



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