

GOVERNMENT
OF
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

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PUBLIC HEARING

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#	IN THE MATTER OF:	
	Text Amendment to Allow	Case No. 10-16
	Closure of Open Arcades	
#		

Thursday,
September 2, 2010

Hearing Room 220 South
441 4th Street, N.W.
Washington, D.C.

The Public Hearing of Case No. 10-16 by the District of Columbia Zoning Commission convened at 6:39 p.m. in the Office of Zoning Hearing Room at 441 4th Street, N.W., Washington, D.C., 20001, Anthony J. Hood, Chairman, presiding.

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ZONING COMMISSION MEMBERS PRESENT:

ANTHONY J. HOOD, Chairperson
KONRAD SCHLATER, Vice Chairperson
PETER MAY, Commissioner (NPS)
GREG M. SELFRIDGE, Commissioner
MICHAEL G. TURNBULL, FAIA,
Commissioner (AOC)

OFFICE OF ZONING STAFF PRESENT:

JAMISON WEINBAUM, Director
SHARON S. SCHELLIN, Secretary
DONNA HANOUSEK, Zoning Specialist

OFFICE OF PLANNING STAFF PRESENT:

JENNIFER STEINGASSER
MAXINE BROWN-ROBERTS
ARTHUR JACKSON

D.C. OFFICE OF THE ATTORNEY GENERAL PRESENT:

JACOB RITTIG, ESQ.
LORI MONROE, ESQ.

The transcript constitutes the minutes from the Public Hearing held on September 2, 2010.

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T-A-B-L-E O-F C-O-N-T-E-N-T-S

Proposed Action
Z.C. Case No. 10-16
Office of Planning
 Arthur Jackson 4
Parties Testifying in Support
 Ronald Taylor. 10
 Ellen McCarthy 14
Vote to Approve Case No. 10-16 (5-0-0). . . . 21

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P-R-O-C-E-E-D-I-N-G-S

6:39 p.m.

CHAIRPERSON HOOD: Okay. Next,
let's move right into our second case.

This is the Office of Planning's
text amendment of open arcades, Zoning
Commission Case No. 10-16.

Let's go straight to the Office of
Planning.

MR. JACKSON: Good evening, Mr.
Chairman, Members of the Commission.

CHAIRPERSON HOOD: Hello, Mr.
Jackson.

MR. JACKSON: My name is Arthur
Jackson. I'm a development review specialist
with the District of Columbia Office of
Planning and I will summarize the report you
have before you.

In 2004, the Zoning Commission
adopted a text amendment to allow the
enclosure of certain open arcades in the
Central Employment Area to eliminate the floor

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1 area ratio credit for these amenities. The
2 amendment allowed closure of legally
3 established arcades without the need for a
4 zoning variance.

5 Recently the Office of Planning
6 was approached by the owner of property
7 outside the Central Employment Area about
8 closing an open arcade on the ground floor of
9 their building. After further review the
10 Office of Planning proposed changing the
11 intent of Section 2515 of the Zoning
12 Regulations to facilitate elimination of
13 existing arcades in all zoned districts where
14 they currently are allowed.

15 Proposed text amendments would
16 change the stated intent of this section of
17 the regulations, eliminate design standards
18 for open arcades that no longer apply while
19 retaining provisions of the 2004 amendment
20 that explained arcade closure standards and
21 requirements.

22 Based on the District's experience

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1 with this section since it was originally
2 adopted, there does not appear to be any
3 reason to continue to encourage the creation
4 of open arcades.

5 For the sake of clarity and in
6 light of comments from the Office of Attorney
7 General, the amendment text has been modified
8 to specifically apply to open arcades in non-
9 residential districts that are adjacent to
10 sidewalks and public space. The revised text
11 was included in the notice of public hearing
12 for this case.

13 Amending the regulations to allow
14 closure of open arcades in areas specified
15 would not be inconsistent with the current
16 Comprehensive Plan.

17 This concludes the summary of the
18 Office of Planning report and we remain
19 available to answer questions.

20 CHAIRPERSON HOOD: Thank you very
21 much, Mr. Jackson.

22 Commissioners, do we have any

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1 questions of Mr. Jackson?

2 (No audible response.)

3 CHAIRPERSON HOOD: Okay. Not
4 seeing any. You have any questions? Oh.

5 VICE-CHAIRMAN SCHLATER: Can we
6 close the arcade at 441 4th Street under these
7 regulations?

8 MR. JACKSON: Yes, you could.

9 COMMISSIONER MAY: That would
10 require a PUD modification, by the way. We
11 looked into that at one point.

12 VICE-CHAIRMAN SCHLATER: I guess I
13 have one question. So, how do these text
14 changes impact downtown buildings?

15 MR. JACKSON: Well, the current
16 modification that was in place for 2001 covers
17 buildings within the Central Employment Area.

18 VICE-CHAIRMAN SCHLATER: Yes.

19 MR. JACKSON: This amendment would
20 affect buildings that are outside the Central
21 Employment Area but still have the same
22 characteristics; that is, they have recessed

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1 ground floor areas that are adjacent to public
2 space, public sidewalks. So, it just expands
3 the range of the current regulation.

4 The other thing it does is the
5 wording of the current regulation is such that
6 people may read it and think they can still
7 get the 25 percent credit. That was
8 eliminated in 2004 also. So, it really
9 streamlines the whole thing and it's
10 refocusing on enabling people to eliminate
11 arcades if they care to.

12 VICE-CHAIRMAN SCHLATER: If I'm an
13 owner of a downtown office building and I'm
14 already at my maximum FAR, but I want to
15 enclose the arcades, are they allowed to do
16 that under the text right now?

17 MR. JACKSON: Yes, they are.

18 VICE-CHAIRMAN SCHLATER: Okay.
19 Thank you.

20 CHAIRPERSON HOOD: Thank you,
21 Vice-Chairman.

22 Any other questions?

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1 (No audible response.)

2 CHAIRPERSON HOOD: Okay. Do we
3 have any other reports of any other government
4 agencies?

5 (No audible response.)

6 CHAIRPERSON HOOD: Not seeing any,
7 do we have anyone here from the ANC, from any
8 ANCs that would like to testify in this case?

9 (No audible response.)

10 CHAIRPERSON HOOD: Okay. I don't
11 have a list, but I do have two persons'
12 testimony in support. So, I'm going to ask
13 them to come forward. And that is Mr. Ronald
14 Taylor and Ms. Ellen McCarthy.

15 And anyone else who's here in
16 support, if you can come forward at this time.

17 Okay. So, we will begin with Ms.
18 McCarthy and end with Mr. Taylor. You all
19 will be our panel for support, and we will
20 start with you, Ms. McCarthy.

21 MS. McCARTHY: Mr. Chairman, if we
22 could start with Mr. Taylor, that would be

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1 great. And we are just keeping our testimony
2 very short tonight just to hit the highlights.

3 CHAIRPERSON HOOD: Okay. Mr.
4 Taylor, we'll start with you.

5 MR. TAYLOR: Good evening, Mr.
6 Chair and Members of the Zoning Commission.
7 My name is Ronald Taylor and I am the Director
8 of Facilities and Office Services for the
9 American Council on Education.

10 I'm here tonight to support the
11 proposed text amendment to permit building
12 owners to fill in open arcades. I'm
13 representing the American Council on
14 Education, a not-for-profit organization
15 founded in 1918 which serves as a consensus
16 leader on higher education issues and a major
17 coordinating body for the nation's higher
18 education institutions. Our members are
19 college university presidents at institutions
20 of higher education serving more than 80
21 percent of America's students enrolled in
22 programs for higher education. We serve a

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1 broad range of institutions, public and
2 private, community colleges and four-year
3 institutions.

4 Our current initiatives include a
5 wide variety of programs including improving
6 awareness and utilization of the GED,
7 increasing responsiveness of colleges and
8 universities to the needs of veterans,
9 providing outreach and leadership training to
10 increase the diversity of the senior officials
11 in American higher education and expanding the
12 internationalization of U.S. educational
13 institutions and many others.

14 We are a 501(c)(3) organization
15 which owns the building where our office is
16 located at 1 Dupont Circle. In addition to
17 serving as our headquarters, our building, the
18 National Center for Higher Education, houses
19 15 other non-profit higher education
20 associations.

21 As a result of their membership in
22 the National Center for Higher Education the

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1 base rent for the space they occupy cannot
2 exceed 75 percent of market value. Therefore,
3 it is essential for ACE to obtain a reasonable
4 rate of return on our ground level space. At
5 the ground floor we have several retail and
6 service tenants. Unfortunately, when our
7 building was designed by the Office of
8 Architect Vlastimil Koubek in the 1970s public
9 policy and architectural practice encouraged
10 the use of open arcades at the ground level.
11 Our building featured these types of arcades
12 around virtually the entire perimeter.

13 As the Office of Planning report
14 notes, recessing store fronts behind columns
15 removed from the main route of pedestrians did
16 nothing for street vitality and did nothing to
17 encourage strong retailers.

18 The Council is very pleased to be
19 a part of the wonderful neighborhood of Dupont
20 Circle and has always tried to be a good
21 neighbor. Several years ago we filled in a
22 portion of the arcade and leased the space to

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1 James Hoban's Restaurant which has
2 dramatically increased the street vitality
3 along the northeast façade of our building.

4 We would like to do the same with the
5 remainder of the building but we've been
6 stymied in our desire to fill in the arcades
7 because of zoning limitations.

8 We currently have another
9 restaurant tenant interested in locating here
10 if we can provide a more attractive setting
11 and we are pleased that the Office of Planning
12 has taken the lead and proposed a text
13 amendment before you tonight which will allow
14 us to rectify this outmoded design concept and
15 provide retail more suitable to the
16 pedestrian-oriented character of our
17 neighborhood.

18 In an effort to bring this other
19 restaurant to the community, ACE has already
20 invested a considerable amount of resources
21 including lost rent from two previous retail
22 tenants, costs associated with demolition and

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1 legal fees. In addition, preliminary
2 estimates to fill in the arcade space exceeds
3 \$150,000, an investment we are willing to make
4 to add to the vitality of the historical
5 Dupont Circle area. Our past experience
6 filling in the arcade for Hoban's has been
7 very positive with no complaints or adverse
8 impacts reported by our neighbors and we look
9 forward to repeating that experience if the
10 Commission will approve the requested text
11 change. Because we have a tenant actively
12 interested in the space, we would greatly
13 appreciate whatever the Commission could do to
14 expedite the approval of this case.

15 Thank you for taking the time to
16 hear my testimony.

17 CHAIRPERSON HOOD: Okay. Thank
18 you very much, Mr. Taylor. If you'll just
19 hold your seat, we may have some questions.
20 We'll wait to hear Ms. McCarthy's testimony.

21 Ms. McCarthy?

22 MS. MCCARTHY: Thank you, Mr.

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1 Chairman. Good evening, Members of the
2 Commission.

3 Basically to cut to the chase,
4 urban open arcades are an idea whose time has
5 come and gone, if it ever really came in the
6 first place. They're not consistent with
7 modern retailing. They don't enhance street
8 life. They result in discontinuous dark
9 spaces that can appear threatening and trap
10 trash and debris.

11 The proposed text amendment is
12 unlikely to have any adverse impacts as the
13 total increased square footage that we're
14 talking about for each individual building is
15 quite minor. In the case of ACE it's less
16 than 2,000 square feet. However, because it
17 will transform building frontages, eliminating
18 unattractive dark façades and providing a more
19 visible and attractive location for retail, it
20 will result in improved retail for the
21 community, increased revenue for the District
22 from higher property employment and sales/food

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1 and beverage taxes. It will dramatically
2 enhance the pedestrian quality of several
3 blocks.

4 Particularly, if you'll notice
5 from the map that's in my testimony from the
6 Office of Planning, many of the places where
7 the commercial districts, C-3-C and above, are
8 outside the Central Employment Area happen to
9 be in places in what used to be called the new
10 downtown, the western side of downtown, where
11 we've got a lot of new high-rise residential
12 development. And there has been quite a bit
13 of demand on the part of those new residents,
14 and there will be more joining them in terms
15 of the redevelopment of the west end library
16 and Square 54 and others. There's been quite
17 a bit of demand for increase in improved
18 retail in that area. So, allowing those
19 buildings that are of high density commercial
20 zoning but are outside the boundaries of the
21 CEA will be a real benefit for existing
22 residents of that area and the new residents.

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1 As a result of these clear public
2 benefits, I'd ask the Commission to please
3 provide preliminary approval tonight and ask
4 that the National Capital Planning Commission
5 expedite its review so final approval can be
6 provided as soon as possible.

7 Thank you very much.

8 CHAIRPERSON HOOD: Thank you, Ms.
9 McCarthy.

10 Commissioners, any questions of
11 this panel? Any questions?

12 (No audible response.)

13 CHAIRPERSON HOOD: Okay. I want
14 to thank you, Mr. Taylor and Ms. McCarthy. We
15 appreciate it very much.

16 Okay. Do we have anyone who's
17 present who would like to testify in
18 opposition of this case?

19 (No audible response.)

20 CHAIRPERSON HOOD: Okay. Not
21 seeing anyone move forward.

22 I guess, Commissioners, I think

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1 it's pretty straightforward. We have a
2 complete record. We have the Office of
3 Planning's report which was the same report
4 used as the setdown for us. Also, we have two
5 statements in the record of full support of us
6 moving ahead with this text.

7 Let me open up for comments or
8 questions. Commissioner May?

9 COMMISSIONER MAY: First of all,
10 let me speak out for just a moment for
11 Vlastimil Koubek.

12 CHAIRPERSON HOOD: I wondered if
13 he had a representative, because I'd never
14 heard of that --

15 COMMISSIONER MAY: I actually
16 support what the Office of Planning is trying
17 to do here. I'm not ready to completely
18 abandon the idea that an arcade can be a good
19 thing. Certainly there are examples of
20 historic arcades in Europe that are good
21 places. Unfortunately, the attempt by most
22 modern architects to recreate something like

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1 that didn't work very well, like many of the
2 ideas of modern architects, particularly when
3 they weren't really the best ones. And there
4 are some advantages to open arcades even as it
5 is, including things like covered bike
6 parking, and you all know how important things
7 like bike parking are to me.

8 But nonetheless, I'm ready to
9 support this change. I don't think that
10 overnight we're all of a sudden going to have
11 everyone of these arcades boxed in. And so,
12 I think it generally will be a good thing.
13 There are certainly complications that are
14 going to make it so that some of them maybe
15 never get filled in really well. I mean, this
16 building here is a particularly difficult
17 architectural challenge in that regard because
18 it's a two-story arcade. What do you do about
19 that second story and so on. But generally
20 speaking I'm in favor.

21 CHAIRPERSON HOOD: Okay. Any
22 other comments?

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1 (No audible response.)

2 CHAIRPERSON HOOD: Okay. What
3 we're going to do at this time is someone like
4 to make a motion?

5 COMMISSIONER MAY: I'm in favor,
6 but I'm not ready to make the motion. I'll
7 follow.

8 CHAIRPERSON HOOD: Okay. Mr.
9 Turnbull, thank you. I was kind of wanting an
10 architect --

11 COMMISSIONER TURNBULL: Yes.

12 CHAIRPERSON HOOD: -- but I don't
13 want to see him messing up city.

14 COMMISSIONER TURNBULL: Well,
15 thank you, Mr. Chair, for the opportunity.

16 Mr. Chair, I would like to propose
17 that we approve Case No. 10-16, a proposed
18 zoning text amendment to allow closure of open
19 arcades as discussed by the Office of Planning
20 and referenced. And can I have a second?

21 COMMISSIONER MAY: Second.

22 CHAIRPERSON HOOD: Okay. Good.

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1 Thank you, Mr. Turnbull and Commissioner May.

2 It's been moved and properly
3 seconded. Any further discussion?

4 (No audible response.)

5 CHAIRPERSON HOOD: All those in
6 favor? Aye.

7 VICE-CHAIRMAN SCHLATER: Aye.

8 COMMISSIONER MAY: Aye.

9 COMMISSIONER TURNBULL: Aye.

10 COMMISSIONER SELFRIDGE: Aye.

11 COMMISSIONER TURNBULL: Not
12 hearing any opposition, Ms. Schellin, would
13 you please record the vote?

14 MS. SCHELLIN: Yes, staff records
15 the vote five to zero to zero to approve
16 proposed action in Zoning Commission Case No.
17 10-16. Commissioner Turnbull moving;
18 Commissioner May seconding, Commissioners
19 Hood, Selfridge and Schlater in support.

20 CHAIRPERSON HOOD: Okay. Ms.
21 Schellin, do we have anything else before us?

22 MS. SCHELLIN: Not hearing-wise.

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1 CHAIRPERSON HOOD: Okay.

2 Commissioner May?

3 COMMISSIONER MAY: I just wanted
4 to thank Mr. Taylor and Ms. McCarthy for their
5 testimony, and the photographs especially I
6 think were very useful.

7 CHAIRPERSON HOOD: Okay. Thank
8 you.

9 Okay. What we're going to do now,
10 we're going to take about 10-minute break in
11 between the hearing and our special public
12 meeting. So, if you'd bear with us, we should
13 be back in 10 minutes.

14 And, Ms. Schellin, could you make
15 sure that we're back in 10 minutes?

16 MS. SCHELLIN: Yes, sir.

17 CHAIRPERSON HOOD: Okay. This
18 hearing is adjourned.

19 (Whereupon, the hearing was
20 concluded at 6:55 p.m.)
21

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