

Warrant Article 16: Amend Article 4.07 of the Town’s Zoning By-Laws to Provide a Minimum Depth for Non-Residential Spaces

Recommendation: Favorable Action, as amended, by a vote of 19-1 with 3 abstentions.

Executive Summary:	Amend Section 4.07 - Table of Use Regulations, use 6, to require a minimum depth of 15’ for any non-residential use on the ground floor of a multi-family building located in L and G business districts. Multi-family buildings located in business districts are required to dedicate 60% of the linear street frontage to non-residential uses.
Voting Yes will...	Impose a minimum 15’ depth requirement for the non-residential portion of a multi-family building located in L and G districts. The current Zoning By-law has no minimum depth requirement for the non-residential use in this
Voting No will...	Maintain the status quo Zoning By-law, which has no required depth for the non-residential portion of multi-family buildings in business districts.
Financial impact	Primarily N/A. It is potentially possible that the addition of a depth requirement will add slightly to development costs.
Legal implications	The new requirement would be imposed on future multi-family projects in L and G zoning districts.

Introduction

The purpose of this Article, sponsored by the Planning and Community Development Department, is to foster street vitality and business activity in our commercial areas and to preserve business uses on parcels zoned for commercial. In the past, developers have sought Special Permits for multi-family buildings in our business districts with only very shallow spaces running the required 60% width of the street façade. A recent example, 14 Green St., proposed a project that would have had a 9’ deep space, running for 60% of the width of the front façade, claiming that this configuration, which they described as an “art gallery”, would fulfill the requirement in our current zoning. Over the years, several other such proposals for narrow depth spaces have been proposed, clearly at odds with the intent of the zoning by-law. In fact, these proposed shallow spaces were not suitable for any viable or productive non-residential use and therefore did not fulfill the original intent of the by-law. This Article seeks to close this loophole.

Evaluation Methodology/Research

The Director of Planning and Community Development, Kara Brewton, described instances where developers proposed very narrow spaces running along the required 60% frontage width of multi-family buildings in commercial areas. Ms. Brewton opined that there is no “magic number” for a depth requirement in order to sustain viable non-residential uses, but that the deeper the space the more variety of uses the space could accommodate. Ms. Brewton noted that

15' is the average depth of the business spaces along the interior at the ground floor of the Arcade building.

Discussion

Members of the Advisory Committee raised questions around whether or not 15' was the right depth to require to achieve the goals of the By-Law. The Committee opined that a minimum square footage of non-residential space on the first floor might be an appropriate mechanism to further business activity on the first floors of mixed-use buildings in our commercial areas. Both the Economic Development Advisory Board and the Land-Use, Zoning and Sustainability Sub-Committee of the Advisory Committee expressed an interest in raising the minimum required depth to 20', or increasing the required percentage for non-residential uses above 60%, but these changes were deemed likely to be out of scope of the original Article. Members of the Advisory Committee noted that there seemed to be a general desire to evaluate this provision in more detail and to continue considering further, more nuanced amendments to our Zoning By-Law to achieve the ultimate goal of the provision of active uses on the first floor. It was also noted that by locating goods and services in mixed-use buildings, residents have better access to nearby amenities, making for more complete neighborhoods.

In the Advisory Committee discussion, questions arose around whether or not it was advisable to require only the broadly defined "non-residential uses" for the 60%, or rather should we be specifying certain uses such as retail, restaurants, certain services, etc. to more directly achieve active first floors. The Director of the Planning and Community Development Department made a strong case for maximum flexibility of potential uses beyond residential, expressing the opinion that there may be interesting cultural or non-profit uses that could be wonderful additions to our commercial areas that we are not currently contemplating. The Advisory Committee amended the Article to better clarify that any use related to the residential portion of the building is to be counted as part of the 40% of the façade frontage dedicated to residential uses.

Recommendation

The Advisory Committee voted 19-1 with 3 abstentions to recommend FAVORABLE ACTION on the following motion:

VOTED: To revise Table 4.07 - Table of Use Regulations, Principal Use 6, Principal Use Column last sentence as follows (inserted text underlined; deleted text shown strikethrough):

In L and G districts, the ground floor of a building must have at least 60% ~~no more than 40%~~ of its frontage along a street, to a depth of at least 15', devoted to ~~residential use, including associated parking or lobby use.~~ uses not to include, residential, residential related and parking.

ARTICLE 16 ADVISORY COMMITTEE VOTES

Article Description	Depth requirement zoning
AC recommendation (Favorable Action unless indicated)	19-1-3
Scott Ananian	Y
Carla Benka	Y
Ben Birnbaum	Y
Harry Bohrs	
Cliff Brown	Y
John Doggett	Y
Katherine Florio	Y
Harry Friedman	N
David-Marc Goldstein	Y
Neil Gordon	Y
Susan Granoff	Y
Kelly Hardebeck	
Anita Johnson	Y
Georgia Johnson	Y
Alisa Jonas	Y
Janice Kahn	Y
Carol Levin	Y
Pam Lodish	A
Linda Olson Pehlke	Y
Donelle O'Neal, Sr.	
David Pollak	Y
Stephen Reeders	A
Carlos Ridruejo	Y
Lee Selwyn	Y
Alok Somani	A
Christine Westphal	Y
Dennis Doughty *	
* Chairperson does not vote except to break a tie	

APPENDIX

Advisory Committee amendments from the originally filed warrant article. Deletions are in *~~italic strikethrough bold~~*, additions are *italic underline bold*.

To see if the Town will amend the Zoning By-Law as follows:

1) Revise Table 4.07 - Table of Use Regulations, Principal Use 6, Principal Use Column, last sentence as follows (inserted text underlined; deleted text shown strikeout).

In L and G districts, the ground floor of a building must have at least 60% ~~no more than 40%~~ of its frontage along a street, to a depth of at least 15', devoted to ~~uses other than residential use or, including associated parking or lobby use associated with residential use.~~ *uses not to include, residential, residential related and parking.*