GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

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Office of the Director

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MEMORANDUM

TO: D. C. Zoning Commission

FROM: Andrew Altman
Director

DATE: January 3, 2003

SUBJECT: Preliminary Report on Zoning Commission Case Number 02-44, a Proposed Zoning Text Amendment related to Retail Arcades

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RECOMMENDATION
The Office of Planning recommends the proposed text be "set down" for public hearing.

BACKGROUND

The referenced text amendment involves open (retail) arcades located in the Downtown Central Business District. Title 11 of the District of Columbia Municipal Regulations (DCMR), Zoning, includes to following definition for open arcades:

> **"Open arcade** - a continuous area, located along the perimeter of a building, designed for pedestrian uses, and which adjoins a street for its entire length; and, except for structural piers, columns, or arches, is open to the street."

In 1958, the Zoning Commission approved an amendment to the Zoning Regulations adding a new Section 2515 authorizing this use. Subsection 2525.2 states this "Section is designed to encourage open arcades at sidewalk level, to increase pedestrian convenience, and to result in greater open area adjacent to public streets without loss of rental floor space." Open arcades are permitted in all R-5, SP, W, CR, and C Districts except C-5 (PAD) subject to the requirements of this section. Developers incorporating these public amenities into their site and building plans are eligible for a FAR "credit" not to exceed twenty-five percent (25%) of the gross floor area of the floor adjacent to the arcade (refer to Exhibit 1). As noted above, this credit is intended to compensate for potential ground floor commercial area eliminated for this exterior pedestrian circulation space.

After the adoption of this amendment, a number of downtown buildings were constructed with ground or lower floors recessed into the building envelope. In some case, the entire buildings were set back from front property lines that generally abut public sidewalks. Arcades were not only used for pedestrian circulation, but for commercial purposes such as outdoor restaurants,

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EXHIBIT NO.7

merchandise showcases, and other promotional activities. However, redevelopment of existing building sites again extended ground floors to front property lines reflecting a more contemporary merchandising philosophy. The new construction changed the established pattern of continuous arcades into intermittent pedestrian ways that "dead end" at the boundaries of individual lots.

In recent years the Board of Zoning Adjustment (BZA) has also granted variances for the FAR limitations to allow elimination of arcades within and in front of existing buildings.

APPLICANT'S PROPOSAL

In 1996, the Retail Business Development Committee of the District of Columbia Building Industry Association (DCBIA) began working with the District Council to identify specific initiatives to make downtown retail spaces more "user friendly" including a strategy to allow the elimination of the remaining arcades. At the conclusion of these discussions, Councilperson Charlene Drew Jarvis, Chair of the Committee on Economic Development, proposed adding the following section to the District of Columbia Comprehensive Plan in a letter dated December 8, 1996 to former Planning Director Jill Dennis:

> "1108 (s) Support modification of the Zoning Regulations to encourage the success of ground floor retail and entertainment uses in the Central Employment Area by allowing arcade space in existing buildings that were built prior to January 1, 1997, to be converted as matter of right to retail, entertainment, arts and service uses."

This amendment was proposed in the belief that "allowing for the conversion of existing arcade space, even if this causes the reconfigured building to exceed allowable FAR, will make retail spaces more inviting to the consumer and more attractive to the retailer." Extending retail space "out to the building line (or perhaps to the minimum sidewalk line) [would] eliminate what are often dark and foreboding entrances" making the streets "more retail friendly."

The Office of Planning recommended adoption of this wording in a report issued on January 31, 1987 on all proposed amendments to the Comprehensive Plan. OP analysis in this report characterized arcades as "typically somewhat dark during the day and thus uninviting" spaces that "remove by the depth of the arcade the excitement of merchandise displays and discovery of the interior of retail space from the automobile, the pedestrian on the sidewalk across the street and the pedestrian on the same side of the street who remains on the sidewalk beyond the arcade." It also stated "The arcade was invented by an architect, not a retailer" noting that "A retailer would never design a building to distance his or her front door and a single chance of catching the eye of a potential customer by placing the store away from the sidewalk ..."

As a result, in 1998 the District Council amended Section 1108, Policies in of Commercial Area Objectives as follows:

> "(s) Support modification of the Zoning Regulations to encourage the success of ground floor retail and entertainment uses in the Central Employment Area by allowing arcade space in existing buildings to be converted as a matter of right to retail, entertainment, arts or service uses; ..."

Allowing the elimination of existing open arcades thus became an objective of the Comprehensive Plan.

PROPOSED TEXT AMENDMENT

The DCBIA has now petitioned the Zoning Commission to amend the Zoning Regulation to add the following new Section 2515.13 to allow the enclosure of existing open arcades associated with buildings that were granted the referenced FAR as a matter of right:

> "Notwithstanding the limitations of Section 771.2, an existing open arcade in a building in a commercial district within the Central Employment Area, for which a floor area limitation credit has been granted pursuant to this section, may be enclosed and devoted to retail, entertainment, arts and service uses permitted as a matter-of-right."

Note that Section 771 sets limits on lot occupancies in commercial districts (refer to Exhibit 1). While OP supports the stated objective, staff will conduct further analysis of this amendment to address several issues including:

- Impact on existing development: Fieldwork is required to establish the extent and status of open arcades in the downtown area. Records in the Department of Consumer & Regulatory Affairs pertaining to projects that actually took advantage of the referenced FAR credit are not readily available, and information provided by the DCBIA has largely been anecdotal. The objective is to identify properties that would be subject to the proposed amendment.
- Impacts on Historic Districts: Staff will also examine the potential impact of this legislation on buildings, pedestrian and public spaces in existing historic districts.
- Impact on existing circulation pedestrian and vehicular circulation: Once potential subject properties are identified, staff will look at the impact eliminating arcades might have on existing circulation patterns. This review will include any impacts of previous zoning variances approved by the BZA to accomplish the same end.
- Potential changes to visual corridors and streetscapes: Staff would consider whether potential changes could have a significant visual impact on particular locations or areas.
- Status of current FAR credit: Staff will review the FAR credit provision of Section 2515 to determine if it still serves a purpose or should be deleted.

The Office of Planning supports scheduling the proposed amendment for public hearing to enable District agencies and other interested parties to address these and other issues.

RECOMMENDATION

The Office of Planning (OP) recommends that the Zoning Commission approve scheduling this text amendment for a public hearing.

Pertinent Zoning Regulations

771 **FLOOR AREA RATIO (C)**

771.1 Except as specified in §§ 771.5 and 771.6 and chapters 20 through 25 of this title, the maximum permitted floor area ratio of a building or structure in a Commercial District shall be as specified in this section.

771.2 For a building or structure for which an application for a building permit was filed on or after November 17, 1978, the maximum permitted floor area ratio shall be as set forth in the following table:

ZONE DISTRICT	APARTMENT HOUSE OR OTHER RESIDENTIAL USE	OTHER PERMITTED USE	MAXIMUM PERMITTED (FAR)
C-1	1.0	1.0	1.0
C-2-A	2.5	1.5	2.5
C-2-B	3.5	1.5	3.5
C-2-C	6.0	2.0	6.0
C-3-A	4.0	2.5	4.0
C-3-B	5.0	4.0	5.0
C-3-C	6.5	6.5	6.5
C-4	8.5	8.5	8.5
C-5 (PAD)	10.0	10.0	10.0

771.3 For a building or structure in existence with a valid Certificate of Occupancy prior to November 17, 1978, or for which an application for a building permit was filed prior to November 17, 1978, the maximum floor area ratio to be devoted to an "other permitted use" shall be as shown in the table in § 771.2. An "apartment house or other residential use" may occupy all or any portion of the building or structure.

771.4 **[DELETED]** – 47 DCR 9741-9743 (December 8, 2000).

771.5 In the C-4 District, a building or structure that is erected to a height in excess of one hundred ten feet (110 ft.) as permitted in § 770.4 may have a floor area ratio not exceeding ten (10.0), except as provided in § 2405.2.

771.6 In the C-5 (PAD) District, the maximum permitted floor area ratio, as specified in §§ 771.1 through 771.3, may be increased as provided in §§ 762.1 and 762.2. 771.7 In the computation of gross floor area for a hotel, guestroom areas and service areas shall be charged against the floor area ratio for "apartment house or other residential use," as specified in §§ 771.1 through 771.3.

771.7 In the computation of gross floor area for a hotel, function rooms, exhibit space, and commercial adjuncts shall be charged against the floor area ratio for "other permitted use," as specified in §§ 771.1 through 771.3.

771.8 In the computation of gross floor area for a hotel, function rooms, exhibit space, and commercial adjuncts shall be charged against the floor area ratio for "other permitted use," as specified in §§ 771.1 through 771.3. 771.9 For the purposes of this section, an

inn or community-based residential facility shall be charged against the floor area ratio for "apartment house or other residential use," as specified in §§ 771.1 through 771.3.

SOURCE: §§ 5301 through 5301.4 of the Zoning Regulations effective May 12, 1958; as amended by Final Rulemaking published at 27 DCR 382 (January 25, 1980), and by Final Rulemaking published at 27 DCR 2226, 2227 (May 23, 1980).

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2515 EXCEPTIONS TO DENSITY REGULATIONS FOR OPEN ARCADES

2515.1 This section establishes the standards and requirements for arcades to receive a floor area ratio credit.

2515.2 This section is designed to encourage open arcades at sidewalk level, to increase pedestrian convenience, and to result in greater open area adjacent to public streets without loss of rental floor space.

2515.3 An open arcade shall be allowed a floor area ratio credit not to exceed twenty-five percent (25%) of the gross floor area of the floor that is adjacent to the arcade.

2515.4 An open arcade shall be permitted in all R-5, SP, W, CR, and C Districts except C-5 (PAD); provided, that the requirements of this section shall be met.

2515.5 An open arcade shall provide pedestrian access to and along a building and shall extend for the entire side of the building or other structure and adjoin a street or pedestrian way at sidewalk level. This open arcade shall be designed to meet and carry through the arcades of adjoining buildings.

2515.6 The floor area ratio credit granted by this section shall apply only to those areas embraced within the perimeter of the open arcade. Where vehicular access is permitted across an arcade area, the portion of the arcade encompassed by the access space shall not be counted for the purposes of this section.

2515.7 An open arcade shall be not less than ten feet (10 ft.) in width at any point, including piers, columns, or arches. The minimum open, unobstructed passageway shall be seven feet (7 ft.) in width.

2515.8 An open arcade shall be not less than nine feet (9 ft.) in height at any point within the arcade.

2515.9 An open arcade shall have its floor at the same level and continuous with the sidewalks, and shall connect to existing, adjoining open arcades or shall be constructed to permit this connection in the future; provided, that where the existing arcade is at a different elevation, the new arcade connection shall be made in a barrier-free manner.

2515.10 The use of the area within an open arcade shall be restricted essentially to pedestrian uses, and vehicular access to or through an open arcade shall be minimized.

2515.11 In commercial buildings, an open arcade shall include retail and service uses fronting on at least sixty percent (60%) of the arcade, with these uses directly accessible from the open arcade.

2515.12 The additional gross floor area permitted under § 2515.3 shall not be counted in determining the number of off-street parking spaces or loading berths.

SOURCE: §§ 7614.1, 7614.2 and 7614.3 of the Zoning Regulations effective May 12, 1958.