

## **TOWN OF PALM BEACH**

**Information for Town Council Meeting on:**

**January 10, 2024**

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To: Mayor and Town Council Members, Serving as the Local Planning Agency & Town Council

Via: Kirk W. Blouin, Town Manager

From: Wayne Bergman, MCP, LEED-AP, Director PZ&B *WB*

Re: Amendment to the C-TS Zoning District Regulations Related to Arcades and Colonnades  
**Ordinance No. 008-2023**

Date: January 10, 2024

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### **STAFF RECOMMENDATION**

Staff recommends that the Town Council consider the recommendation of the Planning and Zoning Commission on Ordinance No. 008-2023 related to arcades and colonnades in the C-TS Zoning District on first reading.

### **BOARD OR COMMISSION RECOMMENDATION**

On November 8, 2023, the Planning and Zoning Commission recommended denial of Ordinance No. 008-2023, attached as Exhibit A. The proposed Code language proposes allowing the encroachment of arcades and colonnades into the public rights-of-way within the C-TS Zoning District as a Special Exception.

### **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 suggested limiting the area for consideration to the portion

fronting County Road. On November 8, 2023, the Planning and Zoning Commission recommended to the Town Council to deny the text amendment to the C-TS Zoning District.

Subsequently, at the November 14, 2023, Town Council meeting, at which this item was published to be heard on first reading by the Town Council, the item was deferred to the December 13, 2023, meeting. A request to defer was made by the applicant at the December Town Council meeting and the item was deferred to the January 10, 2024 Town Council meeting.

### **TOWN ATTORNEY REVIEW**

The subject code amendment has been reviewed and approved for legal form and sufficiency.

Attachment: Proposed Ordinance No. 008-2023

cc: James Murphy, Assistant Planning Director  
Jennifer Hofmeister-Drew, Planner III, AICP