

**GOVERNMENT OF THE DISTRICT OF COLUMBIA
Zoning Commission**



**ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF FINAL RULEMAKING**

AND

Z.C. ORDER NO. 10-16

Z.C. Case No. 10-16

(Text Amendment to Allow Closure of Open Arcades)

November 8, 2010

The Zoning Commission for the District of Columbia (the “Commission”), pursuant to its authority under § 1 of the Zoning Act of 1938, approved June 20, 1938 (52 Stat. 797; D.C. Official Code § 6-641.01); hereby gives notice of adoption of the following text amendments to the Zoning Regulations of the District of Columbia, DCMR Title 11. A Notice of Proposed Rulemaking was published in the *D.C. Register* on October 1, 2010, at 57 DCR 9202. The amendments shall become effective upon the publication of this notice in the *D.C. Register*.

Description of Amendments

The amendments repeal the provision that incentivizes construction of open arcades through allowance of a floor area ratio (“FAR”) credit, and expand the authority to close open arcades in all SP, W, CR and C Zone Districts, subject to the same limitations that existed in the repealed provision.

Procedures Leading to Adoption of Amendments

The Office of Planning filed a report that served as a petition requesting the amendments on June 4, 2010. The Commission voted to set down the proposal for hearing at its June 14, 2010 public meeting.

Notice pursuant to § 13 of the Comprehensive Advisory Neighborhood Commissions Reform Act of 2000 (“ANC Act”), effective June 27, 2000 (D.C. Law 13-135, D.C. Official Code § 1-309.10), was given to all Advisory Neighborhood Commissions. No written reports were received.

A public hearing was scheduled for and held on September 2, 2010, after which the Commission authorized the referral of the proposed text to the National Capital Planning Commission (“NCPC”) and the publication of a notice of proposed rulemaking in the *DC Register*.

NCPC, through a delegated action dated September 30, 2010, found that the proposed text amendments would not adversely affect the identified federal interests, nor be inconsistent with the Comprehensive Plan for the National Capital. (Exhibit No. 13.)

The Notice of Proposed Rulemaking was published in the *D.C. Register* on October 1, 2010, 57 DCR 9202, for a thirty- (30) day notice and comment period. No comments were received.

At a properly noticed November 8, 2010 public meeting, the Zoning Commission took final action to adopt the text amendments as follows:

Title 11 DCMR, ZONING, Chapter 25, MISCELLANEOUS ZONING REQUIREMENTS would be amended as follow:

Section 2515, **EXCEPTION TO DENSITY REGULATIONS FOR OPEN ARCADES** is repealed.

A new § 2524 is added to read as follows:

2524 EXCEPTIONS TO DENSITY REGULATIONS FOR ENCLOSING OPEN ARCADES

2524.1 Notwithstanding the repeal of § 2515.3, a building constructed with the additional gross floor area authorized by that provision remains a conforming structure.

2524.2 Notwithstanding applicable floor-area-ratio limitations, and subject to §§ 2524.3 and 2524.4, an existing open arcade in a building in the SP, W, CR and C districts, may be enclosed.

2524.3 An open arcade area enclosed pursuant to § 2524.2 must be solely devoted to retail, arts, or service uses permitted as a matter of right.

2524.4 An open arcade may not be enclosed if it is located in a building that:

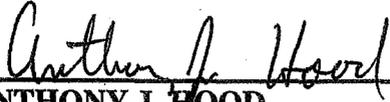
- (a) Is a historic landmark or has been designated as contributing to a historic district; and
- (b) The Historic Preservation Review Board has determined that the arcade constitutes a feature contributing to the building's historic or architectural significance; or
- (c) If the floor of the open arcade would not be at the same level and continuous with adjacent sidewalk in public space, or would not connect to an existing, adjoining open arcade adjacent to sidewalk in public space.

On September 2, 2010, at the conclusion of the public hearing, upon the motion of Commissioner Turnbull, as seconded by Commissioner May, the Zoning Commission **APPROVED** the proposed rulemaking by a vote of **5-0-0** (Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Peter G. May, and Michael G. Turnbull to approve).

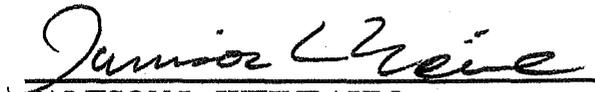
On November 8, 2010, upon the motion of Chairman Hood as seconded by Vice Chairman Schlater, the Zoning Commission **ADOPTED** the Order at its public meeting by a vote of **5-0-0**

(Anthony J. Hood, Konrad W. Schlater, Greg M. Selfridge, Michael G. Turnbull, and Peter G. May to adopt).

In accordance with the provisions of 11 DCMR § 3028.9, this Order shall become effective upon publication in the *D.C. Register*; that is on November 26, 2010.



ANTHONY J. HOOD
CHAIRMAN
ZONING COMMISSION



JAMISON L. WEINBAUM
DIRECTOR
OFFICE OF ZONING

GOVERNMENT OF THE DISTRICT OF COLUMBIA
Office of Zoning



Z.C. CASE NOS.: 10-16

As Secretary to the Commission, I hereby certify that on NOV 26 2010 copies of this Z.C. Order No. 10-16 were mailed first class, postage prepaid or sent by inter-office government mail to the following:

- | | |
|--|---|
| 1. D.C. Register (via e-mail) | 5. DDOT (Karina Ricks) |
| 2. All ANC Chairpersons (see attached list) | 6. Melinda Bolling, Acting General Counsel
DCRA
1100 4th Street, S.W.
Washington, DC 20024 |
| 3. Gottlieb Simon
ANC
1350 Pennsylvania Avenue, N.W.
Washington, D.C. 20004 | 7. Office of the Attorney General (Alan
Bergstein) |
| 4. All Councilmembers (see attached list) | |

ATTESTED BY:

A handwritten signature in black ink, appearing to read "S. S. Schellin", is written over a horizontal line.

Sharon S. Schellin
Secretary to the Zoning Commission
Office of Zoning

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The full text of this Zoning Commission Order is published in the “Final Rulemaking” section of this edition of the *D.C. Register*.