101,557.23 from the General Fund fund balance.
2. Set a public hearing for November 12, 2024 – Text Amendment to UDO Article 7: Definitions and Measurement. Applicant: North Pier Holdings, LLC
3. Approval of Council Meeting Minutes from September 10 and 24, 2024.

ACTION: Motion to adopt the consent agenda

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

SPECIAL PRESENTATIONS

4. Events Update by Tim Murphy

Tim Murphy reported these upcoming events:

- Saturday, October 12th Beechin Car Show 10-3pm at the Lake
- Saturday, October 12th Pink Tide Walk 9am at the Lake
- Saturday, October 12th Shuckin Shack Fresh and Raw Tour 12-7pm at Shuckin Shack
- Saturday, October 12th Starts Pleasure Island Restaurant Week (See Chamber's website)
- October 18-20 Pleasure Island Surf Fishing Challenge
- October 26th Fire Department BBQ at the fire station 11am until the BBQ is gone.
- October 26th Halloween Golf Cart Extravaganza 4pm (See Island Men Facebook page)
- November 1st Night Flight of Kites – Carolina Beach Boardwalk
- November 16th Trash to Treasures Yard Sale at the Lake 9am-2pm

5. Centennial Committee Presentation

Maureen Lewis, Chair of the Centennial Committee reviewed all the events currently scheduled for the Centennial Celebration beginning in March, 2025.

6. Manager's Update

Town Manager Bruce Oakley gave the following storm and project updates:

- The Small Business Administration group will have a team at Town Hall to help process claims. They will be here late this week or early next week.
- The Town is still waiting to receive a FEMA Declaration. We are hoping to have this soon.
- There was significant damage to the bulkheads at Dolphin, Scallop, and Seagull Lanes.
- Debris pickup is coming to an end. Future pickups will be scheduled with Town staff not the contractor.
- The boardwalk bathroom construction will start in early January.
- The lake pump house project is going out to bid in late October or early November.
- The Stormwater Open House is on Wednesday, October 23rd from 4-6pm in Council Chambers.
- The beach nourishment project was approved by the Army Corps of Engineers today. We should be getting sand on the beach this winter.
- The Ocean Boulevard sidewalk project should start construction in November. Staff has been notifying residents. This will be a 3–6-month project. Mr. Hoffer suggested that staff request DOT reduce the speed limit to 25 mph on Ocean from the Greenway to Lake Park Boulevard. Council asked to discuss this at the next meeting.
- The Town received notice today that NCDOT is going to resurface Ocean Boulevard starting next week.

PUBLIC COMMENT

Stephen Taylor 111 Florida Avenue spoke about flooding on Florida Avenue. He asked that the Town put a barrier arm at the intersection of Florida and Delaware.

Debbi Taylor 111 Florida Avenue spoke about vehicular traffic on Florida Avenue during flooding. She asked staff to stop the west bound traffic from Florida Avenue.

Jordan Glaser of 1413 Sea Ray Lane said that his property has flooded four times since building on it in 2022. He stated there is a drainage issue and feels it can be corrected. He has been working with Roger's Excavation on the pitch of the property.

PUBLIC HEARINGS

7. Consider a preliminary plat for a 4-lot subdivision located at 1231 Saint Joseph Street
Applicant: Black Lotus Properties, LLC

Gloria Abbotts presented the request. Black Lotus Properties, LLC, has submitted a request for a preliminary plat approval for the Kybalion Creek subdivision at 1231 Saint Joseph Street. The property is 49,437 square feet (1.14 acres). This subdivision will consist of 4 lots between 7,224 – 10,231 sq. ft. The existing single-family home on the property will become Lot 2 of the subdivision.

The applicant proposes installing a private road, Reef Rd., which will meet the minimum width of 22'. The road will be constructed with pervious material that meets the standards of DOT & Fire Code, subject to P&Z approval. To remain within the 10,000 square feet impervious surface limit for a state stormwater permit, a pervious road surface is proposed. The existing ditch that runs along the rear of the property will be relocated closer to the rear property line, with a riprap lined swale to manage drainage. The existing ditch carries flow from other properties, which the engineer has provided calculations to account for additional drainage. The only proposed fill would be for the ditch relocation. Most of the dirt from the new ditch will be repurposed to fill in the old ditch, with only a minimal amount of additional fill required. The site will be graded to maintain natural flow from south to north. An 85' x 60' hammerhead at the end of Reef Rd will be installed for turnaround access. The entire subdivision is in an AE 11 flood zone. There is an existing fire hydrant in front of Forest by the Sea to service the subdivision. Water and sewer will be off St. Joseph Street with private lines extended to service the lots. Streetlamps will be required, and street trees will be installed for every 50' of lot frontage. Existing vegetation can be used and are encouraged. Sidewalks are not proposed along the street, but Council may require the applicant to construct a sidewalk. The proposed 8' multi-use path will be in the right-of-way in front of the subdivision.

Single-family dwellings are permitted by right in the R-2 zoning district, which has a minimum lot size of 7,000 square feet. Setbacks for structures in this district are 25 feet from the front, 10 feet from the rear, and 7.5 feet from the side yards, and 12.5 feet required on corner lots. The maximum height for structures is 45 feet, with a maximum lot coverage of 40% and a maximum impervious coverage of 65% per lot.

Staff recommends approval of this preliminary plat subject to the following conditions. The final plat may not be submitted for approval until all conditions, revisions, changes and submissions are made. The conditions, revisions, changes and submissions to be made are as follows:

1. Street trees shall be installed according to the preliminary plat submittal. Existing vegetation can be used for this requirement.
2. Permanent monuments of stone or concrete shall be placed at one or more corners of the subdivision to be designated as control corners.
3. A drainage plan that will include all portions of the development shall be submitted. This plan shall be prepared and sealed by a registered surveyor or engineer.
4. Surfacing shall be done in accordance with plans and standard specifications approved by the Planning and Zoning Commission and the State Department of Transportation.
5. The Council may require the construction of a concrete sidewalk on one side of all frontage streets and potentially on one or both sides of all other streets within the subdivision, in accordance with approved plans and specifications.
6. The installation of a street sign, light pole, and stop sign is required.
7. Electrical lines shall be buried.
8. Lot coverage for any lot located within the subdivision shall not exceed 40%.
9. The plan must clearly designate the location of open space, recreation areas, and stormwater ponds, as well as ownership details.
10. Grading, surfacing, curb and gutters, sidewalks, street lighting, street trees, sewage disposal facilities, stormwater drainage facilities, and other utilities shall be installed and certified by a surveyor and/or engineer, or Performance Guarantee provided prior to recordation of the final plat.

P&Z recommended unanimous approval with the condition that the pervious road be certified. Staff will require each home to provide stormwater containment on site and require certification at the time of CO.

ACTION: Motion to open the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

The applicant's engineer, Tommy Scheetz spoke and reviewed the stormwater plan. Council was pleased to hear that the applicant was keeping the existing structure and making efforts to use pervious materials where they could.

Thomas George of 1200 St. Joseph Street expressed concern over the stormwater management.

ACTION: Motion to close the public hearing

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

ACTION: Motion to approve the preliminary plat for Kybalion Creek as presented.

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

ITEMS OF BUSINESS

8. Consider amending the 2016 Revenue Bond Budget to Include the Wastewater Treatment Plant Clarifier

Public Utilities Director Mark Meyer informed Council that this project was scheduled to be requested in the FY25/26 budget. During Potential Tropical Cyclone 8, the clarifier failed, and staff had to make emergency repairs. Staff is asking Council to approve the cost of the Wastewater Treatment Plant Clarifier Project and amend the 2016 Revenue Bond to include the expenditures associated with the Project.

ACTION: Motion to approve Ordinance 24-1240 amending the 2016 revenue bond budget in the amount of \$280,606.00 to include the Wastewater Treatment Plant Clarifier Project.

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

9. Boardwalk Bathroom Bid Award

Mr. Oakley informed Council that staff advertised a Request for Proposals (RFP) to construct the proposed new Boardwalk Bathroom on September 6th, 2024, with a bid due date of September 19th, 2024. No bids were received on that date and the RFP was readvertised on September 20th, 2024 for a September 27th due date. The Town received one bid from Masonboro Construction and Development, LLC for \$1,998,147 which includes a 10% contingency and a 4% reserve for change orders. Construction would begin in January of 2025.

ACTION: Motion to award the boardwalk bathroom construction project to Masonboro Construction and Development, LLC for \$1,998,147 contingent on the Local Government Commissions Financing Approval.

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

COUNCIL COMMENTS

Mayor Pro Tem LeCompte – Realtors give back day is this Friday at 9am. Realtors will be doing several projects around town. She reminded everyone to be prepared for Hurricane Milton. She also mentioned that people are going through roadside debris and scattering it throughout the street. Finally, the Bike Rodeo was a great success, and they are already looking forward to next year.

Council Member Healy encouraged everyone to vote early. Early voting starts next Thursday. He also mentioned that the palm trees downtown need to be cut.

Council Member Hoffer said that people are already moving into Proximity and he would like to have a conversation about this at the next Council meeting. He suggested that the Centennial Committee consider elevating the “I heart CB” sculpture for a better photo op. He also wanted to make sure that sod would be put in around the marina.

Council Member Benson thanked everyone for meeting with him at the north end to discuss flooding. He asked to get a schedule for the street sweeper and the vactor. Mr. Oakley mentioned that he is getting quotes for a third-party company to go through the entire stormwater system.

Mayor Barbee said that he attended the New Hanover County Board of Commissioners meeting on Monday where they honored the CBES principal for her leadership during the storm. He asked everyone to be sensitive to those who are still struggling with storm damage.

CLOSED SESSION

10. Closed Session – Attorney/Client

ACTION: Motion to go into closed session to discuss an attorney/client matter in accordance with NCGS 143.318.11(a)(3). The matter being discussed is 23 CVS 3744 Carolina Beach Landholdings, LLC vs. Town of Carolina Beach.

Motion made by Mayor Barbee

Voting Yea: Mayor Barbee, Mayor Pro Tem LeCompte, Council Member Healy, Council Member Benson, Council Member Hoffer

Motion passed unanimously

Council returned to open session and Mayor Barbee stated that no action was taken during closed session.

ADJOURNMENT

Mayor Barbee adjourned the meeting at 8:30PM



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 11/12/2024

SUBJECT: Presentation of Annual Financial Audit

BACKGROUND:

Victor Blackburn from Bernard Robinson and Company will present a summary of the annual financial audit to Council.



AGENDA ITEM COVERSHEET

PREPARED BY: Bruce Oakley, Town Manager

DEPARTMENT: Executive

MEETING: Town Council 11/12/2024

SUBJECT: Manager's Update

BACKGROUND:

Town Manager Bruce Oakley will give an update on current and future projects.



AGENDA ITEM COVERSHEET

PREPARED BY: Haley Moccia, Planner

DEPARTMENT: Planning & Development

MEETING: Town Council Meeting – November 12th, 2024

SUBJECT: **Text Amendment** to amend Article 7, Sec. 7.3 Definitions to add a Building Footprint definition.

Applicant: North Pier Holdings, LLC.

BACKGROUND:

The applicant, North Pier Holdings, LLC., is applying for a text amendment to add a definition for Building Footprint in Article 7, Sec. 7.3 Definitions of the Unified Development Ordinance (See Attachment 1). The applicant is pursuing this text amendment to add clarity for the citizens and residence of the Town of Carolina Beach on what is considered part of a building footprint.

The applicant's proposed definition is:

Building footprint means where the enclosed area of a building comes out of the ground. It is the literal footprint of the exterior walls of the enclosed area of the building as they touch the earth. This does not include porches, terraces, overhangs, awnings, driveways, or parking lots. (See Attachment 2)

The Town of Carolina Beach does not have a Building Footprint definition. Historically, Town staff have interpreted building footprint to include the building's exterior walls, elevated decks, covered decks, staircases, chimneys, cantilevers, roof overhang, attached garages, attached storage areas, and elevators.

The UDO mentions the term "building footprint" a total of 4 times (See Attachment 3). Additionally, the term "footprint" is used a total of 6 times in the UDO, 5 of which relate to building footprint. Even though these areas do not explicitly use the term "building footprint", the addition of this definition would lead staff to use this definition in areas of the UDO where the term "footprint" is used but building footprint is intended. Therefore, the proposed definition would impact a total of 9 areas in the UDO.

The table below details how each section references the term "building footprint" and the term "footprint."

UDO SECTIONS USING "BUILDING FOOTPRINT" & "FOOTPRINT"		
Term Used: Building Footprint		
Sec. 3.8	Residential PUDs (Units >4)	Allows the height of a PUD building to be increased above 40' if reductions in the building footprint are made.
Sec. 3.9	Mixed Use Building Section	This section states "The first habitable floor shall have 50% of the building footprint dedicated to a nonresidential use."
Sec. 3.9	Mixed Use Building Section	Required commercial space is reduced to 25% for mixed use buildings located in a VE flood zone.
Sec. 3.49	Reconstruction of Nonconforming Uses Section	Allows structures to be repaired or reconstructed in the same building footprint as long as the construction cost does not exceed 100% the as is market value of the structure.
Term Used: Footprint		
Sec. 2.14	Minor Site Plan Section	A site plan is required when modifying an existing structures footprint.
Sec. 3.49	Nonconforming Section	When a structure is substantially damaged by a fire, flood, or other event, the owner has 180 days to provide a letter certifying the original footprint of the building.
Sec. 5.125	Accessory Structure in SFHA	An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards.
Sec. 5.130	Requirements for VE Flood Zones	A qualified design professional must certify a structure - that is not structurally attached to and which is located outside of the footprint of a building - would be built in a way that would not reflect high wave action onto neighboring properties.
Sec. 7.3	Definitions	The Site Plan, Minor definition defines proposed development as single-family residential uses and residential structures consisting of four (4) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure's footprint.

The text amendment proposed by the applicant would have the greatest impact on Section 3.49, RECONSTRUCTION, MAINTENANCE, FULL OR PARTIAL DEMOLITION AND RENOVATION OF NONCONFORMING SITUATIONS. The proposed definition would place more limitations on the renovations of nonconforming structures. The spirit and intent of this section is to allow a homeowner or business owner the ability to make their structure "whole", to be able to rebuild or repair what they currently have.

For example, there is a nonconforming house on a small nonconforming lot that has been substantially damaged by a storm. This house consists of 2 stories with a small, enclosed living area and large elevated exterior decks. The applicant's text amendment would only allow that homeowner the ability to rebuild the enclosed area, not the exterior elevated decks and

staircases. The owner would have to sacrifice part of the enclosed area to add staircase access and would have a much smaller home than what they have existing.

LAND USE PLAN:

The land use plan does not mention building footprint explicitly, but it does state the following: “It is the explicit desire of the community that the Future Land Use Map (FLUM) not prevent the possibility of constructing a single family home or rebuilding a structure, and the FLUM should not be construed to do such.” Since the proposed definition would greatly impact nonconforming structures, and their ability to renovate and rebuild, this part of the Land Use Plan is not upheld.

Additionally, Goal 4 states “Continue to reduce overall nonconformities in the town, but also respect existing uses and entitlements, and the rebuilding of structures.” The proposed definition would restrict the rebuilding of nonconforming structures, which would also conflict with the end of this goal.

PLANNING & ZONING RECOMMENDATION:

Planning & Zoning board members were mostly concerned with the unintended consequences to the nonconforming ordinance section if the proposed definition was adopted. Members also noted the Town just adopted an updated UDO and a building footprint definition was not a suggested change during the extensive review process. Additionally, P&Z members noticed no close NC coastal communities have this definition in their ordinances. Other P&Z members commented they are hesitant to recommend this definition since it accommodates a particular circumstance and could have so many other potential ramifications in other areas of the UDO.

STAFF RECOMMENDATION:

Town staff does not recommend approval of the text amendment because of the ramifications to the nonconforming sections which would prevent structure’s ability to be rebuilt or renovated to the existing dimensions of the building. Additionally, the text amendment would be inconsistent when compared to how other communities have defined building footprint (see Attachment 4).

ACTION REQUESTED:

Consider recommending approval or denial of the text amendment.

Staff recommends denying the text amendment.

MOTION:

Approval – to amend Article 7, Sec. 7.3 Definitions.

Denial – to amend Article 7, Sec. 7.3 Definitions.

ATTACHMENTS:

Attachment 1 – Text Amendment Application

Attachment 2 – Proposed Text Amendment Language

Attachment 3 – Terms Used In UDO

Attachment 4 – Other Community Definitions

Attachment 5 – Differences in Lot Coverage & Impervious surface



PETITION FOR A TEXT AMENDMENT

Petitions shall be submitted for review to the Department of Planning and Development located at 1121 N. Lake Park Blvd., Carolina Beach, NC 28428. Only complete petitions will be processed.

PETITIONER

Petitioner's Full Name: North Pier Holdings, LLC by and through its attorneys, Equitas Law Partners LLP Phone #: (910)-940-0126

Street Address: 330 Military Cutoff Road, Suite A-2

City: Wilmington State: NC Zip: 28405

Email: sam@equitaslp.com

REQUESTED TEXT AMENDMENT

Town Code Section(s) Requested to be Amended: 40-548 and UDO Section 7.3

Please provide a general proposal for the amendment to the Town Code Section(s) stated above which you believe will result in improved regulations for all the residents of the Town of Carolina Beach
The proposed addition is attached. The addition of this definition provides clarity to the citizens and residents of the Town of Carolina Beach regarding what is considered part of a "building footprint". This text amendment would add the definition to both the previous Code and existing UDO.

This petition will be scheduled for the next possible meetings with the following boards: (1) Technical Review Committee, (2) Planning and Zoning Commission and (3) Town Council. The petitioner or a representative should be present at all meetings to answer any questions. Contact the Department of Planning and Development for a schedule of meeting times and submittal deadlines. All meetings are held at the Municipal Administration Building, 1121 N. Lake Park Boulevard, Carolina Beach, NC 28428. Petitioners will be informed of any changes in date, time, or location of meetings.

I understand that the fee for review is nonrefundable.

Fee: to be submitted with application in accordance with the Town's annually adopted Rates and Fee Schedule

Signature of Petitioner: Corrie Faith Lee Attorney, NC Bar #55815 Date: 8/30/2024

7.3 Definitions

Building footprint means where the enclosed area of a building comes out of the ground. It is the literal footprint of the exterior walls of the enclosed area of the building as they touch the earth. This does not include porches, terraces, overhangs, awnings, driveways, or parking lots.

IMPACTED AREAS OF UDO

Areas Using “Building Footprint” In UDO:

3.7 RESIDENTIAL USE STANDARDS

E. RESIDENTIAL PLANNED UNIT DEVELOPMENT REGULATIONS (UNITS > 4)

3. Proposals should limit the height of structures to 40 feet. In the instance that an increase in height above 40 feet is proposed, the following factors and information shall be considered:

- a) The applicant shall provide the height of all existing structures abutting the subject site and within a 100 foot linear distance from the property line of the subject site. The height of all inventoried structures shall be provided in a table format as part of the application.
- b) Consideration should be made to reduce the **building footprint** in favor of the proposed height increase above 40 feet. The applicant should consider increasing the required setbacks by two (2) feet for every one (1) foot of additional height above 40 feet.

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3.9 NONRESIDENTIAL USE STANDARDS

N. MIXED USE NONRESIDENTIAL-RESIDENTIAL

1. The purpose of the mixed use nonresidential-residential use is to accommodate commercial and/or residential uses within a building and/or development.

- a) The first habitable floor shall have 50% of the **building footprint** dedicated to a nonresidential use. Such nonresidential use shall be located along the primary street frontage. No residential uses shall be visible along any street lot line on the first habitable floor.
- b) In a VE flood zone the nonresidential use may be reduced to 25% of the **building footprint**.
- c) For each lot that is 10 acres or greater, subsections (a) and (b) above shall not apply, and cumulative nonresidential uses shall occupy a minimum of 3,000 square feet per acre. Stand-alone residential buildings shall not be located any closer than three (3) times the setback distance to a major thoroughfare (Lake Park and Dow).
- d) There shall be pedestrian connectivity between all nonresidential uses.
- e) Mixed use nonresidential-residential developments located in the CBD shall have the primary building façade and at least one (1) ingress/egress point located adjacent to a public right-of-way/street lot line, or town property.
- f) A conditional zoning shall be required if the mixed-use nonresidential residential development meets any of the following:
 - i) Mixed use buildings that are cumulatively more than 25,000 square feet of gross floor area.
 - ii) Building height that exceeds 50 feet.

Page 3-25 & 3-26

3.49 RECONSTRUCTION, MAINTENANCE, FULL OR PARTIAL DEMOLITION AND RENOVATION OF NONCONFORMING SITUATIONS

- A. Nonconforming uses created by a change in regulations may continue to exist and shall be subject to all other provisions of this article. Nonconforming regulations pertaining to fences are found in the fence section within Division 2.
- B. Any building or structure for which normal repair, renovation, demolition and reconstruction, or routine maintenance is proposed in an amount less than 100% of the current tax or certified appraised value of the building or structure, regardless of the reason for such repair or maintenance, shall be entitled to do so using the same **building footprint** and density with which the building or structure was originally constructed, provided the number of living units or nonresidential spaces are not increased and no additional nonconformities are created. No increase in height or floor area shall be permitted. If the repairs exceed 50% of the current tax or certified appraisal value but not greater than 100%, then the structure must comply with setback provisions where abutting a non-street lot line in addition to complying with the minimum off-street parking requirements.

Page 3-74

Applicable Areas Using “Footprint” In UDO

2.14 SPECIFIC REVIEW PROCEDURES

B. MINOR SITE PLAN

1. Purpose. Minor site plan review is intended to ensure that the layout and general design of low-intensity development is compatible with all applicable standards in this ordinance and all other applicable town regulations.
2. Applicability. The following development types must submit a minor site plan as specified in this ordinance:
 - a) Changes of use.
 - b) Proposals for single-family residential uses and residential structures consisting of four (4) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure’s **footprint**.

Page: 2-11

3.49 RECONSTRUCTION, MAINTENANCE, FULL OR PARTIAL DEMOLITION AND RENOVATION OF NONCONFORMING SITUATIONS

- F. Reconstruction of a nonconforming building, structure or use under the provisions of subsection (e) of this section shall be subject to the following restrictions:
1. A letter of intention to reconstruct with certification of the original building or **footprint** is required to be delivered to the Building Inspector and UDO Administrator within 180 days from the date the building was damaged or destroyed. Prior to such letter of intent, buildings shall be made safe so as not to endanger the public or jeopardize public safety. Said 180-period may be extended by an action of the Town Council.

Page 3-75

5.125 SPECIFIC STANDARDS

H. Accessory structures. When accessory structures (sheds, detached garages, etc.) are to be placed within a special flood hazard area, the following criteria shall be met:

8. An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards. Elevation or floodproofing certifications are required for all other accessory structures in accordance with Section 5-92.

Page 5-27

5.130 COASTAL HIGH HAZARD AREA (ZONE VE)

Coastal high hazard areas are special flood hazard areas established in Section 5-265, and designated as zones VE. These areas have special flood hazards associated with high velocity waters from surges or seismic activity and, therefore, all new construction and substantial improvements shall meet the following provisions in addition to the provisions of Sections 5-124 and 5-125:

- L. In coastal high hazard areas, development activities other than buildings and structures shall be permitted only if also authorized by the appropriate state or local authority; if located outside the footprint of, and not structurally attached to, buildings and structures; and if analyses prepared by qualified registered design professionals demonstrate no harmful diversion of floodwaters or wave runup and wave reflection that would increase damage to adjacent buildings and structures.

Page 5-31

7.3 DEFINITIONS

Site Plan, minor means a plan for proposed development that is comprised of the following:

1. Changes of use.
2. Proposals for single-family residential uses and residential structures consisting of four (4) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure's footprint.

Page 7-32

How Other Communities Define Building Footprint

The City of Lexington, NC:

https://library.municode.com/nc/lexington/codes/unified_development_ordinance?nodeId=S12DE_BB

Building footprint: The two-dimension area of a building area including covered porches, covered balconies, covered walkways and the like.

Whispering Pines, NC -

<https://whisperingpinesnc.municipalone.com/files/documents/Chapter16-Definitions1313104855022318AM.pdf>

ADDITION (TO AN EXISTING BUILDING): An extension or increase in the floor area or height of a building or structure, including decks, porches, and other additions that change the volume/area or building footprint.

Pinehurst, NC

https://codelibrary.amlegal.com/codes/pinehurst/latest/pinehurst_nc_pdo/0-0-0-2470

Building Footprint: the portion of a lot's area, which is enclosed by the foundations of buildings, plus any cantilevered upper floors.

Fayetteville, NC

<https://online.encodeplus.com/regs/fayetteville-nc/export2doc.aspx?pdf=1&tocid=005.030.009>

Building Footprint - The area of a lot or parcel of land included within the surrounding exterior walls and/or outermost projection of the roof of a building or portion of a building, exclusive of courtyards.

Cumberland County:

https://www.cumberlandcountync.gov/vd-Planning/downloads/amended_zoning_ordinance.pdf

Building Footprint: The portion of a lot's area that is enclosed by the foundation of buildings, plus any cantilevered upper floor, stoops, porches, chimneys, decks, etc.

DIFFERENCES BETWEEN LOT COVERAGE AND IMPERVIOUS SURFACE

Town staff wanted to provide a document to explain the differences between the definition of Lot Coverage and Impervious Surface and how these terms are used in the UDO and administered by staff.

LOT COVERAGE

UDO Definition:

Lot Coverage - means that portion of a lot occupied by any semi-pervious or impervious structure or structures, either at ground level or the equivalent thereto when a structure is elevated on pilings, excepting parking areas and areas covered by the eaves of roofs. Lot coverage may be used interchangeable with the term "site coverage." The intent of lot coverage requirements is to regulate bulk standards. For the purposes of calculating total lot coverage, any wetlands (404/jurisdictional) defined by CAMA and/or US Corps of Engineers shall be excluded from the gross acreage within the project area.

Staff Interpretation:

Usually, Lot coverage would include: The walled area of the structure, elevated decks, decks covered by roofs (elevated or not), staircases, elevators, cantilevered architecture, chimneys, accessory structures, and storage areas.

Lot coverage does not usually include unroofed grade level decks, roof overhangs or eaves, sidewalks, driveways, pool decks, and uncovered patios.

IMPERVIOUS SURFACE

UDO Definition:

Impervious coverage and surfaces means any constructed surfaces (rooftops, sidewalks, roads, and parking lots) covered by impenetrable materials such as asphalt, concrete, brick, and paving stones. These materials seal surfaces, repel water, and prevent precipitation from infiltrating soils. Soils compacted by urban development are also highly impervious.

Unwashed crushed stone containing fines is impervious. Impervious surface does not include a slatted deck; the water area of a swimming pool; a surface of number 57 stone, as designated by the American Society for Testing and Materials, laid at least four (4) inches thick over a geotextile fabric; or porous pavement with a hydraulic conductivity greater than 0.001 centimeters per second (1.41 inches per hour). Alternative materials, not subject to the definition of impervious surface, may be proposed subject to certification of a licensed and certified North Carolina professional engineer of compliance with the hydraulic conductivity standard of 1.41 inches per hour or greater. Such certification shall be in the form of a letter under seal.

Staff Interpretation:

When looking at the property from above, as an aerial bird's eye view, the areas of the ground covered by surfaces which do not allow water to travel through them are considered impervious surface. Elevated decks with a roof would be considered impervious. Elevated or grade level decks that are unroofed and built to be drip through would not be considered impervious surface. Concrete driveways and sidewalks would be impervious surfaces.

Lot Coverage Example:
All areas outlined in orange are considered Lot Coverage.



Impervious Surface Example:
All areas outlined in red are considered impervious surface.



Proposed Definition of Building Footprint:
Only includes the walled area of this structure.





Text Amendment to Add a Building Footprint Definition

Amend Article 7, Sec. 7.3 Definitions.

Applicant: North Pier Holdings, LLC

NOVEMBER 12, 2024

Background

- Applicant: North Pier Holdings, LLC.
- Reason for the proposed text amendment:
 - To provide clarity to the citizens and residents of Carolina Beach regarding what is considered part of the building footprint.

Proposed Text Amendment

Building Footprint Definition:

Article 7, Sec. 7.3 Definitions.

Building footprint means where the enclosed area of a building comes out of the ground. It is the literal footprint of the exterior walls of the enclosed area of the building as they touch the earth. This does not include porches, terraces, overhangs, awnings, driveways, or parking lots.

The Town UDO currently has no definition for Building Footprint.

UDO SECTIONS USING "BUILDING FOOTPRINT" & "FOOTPRINT"

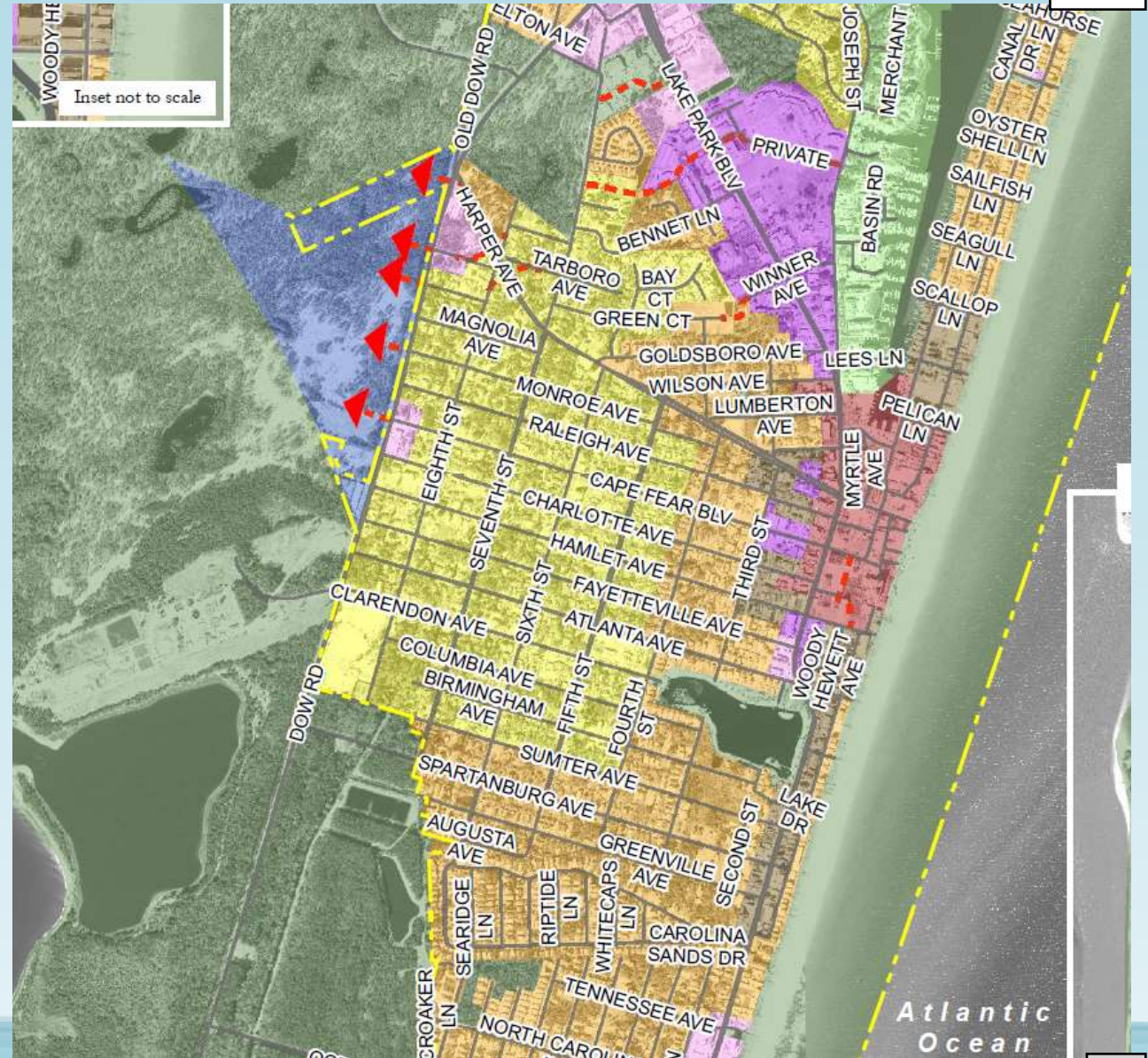
Term Used: Building Footprint		
Sec. 3.8	Residential PUDs (Units >4)	Allows the height of a PUD building to be increased above 40' if reductions in the building footprint are made.
Sec. 3.9	Mixed Use Building Section	This section states "The first habitable floor shall have 50% of the building footprint dedicated to a nonresidential use."
Sec. 3.9	Mixed Use Building Section	Required commercial space is reduced to 25% for mixed use buildings located in a VE flood zone.
Sec. 3.49	Reconstruction of Nonconforming Uses Section	Allows structures to be repaired or reconstructed in the same building footprint as long as the construction cost does not exceed 100% the as is market value of the structure.
Term Used: Footprint		
Sec. 2.14	Minor Site Plan Section	A site plan is required when modifying an existing structures footprint.
Sec. 3.49	Nonconforming Section	When a structure is substantially damaged by a fire, flood, or other event, the owner has 180 days to provide a letter certifying the original footprint of the building.
Sec. 5.125	Accessory Structure in SFHA	An accessory structure with a footprint less than 150 square feet or that is a minimal investment of \$3,000.00 or less and satisfies the criteria outlined above is not required to meet the elevation or floodproofing standards.
Sec. 5.130	Requirements for VE Flood Zones	A qualified design professional must certify a structure - that is not structurally attached to and which is located outside of the footprint of a building - would be built in a way that would not reflect high wave action onto neighboring properties.
Sec. 7.3	Definitions	The Site Plan, Minor definition defines proposed development as single-family residential uses and residential structures consisting of four (4) or fewer dwelling units or for renovation/rehabilitation projects that will modify an existing structure's footprint.

Land Use Plan:

The land use plan does not mention building footprint explicitly, but it does state the following:

“It is the explicit desire of the community that the Future Land Use Map (FLUM) not prevent the possibility of constructing a single family home or rebuilding a structure, and the FLUM should not be construed to do such.”

Goal 4: Continue to reduce overall nonconformities in the town, but also respect existing uses and entitlements, and the rebuilding of structures.



Planning & Zoning Recommendations

- P&Z voted to recommend denial of the proposed text amendment
- They had the following comments during discussion:
 - Concerned with the unintended consequences to the nonconforming ordinance section if the proposed definition was adopted.
 - The Town just adopted an updated UDO - a building footprint definition was not a suggested change during the extensive review process.
 - Members noticed no close NC coastal communities have this definition in their ordinances.
 - Members are hesitant to recommend this definition since it accommodates a particular circumstance and could have other potential ramifications in other areas of the UDO.

Staff Concerns

1. Town staff does not recommend approval of the text amendment because they believe the amendment would have large ramifications to the nonconforming section which would prevent a structure's ability to be rebuilt or renovated to the existing dimensions of the building.
2. The text amendment is inconsistent compared to other community's building footprint definitions.

Council Options:

1. Council could approve the applicant's modified text amendment.
2. Council can approve or modify the amendment at their discretion.
3. Deny proposed amendments.
4. Council could give further direction or have further discussion of amendments.

Motion

Approval

The Council, Whereas in accordance with the provisions of the NCGS, does hereby find and determine that the adoption of the following ordinance amendment to amend – Article 7. Section 7.3 Definitions - is consistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

Denial

The Council, Whereas in accordance with the provisions of the NCGS, does hereby find and determine that the adoption of the following ordinance amendment to amend – Article 7. Section 7.3 Definitions - is inconsistent with the goals and objectives of the adopted Land Use Plan and other long-range plans.

Further Direction/Discussion



AGENDA ITEM COVERSHEET

PREPARED BY: Debbie Hall, Finance Director

DEPARTMENT: Finance

MEETING: Town Council – 11/12/2024

SUBJECT: Approval of Financing Terms, Resolution of Necessary Finding and Reimbursement Resolution for a new Boardwalk restroom.

BACKGROUND:

The Finance Director requested bid proposals from seven lenders for financing the demolition and construction of a new ADA compliant public restroom located at 9 Boardwalk Avenue for \$1,998,147 with a fifteen-year term. The following proposals were received:

Lenders	Interest Rate	Financing Term
Truist Bank	3.97%	15 years
Atlantic Union	4.968%	15 Years

BUDGET IMPACT:

The debt service payment will be appropriated in the FY25/26 annual budget.

ACTION REQUESTED:

Finance Director recommends the proposal received from Truist Bank. To accept the terms, Council needs to approve the following resolutions:

- **Resolution #24-2317** to accept the terms of the proposal from Truist Bank
- **Resolution #24-2318** authorizing the Finance Director to file a LGC Application
- **Resolution #24-2319** to allow reimbursement of expenses from loan proceeds.



Resolution #24-2317

Resolution Approving Financing Terms

WHEREAS, the Town of Carolina Beach, North Carolina (the "Town") has determined to finance the demolition and construction of a new Town owned public restroom facility that meets ADA standards (the "Project"), and the Finance Director has now presented a proposal for the financing of such Project.

BE IT THEREFORE RESOLVED, as follows:

1. The Town hereby determines to finance the Project through Truist Bank ("Truist") in accordance with the proposal dated October 24, 2024, or as such proposal may be supplemented or amended by Truist and the Town verbally or in writing. The amount financed shall not exceed \$1,998,147, the annual interest rate (in the absence of default or change in tax status) shall not exceed 3.97%, and the financing term shall not exceed 15 years from the date of closing.

2. All financing contracts and all related documents for the closing of the financing (the "Financing Documents") shall be consistent with the foregoing terms. All officers and employees of the Town are hereby authorized and directed to execute and deliver any Financing Documents, and to take all such further action as they may consider necessary or desirable, to carry out the financing of the Project as contemplated by the proposal and this resolution. The Financing Documents shall include a Financing Agreement and Deed of Trust and such other documents as Truist may request. Pursuant to the Financing Agreement and Deed of Trust, (a) Truist will advance moneys to the Town to pay the costs of the Project and the financing costs related thereto, and the Town will repay such advance in installments, and (b) the Town will grant a lien on the site of the Project, or portions thereof, together with all fixtures and improvements located thereon, to Truist as security for such advance.

3. The Finance Director is hereby authorized and directed to hold executed copies of the Financing Documents until the conditions for the delivery of the Financing Documents have been completed to the Finance Director's satisfaction. The Finance Director is authorized to approve changes to any Financing Documents previously signed by Town officers or employees, provided that such changes shall not substantially alter the intent of such documents or certificates from the intent expressed in the forms executed by such officers. The Financing Documents shall be in such final forms as the Finance Director shall approve, with the Finance Director's release of any Financing Document for delivery constituting conclusive evidence of such officer's final approval of the Document's final form.

4. The Town shall not take or omit to take any action the taking or omission of which shall cause its interest payments on this financing to be includable in the gross income for federal income tax purposes of the registered owners of the interest payment obligations. The Town hereby designates its obligations to make principal and interest payments under the Financing Documents as "qualified tax- exempt obligations" for the purpose of Internal Revenue Code Section 265.

5. The Town intends that the adoption of this resolution will be a declaration of the Town's official intent to reimburse expenditures for the Project that are to be financed from the proceeds of the Truist financing described above. The Town intends that funds that have been advanced, or that may be advanced, from the Town's general fund, or any other Town fund related to the Project, for costs of the Project may be reimbursed from the financing proceeds.

6. All prior actions of Town officers in furtherance of the purposes of this resolution are hereby ratified, approved and confirmed. All other resolutions (or parts thereof) in conflict with this resolution are hereby repealed, to the extent of the conflict. This resolution shall take effect immediately.

Date: _____

Attest: _____

Kimberlee Ward, Town Clerk

Mayor: _____

Albert Barbee, Mayor

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Resolution No. 24-2319

Reimbursement Resolution for Restroom at 9 Boardwalk Avenue

Whereas: The Finance Director has described to the Board the desirability of adopting a resolution as provided under federal tax law to facilitate the unit's using financing proceeds to restore the unit's funds when the unit makes capital expenditures prior to closing on financing

BE IT THEREFORE RESOLVED by the Town of Carolina Beach, as follows:

1. The Town hereby determines to demolish and construct a new town owned ADA compliant public restroom facility located at 9 Boardwalk Avenue ("Project").
2. The Project is to be financed. The insurer intends to finance the costs of the Project with the proceeds of debt to be issued by the Issuer (The "Borrowing"), the interest on which is to be excluded from gross income for Federal income tax purposes. The currently expected maximum amount of bonds or other obligations to be issued or contracted for this project is \$1,998,147.
3. Funds have been advanced or may be advanced from the General Fund for the Project and these costs are intended to be reimbursed from the financing proceeds.
4. The adoption of this resolution is intended as a declaration of this unit's official intent to reimburse Project expenditures from financing proceeds.

Date: _____

Mayor: _____

Albert L Barbee, Mayor

Attest: _____

Kimberlee Ward, Town Clerk

October 24, 2024

Debbie Hall
Finance Director
Town of Carolina Beach
1121 N Lake Park Blvd
Carolina Beach, North Carolina 28428

Dear Debbie,

Please find our Term Sheet outlining the proposed terms and conditions associated with the financing for the Town of Carolina Beach, North Carolina enclosed.

Atlantic Union Public Finance, Inc. ("AUPF") is pleased to present this Term Sheet, for discussion purposes only, which outlines the terms and conditions AUPF will consider in making a loan to the Town of Carolina Beach, North Carolina ("Borrower"). For the purpose of clarity, AUPF is a wholly-owned subsidiary of Atlantic Union Bank ("Atlantic Union") that will originate and hold the tax-exempt installment transaction herein contemplated.

This Summary of Terms and Conditions is being provided in response to a request for proposals, and AUPF is not receiving separate direct or indirect compensation for providing such response. This Summary of Terms and Conditions is presented for discussion purposes only and is not a commitment to lend. The actual terms and conditions of any commitment to lend are subject to completion of due diligence satisfactory to AUPF. This Summary of Terms and Conditions is confidential and cannot be disclosed to third parties without the prior written consent of AUPF.

If you would like for us to proceed with seeking credit approval, please sign below and return this letter on or before November 1st, 2024, 5:00pm. Upon receipt of this signed letter, AUPF will proceed with completing the underwriting of the loan according to AUPF policies. I hope this proposal meets your objectives and look forward to working with you. I will follow up with you in the coming week to see if you have any questions or comments about anything contained therein.

With Warmest Regards,

Charles Mattox

A handwritten signature in cursive script that reads "Charlie Mattox".

Market President, Wholesale Banking
P: 910-444-0164 / C: 828.713.0934

Agreed and Accepted this _____ day of _____ 2024

Debbie Hall, Finance Director for the Town of Carolina Beach, North Carolina

THIS IS NOT A COMMITMENT; PREPARED AS A TERM SHEET EXCLUSIVELY FOR TOWN OF CAROLINA BEACH, NC

Atlantic Union Public Finance (the “Lender”) is evaluating the feasibility of providing a credit facility to Town of Carolina Beach, North Carolina (“Borrower”), to: Provide installment loan financing for the demolition and construction of a new town owned public restroom facility that meets ADA standards. The facility is located at the Town’s Boardwalk at 9 Boardwalk Avenue, Carolina Beach. The following are non-exclusive preliminary terms and conditions based on information received to date:

- Borrower:** Town of Carolina Beach, North Carolina
- Lender:** Atlantic Union Public Finance
- Loan Amount:** Up to \$1,998,147 installment credit facility (the “loan”)
- Loan Structure:** Tax-Exempt (AUPF does not require a BQ designation)
- Purpose:** The proceeds of the 2024 loan will be used to provide amortizing installment loan financing for the demolition and construction of a new town owned public restroom facility that meets ADA standards. The facility is located at the Town’s Boardwalk at 9 Boardwalk Avenue, Carolina Beach.
- Drawdown:** All proceeds to be advanced upon closing.
- Final Maturity:** Final Maturity shall be 10 years from the closing date which means the maturity date shall be approximately December of the year 2034. At maturity, any outstanding principal balance remaining will be due and can be either paid off or refinanced at that time.
- Interest Rate:** Fixed Rate of 4.968% which will be held through December 31, 2024 (the transaction will be expected to close before then). Thereafter pricing may be subject to change due to changes in market conditions and rate applicable at the time.

In the event of default, the default interest rate would be the prevailing rate plus 5.00%.
- Repayment and Term:** The Amortizing Installment payments are to be made annually (level principal payments of \$133,209.80 for a 10-year term plus interest in arrears) and are based on a 15-year Amortization. The loan is expected to close in December of 2024 and the maturity date shall be 10 years from the closing date.
- Yield Maintenance:** The Bank affirms that, relating to changes outside of the Town’s control, including tax rate or regulatory changes, there shall be no cost of capital yield maintenance provisions, to exclude events of default.
- Commitment Fee:** None

- Security:** Abundance of Caution Deed of Trust on the property located at 9 Boardwalk Avenue, Carolina Beach, NC (No deficiency judgement may be rendered against the Town for breach of a contractual obligation under the Installment Financing Agreement, and the taxing power of the Town will not be pledged to secure payment thereunder.)
- Prepayment/Termination:** There is no prepayment penalty for a payoff of the proposed loan in part or in full at any time.
- Reporting Requirements:** The Town of Carolina Beach will provide annual audited financial statements by March 31st of each year. The Town will also provide its annual budget and any revisions to the budget as soon as they are adopted by the Town Council as well as any other information reasonably requested by the Bank.
- Miscellaneous:** Loan documentation shall include customary provisions addressing perfection of security interests, application of payments, notices, waivers, maximum legal rates, late charges, default rates, rights and remedies upon defaults, prepayments, changes in terms and conditions, interpretation of references in loan documentation, validity of terms and conditions and waiver of trial by jury but shall not include any confession of judgement nor will it include a non-substitution or non-appropriation clause in the Agreement.
- Additionally, as a requested requirement of the Town of Carolina Beach, the bank agrees to the contract specifications set forth in Part B of the originally issued Request for Proposal issued October 9th, 2024.
- Costs:** Borrower agrees that all fees, costs, reasonable legal fees, and other direct out-of-pocket expenses incurred by the Bank in connection with the origination, handling, or collection of the loans shall be paid by the Borrower. All such fees, expenses and costs shall be due whether or not the facility is closed, and, if due, shall be payable at the time of closing, or on demand if the facilities do not close.



RESOLUTION NO. 24-2318

RESOLUTION OF NECESSARY FINDINGS

RESOLUTION AUTHORIZING THE FILING OF AN APPLICATION FOR APPROVAL OF A FINANCING AGREEMENT AUTHORIZED BY NORTH CAROLINA GENERAL STATUTE 160A-20

WHEREAS, the Town of Carolina Beach, North Carolina desires to demolish and construct a town owned public restroom facility located at the Town’s Boardwalk (the “Project”) to better serve the visitors and citizens of the Town of Carolina Beach; and

WHEREAS, The Town of Carolina Beach desires to finance the Project by the use of an installment contract authorized under North Carolina General Statute 160A, Article 3, Section 20; and

WHEREAS, findings of fact by this governing body must be presented to enable the North Carolina Local Government Commission to make its findings of fact set forth in North Carolina General Statute 159, Article 8, Section 151 prior to approval of the proposed contract;

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Carolina Beach, North Carolina, meeting in regular session on the 12th day of November 2024, make the following findings of fact:

1. The proposed contract is necessary or expedient to improve health and public safety by replacing the old deteriorating public restroom with a new facility that increases capacity and meets ADA standards.
2. The proposed contract is preferable to a bond issue for the same purpose because general obligation bond authorization could not be obtained in a timely manner and would not permit the alternative financing structures and repayment provisions available in the proposed negotiated installment contract financing.
3. The sums to fall due under the contract are adequate and not excessive for the proposed purpose because we have proposals in hand which detail the project costs.
4. The Town of Carolina Beach’s debt management procedures and policies are sound because we have annual audits prepared and are reviewed by the Local Government Commission. Our past audit reports indicate that the Town’s debt management and contract obligation payment policies have been carried out in strict compliance with the law.
5. The Town of Carolina Beach is not in default in any of its debt service obligations.
7. The attorney for the Town of Carolina Beach has rendered an opinion that the proposed Project is authorized by law and is a purpose for which public funds may be expended pursuant to the Constitution and laws of North Carolina.

NOW, THEREFORE, BE IT FURTHER RESOLVED that the Finance Director is hereby authorized to act on behalf of the Town of Carolina Beach in filing an application with the North Carolina Local Government Commission for approval of the Project and the proposed financing contract and other actions not inconsistent with this resolution.

This resolution is effective upon its adoption this _____ day of _____, 20____.

The motion to adopt this resolution was made by _____, seconded by _____ and passed by a vote of _____ to _____

Mayor

ATTEST:

Clerk

This is to certify that this is a true and accurate copy of Resolution No. _____ Adopted by the Town of Carolina Beach on the _____ day of _____, 20____.

Clerk

Date



Town of Carolina Beach, NC

Term Sheet

10/24/2024

Truist Bank (“Bank”) is pleased to submit the following summary of terms and conditions for discussion purposes only. The term sheet is non-binding and does not represent a commitment to lend. The term sheet is intended only as an outline of certain material terms of the requested financing and does not purport to summarize all of the conditions, covenants, representations, warranties and other provisions that would be contained in any definitive documentation for the requested financing.

Borrower:	Town of Carolina Beach, NC (“Town”)
Lender:	Truist Bank
Facility/Purpose/Description:	<p>Tax-exempt, Bank Qualified direct bank loan evidenced by an Installment Financing Agreement (“Agreement”) pursuant to N.C.G.S. 160A-20 (the “Facility”).</p> <p>The proceeds of the Agreement will be used to primarily finance the demolition and construction of a new town owned public restroom facility that meets ADA standards. The facility is located at the Town’s Boardwalk at 9 Boardwalk Avenue.</p>
Amount:	Up to \$1,998,147.
Funding:	<p>The Loan will be funded in a single drawdown on the closing date, which is anticipated to be December 9, 2024 and any proceeds of the Loan not advanced to the Borrower at closing will be required to be deposited into a project fund account held with Truist (the “Project Fund”).</p> <p>The Project Fund will earn an initial investment rate of 3.80%.</p> <p>A sample copy of the requisition form shall be part of the closing documents (no additional invoices or forms shall be required).</p> <p>A copy of the anticipated draw down schedule shall be provided prior to closing and funding the transaction.</p>
Repayments:	Installment payments are to be made annually in arrears. Required that ACH payments be set up for payments. Please see the attached debt service schedule.
Maturity Date:	15 years from the closing date.
Interest Rates:	<p><u>Make Whole Option – 15 Year Option:</u></p> <p>3.97% Tax-Exempt</p> <p>The Borrower will pay to the Lender prepayment compensation in connection with any prepayment of the Loan based on the Lender’s standard break-funding terms for fixed rate</p>

loans unless a Par Call option is selected below.

Borrower may prepay the Loan in whole or in part at any time upon two Business Days' prior written notice to the Lender. Such prepayment notice shall specify the amount of the prepayment which is to be made. In the event of a prepayment of the Loan under this paragraph, the Borrower may be required to pay the Lender an additional fee (a prepayment charge or premium) determined by Lender's make whole compensation provision in the loan documents, to compensate the Lender for all losses, costs and expenses incurred in connection with such prepayment. Any partial prepayment shall be applied as determined by Lender in its sole discretion.

Make Whole Compensation Provision

The fee shall be equal to the present value of the difference between (1) the amount that would have been realized by Bank on the prepaid amount for the remaining term of the loan at the rate for fixed-rate payers in U.S. Dollar interest rate swaps as quoted by Bloomberg (the "Swap Rate") for a term corresponding to the term of the loan, interpolated to the nearest month, if necessary, that was in effect three Business Days prior to the origination date of the loan and (2) the amount that would be realized by Bank by reinvesting such prepaid funds for the remaining term of the loan at the Swap Rate for fixed-rate payers in U.S. Dollar interest rate swaps, interpolated to the nearest month, that was in effect three Business Days prior to the loan repayment date; both discounted at the same interest rate utilized in determining the applicable amount in (2). Should the present value have no value or a negative value, the Borrower may repay with no additional fee. Should Bloomberg no longer release rates for fixed-rate payers in U.S. Dollar interest rate swaps, Bank may substitute the Bloomberg index for rates for fixed-payers in U.S. Dollar interest rate swaps with another similar index as determined by Bank. Bank shall provide the Borrower with a written statement explaining the calculation of the premium due, which statement shall, in absence of manifest error, be conclusive and binding.

If the Borrower prepays in any calendar year less than ten percent (10%) of the principal amount that was outstanding on the Loan on January 1 of such calendar year, such prepayment may be made at par plus interest accrued to the date of prepayment on the principal amount being prepaid and with no fee or prepayment as described above.

Par Call – Seven (7) Years:

A Make Whole Compensation Provision will exist from closing until the par call date.

15 Year Option: The tax-exempt fixed rate is 4.14% per annum.

Par Call – Ten (10) Years:

A Make Whole Compensation Provision will exist from closing until the par call date.

15 Year Option: The tax-exempt fixed rate is 4.03% per annum.

The tax-exempt fixed interest rates for the Loan will be subject to increase in the event of a Determination of Taxability.

	<p>Rate Lock Period: The rates are locked, and available, through December 14, 2024.</p> <p>Accrual basis: 30/360</p> <p>The Borrower understands that the market interest rates are subject to change. The Borrower also understands that in the event the Facility is funded during the Rate Lock Period, the Rate will become the effective interest rate for the Facility even if market interest rates are lower than the Rate at the time the Facility is funded.</p>
Security:	The Town's obligation to make installment payments will be subject to annual appropriation. The Town's obligation under the Agreement will be further secured by a security interest in the project being financed.
Documentation:	All documentation shall appropriately structure the financing according to Federal and State statutes, subject to acceptable review by Lender and its counsel. The loan will not be presented for payment unless required by documentation.
Covenants:	<p>Usual and customary covenants, reporting requirements, representations and warranties and events of default, for transactions of this type, including, without limitation, the following financial covenants and reporting requirements:</p> <ul style="list-style-type: none"> • Annual Financial Statements within 270 days of fiscal year end. • Annual budget within 30 days of adoption. • The default rate shall be Prime + 2.0%.
Conditions Precedent and Other Terms:	<ol style="list-style-type: none"> 1. <u>Borrower's Counsel Opinion</u>: An opinion of Borrower's counsel covering matters customary to transactions such as this and in all respects acceptable to the Bank, the Lender and its counsel. 2. <u>Other Items</u>: The Bank and the Lender shall have received such other documents, instruments, approvals or opinions as may be reasonably requested.
Lender's Legal Counsel	<p>The Lender's legal counsel will be Matt Davis at Pope Flynn.</p> <p>Estimated fees for the closing of the Loan will not exceed \$7,500.</p> <p>All legal fees shall be paid by the Borrower whether or not the Loan described herein is closed.</p>
Governing Law & Jurisdiction:	State of North Carolina.
RFP Statement:	The Bank agrees to the contract specifications set forth in Part B of this Request for Proposal.
Municipal Advisor Disclosure:	<p>The Bank is a regulated bank and makes direct purchase loans to Municipal Entities and Obligated Persons as defined under the Municipal Advisor Rule, and in this term sheet is solely providing information regarding the terms under which it would make such a purchase for its own account. The Bank is not recommending an action or providing any advice to the Borrower and is not acting as a municipal advisor or financial advisor. The Bank is not serving in a fiduciary capacity pursuant to Section 15B of the Securities Exchange Act of 1934 with respect to the information and material contained in this</p>

	communication. The Bank is acting in its own interest. Before acting on the information or material contained herein, the Borrower should seek the advice of an IRMA and any other professional advisors which it deems appropriate for the Loan described herein, especially with respect to any legal, regulatory, tax or accounting treatment.
Patriot Act:	Pursuant to the requirements of the Patriot Act, the Bank and its affiliates are required to obtain, verify and record information that identifies loan obligors, which information includes the name, address, tax identification number and other information regarding obligors that will allow Lender to identify obligors in accordance with the Patriot Act, and Lender is hereby so authorized. This notice is given in accordance with the requirements of the Patriot Act and is effective for the Bank and its affiliates.
Expiration Date:	This Term Sheet shall expire on November 24th, 2024 unless accepted prior to then.

DISCLAIMER

**Town of Carolina Beach, NC
Series 2024**

MUNICIPAL ADVISOR DISCLOSURE

This analysis and any rates utilized herein have been provided by Truist solely for illustrative purposes. Truist is not recommending an action or providing advice to the borrower and is not acting as a municipal advisor or financial advisor.

SOURCES AND USES OF FUNDS

Town of Carolina Beach, NC Series 2024

Sources:

Bond Proceeds:	
Par Amount	1,998,147.00
	<hr/>
	1,998,147.00

Uses:

Project Fund Deposits:	
Project Fund	1,998,147.00
	<hr/>
	1,998,147.00

BOND SUMMARY STATISTICS

Town of Carolina Beach, NC Series 2024

Dated Date	12/09/2024
Delivery Date	12/09/2024
Last Maturity	12/01/2039
Arbitrage Yield	3.931608%
True Interest Cost (TIC)	3.931608%
Net Interest Cost (NIC)	3.970000%
All-In TIC	3.931608%
Average Coupon	3.970000%
Average Life (years)	7.978
Duration of Issue (years)	6.719
Par Amount	1,998,147.00
Bond Proceeds	1,998,147.00
Total Interest	632,848.69
Net Interest	632,848.69
Total Debt Service	2,630,995.69
Maximum Annual Debt Service	210,773.43
Average Annual Debt Service	175,659.95
Underwriter's Fees (per \$1000)	
Average Takedown	
Other Fee	
Total Underwriter's Discount	
Bid Price	100.000000

<i>Bond Component</i>	<i>Par Value</i>	<i>Price</i>	<i>Average Coupon</i>	<i>Average Life</i>
Bond Component	1,998,147.00	100.000	3.970%	7.978
	1,998,147.00			7.978

	TIC	All-In TIC	Arbitrage Yield
Par Value	1,998,147.00	1,998,147.00	1,998,147.00
+ Accrued Interest			
+ Premium (Discount)			
- Underwriter's Discount			
- Cost of Issuance Expense			
- Other Amounts			
Target Value	1,998,147.00	1,998,147.00	1,998,147.00
Target Date	12/09/2024	12/09/2024	12/09/2024
Yield	3.931608%	3.931608%	3.931608%

BOND DEBT SERVICE

**Town of Carolina Beach, NC
Series 2024**

<i>Period Ending</i>	<i>Principal</i>	<i>Coupon</i>	<i>Interest</i>	<i>Debt Service</i>	<i>Annual Debt Service</i>
12/01/2025	133,209.80	3.970%	77,563.63	210,773.43	210,773.43
12/01/2026	133,209.80	3.970%	74,038.01	207,247.81	207,247.81
12/01/2027	133,209.80	3.970%	68,749.58	201,959.38	201,959.38
12/01/2028	133,209.80	3.970%	63,461.15	196,670.95	196,670.95
12/01/2029	133,209.80	3.970%	58,172.72	191,382.52	191,382.52
12/01/2030	133,209.80	3.970%	52,884.29	186,094.09	186,094.09
12/01/2031	133,209.80	3.970%	47,595.86	180,805.66	180,805.66
12/01/2032	133,209.80	3.970%	42,307.43	175,517.23	175,517.23
12/01/2033	133,209.80	3.970%	37,019.00	170,228.80	170,228.80
12/01/2034	133,209.80	3.970%	31,730.57	164,940.37	164,940.37
12/01/2035	133,209.80	3.970%	26,442.15	159,651.95	159,651.95
12/01/2036	133,209.80	3.970%	21,153.72	154,363.52	154,363.52
12/01/2037	133,209.80	3.970%	15,865.29	149,075.09	149,075.09
12/01/2038	133,209.80	3.970%	10,576.86	143,786.66	143,786.66
12/01/2039	133,209.80	3.970%	5,288.43	138,498.23	138,498.23
	1,998,147.00		632,848.69	2,630,995.69	2,630,995.69

FORM 8038 STATISTICS

**Town of Carolina Beach, NC
Series 2024**

Dated Date 12/09/2024
Delivery Date 12/09/2024

<i>Bond Component</i>	<i>Date</i>	<i>Principal</i>	<i>Coupon</i>	<i>Price</i>	<i>Issue Price</i>	<i>Redemption at Maturity</i>
Bond Component:						
	12/01/2025	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2026	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2027	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2028	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2029	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2030	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2031	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2032	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2033	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2034	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2035	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2036	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2037	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2038	133,209.80	3.970%	100.000	133,209.80	133,209.80
	12/01/2039	133,209.80	3.970%	100.000	133,209.80	133,209.80
		1,998,147.00			1,998,147.00	1,998,147.00

	<i>Maturity Date</i>	<i>Interest Rate</i>	<i>Issue Price</i>	<i>Stated Redemption at Maturity</i>	<i>Weighted Average Maturity</i>	<i>Yield</i>
Final Maturity	12/01/2039	3.970%	133,209.80	133,209.80		
Entire Issue			1,998,147.00	1,998,147.00	7.9778	3.9316%

Proceeds used for accrued interest 0.00
 Proceeds used for bond issuance costs (including underwriters' discount) 0.00
 Proceeds used for credit enhancement 0.00
 Proceeds allocated to reasonably required reserve or replacement fund 0.00



AGENDA ITEM COVERSHEET

PREPARED BY: Jeremy Hardison Community
Development Director

DEPARTMENT: Community
Development

MEETING: Town Council – November 12, 2024

SUBJECT: Discussion to consider amending the Wrecker/Towing Regulations.

BACKGROUND:

The following is an overview for discussion on changes to the proposed towing regulations.

Organized the ordinance based on.

1. Regulations that apply to all towing/wrecker operators
2. Regulations that apply to private/trespass towing procedures
3. Regulations for operators providing towing for public property/impoundment purposes.

Proposed

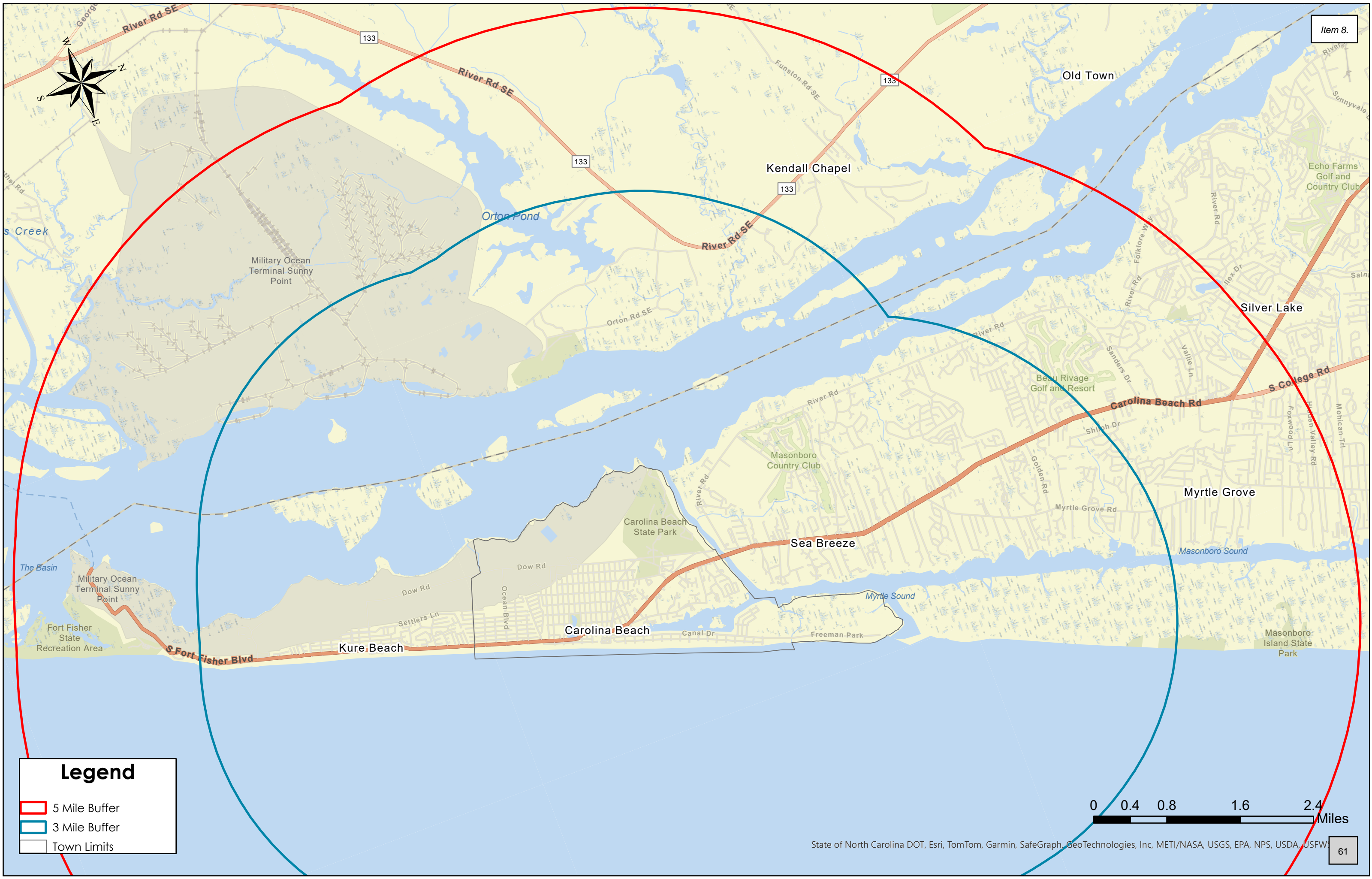
- Combined Article VII. - Wrecker/towing services and impoundment and Sec. 18-78. - Vehicle towing and storage—Police department eligible list.
- Changed age of Individual operating a towing/wrecker from 18 to 21 years of age.
- Clarified policy for the police eligibility list.
- Changed from towing any automobile or truck regardless of size or weight to capable of towing the type of automobile or truck requested to be towed.
- Changed from to have facilities to protect from the elements vehicles damaged by exposure to take the appropriate precautions to protect damaged vehicles from the exposure of weather elements and have sufficient fenced storage space with security lighting to protect vehicles from break-ins, theft, and damage.
- Change from having a garage located within the Town of Carolina Beach to within New Hanover County located three miles from the Town of Carolina Beach town limits.
- Added to rates and fee schedule a \$200 towing/wrecker application fee.

ACTION REQUESTED:

Discussion only

MOTION:

Direct staff to bring back amendments to be considered at the December Town Council meeting.



Legend

- 5 Mile Buffer
- 3 Mile Buffer
- Town Limits

