

CAROLINA BEACH

Planning and Zoning Meeting

Thursday, October 10, 2024 – 6:00 PM

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



AGENDA

CALL TO ORDER

APPROVAL OF MINUTES

- [1.](#) September 12th, 2024 – P&Z Minutes

STAFF REPORT ON RECENT COUNCIL MEETINGS

STAFF REPORT ON RECENT DEVELOPMENTS

PUBLIC COMMENT

PUBLIC HEARINGS

- [2.](#) **Text Amendment** to amend Article 7, Sec. 7.3 Definitions. Applicant: North Pier Holdings, LLC.

NON-AGENDA ITEMS

ADJOURNMENT



AGENDA ITEM COVERSHEET

PREPARED BY: Gloria Abbotts, Senior Planner

DEPARTMENT: Community
Development

MEETING: Planning & Zoning Commission – October 10th

SUBJECT: September 12th, 2024 – P&Z Minutes

Action:

Approve the September 12th, 2024 Minutes

CAROLINA BEACH

Planning and Zoning Commission

Thursday, September 12, 2024 - 6:00 PM

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



MINUTES

CALL TO ORDER

Chairman Rouse called the meeting to order at 6:00 PM.

PRESENT

- Chairman Wayne Rouse
- Vice Chairman Jeff Hogan
- Commissioner Melanie Boswell
- Commissioner Todd Piper
- Commissioner Bill Carew
- Commissioner Lynn Conto

ABSENT

- Commissioner Ethan Crouch

ALSO PRESENT

- Community Development Director Jeremy Hardison
- Senior Planner Gloria Abbotts

CONFLICT OF INTEREST

Members of Planning and Zoning shall not vote on recommendations, permits, approvals, or other issues where the outcome of the matter being considered is reasonably likely to have a direct, substantial, and readily identifiable financial impact on the member or a member has a close familial, business, or other associational relationship. No member shall be excused from voting except upon those matters as noted, above, or upon those others involving the consideration of his own financial interest or official conduct. (160D-109)

APPROVAL OF MINUTES

1. August 8, 2024 – P&Z Minutes

ACTION: Motion to approve the minutes as written

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

STAFF REPORT ON RECENT DEVELOPMENTS

Ms. Abbotts reported the following statistics for September:

Permitting

- 36 permits (renovation, repair, grading, additions, fences)
- 7 residential new construction
- 9 certificates of occupancy

Code Enforcement

- 25 complaints received
- 8 non-code-enforcement complaints received
- 13 resolved complaints

Commissioner Carew asked about unresolved complaints. Ms. Abbotts said a few are outstanding or have been sent letters and resolution is pending.

Chairman Rouse asked about the required time frame for action once a property owner receives notice. Mr. Hardison said it depends on the type of violation, but it's typically 15 to 30 days.

Vice Chairman Hogan said he appreciates that staff has added non-code-enforcement complaints to the report.

Demos

- 309 Cape Fear Boulevard
- 925 Carolina Sands Drive

Town Council and Other Updates

- Silver Dollar addition – approved by Council
- Proximity – certificate of occupancy on first building upcoming
- Boardwalk rides – gone but proposing to come back by Easter
- Board of Adjustment September 18 – Dry Dock Inn pool fence variance and sidewalk café appeal
- Bike/Ped open house – September 26
- Envisioning flood resilience workshop – November 6
- Text amendment for building footprint definition – Technical Review Committee (TRC)
- Stop sign request at 6th Street and Raleigh Avenue – TRC

Project Updates

- 1810 Canal Drive – Coastal Area Management Act (CAMA) grant
- Ocean Boulevard sidewalk – October
- Boardwalk bathroom – winter
- Saint Joseph Street multi-use path – winter
- I (heart) CB sign – March
- Submitted grant for South Lake Park Boulevard sidewalk from Lake Park to Alabama Avenue

Chairman Rouse asked who is requesting the 4-way stop at 6th Street and Raleigh Avenue. Ms. Abbotts said she believes it's one of the property owners on the corner. Mr. Hardison said it was requested by Gary Doetsch.

PUBLIC COMMENT

None

PUBLIC HEARING

2. Consider a Preliminary Plat for a 4-Lot Subdivision Located at 1231 Saint Joseph Street
Applicant: Black Lotus Properties, LLC

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 and 10,231 square feet. The existing single-family home on the property will become Lot 2 of the subdivision.

The applicant proposes to install a private road, Reef Road, which will meet the minimum width of 22 feet. The road will be constructed with impervious material that meets the standards of the N.C. Department of Transportation (DOT) and Fire Code, subject to the Commission's approval. To remain within the 10,000-square-foot 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-foot-by-60-foot hammerhead at the end of Reef Road 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 Saint Joseph Street with private lines extended to service the lots. Streetlamps will be required, and street trees will be installed for every 50 feet of lot frontage. Existing vegetation can be used and is encouraged. Sidewalks are not proposed along the street, but the Commission may require the applicant to construct a sidewalk. The proposed 8-foot 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, 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.

Ms. Abbotts presented the details. She reviewed surrounding uses, the site plan, and an overhead view of the property, and she detailed staff's recommendation:

- Street trees every 50 feet; existing vegetation may be used
- Permanent monuments at corners
- Drainage plan required

- Surfacing shall be approved by the Commission
- The Commission shall require sidewalks
- Shall install street sign, light poles, and stop sign
- Bury electrical lines
- Lot coverage may not exceed 40%
- Designate location of open space
- State soil and erosion control permit required for over an acre disturbance

Ms. Abbotts said the applicant addressed TRC comments, and planning staff recommends approval of the preliminary plat.

Commissioner Boswell asked if the applicant is proposing single-family homes. Ms. Abbotts said yes, in R-2 a maximum of 4 single-family homes, including the existing home, is all that would be able to go on the property.

Chairman Rouse asked for more details about the amount of fill that would be used. Ms. Abbotts said her understanding is that they are going to use some of the fill from relocating the ditch to grade it but may have to bring in additional fill for it. She said she doesn't think specifics have been received for each lot, but they would have to meet the new Unified Development Ordinance (UDO).

Commissioner Carew asked how far back the relocated ditch will go. Ms. Abbotts said they are pushing it back about 5 feet.

Chairman Rouse asked about the flow of water through the ditch. Ms. Abbotts said she believes it is south to north, so it follows the property line and then goes to Saint Joseph Street.

Commissioner Carew asked who maintains the ditch now and who will maintain it in the future. Ms. Abbotts said she believes it will be the owner. Mr. Hardison said he is not aware of any Town easements for the Town to maintain the ditch, so it would be the neighborhood's responsibility.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Tommy Scheetz of Headwaters Engineering, representing the applicant as the civil engineer for the project, said there will not be an erosion control permit because there will be less than 1 acre of disturbed land, and there will not be a State stormwater permit because there is less than 10,000 square feet of impervious surface proposed. He said the ditch drains the area from behind Publix and ends up at Saint Joseph Street and Lewis Road, and once it goes there it ends up in the marsh. Mr. Scheetz said there will be a homeowners association (HOA) for the subdivision, and it will maintain the ditch as well as a private gravity sewer main that he is proposing to serve the homes. He said the roadway will be made with 100% pervious materials.

Vice Chairman Hogan asked for details about riprap, which is the material proposed to line the ditch. Mr. Scheetz said these are big stones often seen on stormwater ponds. Vice Chairman Hogan asked if the ditch across from Hang Ten Grill going into the Lake is an example of riprap, and Mr. Hardison said yes.

Commissioner Boswell asked how the applicant feels about sidewalks in the neighborhood. Mr. Scheetz said the applicant did not feel a sidewalk was necessary for this subdivision because it's only 4 lots and only about 250 feet from Saint Joseph Street to the back lots. Commissioner Boswell said the Commission usually asks for sidewalks from new neighborhoods to fit with the goal of trying to make this a bike- and pedestrian-friendly town and asked if the applicant would be opposed to sidewalks if they were made part of the plan. Mr. Scheetz said the applicant would rather not do sidewalks, but if that's a condition of approval he'll have to do it.

Commissioner Carew asked if calculations took into account existing flow plus any new flow created. Mr. Scheetz said yes, and they conservatively estimated the drainage area and amount of runoff going to the ditch in case of heavy rain events.

Commissioner Piper said pervious concrete in a lot of areas does not seem to work well because there is so much sand here and asked if the road will be maintained by the HOA. Mr. Scheetz said yes, and the reason he is showing a Truegrid permeable surface is because of that. He said pervious concrete has a lot of maintenance issues, and with this you just have to spray or cut weeds and that's it. Mr. Scheetz said sand may affect it some but not nearly as much as pervious concrete or asphalt. Commissioner Piper said his concern is that it would be a challenge to stop sheet flow runoff during construction from going into the road. Mr. Scheetz said they could use any pervious surface, but this is the best option he has identified and there is not really going to be any grading on the lots because the property is in a flood zone and homes will have to be on pilings, so they should be able to set the pilings and build the house. Commissioner Piper was skeptical that there would not be fill put on the lots and asked if there is a way after all 4 homes are built to ensure the road meets the original data intended, that it's still permeable and no impermeable surface has been created accidentally. Mr. Scheetz said there are options, such as pulling it up and resetting or doing an infiltration test. Commissioner Piper said it would make him happy and do the neighbors justice to make sure it still works.

Commissioner Conto echoed Commissioner Boswell's concerns about sidewalks. She said because of the multi-use path going in front of the property, it makes sense to go ahead and connect to that. Commissioner Conto also said she agreed with Commissioner Piper that the road's permeability should be rechecked in a flood zone.

Chairman Rouse asked if anyone from the public wanted to speak.

Erika Robertson of 100 Lanier Landing Court said she appreciates the green marks on the plan indicating trees, but she's sad to hear most of them might be gone once the lots are developed because there are at least a dozen mature trees with 30 to 45 feet of elevation. She said many people consider Saint Joseph Street to be the prettiest road in the Town, and that will not continue if there is no consideration of how to treat the character and integrity of the road. Ms. Robertson said she

doesn't fault the applicant for wanting to develop the property, but she would love to see a tiny home on Lot 1 to keep the trees from being destroyed and changing the character of Saint Joseph Street.

Mario Piccinin of 104 Lanier Landing Court said his biggest concern is drainage of his neighborhood's stormwater pond and moving the ditch. He said a lot of water moves through there and he sees a lot of sand in the ditches, so it's important to make sure the ditch is moving water efficiently. Mr. Piccinin said when the ditch is moved, a lot of trees along the back area will likely have to come down. He also asked some questions about the proposed homes for the property, but Chairman Rouse said this part of the process is only looking at roads and other infrastructure, not homes.

Mr. Scheetz said his client wants to save as many trees as possible and will place homes to preserve the most desirable trees.

Chairman Rouse asked about the adjacent neighborhood's retention pond. Mr. Scheetz said his calculations assumed there is no pond, and the pond should control the post-construction flow to the pre-development condition. He said if there is some backflow going in and out of the pond it could be a maintenance issue, so he recommended that the neighborhood ensure everything is well-maintained.

Commissioner Carew asked if the applicant intends to take out any trees other than for the apron for entry to the development. Mr. Scheetz said no, it would be for just the driveway. Commissioner Carew asked if the applicant intends to get the Town's consent if any trees need to be taken down in the right-of-way. Mr. Scheetz said yes.

Commissioner Piper asked if the applicant is going to sell the lots or develop the area himself. Mr. Scheetz said he doesn't think the applicant knows yet. Commissioner Piper asked if the applicant has experience in constructing homes. Mr. Scheetz said he's in real estate.

Mr. Piccinin said as far as maintenance of his neighborhood's pond, they do contract a company that comes every quarter to inspect the pond and maintain permits, and as far as they know it's operating the way it should.

No one else requested to speak.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Commissioner Boswell said she is in favor of the project with sidewalks on one side of the frontage street and both sides of any other streets in the subdivision. She said other new neighborhoods have been required to put in sidewalks, and people need a safe place to walk.

Commissioner Piper said if you put a sidewalk on the north side, it's going to impact green surface considerably. Commissioner Boswell said the sidewalk would go on the south side where the homes are.

Commissioner Carew asked if the sidewalks should be composed of Truegrid material so they would also be pervious. Chairman Rouse said otherwise, it could bump the project over the 10,000-square-foot impervious surface limit for a State stormwater permit.

Commissioner Piper questioned what the road will be like as a walking surface. Vice Chairman Hogan asked if there is an example of this material anywhere in the Town. Mr. Scheetz said there is a small section of this material along the Wrightsville Beach Loop near the rec center. He said it's very soft and has small, heavy-duty plastic cells configured like honeycomb. Commissioner Piper said his concern is he doesn't know this material, and he doesn't think it's conducive to walking. He said a lot of people don't like walking on gravel, and the proposed system for the road is not going to create a walkable neighborhood feel. Commissioner Carew said the road could be an issue for someone with mobility problems. Commissioner Piper said if they require sidewalks, it's going to create an impediment for the developer, but on the other hand he agrees that the road could create mobility problems. Commissioner Boswell said she thinks she has seen the material before, and if it's the same as she is thinking, it is walkable.

Chairman Rouse asked if staff had a recommendation regarding sidewalks. Ms. Abbotts said they discussed it with the applicant, but because of the multi-use path going out front staff decided to leave it up to the Commission.

Commissioner Piper said sidewalks would be a big cost for 4 houses. Mr. Scheetz said this would also take out more trees.

Commissioner Carew said he would tend to favor trees over a sidewalk.

Commissioner Piper said he would lean toward a sidewalk but wants to know if there are other solutions to consider.

Vice Chairman Hogan said he likes sidewalks and trees.

Commissioner Boswell said she also likes both and asked for Mr. Scheetz to come back up to address Commissioner Piper's question. She wondered if there was a way to compromise by saving the oak trees on the property and having a sidewalk.

ACTION: Motion to open the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Mr. Scheetz said he loves sidewalks and is all for them, but he doesn't see the necessity of having a sidewalk for 4 lots on a dead-end road that has no interconnectivity with neighboring properties. He said if the goal is to save trees, then they need to stay as far away from them as possible.

Commissioner Piper asked about preserving the 27-inch oak and asked what kind of grading will be done to the road. Mr. Scheetz said any root matter or vegetation would be removed and it would need to be a flat surface. He said the property is very flat, so there should be minimal grading and just some prep work.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Mr. Hardison said when the application for this project was submitted the Town applied the old subdivision ordinance, but the new UDO currently in place says all subdivisions with 6 or more lots shall have sidewalks.

Vice Chairman Hogan said the driveways for each property would break up any sidewalk, so he would rather keep trees.

Commissioner Boswell said she would agree to support the project without a sidewalk but will be riding by the site to check the trees.

ACTION: Motion to close the public hearing

Motion made by Chairman Rouse, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

ACTION: Motion to approve the preliminary plat for Kybalion Creek as presented and approve the pervious road and make sure that a test is done on the driveway after construction of the 3 residences to make sure that the road is still draining properly

Motion made by Vice Chairman Hogan, seconded by Commissioner Boswell

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Chairman Rouse thanked members of the public for attending and expressed appreciation for their input.

DISCUSSION ITEMS

3. Appoint a Chairman and Vice Chairman of the Planning and Zoning Commission

ACTION: Motion to nominate Chairman Rouse for a second term as Chairman

Motion made by Commissioner Conto, seconded by Vice Chairman Hogan

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Commissioner Conto said during his current term, Chairman Rouse has demonstrated outstanding leadership and dedication.

ACTION: Motion to nominate Vice Chairman Hogan for another term as Vice Chairman

Motion made by Commissioner Conto, seconded by Commissioner Boswell

Voting Yea: Chairman Rouse, Vice Chairman Hogan, Commissioner Boswell, Commissioner Piper, Commissioner Carew, Commissioner Conto

Motion passed 6-0

Commissioner Conto praised Vice Chairman Hogan’s passion and commitment to the Town and its future.

NON-AGENDA ITEMS

Chairman Rouse asked Mr. Hardison about the status of any new guidance from the State regarding accessory dwelling units (ADUs). Mr. Hardison said there was a bill, but it has not gone forward.

Chairman Rouse asked him to keep the Commission informed of any changes on this matter.

ADJOURNMENT

Chairman Rouse adjourned the meeting at 7:15 PM.



AGENDA ITEM COVERSHEET

PREPARED BY: Haley Moccia, Planner **DEPARTMENT:** Planning & Development

MEETING: Planning & Zoning Commission – October 10th, 2024

SUBJECT: **Text Amendment** to amend Article 7, Sec. 7.3 Definitions.

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)

Historically, Town staff have interpreted building footprint to be 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, and it mentions the term “footprint” a total of 10 times (See Attachment 3). The table below details how each section references the term “building footprint” and the term “footprint.”

UDO SECTIONS USING "BUILDING FOOTPRINT AND "FOOTPRINT"		
Term Used: Building Footprint		
Sec. 3.7	Residential PUDs (Units >4)	Allows the height of a building to be increased above 40' if reductions in the building footprint are made.

Sec. 3.9	Mixed Use Building Section	A certain percentage of non-residential use is required to be located and dedicated to the first floor of a multi-use building (commercial on the bottom and residential on the upper floors) and this percentage is based on the building footprint.
Sec. 3.9	Flood ordinance Section	Describes when certifications are required based of an accessory structure's footprint.
Sec. 3.49	Nonconforming Section	Allows structures to be repaired or reconstructed in the same building footprint.
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	If the footprint of the structure located in a flood zone is larger than 150 sf and costs less than \$3,000, no elevation of the structure or floodproofing is required.
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 put 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. This house consists of 2 stories with a small, enclosed living area and large exterior elevated decks. The applicant's text amendment would only allow that homeowner the ability to rebuild the enclosed area, not the exterior structurally attached elevated decks and staircases. They would have to potentially sacrifice part of the enclosed area for 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.”

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



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.

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.

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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.

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Other Areas In UDO Mentioning Footprint

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**.

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.

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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.

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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.

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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.

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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.