

## MEMORANDUM

**TO:** District of Columbia Zoning Commission

**FROM:** Crystal Myers, AICP, Development Review Specialist  
Joel Lawson, Associate Director, Development Review  
*JL for* Jennifer Steingasser, Deputy Director, Development, Design and Preservation

**DATE:** July 15, 2024

**SUBJECT:** Set down Report for Proposed Zoning Text and Related Map Amendments  
Petition to create and map the Pennsylvania Avenue East Neighborhood Mixed  
Use Zone NMU-5A/PAE.

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### **I. RECOMMENDATION**

The Office of Planning (OP) recommends the Zoning Commission **set down** for public hearing this zoning text and related map amendments petition to create and map the Pennsylvania Avenue East Neighborhood Mixed Use zone - NMU-5A/PAE. The zone is proposed for properties generally fronting on Pennsylvania Avenue, SE between Fairlawn Ave., SE and 27<sup>th</sup> St., SE. (please refer to area maps below)

The proposal addresses policies of the Comprehensive Plan and incorporates appropriate guidelines of the Small Area Plan. As such, the proposed zoning text and map amendments are not inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity lens, and the Council adopted Pennsylvania Avenue East Small Area Plan.

This report serves as the Pre-hearing Filing required by 11 DCMR § Z-501 as a prerequisite to the advertisement of the public hearings.

If set down for a public hearing, OP requests flexibility to work with the Office of Zoning Legal Division on the draft language for the public hearing notice.

### **II. PLANNING BACKGROUND**

As part of the 2021 update of the Comprehensive Plan, the Future Land Use Map (FLUM) designation for the Pennsylvania Avenue SE and Minnesota Avenue SE intersection area changed from low density commercial to moderate density commercial. This reflected the request of the Ward 7 Economic Development Advisory Council who requested a series of Future Land Use Map changes in Ward 7. According to their request the change was intended to “*promote a mix of uses in order to increase the housing supply, including the number of workforce housing units, as well as enhance opportunities for higher quality retail and neighborhood services for the residents of Ward 7*”.

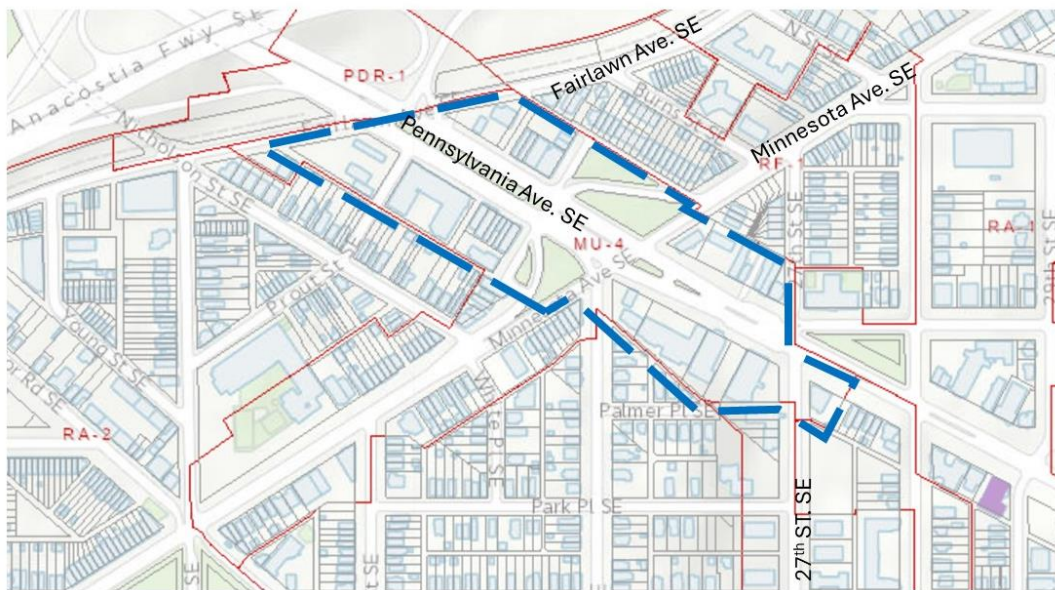
During the 2021 Comprehensive Plan update, the Pennsylvania Avenue East Community Coalition, residents, and other stakeholders requested to have a small area plan done for the area. Small area plans serve to supplement the Comprehensive Plan by providing land use and urban design guidance to an area. The community wanted this small area plan to address pedestrian and

vehicle safety, attract responsible and inclusive development, establish the corridor as a retail destination, and improve the public realm.

After community outreach, meetings, and conversations, [the Pennsylvania Avenue East Small Area Plan \(PAE\)](#), was approved by the Council of the District of Columbia on February 7, 2023 (Resolution 25-0027). In its Implementation section, the PAE recommends a new zone be created for the eastern end of the corridor:

*To implement relevant recommendations ... a new zone should be created for the mixed-use sites at the intersection of Pennsylvania Avenue SE and Minnesota Avenue SE that reflects the height and density established in the 2021 Comprehensive Plan update and incorporates the Urban Design Guidelines specific to this location. Consistent with Inclusionary Zoning Plus, the zone would require up to 20% of the building's residential square footage be dedicated affordable units. The creation of a new zone modeled from a planning effort like the PAESAP is typically drafted by OP and would be achieved through a public process and hearing before the Zoning Commission. (p.63)*

The proposed text and map amendments for the new zone are the next step towards implementing the Comprehensive Plan and the Pennsylvania Avenue East Small Area Plan's vision for the eastern end of the Pennsylvania Avenue East corridor.



### **Site and Area Description**

The properties within the boundary are currently developed with a variety of retail, surface parking, and public uses which have been long-standing in the community. Vehicle service stations occupy approximately 31% of the developable land area (61,326 square feet) along the length of the 2-block long corridor. The property at 2323 Pennsylvania Avenue SE (Square 5560, Lot 0055), was the subject of a PUD in 2007 ([ZC 07-16](#)). It is a mixed-use building with ground floor commercial space and all-affordable residential units above. It is also the only known residential property in the boundary.

### III. SUMMARY OF PROPOSED TEXT AMENDMENT

The proposed Pennsylvania Avenue East (PAE) Neighborhood Mixed Use zone, NMU-5A/PAE, has development standards and requirements that reflect the District's land use guidance for the Pennsylvania Avenue East area. It incorporates the land use policy direction of the Comprehensive Plan and the more area-specific land use recommendations and guidelines of the Pennsylvania Avenue East Small Area Plan. To address the policy direction within the Comprehensive Plan, the NMU-5A/PAE zone is based on the MU-5A zone.

NMU (Neighborhood Mixed-Use) zones are applied to many neighborhood commercial corridors and are intended to, among other things:

- provide for a mix of residential, employment, retail, service, and other related uses in the area;
- preserve and enhance neighborhood shopping areas; encourage a general compatibility in scale between new and older buildings; and
- identify designated areas within which ground floor use restriction can apply.

Other NMU zones include Georgia Avenue, Eighth Street SE, Cleveland Park, Takoma, Woodley Park, and H Street NE. The latter two also have zones based on the MU-5A zone.

While each NMU zone is different, there is zoning text that applies to all NMU zones, so would also apply to the NMU-5A/PAE zone when consistent with the PAE small area plan. Other proposed text relates to recommendations in the Pennsylvania Avenue East Small Area Plan and would apply only to this zone, although, where appropriate, proposed text is often based on similar text used in other NMU zones.

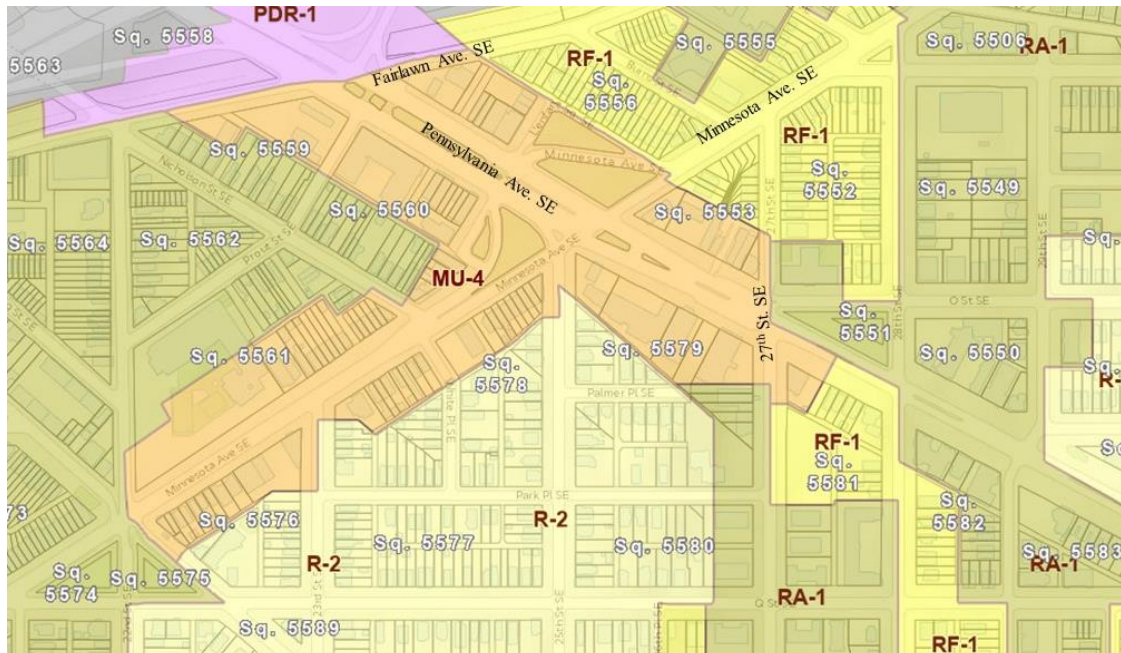
The proposed NMU-5A/PAE zone is unable to incorporate all of the design guidelines from the Pennsylvania Avenue East Small Area Plan. Some of the guidelines, such as public space improvements, cannot be addressed in Zoning Regulations and therefore are not incorporated into the proposed zoning text. A table showing Small Area Plan guidance and response in zoning is at Attachment 1 to this report.

Please refer to Attachment 1 for a copy of the full proposed text amendment, including existing NMU provisions that would apply to these zones.

#### **Existing Zoning**

**Existing MU-4 Zoning:** The MU-4 zone is listed in the Framework Element of the Comprehensive Plan as “*consistent with the Low Density category*” (227.10), whereas the current designation for this site on the FLUM is for moderated density commercial development. The Zoning Regulations, which pre-date the current Comprehensive Plan, envision the MU-4 zone as “*intended to permit moderate-density mixed-use development, including facilities for shopping and business needs for large segments of the District outside of the central core. It is also intended to be in low- and moderate density residential areas with access to main roadways or rapid transit stops.*” It permits a maximum density of 2.5 FAR for uses within the categories listed in Subtitle U § 512.1

The current MU-4 zoning, therefore, does not provide the level of density to support additional housing and retail envisioned by the Comprehensive Plan and PAE Small Area Plan recommendations for the area.



**Proposed Base Zone: MU-5A Zone:** The MU-5A zone is listed in the Framework Element of the Comprehensive Plan as “*representative of zone districts consistent with the Moderate Density Commercial category*” (227.11), which would be consistent with the current FLUM designation for moderated density commercial development. The Zoning Regulations envision the MU-5 zones as permitting “*compact mixed-use development with an emphasis on residential use; provide facilities for shopping and business needs, housing, and mixed-uses for large segments of the District of Columbia outside of the central core; and be located on arterial streets, in uptown and regional centers, and at rapid transit stops*”.

The new NMU-5A/PAE zone is based on the MU-5A zone because it would be consistent with the Comprehensive Plan Framework Element description of a moderate density designation, and it allows a density and height appropriate for the level of development desired by the Comprehensive Plan and PAE Small Area Plan.

The MU-5A zone permits a maximum density of 3.5 FAR (4.2 with Inclusionary Zoning) of which no more than 1.5 FAR may be for non-residential uses at a maximum height of 65 feet (70 feet with IZ), not including a penthouse.

### **Proposed NMU-5A/PAE Zone**

The NMU-5A/PAE zone would allow moderate density mixed use development. This would generally consist of retail, restaurant, or service uses (as would be required by the zone) on the ground floor, and residential use on the floors above, within the development parameters summarized below:

### Summary of NMU/PAE Zone

	Existing MU-4 Zone	Proposed NMU-5A/PAE Zone
Maximum FAR	2.5 3.0 (IZ)	3.5 4.2(IZ) 0.5 bonus for grocery store
Maximum Non-Residential FAR	1.5	1.5
Building Height	50 ft.	65 feet; 70 feet (IZ) maximum
Maximum Penthouse Height	12 feet except 15 feet for penthouse mechanical space	12 feet except 18 feet 6in. for penthouse mechanical space
Minimum Rear Yard	15 ft min. from rear lot line, except From centerline of alley for height of building below 20 ft.	15 ft min. from rear lot line, except From centerline of alley for height of building below 20 ft.
Rear Step-Back	none	1:1 step-back above 25 ft.
Minimum Side Yard	None required; 5 feet minimum if provided.	None required. 5 feet minimum if provided
GAR	0.3	0.3

The proposed NMU-5A/PAE development standards reflect the recommendations and guidelines of the PAE Small Area Plan:

- New buildings and additions along Pennsylvania Avenue SE would have a minimum height of 25 feet;
- Ground floor commercial spaces of new building would have a minimum clear floor to ceiling height of fifteen feet;
- Retail space along a building frontage would have a minimum depth of 50 feet;
- At least 75 percent of the front building façade would be built to the front lot line;
- Commercial entrances would be spaced out on average every 40 feet on the ground floor;
- Retail space required to be accessed from Pennsylvania Avenue SE and be at grade with the sidewalk; and
- Where the lot has access to an alley or side street, parking and loading would not be accessed from Pennsylvania Avenue SE.

## I. IZ PLUS EVALUATION

Subtitle X, § 502 presumes that IZ Plus will apply to all map amendments except as provided for in § 502.2:

*502.1 Except as provided in Subtitle X § 502.2, the requirements of this section shall apply to:*

(a) *A map amendment that rezones a property:*

(1) *From a PDR zone to an ARTS, CG, D, MU, R, RA or RF zone;*



- (2) *From any zone other than a PDR zone to a D zone without a prescribed residential FAR; or*
- (3) *From unzoned to an ARTS, CG, D, MU, R, RA or RF zone; or*
- (b) *A map amendment not described in paragraph (a) of this subsection 502.1, which rezones a property from any zone to a zone that allows a higher maximum FAR, both exclusive of the twenty percent (20%) IZ bonus density, if applicable.*

502.2 *The requirements of this section shall not apply to a map amendment that:*

- (a) *Is related to a PUD application;*
- (b) *Is to a HE, NHR, SEFC, StE, USN, or WR zone;*
- (c) *The Zoning Commission determines is not appropriate for IZ Plus due to the mitigating circumstances identified by the Office of Planning in its report recommending that the map amendment not be subject to IZ Plus; or*
- (d) *Was filed as an application that was accepted by the Office of Zoning prior to November 16, 2020.*

According to the OP State Data Center and the 2019 *Housing Equity Report*<sup>1</sup> prepared by the Office of Planning and the Department of Housing and Community Development:

- The Far Northeast/Southeast Planning Area had the second largest number (19%) of all the city's affordable housing units; and
- The [DMPED 36000by2025](#) housing tracker notes that the Far Northeast/ Southeast Planning Area has a Housing Production Goal of 2,990 housing units by 2025 and an Affordable Housing Production goal of 490 affordable units. With 1,103 affordable units in the pipeline, the Planning Area has already exceeded its affordable housing goal.

In this case, OP recommends IZ Plus be applied. Although the Far Northeast/ Southeast planning area has a high amount of affordable housing and OP typically recommends against IZ plus in this planning area for map amendment cases, the proposed new zone is for a larger than typical area, and is expected to encourage redevelopment over a much longer period of time than is typical for a map amendment case. Therefore, IZ plus is recommended.

#### IV. RACIAL EQUITY ANALYSIS

##### **Comprehensive Plan and Small Area Plan Racial Equity Guidance**

The Comprehensive Plan states, *The District seeks to create and support an equitable and inclusive city...Equity is achieved by targeted actions and investments to meet residents where they are, to create equitable opportunities.* 213.6

The Pennsylvania Avenue East Small Area Plan envisions taking steps *...towards addressing the historical disinvestment and segregationist land use and development practices that contributed to the present state of Pennsylvania Avenue Southeast corridor*, (PAE, p.7). The plan recommends infill development that provides additional retail and economic development opportunities especially for local Black-owned businesses. It also recommends affordable housing, including family-sized housing and housing for homeownership opportunities. The new MU-5A/PAE zone

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<sup>1</sup> [Housing-Equity-Report](#)

is intended to attract mixed use development with residential units and ground floor retail, which should bring more residents and economic development opportunities to the area.

### **Racial Equity Tool**

The Comprehensive Plan’s Implementation Element calls for “the Zoning Commission to evaluate all actions through a racial equity lens as part of its Comprehensive Plan consistency analysis”<sup>2501.8</sup>. The scope of the review and Comp Plan policies that apply depend on the nature of the proposed zoning action. To assist in this analysis, the Commission created a four-part Racial Equity Tool.

Ultimately, a racial equity analysis is a tool for identifying and addressing structural inequalities and ensuring that all members of the community, regardless of race or ethnicity, can benefit. The Commission requires an analysis of the proposed zoning action through the equity lens, utilizing disaggregated race and ethnicity data.

As detailed below, the proposed NMU-5A/PAE zone, on balance, is not inconsistent with the policies and goals of the Comp Plan, particularly when the Comp Plan is read as a whole. Given the wide range of overlapping policy topics addressed in the Comprehensive Plan, certain Citywide Elements may have little to no applicability to this proposal or to this portion of the Far Northeast/Southeast area. For those Citywide Elements that are more directly applicable to the proposal, a narrative is provided below explaining the basis for the determination that the proposed zone is not inconsistent with that particular element.

## **Racial Equity Tool Part 1 – Comprehensive Plan Guidance**

### **Comprehensive Plan Maps**

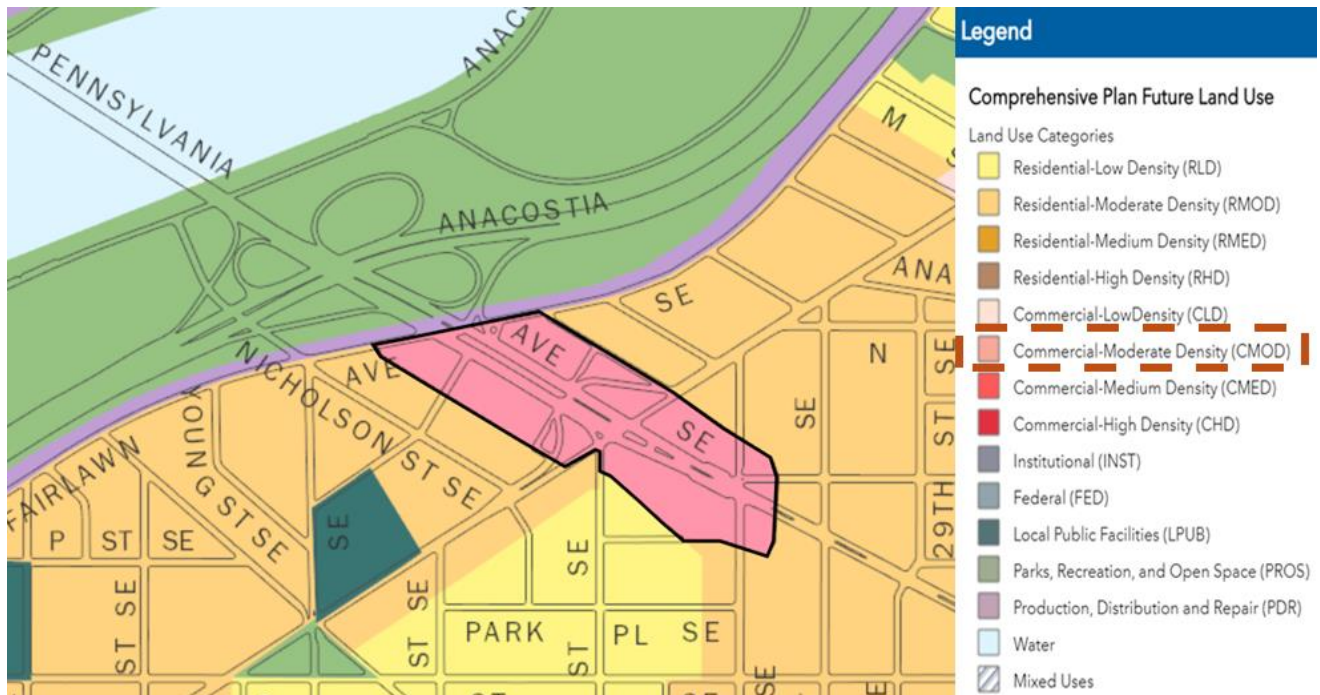
The Framework Element states that the “*Generalized Policy Map and Future Land Use Map are intended to provide generalized guidance for development and conservation decisions, and are considered in concert with other Comp Plan policies.*” Additionally, “. . . the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comp Plan, including the Citywide Elements and the Area Elements.”

The proposed text and map amendment would be not inconsistent with the Future Land Use Map and the Generalized Policy Map and would further many important policy statements of the Comp Plan, as well as the guidelines of the Pennsylvania Avenue East Small Area Plan.

### **Future Land Use Map (FLUM)**

The FLUM designates the area for Moderate Density Commercial land use, which is a change from its previous designation of low-density commercial land use. The FLUM designation was changed in response to community request during the 2021 Comprehensive Plan update.

### Generalized Future Land Use Map



**Moderate Density Commercial:** This designation is used to define shopping and service areas that are somewhat greater in scale and intensity than the Low-Density Commercial areas. Retail, office, and service businesses are the predominant uses. Areas with this designation range from small business districts that draw primarily from the surrounding neighborhoods to larger business districts uses that draw from a broader market area. Buildings are larger and/or taller than those in Low Density Commercial areas. Density typically ranges between a FAR of 2.5 and 4.0, with greater density possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development. The MU-5 and MU-7 Zone Districts are representative of zone districts consistent with the Moderate Density Commercial category, and other zones may also apply. 227.11

The Future Land Use Map recommends the subject area for Moderate Density commercial land uses. The current MU-4 zone allows a mix of uses but is a low to moderate density zone. Throughout the city, MU-4 zoned land is typically designated on the FLUM with low density commercial designation, or a mix of low density commercial and moderate density development.

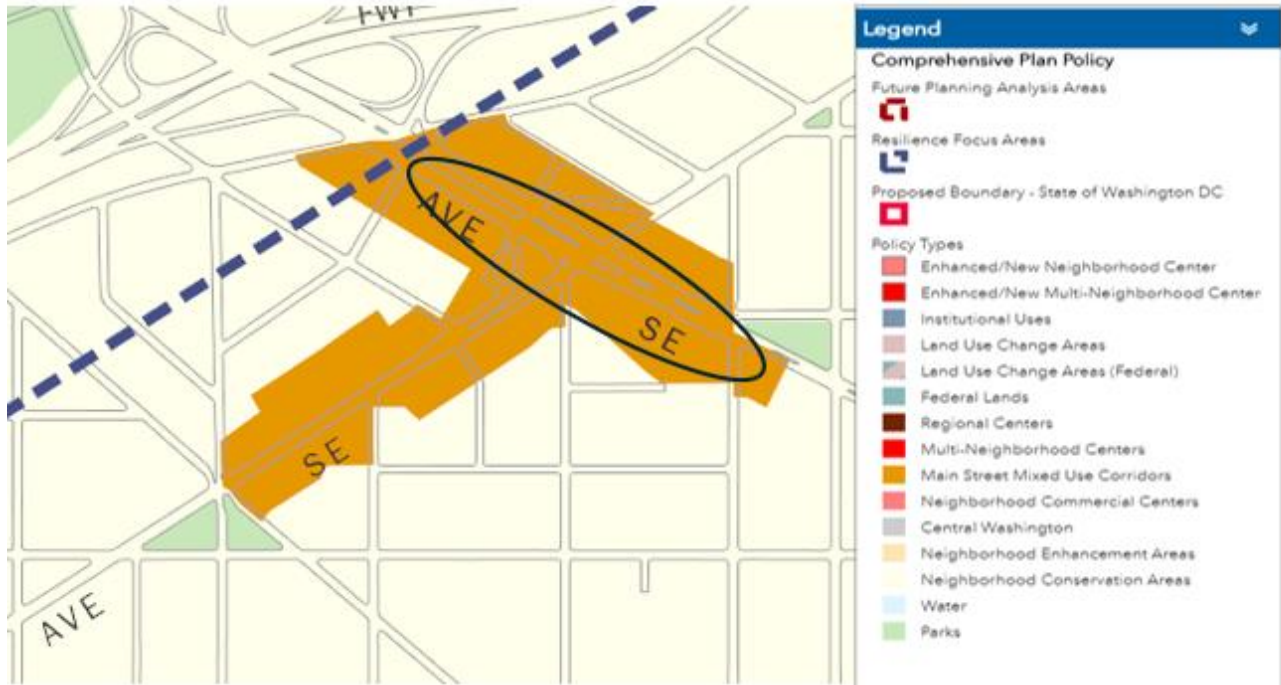
The proposed NMU-5A/PAE zone is based on the MU-5A zone which is described in the Comprehensive Plan as representative of the moderate density commercial category.

As with the base MU-5A zone, the NMU-5A/PAE zone would allow a FAR of up to 3.5 with 4.2 permitted with IZ Plus, which is not inconsistent with the FLUM. Density at this level would be more in line with encouraging moderate density development than the existing MU-4 zone, which is more appropriate for low density development.

### Generalized Policy Map (GPM)

The Generalized Policy Map (GPM) designates the proposed map amendment area as being within a Main Street Mixed Use Corridor.





### Generalized Policy Map (GPM)

**Main Street Mixed Use Corridors:** These are traditional commercial business corridors with a concentration of older storefronts along the street. The area served can vary from one neighborhood (e.g., 14th Street Heights or Barracks Row) to multiple neighborhoods (e.g., Dupont Circle, H Street, or Adams Morgan). Their common feature is that they have a pedestrian oriented environment with traditional storefronts. Many have upper-story residential or office uses. Some corridors are underutilized, with capacity for redevelopment. Conservation and enhancement of these corridors is desired to foster economic and housing opportunities and serve neighborhood needs. Any development or redevelopment that occurs should support transit use and enhance the pedestrian environment. 225.14

The proposed new zone is not inconsistent with the GPM as it would allow a mix of uses, particularly ground floor commercial uses and upper floor residential uses. This zone is intended to implement the Small Area Plan's vision for this eastern section of Pennsylvania Ave. SE to become pedestrian oriented with a more vibrant mixed-use environment. Many of the properties along this section of Pennsylvania Avenue SE are underutilized. The new zone could help to increase their capacity to redevelop more in line with the small area plan's recommendations.

### Citywide Elements

#### LAND USE ELEMENT

The proposed new zone would not be inconsistent with Comprehensive Plan's Land Use Element policies:

#### **LU-2.1.1 Variety of Neighborhood Types**

*Maintain a variety of neighborhoods, ranging from low-density to high-density. The positive*

*elements that create the identity and design character of each neighborhood should be preserved and enhanced while encouraging the identification of appropriate sites for new development and/or adaptive reuse to help accommodate population growth and advance affordability, racial equity, and opportunity. 310.7*

***Policy: LU-2.1.8 Explore Approaches to Additional Density in Low- and Moderate-Density Neighborhoods***

*... explore approaches, including rezoning, to accommodate a modest increase in density and more diverse housing types in low-density and moderate-density neighborhoods where it would result in the appropriate production of additional housing and particularly affordable housing. Build upon the guidance of the April 2020 Single Family Housing Report to diversify the cost of housing available in high-opportunity, high-cost low- and moderate-density neighborhoods, especially near transit. However, neighborhood planning and engagement is a condition predicate to any proposals. Infill and new development shall be compatible with the design character of existing neighborhoods. Minimize demolition of housing in good condition. 310.15*

The new zone will help to implement the Future Land Use Map recommendation for moderate density commercial development along this portion of the Pennsylvania Ave. SE corridor by permitting moderate density development. The new zone should encourage infill and new development that is compatible with the design character of the existing neighborhood. It should also attract more development to the area which would bring new opportunities, more residents, new businesses, and support existing businesses in the area.

**HOUSING ELEMENT**

The proposed new zone would not be inconsistent with Comprehensive Plan Housing Element policies:

***Policy H-1.1.1: Private Sector Support***

*Encourage or require the private sector to provide both new market rate and affordable housing to meet the needs of present and future District residents at locations consistent with District land use policies and objectives. 503.3*

***Policy H-1.1.2: Production Incentives***

*Provide suitable regulatory, tax, and financing incentives to meet housing production goals, prioritizing affordable housing production in support of the targets in Policy H-1.2.2. These incentives should continue to include zoning regulations that permit greater building area for commercial projects that include housing than for those that do not, and relaxation of height and density limits near transit. Strongly encourage incentives and strategies that result in the production of more deeply affordable housing, such as the use of income averaging across a range of affordable housing income levels. 503.4*

***Policy H-1.1.3: Balanced Growth***

*Strongly encourage the development of new housing, including affordable housing, on surplus, vacant, and underused land in all parts of Washington, DC. Ensure that a sufficient supply of land is planned and zoned to enable the District to meet its long-term housing needs, including*

*the need for low- and moderate- density single-family homes, as well as the need for higher-density housing. 503.5*

***Policy H-1.1.4: Mixed-Use Development***

*Promote moderate to high-density, mixed-use development that includes affordable housing on commercially zoned land, particularly in neighborhood commercial centers, along Main Street mixed-use corridors and high-capacity surface transit corridors, and around Metrorail stations. 503.6*

***Policy H-1.2.3: Affordable and Mixed-Income Housing***

*Focus investment strategies and affordable housing programs to distribute mixed-income housing more equitably across the entire District by developing goals and tools for affordable housing and establishing a minimum percent affordable by Planning Area to create housing options in high-cost areas, avoid further concentrations of affordable housing, and meet fair housing requirements. 504.10*

***Policy H-1.2.7: Density Bonuses for Affordable Housing***

*Provide zoning incentives, such as through the PUD process, to developers proposing to build affordable housing substantially beyond any underlying requirement. Exceeding targets for affordable housing can refer to exceeding the quantity or depth of affordability otherwise required. The affordable housing proffered shall be considered a high priority public benefit for the purposes of granting density bonuses, especially when the proposal expands the inclusiveness of high-cost areas by adding affordable housing. When density bonuses are granted, flexibility in development standards should be considered to minimize impacts on contributing features and the design character of the neighborhood. 504.15*

The Housing Element of the Comprehensive Plan recommends providing for both market rate and affordable housing. It also recommends mixed use development as a way to bring more housing to main street mixed use corridors such as this one. Currently there is little housing in this corridor. The new zone could bring mixed income housing to the area. It would permit more housing than the current zone, consistent with the FLUM designation, so would encourage the construction of new housing including affordable units along the corridor.

**ECONOMIC DEVELOPMENT ELEMENT**

The proposed new zone would not be inconsistent with Comprehensive Plan's Economic Development Element policies and actions:

***Policy ED-2.2.3: Neighborhood Shopping***

*Create and support additional shopping opportunities in Washington, DC's neighborhood commercial districts to better meet the demand for basic goods and services. Reuse of vacant buildings in these districts should be encouraged, along with appropriately scaled retail infill development on vacant and underused sites. Promote the creation and growth of existing locally owned, nonchain establishments because of their role in creating unique shopping experiences, as well as in generating stronger local supply chains that facilitate community wealth building. 708.8*

The proposed zoning would support additional shopping opportunities as it requires ground floor retail uses along the corridor to better meet the demand for basic goods and services for the surrounding residential neighborhood and new residents, and to ensure an active streetscape.

**Action ED-2.2.B: Retail Ceiling Heights**

*Determine the feasibility of developing zoning amendments that would permit higher ground floor retail ceiling heights in neighborhood commercial areas. Through processes including ZR-16, many zones have been revised to better accommodate the national standards for retail space, which has higher ceiling limits than typical office or residential uses. However, there may be an additional opportunity to make similar adjustments to zones used in neighborhood commercial areas. If these adjustments are feasible, better accommodating national retail space standards would help improve the District's economic resilience. 708.16*

The proposed new zone, the ground floor level of a new building or building addition would require a minimum clear floor-to-ceiling height of 15 feet.

**Policy ED-2.2.6: Grocery Stores and Supermarkets**

*Support and incentivize the development of new grocery stores and supermarkets, and prioritize stores in neighborhoods with existing food deserts, where residents currently travel long distances for food and other shopping services, and neighborhoods most affected by hunger and poverty to improve access to healthy, affordable food. Because such uses inherently require greater depth and lot area than is present in many commercial districts, consider adjustments to current zoning standards to depth and lot area to accommodate these uses, and explore new models like co-ops. 708.11*

The proposed new zone includes an option for a 0.5 FAR density bonus to incentivize the development of a new grocery store to the area, subject to conditions. While this provision requires additional study and refinement, it would be an attempt to use zoning to further an important priority of the community.

**Policy ED-3.1.1: Neighborhood Commercial Vitality**

*Promote the vitality and diversity of Washington, DC's neighborhood commercial areas by retaining existing businesses, attracting new businesses, supporting a strong customer base through residential density, and improving the mix of goods and services available to residents. 713.5*

The proposed zoning would allow for increased opportunities for neighborhood retail uses in the area and for additional housing opportunities to support retail.

**FAR NORTHEAST/SOUTHEAST ELEMENT**

The proposed new zone would not be inconsistent with these policies and actions in the Far Northeast and Southeast Element:

**Policy FNE/SE-2.6.2: Neighborhood Shopping Improvements:**

*Promote a wider variety and better mix of neighborhood-serving retail shops. Focus on providing targeted growth to the small pockets of new and existing commercial properties along the Pennsylvania Avenue SE Corridor. 1716.8*

**Policy FNE/SE-2.6.7: Mixed-Use and Affordable Housing:**

*Use District and federal resources to support a variety of mixed-income housing opportunities near key redevelopment sites in Wards 7 and 8. Create attractive, mixed-use, retail-anchored residential sites and affordable housing options along the Pennsylvania Avenue SE corridor. Some neighborhoods with great potential include Fairlawn, Randle Highlands, and Twining, which surround the mixed-use corridor identified along Pennsylvania and Minnesota Avenues*

*SE. In addition, mixed-income housing units that combine residential and retail space would be valuable commodities to residents. Invest in the development of mixed-use housing and retail at these locations: 2300-3100 block of Pennsylvania Avenue SE, 2200-2300 block of Minnesota Avenue SE, and 2900 block of Minnesota Avenue SE. 1716.12*

***Policy FNE/SE-2.6.8: Physical Improvements:***

*Continue to improve the infrastructure and physical appearance of the Pennsylvania Avenue Southeast corridor as a way to enhance its market perception and attract investors, visitors, shoppers, residents, and new retail businesses and services that benefit the adjacent community and attract passthrough consumer shoppers traveling to and from I-295. 1716.13*

***Action FNE/SE-2.6.C: Directing Growth:***

*Direct the growth along the Pennsylvania Avenue SE corridor. Mixed-use development combining ground floor retail and upper-story residential uses should be supported in this area, along with streetscape improvements that enhance visual and urban design qualities and pedestrian, bus, and automobile circulation. As in all parts of the District, the scale of development should be sensitive to adjacent uses and reflect the capacity of roads, infrastructure, and services to absorb additional growth. In addition, improvements should contribute to and maintain the historic character of the neighborhood. Make use of historic setbacks to bring retail frontage closer to Pennsylvania Avenue and maximize opportunities for rear parking and access (thus easing traffic congestion and flow). 1716.16*

The proposed new zone should attract more development and investment to this portion of the Pennsylvania Avenue SE corridor, consistent with direction from the Comp Plan and Small Area Plan. Mixed use buildings with ground floor retail and mixed income residential units are encouraged in this zone. Improvements to the site, streetscape, and infrastructure are expected outcomes from the redevelopment encouraged by this zone. The zone includes appropriate Pennsylvania Ave. East Small Area Plan design guidelines to ensure that new development is sensitive to the character of the surrounding neighborhood.

**Racial Equity Tool Part 2 – Community Outreach and Engagement**

The proposed new zone incorporates guidelines from the PAE Small Area Plan so community outreach for the zone starts with the outreach efforts for the small area plan.

OP conducted community outreach for the Pennsylvania Avenue East Small Area Plan between April 2021 and July 2022. The outreach centered on engaging with residents, Advisory Neighborhood Commissions (ANC), local businesses, and community organizations. A community advisory committee was formed for the plan, consisting of ANC Commissioners, service providers, residents, and civic association representatives.

Community engagement for the plan consisted of virtual engagement which included a project website, a virtual town hall, and community meetings with multiple call-in and participatory methods. It also included in-person engagement which consisted of community canvassing, community clean ups, public space activations, and partnerships with local community groups.

OP continued the community engagement throughout the text and map amendment process, and initiated outreach efforts specific to the new zone in May 2024. The following are the engagements to date for the proposed new zone, not including one-on-one discussions and email exchanges:



May 30, 2024 OP presented the Pennsylvania Ave. East Zone project to ANC 7B Economic Subcommittee,

June 15, 2024 OP presented the Pennsylvania Ave. East Zone project to the Twining Community Group, a meeting also attended by two ANC members.

June 18, 2024 OP emailed civic groups, property owners, and neighboring ANC SMDs.

June 20, 2024 OP presented the Pennsylvania Ave. East Zone project to the full ANC 7B at a public ANC meeting.

ANC and community comments and feedback concerning the proposed new zone have so far been very positive and encouraging. Building on community efforts as part of the Comprehensive Plan update and small area planning processes, there is support for new mixed-use development with new housing and retail opportunities. There is also a strong interest in seeing pedestrian improvements along Pennsylvania Ave. SE, which the zoning can in ways facilitate but cannot mandate. Residents have also expressed a desire for new retail opportunities, senior housing, a bike lane and on-site, underground parking as part of new developments. The new zone could result in underutilized commercial properties in the corridor being redeveloped with these improvements. Some residents and business owners have expressed a desire for this process to move forward expeditiously, to facilitate the new, desired improvements to the corridor.

If the proposal is set down, OP anticipates additional ANC and community discussions prior to a public hearing.

### **Racial Equity Tool Part 3 – Disaggregated Data Regarding Race and Ethnicity**

Analysis of census data over time can yield insights into trends in the planning area. The following tables compare the 2018-2022 American Community Survey ([ACS DATA](#)) data, disaggregated by race and ethnicity, with data from the 2012-2016 period, available from [OP's State Data Center](#). Each table below covers both 5-year periods and compares the data from the FNE/SE Planning Area, in which the subject area is located, with District-wide data.

#### ***Population Race or Ethnicity***

Similar to the District as a whole, the population in the FNE/SE planning area increased over the ten-year period, although the number and percentage of Black residents declined between the two time periods. The race/ethnic data for the area shows that in the 2018-2022 period the FNE/SE population was 90% Black. It also shows that over the ten-year period there was a slight increase in residents of other race/ethnic groups who moved to the area.

***Table 1 - Population/Race or Ethnicity Districtwide and in the Planning Area***

<b>Race or Ethnicity</b>	<b>District-wide 2012-16</b>	<b>District-wide Percent</b>	<b>FNE/SE 2012-16</b>	<b>FNE/SE Percent</b>	<b>District-wide 2018-22</b>	<b>District-wide Percent</b>	<b>FNE/SE 2018-22</b>	<b>FNE/SE Percent</b>
Total Population	659,009	100%	79,912	100%	670,587	100%	84,778	100%
White alone	266,035	40.4%	1,666	2%	265,633	39.6%	2,357	2.78%
Black alone	318,598	48.3%	74,997	93.8%	297,101	44.3%	76,802	90.59%
American Indian and	2,174	0.3%	238	0.3%	2,209	0.33%	275	0.32%

Race or Ethnicity	District-wide 2012-16	District-wide Percent	FNE/SE 2012-16	FNE/SE Percent	District-wide 2018-22	District-wide Percent	FNE/SE 2018-22	FNE/SE Percent
Alaskan Native alone								
Asian alone	24,036	3.6%	352	0.44%	27,067	4%	273	0.32%
Native Hawaiian and Other Pacific Islander alone	271	0.04%	30	.040%	420	0.06%	25	0.03%
Some other race alone	29,650	4.5%	1,706	2.13%	30,879	4.6%	1,905	2.25%
Two or more races	18,245	2.8%	923	1.16%	47,278	7.1%	3,142	3.71%
Hispanic	69,106	10.5%	2,774	3.4%	77,168	11.5%	3,808	4.49%

### ***Median Income***

FNE/SE had a much lower median income than the District as a whole between 2012 and 2022. This can be further seen in almost all the race/ethnic groups. The only exception is during the 2018-2022 period where the Some Other race group had a higher median income than the group's District-wide median income.

### **Median Income**

Median Income	Districtwide 2012-2016	FNE/SE 2012-2016	Districtwide (2018-2022)	FNE/SE (2018-2022)
Median Household Income	\$72,935	\$37,510	\$101,722	\$55,769
White alone	\$119,564	\$84,460	\$160,745	\$130,171
Black or African American alone	\$ 40,560	\$ 36,614	\$ 57,076	\$ 53,732
American Indian and Alaskan Native alone	\$ 51,306	Not Available	\$ 60,390	Not Available
Asian alone	\$ 91,453	Not Available	\$123,660	Not Available
Native Hawaiian and Other Pacific Islander alone	Not Available	Not Available	Not Available	Not Available
Some other races	\$ 41,927	\$38,723	\$ 61,851	\$ 90,218
Two or more races	\$ 83,243	\$ 40,956	\$ 108,455	\$78,758
Hispanic or Latino	\$ 60,848	\$ 42,302	\$ 94,203	\$77,901

### ***Median Age***

The median age of the FNE/SE Area has been relatively consistent over the ten-year period. This differs from the District trend where the median age increased. Within the planning area half of the groups' median age increased and the other half of the groups' decreased over the ten years.

During the 2018-2022 period shows the American Indian/Alaskan Native group had the highest median age of 58.3 and the Some other Race group had the lowest age of 24.5.

**Table 2 - Median Age**

<b>Median Age</b>	<b>Districtwide 2012-2016</b>	<b>FNE/SE 2012-2016</b>	<b>Districtwide (2018-2022)</b>	<b>FNE/SE (2018-2022)</b>
Total Median Age	32.3	36.9	35.5	36.4
White alone	33.1	36.3	35.3	39.4
Black or African American alone	40.3	37.5	38.1	35.6
American Indian and Alaskan Native alone	31.4	24.4	41.1	58.3
Asian alone	33.3	44.6	35.6	29.5
Native Hawaiian and Other Pacific Islander alone	Not Available	Not Available	35.5	Not Available
Some other races	29.6	20.1	28.8	24.5
Two or more races	28.3	46.1	30.8	37.1
Hispanic or Latino	31.3	36.3	32.2	32.2

### ***Housing Tenure***

Over the ten-year period the planning area saw a significant growth in homeownership. The area moved from being behind the District's homeownership rate to being almost the same level as the District as a whole. The data also shows that during the 2018-2022 period more minority residents of the area became homeowners. During this period almost every group in the planning area has a higher homeownership rate than their Districtwide counterpart. This is a positive trend that could be furthered by the proposed map and text amendment, through the provision of additional housing options within the community.

**Table 3 - Owner Occupied Households**

<b>Owner Occupancy</b>	<b>Districtwide 2012-2016</b>	<b>FNE/SE 2012-2016</b>	<b>Districtwide (2018-2022)</b>	<b>FNE/SE (2018-2022)</b>
Total Owner Occupied	40.7%	35%	41.4%	40.9%
White alone	47.8%	62.4%	47.4%	80.1%
Black or African American alone	35.9%	34.7%	35.9%	39.2%
American Indian and Alaskan Native alone	32.9%	20%	29.7%	30.8%
Asian alone	39.4%	29.1%	42.4%	63.3%
Native Hawaiian and Other Pacific Islander alone	9.1%	0.0%	25.8%	Not available
Some other races	17.5%	30.2%	26.6%	58.2%
Two or more races	32.7%	23.4%	43.9%	42.1%
Hispanic or Latino	30.9%	44.5%	35.3%	57.5%

***Table 4 - Renter Occupied Households***

<b>Renter Occupancy</b>	<b>Districtwide 2012-2016</b>	<b>FNE/SE 2012-2016</b>	<b>Districtwide 2018-2022</b>	<b>FNE/SE 2018-2022</b>
Total Renter Occupancy	59.3%	65%	58.6%	59.1%
White alone	52.2%	37.6%	52.6%	20%
Black or African American alone	64.1%	65.3%	64.1%	60.8%
American Indian and Alaskan Native alone	67.2%	80%	74.2%	69.2%
Asian alone	60.6%	70.9%	57.6%	36.7%
Native Hawaiian and Other Pacific Islander alone	90.9%	100%	35.8%	Not available
Some other races	82.5%	69.8%	73.4%	41.8%
Two or more races	67.3%	76.6%	56.2%	57.9%
Hispanic or Latino	69.1%	55.5%	64.7%	42.5%

***Vulnerable or Special Populations***

During both five-year periods the FNE/SE planning area had a higher percentage of vulnerable persons than the District as a whole. A slightly larger percent of the FNE/SE planning area's populations was 65 and over than in the District during both five-year periods. The data also shows that in both periods, almost a quarter of the FNE/SE population was under the age of 18. This is significantly more than the Districtwide percentages for these periods. As for the disability rate, during both periods a larger portion of FNE/SE populations had a disability than in the District.

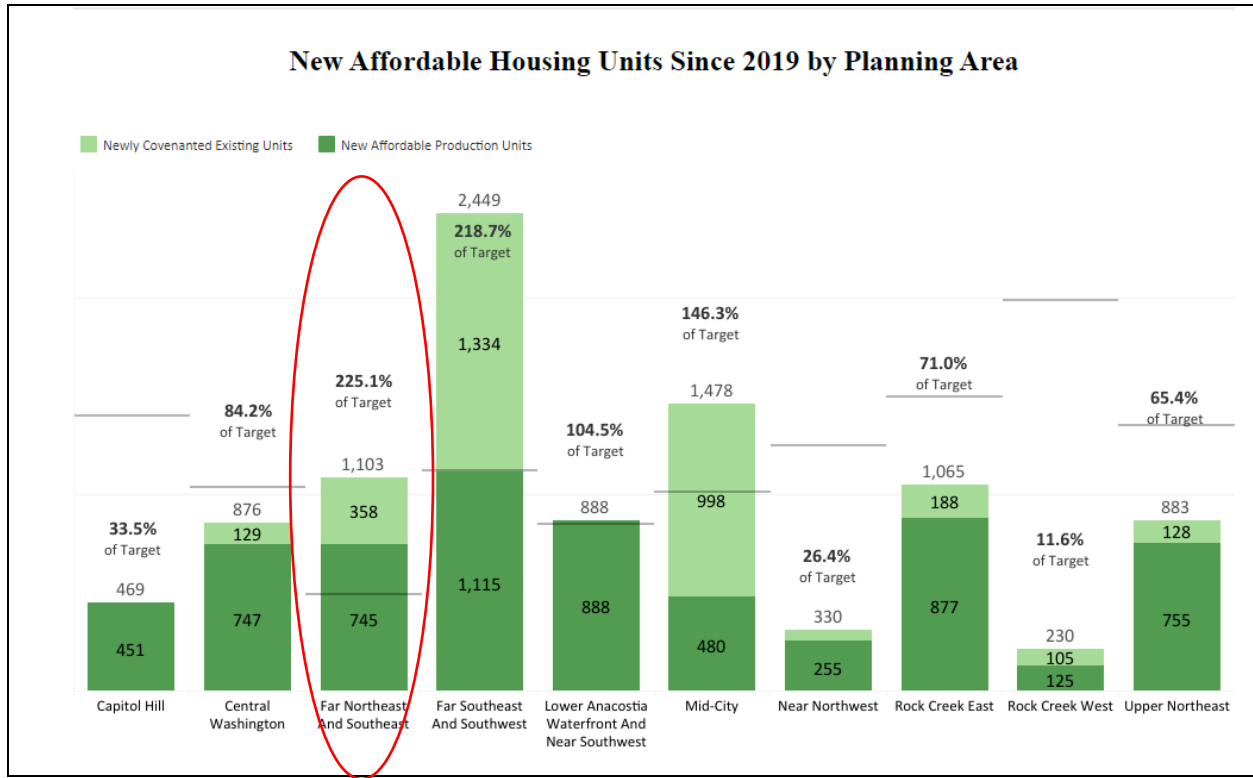
***Table 5 - Vulnerable or Special Populations in the Planning Area and District***

<b>Vulnerable Populations</b>	<b>Districtwide 2012-2016</b>	<b>FNE/SE 2012-2016</b>	<b>Districtwide 2018-2022</b>	<b>FNE/SE 2018-2022</b>
Persons 65 or Older	11.03%	12.7%	12.26%	14.05%
Persons Under 18 Years	17.4%	24.29%	18.46%	24.6%
Disability Rate	11.3%	19.4%	10.98%	17.14%

***Progress Toward Meeting the Mayor's 2025 Housing Equity Goals***

The Deputy Mayor for Planning and Economic Development provided an update at the end of June 2024 which shows that the Far Northeast/Southeast Planning Area continues to exceed the Mayor's affordable housing goal for the area and is the planning area with the most affordable housing (DMPED 36,000 by [2025 Dashboard](#)). IZ plus and the additional density in the new zone

would increase opportunities for more market rate housing as well as affordable housing, which would help to establish a better housing balance to area.



#### **Racial Equity Tool Part 4 – Zoning Commission Evaluation Factors**

The Pennsylvania Avenue SE corridor is within the FNE/SE planning area, which has a population that is over 90 percent Black and has median income that is roughly half that of the District. This planning area has experienced many years of disinvestment, poverty, and unemployment. It has also not received the same level of investment as other parts of the District.

In an effort to see improvements in the area the local community advocated for the creation of the Pennsylvania Avenue Small Area Plan. They intended for it to encourage the type of development desired by many in the community:

*“Through the implementation of the PAESAP, Pennsylvania Avenue East will experience improved access to transit and multimodal opportunities, improved pedestrian safety, and an enhanced public realm. The community will also experience infill development that provides additional retail and economic development opportunities especially for the local small Black-owned businesses. Additionally, the community will benefit from an affordable housing development pipeline that will include family-sized rental units, as well as homeownership options providing opportunities for generational wealth building, (PAESAP, p.7).”*

The proposed new zone would help to implement development goals from the Small Area Plan.

Pursuant to the Racial Equity Tool, the Commission will use the following criteria, themes and questions, along with data provided in the filings in its evaluation of the proposed text and map



amendment's consistency with the Comp Plan, as viewed through a racial equity lens. Overall, the proposed text and map amendment would advance many of the policies related to racial equity in the provision of housing, job creation, the advancement of arts and culture and assist in the revitalization of an underserved area.

The additional density allowed in the proposed new zone would likely bring more residents to the area, which should help support existing local businesses. However, displacement pressures on existing businesses may occur from the proposed text and map amendment. These could be mitigated through recommendations in the PAE Small Area Plan that are not within the purview of zoning, such as grant programs administered by the Office of the Deputy Mayor for Planning or by the Pennsylvania Avenue East Main Street organization. In addition, the new regulations would require the provision of ground floor retail space which could accommodate existing businesses and provide opportunities for larger or better space.

### Proposed Zoning Action / Racial Equity

Factor	Question	OP Response
<b>Direct Displacement</b>	Will the zoning action result in displacement of tenants or residents?	<p>OP does not anticipate this text and map amendment case would result in direct displacement of tenants or residents.</p> <p>There is an all-affordable apartment building in the map amendment boundary at 2323 Pennsylvania Ave. SE. As an all-affordable building its units cannot be converted to market rate units, so residents are unlikely to be displaced. Furthermore, the building is new and unlikely to be redeveloped any time soon.</p> <p>OP is unaware of any other residential units within the map amendment boundary.</p> <p>With respect to businesses, there are relatively few existing retail businesses that serve local residents. While the proposal would result in the potential for an existing business to be displaced, at least temporarily, the zoning would require the provision of new retail space in each new building, which the current zoning does not require.</p>
<b>Indirect Displacement</b>	What examples of indirect displacement might result from the zoning action?	<p>The area to be rezoned is already zoned for mixed use development, and it is not anticipated that the new development associated with the proposed zone would result in indirect displacement of existing residents.</p> <p>As noted above, the proposal could result in the displacement of some existing businesses, but this text and map amendment would also provide opportunities that may enable existing or new businesses to relocate or expand within the community. Furthermore, new residents of housing facilitated by the zoning proposal would support</p>

Factor	Question	OP Response
		local businesses along the corridor and potentially improve viability of forms of retail more desired by local residents, such as fresh food options.
<b>Housing</b>	Will the action result in changes to: <ul style="list-style-type: none"> <li>▪ Market Rate Housing</li> <li>▪ Affordable Housing</li> <li>▪ Replacement Housing</li> </ul>	The text and map amendment should permit more market rate and affordable housing to the area. This could benefit current and future residents of the area and the city as a whole by providing greater housing choice in terms of housing cost and type.
<b>Physical</b>	Will the action result in changes to the physical environment such as: <ul style="list-style-type: none"> <li>▪ Public Space Improvements</li> <li>▪ Infrastructure Improvements</li> <li>▪ Arts and Culture</li> <li>▪ Environmental Changes</li> <li>▪ Streetscape Improvements</li> </ul>	The small area plan outlines a number of streetscape and public space improvements envisioned for this portion of Pennsylvania Ave. SE. While many of these are outside the direct scope of zoning, the proposed zoning text includes many design and seating-related guidelines, not present in current zoning, to foster an improved streetscape.  Any new construction would be held to all current and applicable zoning regulations and DOEE environmental standards.
<b>Access to Opportunity</b>	Is there a change in access to opportunity? <ul style="list-style-type: none"> <li>▪ Job Training/Creation</li> <li>▪ Healthcare</li> <li>▪ Addition of Retail/Access to New Services</li> </ul>	If the zoning action leads to redevelopment of sites, it could result in a temporary increase in construction jobs and a permanent increase in jobs in expanded and new retail and service facilities on the corridor. Overall, the new zone could result in new or improved retail and services for new and existing residents of the area.  While healthcare uses would not be required by the zoning, they would be permitted and would be more likely in redevelopment projects.
<b>Community</b>	How did community outreach and engagement inform/change the zoning action? <ul style="list-style-type: none"> <li>▪ (e.g., did the architectural plans change, or were other substantive changes made to the zoning action in response to community input/priorities etc.?)</li> </ul>	As discussed above, in the <i>Community Participation/Outreach Efforts</i> section, OP met community members and with the ANC over the past few months, as the zoning was drafted. The response from the community was largely supportive and encouraged moving forward with the proposal.  OP appreciates the conversation and anticipates additional meetings and conversations following setdown and prior to the public hearing. OP remains open to making improvements that are consistent with Comprehensive Plan policy direction.

## V. PENNSYLVANIA AVENUE EAST SMALL AREA PLAN

The 2023 Pennsylvania Avenue East Small Area Plan covers the Pennsylvania Avenue SE. corridor between the Sousa Bridge and Southern Avenue, SE. The Small Area Plan states that

*“The recommendations provided here guide infill development along the corridor; create more vibrant public spaces including Twining Square; improve access to community amenities; reduce conflicts between vehicles, pedestrians, and cyclists; and increase housing opportunities to meet the needs of the community.” (p. 3)*

The Small Area Plan’s Urban Design Guidelines focus on three “character areas” located along the eastern end of the Pennsylvania Ave. SE corridor and considered the most in need by the community. These areas are the Anacostia Gateway, the Square, and the Theater District.



### **Anacostia Gateway**

The Anacostia Gateway is the stretch of Pennsylvania Avenue SE. between Anacostia Freeway and Minnesota Avenue SE. This reflects the Comprehensive Plan identification of Pennsylvania Avenue SE as a Gateway Corridor to the District, and as an important access point to the Anacostia River waterfront. Recommendations for this area encourage pedestrian-focused streetscape improvements, higher quality architecture, and new mixed-use development.

### **The Square**

The Square is the area that includes Twining Square Park and the Pennsylvania Avenue SE and Minnesota Avenue SE. intersection. The PAE Small Area Plan anticipates the intersection to be reoriented by DDOT which would allow for the park to expand. The Plan considers the Square to be the heart of the retail district. Recommendations for this area encourage new mixed-use development, building façade improvements, and creating pedestrian-oriented retail streets.

### **Theater District**

The Theater District is the area that includes the existing Highland Theater, which is considered an important cultural asset within the neighborhood. The PAE Small Area Plan stresses that development should be context-sensitive to the Theater. Recommendations for this area encourage mixed-use development with retail spaces that complement the Theater, adaptive reuse of the Highland Theater, activation of the streetscape, and adding more housing to the area.

### **New Zone Recommendation**

The PAE Small Area Plan recommends a new zone for the Anacostia Gateway area:

*To implement relevant recommendations for the Anacostia Gateway area, a new zone should be created for the mixed-use sites at the intersection of Pennsylvania Avenue SE and Minnesota Avenue SE that reflects the height and density established in the 2021 Comprehensive Plan update and incorporates the Urban Design Guidelines specific to this location...*

The proposed new zone, summarized above and provided in complete in Attachment 2, would include not only the Anacostia Gateway but also most of the Square and Theater Districts as well. This is envisioned to further the achievement of the PAE Small Area Plan's vision for all three areas.

Although the new zone incorporates Small Area Plan's recommendations and many of the design guidelines, not every recommendation can be implemented through zoning. Those not included in the new zone can be implemented in other ways. The PAE Small Area Plan is intended to be used by various entities including private property owners, developers, design professionals, District agencies and community groups as they review proposals. They could also be used by the Zoning Commission in the review of a discretionary review process such as a PUD. List of the design guidelines from the SAP and the OP response in zoning is attached below.

## **VI. SUMMARY OF PLANNING CONTEXT ANALYSIS**

On balance, the proposed text amendment is not inconsistent with the 2021 Comprehensive Plan, and it would help to implement many of the recommendations in the Pennsylvania Avenue East Small Area Plan. If approved, it would allow the creation of a new zone that could bring much needed housing and commercial development to the eastern end of the Pennsylvania Avenue East corridor. OP looks forward to additional discussions with the ANC, community, and other District agencies as the proposal is refined throughout the Zoning Commission review process.

## **VII. ATTACHMENTS**

Attachment 1 - Pennsylvania Avenue East Design Guidelines and Proposed Zone Table

Attachment 2 – Proposed Text Amendment

## VIII. Attachment 1 – Pennsylvania Avenue East Small Area Plan Guidelines

	PASAP Guidelines	Proposed Zoning
<b>Section</b>	<b>Building Form Guidelines (p. 55-57)</b>	
<b>1.1</b>	<b>Building Frontage</b>	
<b>a.</b>	Ground floor retail uses fronting onto Pennsylvania Avenue SE should take full advantage of allowances for show window projections or similar high transparency glazing to create strong visual connections between the sidewalk and interior spaces.	<ul style="list-style-type: none"> <li>Projections are regulated by public space</li> <li>H § 1109.1(b) requires buildings to be constructed along front lot line, which would support projections</li> <li>H § 1109.1(e) requires retail show windows at the ground floor level</li> </ul>
<b>b.</b>	Building façades should be oriented parallel to Pennsylvania Avenue SE to maintain a continuous and engaging streetwall that gives scale and definition to adjacent streets and civic space. Building façades that are directly adjacent to the restored square should also prioritize public entrances and visibility onto the square as well as onto Pennsylvania Avenue SE.	<ul style="list-style-type: none"> <li>H § 1109.1(b) requires buildings to be constructed along front lot line</li> </ul>
<b>c.</b>	The front façade of the building should be generally at the property line, and the ground floor of the building should be at the same elevation as the sidewalk.	<ul style="list-style-type: none"> <li>H § 1109.1(b) requires buildings to be constructed along front lot line</li> <li>H § 1109.1(i) requires retail entrances to be level with the public sidewalk</li> </ul>
<b>d.</b>	Mixed-use buildings that provide ground floor residential units should locate unit entrance directly to the sidewalk (rather than through a central lobby space) and should front on side streets to incorporate social features such as stoops and porches to transition to adjacent residential blocks.	<ul style="list-style-type: none"> <li>H § 1109.1(j) requires residential entrances on corner lots to be provided from the side street.</li> </ul>
<b>e.</b>	All loading and parking garage access points should be located on existing alleys at the rear of the lot, or if unavailable on adjacent side streets to minimize adverse impact on the pedestrian-prioritized retail zone of Pennsylvania Avenue SE.	<ul style="list-style-type: none"> <li>H § 1109.1(k) requires vehicle parking entrances and loading to be from the alley, where one exists</li> </ul>
<b>1.2</b>	<b>Streetwall Variation and Articulation</b>	
<b>a.</b>	The streetwall height should generally be no less than 25 feet. Change in building articulation above the streetwall are encouraged.	<ul style="list-style-type: none"> <li>H § 1105.1 requires buildings to be 25 feet in height minimum</li> </ul>



	PASAP Guidelines	Proposed Zoning
<b>b.</b>	Larger development sites should space retail storefronts and entrances frequently along a block, typically every 25 to 40 feet, to attract small businesses, promote visual interest for pedestrians, and better encourage streetlife and activation.	<ul style="list-style-type: none"> <li>H § 1109.1(d) requires buildings to be designed to not preclude entrances every 40 feet on average minimum</li> </ul>
<b>c.</b>	Floor-to-ceiling heights of between 15 and 18 feet should be provided for commercial ground floors in new mixed-use buildings. The depth of new retail spaces along the building frontage should be a minimum of 50 feet.	<ul style="list-style-type: none"> <li>H § 1109.1(g) a minimum floor to ceiling height of fifteen feet</li> </ul>
<b>d.</b>	Include elements such as projections, textured materials, awnings, plantings, signage, and seating to create a visually engaging and inviting building edge to frame the sidewalk and create points to relax, gather, and socialize.	<ul style="list-style-type: none"> <li>This would be regulated through public space, but zoning would not preclude these elements</li> <li>This review could be part of a discretionary Zoning Commission review such as a PUD</li> </ul>
<b>1.3</b>	<b>Building Massing</b>	
<b>a.</b>	Encourage balconies, bay windows, varying step-backs at upper floors, or material changes to break up larger façades.	<ul style="list-style-type: none"> <li>H § 1109.1(a) requires a rear step-back.</li> <li>Zoning would not preclude other elements or building massing</li> </ul>
<b>b.</b>	Expansions and additions should incorporate architectural details that are consistent or complementary to those of the existing structures, preserving unique and well-built design features to the extent feasible.	<ul style="list-style-type: none"> <li>Zoning cannot address design details, materials, or preservation of existing features.</li> <li>These could be reviewed through a discretionary ZC process such as a PUD</li> </ul>
<b>1.4</b>	<b>Transitions to Adjacent Blocks</b>	
<b>a.</b>	New buildings or additions to existing buildings should provide appropriate transitioning or buffering from low density housing on blocks to the north and south of the corridor. Building height step downs, upper story step-backs, and other building form articulation and modulation should be employed, particularly where there is no intervening alley.	<ul style="list-style-type: none"> <li>Base zoning does require a setback, particularly for floors above the lower levels</li> <li>H § 1109.1(a) requires an additional rear step-back</li> </ul>
<b>b.</b>	Building setbacks in the form of open space, landscaped buffers, and courtyards should be employed on the rear of new buildings where they transition to lower scale residential uses.	<ul style="list-style-type: none"> <li>H § 1109.1(a) requires a rear step-back.</li> <li>Rear yards consistent with the MU-5A zone would be required.</li> </ul>

	PASAP Guidelines	Proposed Zoning
<b>1.5</b>	<b>Building Materials</b>	
<b>a.</b>	The use of brick or other masonry or similar high-quality materials as cladding characteristic of the neighborhood is encouraged for new buildings.	<ul style="list-style-type: none"> <li>• Zoning cannot address design details, materials, or preservation of existing features</li> <li>• These could be reviewed through a discretionary ZC process such as a PUD</li> </ul>
<b>b.</b>	Large windows providing visibility and social connections to the street are appropriate for ground-floor retail.	<ul style="list-style-type: none"> <li>• H § 1109.1(e) 50% of the streetwall at ground level to be clear display window</li> <li>• H § 1109.1f) regulates security grills</li> </ul>
<b>c.</b>	Sustainable materials that are recycled and less carbon intensive are encouraged both for exterior cladding and interior structural components. The preservation or re-use of existing building materials in new buildings is also encouraged.	<ul style="list-style-type: none"> <li>• Zoning cannot address design details, materials, or preservation of existing features</li> <li>• These could be reviewed through a discretionary ZC process such as a PUD</li> </ul>
	<b>Design Guidelines – Public Realm (pp. 58-59)</b>	
<b>2.1</b>	<b>Identity and Placemaking</b>	
<b>a.</b>	Along the restored Square, prioritize access for all ages and provide a diversity of space types and uses that are coordinated with the Pennsylvania Avenue East Main Street and other civic groups. Enable community-led activation and gathering for outdoor markets, performances or similar events, café seating, and/or recreational purposes as a community landmark and destination.	<ul style="list-style-type: none"> <li>• Zoning cannot prescribe the design of public space, however</li> <li>• H § 1109.1(b) requires buildings to be constructed along front lot line</li> <li>• H § 1109.1(i) requires retail entrances to be level with the public sidewalk</li> <li>• These could also be reviewed through a discretionary ZC process such as a PUD</li> </ul>
<b>b.</b>	Development opportunity sites within the Anacostia Gateway character area should incorporate signature design elements on prominent corners such as bay or tower projections, angled or curved façades, and special lighting and/or materials as well as landscape designs that visually communicate a sense of arrival to the Pennsylvania Avenue neighborhood and link the area to the Anacostia River.	<ul style="list-style-type: none"> <li>• These elements could be reviewed through a discretionary ZC process such as a PUD</li> </ul>

	PASAP Guidelines	Proposed Zoning
c.	Public art such as sculptures, murals, or other forms of art installations should be explored along the corridor to both mark this entry point into the neighborhood and Anacostia River, to showcase the importance of the Theater District and as a way to showcase the history and cultural values of the neighborhood.	<ul style="list-style-type: none"> <li>These elements could be reviewed through a discretionary ZC process such as a PUD</li> </ul>
d.	Murals should be considered on highly visible side walls of mid-block buildings where windows are not feasible and under the Anacostia Freeway overpass.	<ul style="list-style-type: none"> <li>These elements could be reviewed through a discretionary ZC process such as a PUD</li> </ul>
<b>2.2</b>	<b>Streetscape</b>	
a.	Enhance the pedestrian experience with streetscape elements such as enlarged street tree planter boxes and increased tree canopy, pedestrian scale lighting and signage, wide sidewalks along Pennsylvania Avenue SE, and space for tenant activation along storefronts.	<ul style="list-style-type: none"> <li>Zoning cannot prescribe the design of elements within the public space, however</li> <li>H § 1109.1(b) requires buildings to be constructed along front lot line</li> <li>H § 1109.1(i) requires retail entrances to be level with the public sidewalk</li> <li>These could also be reviewed through a discretionary ZC process such as a PUD</li> </ul>
b.	Enhance existing pedestrian crossings along Pennsylvania Avenue SE to better connect the two sides of the retail main street, increase pedestrian safety, and signal to vehicle drivers that they are entering a pedestrian-oriented neighborhood.	<ul style="list-style-type: none"> <li>Not within the scope of zoning to regulate</li> </ul>

	PASAP Guidelines	Proposed Zoning
c.	<p>Establish dedicated sidewalk areas that accommodate outdoor seating, clear pedestrian paths, landscaping, and other amenities. The sidewalk along Pennsylvania Avenue SE can be broken down as follows beginning with the curbside zone:</p> <ul style="list-style-type: none"> <li>i. Amenity Area (four to six feet): Provides a sizable amenity area that enhances pedestrian comfort including planting and trees, streetlights, regulatory signage, bicycle parking, and other furnishings such as benches and trash cans.</li> <li>ii. Circulation Area (eight feet): An unobstructed linear pedestrian path between the Tenant Area and the Amenity area.</li> <li>iii. Tenant Area (remaining space up to building line): Located immediately adjacent to building façades, the tenant area provides an area of transition between circulation and building entries. The area also activates the storefronts through a range of uses including tenant displays, outdoor seating, building projections, and planting areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Zoning cannot prescribe the design of public space, however</li> <li>• H § 1109.1(b) requires buildings to be constructed along front lot line.</li> <li>• H § 1109.1(i) requires retail entrances to be level with the public sidewalk.</li> <li>• These could also be reviewed through a discretionary ZC process such as a PUD.</li> </ul>
d.	<p>Allow for unique pavement, landscaping, and streetscape materials as sidewalks approach the restored Square that is distinctive, reflecting the civic use of those spaces.</p>	<ul style="list-style-type: none"> <li>• Zoning cannot prescribe the design of public space.</li> <li>• These could also be reviewed through a discretionary ZC process such as a PUD.</li> </ul>
e.	<p>Parking and loading entrances should be located on alleys or secondary streets to minimize curb cuts along Pennsylvania Avenue SE and promote an uninterrupted pedestrian pa</p>	<ul style="list-style-type: none"> <li>• H § 1109.1(k) requires vehicle parking entrances and loading to be from the alley, where one exists</li> </ul>

## **Attachment 2 - PROPOSED TEXT AMENDMENT**

Note – proposed new text is shown in **bold underline**, otherwise text show is existing.

### **SUBTITLE H, NEIGHBORHOOD MIXED-USE (NMU) ZONES**

#### **CHAPTER 1 INTRODUCTION TO NEIGHBORHOOD MIXED-USE (NMU) ZONES**

##### **100 GENERAL PROVISIONS**

- 100.1 Subtitle H is to be read and applied in addition to the regulations included in:
- (a) Subtitle A, Authority and Applicability;
  - (b) Subtitle B, Definitions, Rules of Measurement, and Use Categories;
  - (c) Subtitle C, General Rules; and
  - (d) Subtitle G, Mixed-Use (MU) Zones.
- 100.2 Geographically modified zones are indicated by letters following the base zone name, such as NMU-7B/GA or NMU-8B/H-H.
- 100.3 For those geographically modified zones, the zone boundaries are described in Subtitle W, Specific Zone Boundaries, and identified on the official Zoning Map.

##### **101 PURPOSE AND INTENT**

- 101.1 The Neighborhood Mixed-Use (NMU) zones are designed to provide for stable mixed-use areas permitting a range of commercial and multiple dwelling unit residential development in defined neighborhood commercial areas.
- 101.2 In addition to the purpose statements of each MU zone stated in Subtitle G and the individual chapters of this subtitle, the purposes of the NMU zones are to:
- (a) Provide for a varied mix of residential, employment, retail, service, and other related uses in the area;
  - (b) Encourage safe and efficient conditions for pedestrian and motor vehicle movement;
  - (c) Preserve and enhance neighborhood shopping areas, by providing the scale of development and range of uses that are appropriate for neighborhood shopping and services;
  - (d) Encourage a general compatibility in scale between new and older buildings;
  - (e) Encourage retention and establishment of a variety of retail, entertainment, and personal service establishments, predominantly in a continuous pattern at ground level, to meet the needs of the surrounding area's residents, workers, and visitors;

- (f) Encourage a scale of development, a mixture of building uses, and other attributes, such as safe and efficient conditions for pedestrian and vehicular movement;
- (g) Identify designated roadways within NMU zones with limitations on driveways and curb cuts; and
- (h) Identify designated use areas within NMU zones within which use restriction shall apply to the ground floor.

## **CHAPTER 2 GENERAL DEVELOPMENT STANDARDS FOR NEIGHBORHOOD MIXED-USE (NMU) ZONES**

### **200 DEVELOPMENT STANDARDS**

- 200.1 The development standards of the MU zones of Subtitle G shall apply to the relevant NMU zones except as changed by a geographically modified zone.
- 200.2 In the NMU, the development standards for lodging uses shall be those for non-residential uses except for FAR.
- 200.3 In the NMU zones, no driveway providing access from any designated roadway to required parking spaces or loading berths shall be permitted.
- 200.4 The Inclusionary Zoning (IZ) requirements and the available IZ modifications and bonus density shall apply to all NMU zones, except for Square 907 in the NMU-7B/ES zone, as specified in Subtitle C, Chapter 10, Inclusionary Zoning, and in the zone-specific development standards of this subtitle; provided that new penthouse habitable space, as described in Subtitle C § 1507.2, in Square 907 in the NMU-7B/ES zone shall be subject to the IZ requirements.
- 200.5 A building or structure in existence with a valid Certificate of Occupancy prior to January 1, 2022, may convert existing gross floor area to the “Residential” use category of Subtitle B § 200.2 as a matter of right even if the building or structure or portion thereof to be converted does not comply with the following development standards of this subtitle for residential use:
  - (a) Courts;
  - (b) Floor Area Ratio (FAR);
  - (c) Green Area Ratio (GAR);
  - (d) Height;
  - (e) Lot Occupancy; or
  - (f) Yards.
- 200.6 Notwithstanding Subtitle H § 200.5, the requirements for ground floor designated uses of Subtitle H § 6001 shall apply.



**201 PLANNED UNIT DEVELOPMENT**

201.1 In the NMU zones, the matter-of-right building height, floor area ratio, and penthouse and rooftop structure height shall serve as the guidelines for a planned unit development.

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**CHAPTER 11 PENNSYLVANIA AVENUE EAST MIXED-USE ZONE –NMU-5A/PAE <sup>2</sup>**

**1100 PURPOSE AND INTENT**

**1100.1 The purposes of the NMU-5A/PAE zone shall be those of the MU-5A zone as set forth in Subtitle G § 101, those of the Neighborhood Mixed-Use zones, as set forth in Subtitle H § 101, and the following:**

- (a) **Implement the policies and goals of the Pennsylvania Avenue East Small Area Plan as approved by the Council of the District of Columbia, effective February 7, 2023 (Resolution 25-27);**
- (b) **Permit mixed-use development at a moderate density;**
- (c) **Establish Pennsylvania Avenue SE. between Fairlawn Avenue, SE and 27th Street, SE as an active, pedestrian-oriented commercial corridor with a convenient mix of neighborhood-serving shops and services;**
- (d) **Implement the design guidelines of the Pennsylvania Avenue East Small Area Plan to enhance the existing strengths and identity of the commercial corridor and to transform it into an attractive destination for the community; and**
- (e) **Allow and encourage residential development and a greater range of resident diversity to advance the District’s housing equity goals, and by mapping the NMU-5A/PAE zone as subject to IZ Plus**

**1100.2 The NMU-5A/PAE zone is intended to permit mixed-use development at a moderate density.**

**1101 DEVELOPMENT STANDARDS**

**1101.1 The MU-5A zone development standards in Subtitle G, Chapter 2 shall apply to the NMU-5A/PAE zone except as specifically modified by this chapter. In**

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<sup>2</sup> Note – the Zoning Commission is currently reviewing Case 23-25, Chevy Chase Corridor Neighborhood Commercial Zones NMU-4/CC1 and CC2, for which the Zoning Commission has taken proposed action to approve, on July 11, 2024. The draft of the NMU-4/CC zones would be within a new Chapter 10 to this provision, so this is proposed as a new Chapter 11.

the event of a conflict between the provisions of this chapter and other regulations of this title, the provisions of this chapter shall control.

**1102 DESIGNATED USE AREA**

**1102.1 In the NMU-5A/PAE zone, the designated use area shall include any lot that fronts onto Pennsylvania Avenue, SE. Within this area, designated uses shall be provided pursuant to Subtitle H § 6001.**

**1103 DESIGNATED ROADWAY**

**1103.1 In the NMU-5A/PAE zone, the designated roadway shall be Pennsylvania Avenue, SE.**

**1104 DENSITY**

**1104.1 An additional 0.5 FAR shall be permitted for a grocery store use, subject to the following conditions:**

- (a) Gross floor area devoted to publicly accessible grocery for purchase, including aisles and check-out areas, shall be 5,000 sq.ft.;
- (b) A minimum of fifty percent (50%) of customer-accessible sales and display area shall be dedicated to the sale of a general line of food products intended for home preparation and consumption;
- (c) A minimum of thirty percent (30%) of retail space shall be dedicated to the sale of perishable goods that include dairy, fresh produce, fresh meats, poultry, fish and frozen foods; and
- (d) A maximum of fifteen percent (15%) of the gross floor area of the store may be devoted to the sale of alcohol for off-site consumption.

**1105 HEIGHT**

**1105.1 Buildings along the designated street should have a minimum height of twenty-five feet (25 ft.).**

**1106 – 1108 RESERVED**

**1109 DESIGN REQUIREMENTS PENNSYLVANIA AVENUE EAST NMU-5A/PAE MIXED-USE ZONE**

**1109.1 In the NMU-5A/PAE zone, the following design requirements shall apply to a new building or addition on any lot fronting onto Pennsylvania Avenue, SE:**

- (a) No part of the building, including the penthouse or rooftop structure, shall project above a plane drawn at a forty-five degree (45°) angle from a line located twenty-five feet (25 ft.) directly above a rear property line that abuts an alley, or zone boundary line with an R or RF zone.
- (b) Buildings shall be designed and built so that not less than seventy-five percent (75%) of the street wall(s) at the street level shall be

- constructed to the property line abutting the street right-of-way, not including permitted projections into public space;
- (c) Buildings on corner lots shall be constructed to all property lines abutting public streets;
  - (d) Buildings shall be designed so as not to preclude a commercial entrance every forty feet (40 ft.) on average for the linear frontage of the building;
  - (e) Not less than fifty percent (50%) of the surface area of the street wall at the ground level of each building shall be devoted to display windows having clear or clear/low emissivity glass and to entrances to commercial uses or to the building;
  - (f) Security grilles shall have no less than seventy percent (70%) transparency;
  - (g) The ground floor level of each new building or building addition with a commercial use on the ground floor shall have a minimum clear floor-to-ceiling height of fifteen feet;
  - (h) The depth of new retail spaces along a building frontage shall be a minimum of 50 feet.
  - (i) Each space devoted to a designated use with frontage on Pennsylvania Avenue, SE shall have an individual public entrance directly at grade with the public sidewalk along Pennsylvania Avenue, SE;
  - (j) On a corner lot that fronts onto both Pennsylvania Avenue, SE and a side street, any entrance to residential portions of the building shall be located on the side street; and
  - (k) Vehicle parking, loading and trash collection shall be accessed from the alley where an alley of exists. Trash and recycling rooms shall be located internal to the building, and located at-grade level of the building; and
  - (l) Vehicle parking spaces shall be located below or at grade. If at grade, no portion of the parking shall be within 20 feet of the Pennsylvania Avenue SE right of way and shall be screened along Pennsylvania Avenue SE with designated uses.

**1109.2** The Board of Zoning Adjustment may grant as a special exception pursuant to Subtitle X, Chapter 9 and Subtitle H, Chapter 52, relief from the design requirements of Subtitle H § 1009.2

**CHAPTERS ~~10 through 12~~ THROUGH 51 [RESERVED]**

## **CHAPTER 52 SPECIAL EXCEPTION RELIEF FROM CERTAIN REQUIRED DEVELOPMENT STANDARDS**

### **5200 GENERAL PROVISIONS**

- 5200.1 Unless specifically provided for in this subtitle, the Board of Zoning Adjustment may not grant special exception relief from the density, height, and penthouse and rooftop structure development standards.
- 5200.2 The Board of Zoning Adjustment may grant special exception relief from the development standards of this subtitle, pursuant to Subtitle X, Chapter 9 and subject to the following:
- (a) The building or feature for which the relief is sought, at the size, intensity, and location proposed, will substantially advance the stated purposes of the NMU zones, and will not adversely affect neighboring property, nor be detrimental to the health, safety, convenience, or general welfare of persons residing or working in the vicinity;
  - (b) The architectural design of the project shall enhance the urban design features of the immediate vicinity in which it is located; and, if a historic district or historic landmark is involved, the Office of Planning report to the Board of Zoning Adjustment shall include review by the Historic Preservation Office and a status of the project's review by the Historic Preservation Review Board;
  - (c) Exceptional circumstances exist, pertaining to the property itself or to economic or physical conditions in the immediate area, that justify the requested relief;
  - (d) Vehicular access and egress are located and designed so as to encourage safe and efficient pedestrian movement, minimize conflict with principal pedestrian ways, to function efficiently, and to create no dangerous or otherwise objectionable traffic conditions;
  - (e) Parking and traffic conditions associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences;
  - (f) Noise associated with the operation of a proposed use shall not adversely affect adjacent or nearby residences; and
  - (g) The Board of Zoning Adjustment may impose requirements pertaining to design, appearance, signs, size, landscaping, and other such requirements as it deems necessary to protect neighboring property and to achieve the purposes of the NMU zone.
- 5200.3 Requested relief that does not comply with specific conditions or limitations of a special exception authorized by this subtitle shall be processed as a variance pursuant to Subtitle X, Chapter 10.

## CHAPTER 60 USE PERMISSIONS FOR NEIGHBORHOOD MIXED-USE (NMU) ZONES

### 6000 GENERAL USE PERMISSIONS

- 6000.1 This chapter contains the use permissions, conditions, and special exceptions for the NMU zones.
- 6000.2 Uses are permitted as a matter of right or as a special exception.
- 6000.3 A condition on a matter-of-right use may limit a use category to one (1) or more specific uses, modify the characteristic(s) of a use, or limit a use to specific zone.
- 6000.4 Uses are permitted as either principal or accessory uses unless specifically permitted as only a principal or accessory use.
- 6000.5 Other accessory uses that are customarily incidental and subordinate to the principal uses permitted in this chapter shall be permitted.
- 6000.6 Designated uses, as described by this chapter, shall be provided pursuant to the requirements of Subtitle H § 6001. All other uses shall be provided pursuant to the requirements of this chapter.
- 6000.7 Antennas in NMU zones shall be controlled by Subtitle C, Chapter 13.
- 6000.8 Use groups for the NMU zones are as follows:

**TABLE H § 6000.8: NMU USE GROUPS**

Use Group A	Use Group B	Use Group C
NMU-3A/MW	NMU-4/TK	
	NMU-4/CP	
	NMU-4/WP	
	NMU-4/GA	NMU-5A/WP
	NMU-4/H-H	NMU-7B/ES
	NMU-5A/H-H	NMU-7B/GA
	NMU-6B/H-H	NMU-7B/H-H
	NMU-4/H-A	NMU-8B/H-H
	NMU-4/H-R	NMU-7B/H-A
	NMU-5A/H-R	
	<u><b>NMU-5A/PAE</b></u>	

### 6001 DESIGNATED AND RESTRICTED USES

- 6001.1 In the NMU zones, any building that occupies or is constructed on a lot in a designated use area shall provide designated retail and service establishments on the ground level according to the requirements of this chapter and any additional requirements of the particular zone.

- 6001.2 The NMU zone designated uses, for the purposes of this subtitle, are those permitted in the following use categories subject to any conditions of this section:
- (a) Animal sales, care, and boarding;
  - (b) Arts, design, and creation;
  - (c) Eating and drinking establishments;
  - (d) Entertainment, assembly, and performing arts;
  - (e) Financial and general services; and
  - (f) Retail.
- 6001.3 The designated uses shall occupy no less than fifty percent (50%) of the gross floor area of the ground floor level of the building within a designated use area, subject to the following requirements:
- (a) No more than twenty percent (20%) of the ground floor level area shall be financial services, travel agencies, or other ticket offices;
  - (b) Except in the **NMU-5A/PAE**, NMU-4/H-H, NMU-4/H-A, NMU-4/H-R, NMU-5A/H-H, NMU-5A/H-R, NMU-6B/H-H, NMU-7B/H-H, NMU-7B/ES, NMU-7B/H-A, and NMU-8B/H-H zones, eating and drinking establishments, and fast food establishments where permitted, shall be subject to the following limitations:
    - (1) These uses shall occupy no more than twenty-five percent (25%) of the linear street frontage within a particular NMU zone, as measured along the lots in the designated use area in the particular zone; and
    - (2) Except for fast food establishments, eating and drinking establishments may occupy the full ground floor requirements of this subsection; provided, that they shall remain subject to the linear street frontage requirement of paragraph (b)(1) of this subsection;
  - (c) In the NMU-7B/ES zone, eating and drinking establishments shall occupy no more than fifty percent (50%) of the linear street frontage as measured along the lots that face the designated roadway of which no more than one-half (0.5) of the 50% of the linear street frontage shall be occupied by fast food establishments and prepared food shops;
  - (d) In those parts of the affected building or lot other than as delineated in this section, the matter-of-right use provisions of the zone shall apply; and
  - (e) For the purposes of this section the designated use areas of the NMU-4/WP and NMU-5A/WP zones shall be treated as a single zone.
- 6001.4 The following conditions shall apply to the matter-of-right designated uses in a designated use area in the specified NMU zones:
- (a) In the NMU-3A/MW zone, entertainment and performing arts shall not be considered a designated use;



- (b) In the NMU-4/TK, NMU-4/H-H, NMU-5A/H-H, NMU-6B/H-H, NMU-7B/H-H, and NMU-8B/H-H zones, residential uses may also be considered designated uses;
- (c) In the NMU-4/CP zone, no dwelling unit or rooming unit in existence as of October 1, 1987, shall be converted to any nonresidential use or to a transient use such as hotel or inn; provided, that this restriction shall not apply to the ground floor of the building; that is, that floor that is nearest in grade elevation to the sidewalk;
- (d) In the NMU-4/GA and NMU-7B/GA zones, liquor stores and pawn shops shall not be permitted;
- (e) In the NMU-7B/H-H and NMU-8B/H-H zones, catering establishments and bakeries may also be considered designated uses;
- (f) In the NMU-4/H-A and NMU-7B/H-A zones, designated uses shall be limited to uses within the arts, design and creation, and the eating and drinking use categories; and
- (g) In all NMU zones, animal sales, care, and boarding as a matter-of-right designated use shall be limited to:
  - (1) An establishment used by a licensed veterinarian for the practice of veterinary medicine subject to the following:
    - (A) No more than fifty percent (50%) of the gross floor area of the veterinary office may be devoted to the boarding of animals;
    - (B) The veterinary office shall be located and designed to create no objectionable conditions to adjacent properties resulting from animal noise, odor, or waste;
    - (C) The veterinary office shall not abut an existing residential use or a residential zone;
    - (D) External yards or other external facilities for the keeping of animals shall not be permitted; and
    - (E) Pet grooming, the sale of pet supplies, and incidental boarding of animals as necessary for convalescence shall be permitted as accessory uses;
  - (2) An animal grooming business provided there are no boarding facilities, and no external yards or other external facilities for the keeping of animals; and
  - (3) An animal boarding use located in a basement or cellar space subject to the following:
    - (A) The use shall not be located within twenty-five feet (25 ft.) of a lot within an R, RF, or RA zone. The twenty-five feet (25 ft.) shall be measured to include any space on the lot or

within the building not used by the animal boarding use and any portion of a street or alley that separates the use from a lot within an R, RF, or RA zone. Shared facilities not under the sole control of the animal boarding use, such as hallways and trash rooms, shall not be considered as part of the animal boarding use;

- (B) There shall be no residential use on the same floor as the use or on the floor immediately above the animal boarding use;
- (C) Windows and doors of the space devoted to the animal boarding use shall be kept closed and all doors facing a residential use shall be solid core;
- (D) No animals shall be permitted in an external yard on the premises;
- (E) Animal waste shall be placed in a closed-waste-disposal containers and shall be collected by a licensed waste disposal company at least weekly;
- (F) Odors shall be controlled by means of an air filtration or an equivalently effective odor control system; and
- (G) Floor finish materials and wall finish materials measured a minimum of forty-eight inches (48 in.) from the floor shall be impervious and washable; and

- (4) Animal sales, including pet shops, shall not be permitted.

6001.5 In a NMU zone, no drive-through or drive-in operation shall be permitted as a principal or accessory use.

## **6002 USES IN NMU ZONES**

6002.1 Uses in those parts of a building or lot in a NMU zone that are not within a designated use area shall be permitted by Subtitle H § 6003 and the remainder of this chapter.

6002.2 When there is a difference between use permissions and conditions of this section and the designated use provisions and conditions of this chapter, the more restrictive provisions or conditions shall apply.

## **6003 MATTER-OF-RIGHT USES (NMU - USE GROUPS A, B, AND C)**

6003.1 The following uses in this section shall be permitted as a matter of right:

- (a) NMU zone designated uses;
- (b) Agriculture, large;
- (c) Arts, design, and creation;
- (d) Chancery;
- (e) Community solar facility, subject to the following conditions:

- (1) Roof-mounted solar array of any size; or
- (2) Ground-mounted solar array, subject to the following requirements:
  - (A) Measures no greater than twenty feet (20 ft.) in height;
  - (B) Has an aggregate panel face area of one-and-one half (1.5) acres or less;
  - (C) Meets the yard and height development standards of the zone; and
  - (D) Where the panels are sited no less than forty feet (40 ft.), including any intervening street or alley, from an adjacent property in the R, RF, or RA-1 zone;
- (f) Daytime care;
- (g) Education, private;
- (h) Education, public;
- (i) Government, local;
- (j) Institutional, general and religious;
- (k) Medical care;
- (l) Office, including chancery;
- (m) Parking;
- (n) Parks and recreation;
- (o) Residential;
- (p) Retail;
- (q) Services, financial;
- (r) Short-Term Rental as an accessory use to a principal residential use; and
- (s) Transportation infrastructure.

**6004 MATTER-OF-RIGHT USES (NMU – USE GROUP A)**

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**6005 SPECIAL EXCEPTION USES (NMU – USE GROUP A)**

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**6006 MATTER-OF-RIGHT USES (NMU - USE GROUP B)**

6006.1 The following uses in this section shall be permitted as a matter of right subject to any applicable conditions:

- a) Uses permitted as a matter of right in any R, RF, or RA zone;
- (b) Any uses permitted in Subtitle H § 6003;

- (c) Animal sales, care, and boarding uses, subject to the conditions of Subtitle H § 6001.4(g);
- (d) Eating and drinking establishment uses, except for:
  - (1) A prepared food shop shall be permitted as a matter of right with seating for no more than twenty-four (24) patrons; and
  - (2) A fast food establishment and a food delivery business shall not be permitted as a matter of right;
- (e) Emergency shelter use for no more than four (4) persons, not including resident supervisors or staff and their families;
- (f) **Entertainment and performing arts uses in the NMU-5A/PAE zone only**
- ~~(g)~~ (g) Education uses in the MU-5A/H-H, MU-6B/H-H, and MU-5A/H-R zones only;
- ~~(g)~~ (h) Firearms retail sales establishments, except that no portion of the establishment shall be located within three hundred feet (300 ft.) of:
  - (1) Any R, RF, RA, MU-1, or MU-2 zones; or
  - (2) A place of worship, public or private school, public library, or playground;
- ~~(h)~~ (i) Lodging uses, except that they shall not be permitted in the MU-4/CP and MU-4/WP zones;
- ~~(i)~~ (j) Motor vehicle uses shall be limited to the following and subject to the corresponding conditions:
  - (1) An automobile rental agency;
  - (2) A car wash with stacking spaces for a minimum of fifteen (15) cars;
  - (3) A gasoline service station with a valid certificate of occupancy that has not been replaced by another use with a valid certificate of occupancy; and
  - (4) Gasoline service station as an accessory use to a parking garage or public storage garage; provided:
    - (A) All portions of the gasoline service station shall be located entirely within the garage;
    - (B) No part of the accessory use shall be visible from a sidewalk; and
    - (C) Signs or displays indicating the existence of the accessory use shall not be visible from the outside of the garage;
- ~~(j)~~ (k) Service (general) uses subject to the following limitations and corresponding conditions:

- (1) A self-service or full-service laundry, or dry-cleaning establishment shall not exceed two thousand five hundred square feet (2,500 sq. ft.) of gross floor area and no dry-cleaning chemicals shall be used or stored on site; and
- (2) Any establishment that has as a principal use the administration of massage shall not be permitted as a matter of right; and

~~(K)~~ **(I)** Utility (basic) uses limited to optical transmission nodes.

## **6007**

### **SPECIAL EXCEPTION USES (NMU - USE GROUP B)**

#### **6007.1**

In areas other than designated use areas, the uses in this section shall be permitted if approved by the Board of Zoning Adjustment as a special exception pursuant to Subtitle X, Chapter 9, and subject to the conditions applicable to each use as follows:

- (a) Animal care and boarding uses not meeting the conditions of Subtitle H § 6001.4(g) for these uses, subject to the conditions of Subtitle H §§ 6005.1(a) and (b) for these uses;
- (b) [RESERVED];
- (c) Community solar facility not meeting the requirements of Subtitle H § 6003.1(e), subject to the following:
  - (1) Provision of a landscaped area at least five feet (5 ft.) wide facing public space, residential use, or parks and recreation use, regardless of zone, that:
    - (A) Maintains as many existing native trees as possible;
    - (B) Includes a diverse mix of native trees, shrubs, and plants, and avoids planting a monoculture;
    - (C) Ensures all trees measure a minimum of six feet (6 ft.) in height at the time of planting; and
  - (2) The Application, including the landscape plan, shall be referred to the District Department of Energy and Environment for review and report;
- (d) Emergency shelter uses for up to twenty-five (25) persons, not including resident supervisors or staff and their families, subject to the conditions in Subtitle H § 6005.1(e);
- (e) Eating and drinking establishment uses as follows:
  - (1) Prepared food shop with seating for more than twenty-four (24) patrons; and
  - (2) Fast food establishments or food delivery businesses shall be permitted, subject to the following conditions:
    - (A) The uses shall not be permitted in the MU-4/WP zone;

- (B) No part of the lot on which the use is located shall be within twenty-five feet (25 ft.) of any R, RA, or RF zone unless separated therefrom by a street or alley;
  - (C) If any lot line of the lot abuts an alley containing a zone boundary line for a residential zone, a continuous brick wall at least six feet (6 ft.) high and twelve inches (12 in.) thick shall be constructed and maintained on the lot along the length of that lot line. The brick wall shall not be required in the case of a building that extends for the full width of its lot;
  - (D) Any refuse dumpsters shall be housed in a three- (3) sided brick enclosure equal in height to the dumpster or six feet (6 ft.) high, whichever is greater. The entrance to the enclosure shall include an opaque gate. The entrance shall not face an R, RA, or RF zone;
  - (E) The use shall not include a drive-through;
  - (F) There shall be no customer entrance in the side or rear of a building that faces a street or alley containing a zone boundary line for a residential zone; and
  - (G) The use shall be designed and operated so as not to become objectionable to neighboring properties because of noise, sounds, odors, lights, hours of operation, or other conditions;
- (f) Education, college/university uses subject to Subtitle X § 102, in all the other zones in NMU Use Group B that are not allowed as a matter of right;
- (g) Motor vehicle-related uses are not permitted except for the following uses subject to the corresponding conditions:
  - (1) The uses shall not be permitted in the NMU-4/H-A and NMU-4/H-R zones; and
  - (2) A gasoline service station or repair garage not including body or fender work, subject to the following conditions:
    - (A) The use shall not be located within twenty-five feet (25 ft.) of any R, RF, or RA zone;
    - (B) The operation of the use shall not create dangerous or other objectionable traffic conditions; and
    - (C) Parking spaces may be arranged so that all spaces are not accessible at all times. All parking spaces shall be designed to allow parking and removal of any vehicles without moving any other vehicle onto public space;
- (h) Motorcycle sales and repair uses subject to the following conditions:
  - (1) The use and all its accessory facilities shall be located within a building; and



- (2) No portion of a building used for motorcycle sales and repair shall be located within fifty feet (50 ft.) of any R, RF, RA, MU-1, and MU-2 zones;
- (i) Parking as accessory parking spaces elsewhere than on the same lot or part of the lot on which any principal use subject to the following conditions:
  - (1) The total number of parking spaces provided for the principal use shall not exceed the minimum number of spaces required for the principal use;
  - (2) It shall be considered economically impracticable or unsafe to locate the parking spaces within the principal building or on the same lot on which the building or use is permitted because of the following:
    - (A) Strip zoning or shallow zoning depth;
    - (B) Restricted size of lot caused by adverse adjoining ownership or substantial improvements adjoining or on the lot;
    - (C) Unusual topography, grades, shape, size, or dimensions of the lot;
    - (D) The lack of an alley or the lack of appropriate ingress or egress through existing or proposed alleys or streets; or
    - (E) Traffic hazards caused by unusual street grades or other conditions; and
  - (3) The parking spaces shall be located, and all facilities in relation to the parking spaces shall be designed, so that they are not likely to become objectionable to adjoining or nearby property because of noise, traffic, or other objectionable conditions.
- (j) Service (general) uses subject to the following limitations and corresponding conditions:
  - (1) A self-service or full-service laundry or dry-cleaning establishment that exceeds two thousand five hundred square feet (2,500 sq. ft.) of gross floor area; and
  - (2) An establishment that has as a principal use the administration of massage;
- (k) Utility (basic) uses, other than an optical transmission node, but not including an EEF use, provided the Board of Zoning Adjustment concludes the use will not, as a consequence of its design, operation, low employee presence, or proximity to other electronic equipment facilities, inhibit future revitalization of the neighborhood, reduce the potential for vibrant streetscapes, deplete street life, or inhibit pedestrian or vehicular movement;
- (l) Youth Rehabilitation Home, Adult Rehabilitation Home provided that the use shall house no more than twenty (20) persons, not including resident supervisors or staff and their families.

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**6010 PROHIBITED USES IN NMU ZONES**

6010.1 Any use not permitted as a matter of right or as a special exception in this chapter shall be deemed to be prohibited.

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**SUBTITLE W SPECIFIC ZONE BOUNDARIES**

**CHAPTER 1 BOUNDARIES**

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**124 PENNSYLVANIA AVENUE EAST NEIGHBORHOOD MIXED-USE ZONE**

**124.1 The Pennsylvania Avenue East Neighborhood Mixed Use Zone NMU-5A/PAE shall be mapped in Squares 5553, 5556, 5559, 5560, 5579, 5581 on lots along Pennsylvania Avenue, NW, between Fairlawn Avenue, SE and 27<sup>th</sup> Street SE. It also includes lot 804 in Square 5581. These properties are identified in the Comprehensive Plan and Pennsylvania Avenue East Small Area Plan for moderate density commercial development.**