

ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA
NOTICE OF VIRTUAL PUBLIC HEARING

TIME AND PLACE: **February 20, 2023 @ 4:00 p.m.**
Via WebEx: <https://dcoz.dc.gov/ZC24-10> (to participate & watch)
Via Telephone: 1-650-479-3208 Access code: 2309 989 9211 (audio participation & listen)
Via YouTube: <https://www.youtube.com/c/DCOfficeofZoning> (to watch)
Instructions: <https://dcoz.dc.gov/release/virtual-public-hearings>
Witness Sign Up: <https://dcoz.dc.gov/service/sign-testify>

FOR THE PURPOSE OF CONSIDERING THE FOLLOWING PETITION:

Z.C. Case No. 24-10 (Office of Planning – Zoning Text and Map Amendment to Create the Pennsylvania Avenue East (PAE) Neighborhood Mixed Use Zone - NMU-5A/PAE; and to Rezone from the MU-4 zone to the NMU-5A/PAE zone with IZ+ Lots Along Pennsylvania Avenue, N.W., Between Fairlawn Avenue, S.E. and 27th Street, S.E. in Squares 5553, 5556, 5559, 5560, 5579, 5581; and Lot 804 in Square 5581)

THIS CASE IS OF INTEREST TO ANC 7B

Oral and Written Testimony

- All who wish to testify in this case are **strongly encouraged** to sign up to do so **at least 24 hours prior to the start of the hearing** on OZ's website indicated above. Also, see below: *How to participate as a witness – oral statements*. **On the day of the hearing – by 3:00 p.m.**, call 202-727-0789 to sign up to testify.
- All written comments and/or testimony **must be submitted to the record at least 24 hours prior to the start of the hearing** – see below: *How to participate as a witness – written statements*.

On July 15, 2024, the Office of Planning (OP) filed a report that served as a petition requesting amendments to the Zoning Regulations and Map. The area covered by the proposed text and map amendment includes properties fronting on Pennsylvania Avenue, SE between Fairlawn Ave., SE and 27th St., SE. The area includes Squares 5553, 5556, 5559, 5560, 5579, and 5581.

At its July 25, 2024, public meeting, the Zoning Commission (Commission) voted to set down the proposed text and map amendment for a public hearing as a rulemaking case. The OP report served as the Pre-hearing filing required by Subtitle Z § 501.

The OP report, dated July 15, 2024, stated that the proposal to rezone the subject properties is not inconsistent with the Comprehensive Plan, including when viewed through a Racial Equity lens, as well as the Pennsylvania Avenue East Small Area Plan. OP is also recommending that the Map Amendment area be subject to Inclusionary Zoning Plus (IZ Plus) requirements.

Current Zoning

The current MU-4 zone is a low- to moderate-density mixed-use zone, intended to provide for a mix of residential and commercial uses. The maximum permitted height is 50 feet, and the maximum Floor Area Ratio (FAR) is 2.5, or 3.0 with IZ. The current MU-4 zoning is inconsistent

with policy direction of the 2021 Comprehensive Plan as it does not provide the level of density to support the additional housing and retail envisioned.

Proposed Zoning

Existing 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.

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

The maximum permitted height would be sixty-five feet (65 ft.), or seventy feet (70 ft.) with IZ Plus. The maximum FAR would be 3.5, or 4.2 with IZ Plus, with a maximum non-residential FAR of 1.5. Specific to this zone would be a minimum height requirement and a rear step-back requirement for properties not separated from an R or RF zone by an alley.

Comprehensive Plan

The Generalized Policy Map (GPM) designates the proposed map amendment area as being within a Main Street Mixed Use Corridor. The new zone would not be inconsistent with the GPM as it would allow a mix of uses, particularly ground floor commercial uses and upper floor residential uses. This zone would allow the transformation of the eastern section of Pennsylvania Avenue, S.E. into a more vibrant, pedestrian-oriented, mixed-use environment.

The Future Land Use Map (FLUM) designates the proposed map amendment area for Moderate Density Commercial land uses. The current MU-4 zone allows a mix of uses but at a low- to moderate level of density. 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 consistent with the policy to encourage moderate density development than the existing MU-4 zone, which is more appropriate for low density development.

Far Northeast/Southeast Area Element

The subject property is in the Far Northeast/Southeast Area Element which outlines planning and development priorities, including attracting a wider mixed-use variety of neighborhood retail and housing, including affordable housing, and infrastructure improvements. The proposed new zone should attract more development and investment to this portion of the Pennsylvania Avenue, SE corridor, consistent with direction from the Comprehensive Plan and the Small Area Plan. Mixed use buildings with ground floor retail and mixed income residential units are encouraged in this

zone. Improvements to the streetscape and infrastructure are expected from the redevelopment encouraged by this new zone.

Citywide Elements

The new zone is intended to implement many of the Citywide Element policies in the Comprehensive Plan including policies of the Land Use, Housing, and Economic Development Elements. The text and map amendment would allow for mixed-income housing and affordable housing along the Corridor, while accommodating a mix of retail uses to serve the community.

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.

Pennsylvania Avenue East Small Area Plan

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). The PAE places great emphasis on the provision of more housing and mixed-use development along the eastern end of Pennsylvania Avenue, S.E. corridor. The PAE recommends that a new zone be created for the mixed-use sites at the intersection of Pennsylvania Avenue, S.E. and Minnesota avenue, S.E. It also provides design guidelines that include having new buildings provide a transition towards lower density residential areas. The proposed zoning incorporates the zoning-related recommendations and guidelines.

The complete record in the case can be viewed online at the Office of Zoning's Interactive Zoning Information System (IZIS), at https://app.dcoz.dc.gov/Home/ViewCase?case_id=24-10.

PROPOSED TEXT AMENDMENT

The proposed amendments to the text of the Zoning Regulations are as follows: Proposed changes to current Zoning Regulations are highlighted, additional text is shown in **bold underline text**, and deletions from existing text are shown in **bold strikethrough text**.

I. Proposed Amendments to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES

A new Chapter 11, PENNSYLVANIA AVENUE EAST NEIGHBORHOOD MIXED-USE ZONE NMU-5A/PAE is proposed to be added to Subtitle H, NEIGHBORHOOD MIXED-USE (NMU) ZONES, to read as follows:

CHAPTER 11 PENNSYLVANIA AVENUE EAST NEIGHBORHOOD MIXED-USE ZONE – NMU-5A/PAE

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, S.E. between Fairlawn Avenue, S.E. and 27th Street, S.E. 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 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, S.E. 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, S.E.

1104 DENSITY

1104.1 An additional 0.5 FAR shall be permitted for a grocery store use, as described in Subtitle B § 100, subject to:

- (a) A minimum of five thousand square feet (5,000 sq. ft.) of gross floor area shall be devoted to customer-accessible sales and display area used for the sale of a general line of food products intended for home preparation and consumption; and
- (b) 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.

1005 HEIGHT

1005.2 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, S.E.:

- (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 fifty feet (50 ft.);

- (i) Each space devoted to a designated use with frontage on Pennsylvania Avenue, S.E. shall have an individual public entrance directly at grade with the public sidewalk along Pennsylvania Avenue, S.E.;
- (j) On a corner lot that fronts onto both Pennsylvania Avenue, S.E. and a side street, any entrance to residential portions of the building shall be located on the side street;
- (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 § 1109.1

CHAPTERS 10-12 through 12-51 [RESERVED]

Subsection 6000.8 of § 6000, GENERAL USE PERMISSIONS, of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle H, NEIGHBORHOOD MIXED USE (NMU) ZONES, is proposed to be amended to read as follows:

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-4/H-H NMU-5A/H-H NMU-6B/H-H NMU-4/H-A NMU-4/H-R NMU-5A/H-R NMU-5A/PAE	NMU-5A/WP NMU-7B/ES NMU-7B/GA NMU-7B/H-H NMU-8B/H-H NMU-7B/H-A

Subsection 6001.3(b) of § 6001, DESIGNATED AND RESTRICTED USES of CHAPTER 60, USE PERMISSIONS FOR NEIGHBORHOOD MIXED USE (NMU) ZONES, of Subtitle

H, NEIGHBORHOOD MIXED USE (NMU) ZONES is proposed to be amended to read as follows:

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) ...

(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:

...

II. Proposed Amendments to Subtitle W, SPECIFIC ZONE BOUNDARIES

A new § 124, PENNSYLVANIA AVENUE EAST NEIGHBORHOOD MIXED USE ZONE, to be added to Chapter 1, BOUNDARIES, of Subtitle W, SPECIFIC ZONE BOUNDARIES, to read as follows:

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, and 5581 on lots along Pennsylvania Avenue, N.W., between Fairlawn Avenue, S.E. and 27th Street, S.E. 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.

This public hearing will be conducted in accordance with the rulemaking provisions of Subtitle Z, Chapter 5, of the Zoning Regulations as well as the text adopted by the Commission on October 15, 2020, in Z.C. Case No. 20-11, as published in the Notice of Final Rulemaking published in the *D.C. Register* on October 30, 2020.

How to participate as a witness – oral presentation

Interested persons or representatives of organizations may be heard at the virtual public hearing. All individuals, organizations, or associations wishing to testify in this case are **strongly encouraged to sign up to testify at least 24 hours prior to the start of the hearing** on OZ's website at <https://dcoz.dc.gov/> or by calling Ella Ackerman at (202) 727-0789 in order to ensure the success of the new virtual public hearing procedures.

The Commission also requests that all witnesses prepare their testimony in writing, submit the written testimony prior to giving statements, and limit oral presentations to summaries of the most important points. The Commission must base its decision on the record before them. The following maximum time limits for oral testimony shall be adhered to and no time may be ceded:

1. Organizations	5 minutes each
2. Individuals	3 minutes each

How to participate as a witness - written statements

Written statements, in lieu of personal appearances or oral presentation, may be submitted for inclusion in the record, provided that **all written comments and/or testimony must be submitted to the record at least 24 hours prior to the start of the hearing, unless approved by the Commission upon request to be introduced at the public hearing.** The public is encouraged to submit written testimony through the Interactive Zoning Information System (IZIS) at <https://app.dcoz.dc.gov/Login.aspx>; however, written statements may also be submitted by e-mail to zcs submissions@dc.gov. Please include the case number on your submission. If you are unable to use either of these means of submission, please contact Ella Ackerman at (202) 727-0789 for further assistance.

"Great weight" to written report of ANC

Subtitle Z § 505.1 provides that the written report of an affected ANC shall be given great weight if received at any time prior to the date of a Commission meeting to consider final action, including any continuation thereof on the application, and sets forth the information that the report must contain. Pursuant to Subtitle Z § 505.2, an ANC that wishes to participate in the hearing must file a written report at least seven days in advance of the public hearing and provide the name of the person who is authorized by the ANC to represent it at the hearing.

FOR FURTHER INFORMATION, YOU MAY CONTACT THE OFFICE OF ZONING AT (202) 727-6311.

ANTHONY J. HOOD, ROBERT E. MILLER, GWEN MARCUS WRIGHT, TAMMY STIDHAM, AND JOSEPH S. IMAMURA ----- ZONING COMMISSION FOR THE DISTRICT OF COLUMBIA, BY SARA A. BARDIN, DIRECTOR, AND BY SHARON S. SCHELLIN, SECRETARY TO THE ZONING COMMISSION.

Do you need assistance to participate? If you need special accommodations or need language assistance services (translation or interpretation), please contact Zee Hill at (202) 727-0312 or Zelalem.Hill@dc.gov five days in advance of the meeting. These services will be provided free of charge.

¿Necesita ayuda para participar? Si tiene necesidades especiales o si necesita servicios de ayuda en su idioma (de traducción o interpretación), por favor comuníquese con Zee Hill llamando al (202) 727-0312 o escribiendo a Zelalem.Hill@dc.gov cinco días antes de la sesión. Estos servicios serán proporcionados sin costo alguno.

Avez-vous besoin d'assistance pour pouvoir participer? Si vous avez besoin d'aménagements spéciaux ou d'une aide linguistique (traduction ou interprétation), veuillez contacter Zee Hill au (202) 727-0312 ou à Zelalem.Hill@dc.gov cinq jours avant la réunion. Ces services vous seront fournis gratuitement.

참여하시는데 도움이 필요하세요? 특별한 편의를 제공해 드려야 하거나, 언어 지원 서비스(번역 또는 통역)가 필요하시면, 회의 5일 전에 Zee Hill 씨께 (202) 727-0312 로 전화 하시거나 Zelalem.Hill@dc.gov 로 이메일을 주시기 바랍니다. 이와 같은 서비스는 무료로 제공됩니다.

您需要有人帮助参加活动吗？如果您需要特殊便利设施或语言协助服务（翻译或口译），请在见面之前提前五天与 Zee Hill 联系，电话号码 (202) 727-0312，电子邮件 Zelalem.Hill@dc.gov 这些是免费提供的服务。

Quí vị có cần trợ giúp gì để tham gia không? Nếu quí vị cần thu xếp đặc biệt hoặc trợ giúp về ngôn ngữ (biên dịch hoặc thông dịch) xin vui lòng liên hệ với Zee Hill tại (202) 727-0312 hoặc Zelalem.Hill@dc.gov trước năm ngày. Các dịch vụ này hoàn toàn miễn phí.

ለዚህንና ደረሰኑ የሰራተኞችና? የተለየ ደረሰኑ ከስራለገዥና ወይም የቋንቋ ደረሰኑ አገልግሎቶች (ትርጉም ወይም ማስተርጉም) ከስራለገዥና እስከዚና ከስተቀበዎ አምስት ቅናት በረቱ እና ሂሳብ ቅጥር (202) 727-0312 ወይም በኢሜል Zelalem.Hill@dc.gov ይገኘና:: እነዚህ አገልግሎቶች የሚሰጠት በነዚ ሆኖ::