



TOWN OF PALM BEACH
Planning, Zoning & Building Department
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PLANNING, ZONING, & BUILDING DEPARTMENT
PZ&B Staff Memorandum: Planning and Zoning Commission Meeting

TO: Chair and Members of the Commission

THRU: Wayne Bergman, MCP, LEED® AP, Director of Planning, Zoning & Building
James Murphy, Assistant Director of Planning, Zoning & Building

FROM: Jennifer Hofmeister-Drew, AICP, Planner III

SUBJECT: ZON-23-040 C-TS TEXT AMENDMENT

MEETING: November 8, 2023

RECOMMENDED ACTION

Staff recommends that the Planning and Zoning Commission (PZC) hear the application for proposed text amendment to the Commercial-Town Serving (C-TS) Zoning district and provide a recommendation to the Town Council.

GENERAL INFORMATION

On April 4, 2023, the applicant, James M. Crowley, Esq., Gunster Law Firm, submitted a proposal, attached as Exhibit A, for discussion with the Town Council an amendment to the C-TS zoning district to allow the placement of building arcades and colonnades to extend beyond private property lines that would permit covered walkways within public rights of way. The applicant's Letter of Intent (LOI) accurately cites that the Town currently allows for this code provision in the C-WA zoning district through the implementation of the Worth Avenue Design Guidelines. The purpose of this allowance in the C-WA zoning district is to increase the aesthetic appearance of the streetscape, add protection from the elements and enhance the overall walking experience for the pedestrian. The subject text amendment, attached as Exhibit A, seeks to duplicate this allowance in the C-TS commercial district.

Pursuant to Code Section 134-261(b), any proposed amendment, supplement, change, modification or repeal shall first be submitted as an initial review to the Director of Planning, Zoning and Building or his designee, who shall submit it to the Town Council for its review and feedback. Following Town Council feedback, the Director of Planning, Zoning and Building or his designee shall submit the application to the PZC for its recommendations and report. Upon the filing of the recommendations and report by the PZC, the Town Council shall proceed to hold a public hearing for consideration of adoption.

During the pre-application process, the Public Works Department reviewed the text amendment and had the following comments.

1. Include clear zone requirements for travel lanes. Proposed columns cannot be located within a clear zone.
2. The required sidewalk widths within the district need to be maintained. Where deficient, additional accommodation needs to be provided.
3. Existing parking conditions need to be included. Specify that proposed columns cannot adversely affect use of parking lane / parking spots.

After the discussion with the Town Council on April 4, 2023, Public Works provided the following additional comments summarized for discussion purposes regarding arcades.

1. As this is a permanent encroachment into the right-of-way (ROW) for private use (balcony above), the direct sale of the land within the ROW area at fair market value is recommended with the Town obtaining an easement for the sidewalk.
2. As an alternative, a hold-harmless agreement should be executed for a long-term lease, wherein the Town is indemnified, held harmless, and named as the additional insured party on the owner's general liability insurance policy. The agreement shall specify the responsibility for installation and specify routine maintenance and recertification requirements of the arcade structure.

The proposed C-TS zoning text amendment was brought to the PZC on April 27, 2023, where the Commission voiced support for the concept of allowing arcades and colonnades, but deferred the project for restudy of the proposed zoning text amendment language so that it addresses usable space above an arcade or colonnade, maintenance, indemnification, and whether the use of the public right-of-way would be done through easement or sale of property.

On October 17, 2023, the proposed text amendment application was presented to PZC to re-examine the proposed concept. The PZC still had concerns and again deferred the item to allow the applicant time to consider the following issues.

- The location of the arcade
- The percentage of the building that can be utilized as an arcade and the step back for the second floor
- Maintenance responsibility and compensation for use of the right-of-way
- Traffic and parking issues
- Consideration of what passive uses would be allowed within the above arcade terrace

Following the PZC October 17, 2023, meeting, staff reconvened to discuss the proposal and suggests the PZC consider a further study to analyze the study area within the C-TS Zoning District for arcades and colonnades. Staff is suggesting limiting the area for consideration to the portion fronting County Road.

WRB:JGM:JHD