

Montgomery Planning

ZTA 23-06

## FENTON VILLAGE OVERLAY ZONE – SITE PLANS



### Description

This ZTA modifies the site plan requirements of the Fenton Village Overlay Zone to exempt certain small modifications that are one-story, up to 15 feet in height, less than 1,000 square feet in size and still meet the setbacks of the zone.

ZTA 23-06

Completed: 11-09-2023

MCPB

Item No. 11

11-16-2023

Montgomery County

Planning Board

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### ZTA SPONSORS

Lead Sponsor:  
Council President Glass  
Councilmember Stewart

### INTRODUCTION DATE

October 17, 2023

### REVIEW BASIS

Chapter 59



### Summary:

- Currently, any development or development amendment in the Fenton Village Overlay Zone requires a site plan approval
- ZTA 23-06 would allow certain, small scale modifications that are under 15 feet in height and less than 1,000 square feet in size to be exempt from site plan requirements

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## SECTION 1: BACKGROUND

### RATIONALE FOR INTRODUCTION

Zoning Text Amendment (ZTA) 23-06, Fenton Village (FV) Overlay Zone – site plan, was introduced by Council President Glass and co-sponsored by Councilmember Stewart on October 17, 2023 (Attachment A). The ZTA is scheduled for a District Council Public Hearing on November 28th. The ZTA modifies the site plan requirements within the Fenton Village Overlay Zone to exempt small modifications and additions from having to go through the site plan process. The Fenton Village overlay zone was established as a recommendation of the 2000 Silver Spring CBD Sector Plan which wanted to allow more flexibility in the development standards and range of permitted uses, while ensuring compatibility of new uses through limits on height and design elements. Requiring all sites developed or modified in Fenton Village to go through site plan was one mechanism enacted to ensure this. Fenton Village and its corresponding overlay zone were looked at as part of the 2022 Silver Spring Downtown and Adjacent Communities Plan. That plan did make some modifications to the Fenton Village Overlay Zone, largely to remove provisions for uses and open spaces that were less relevant as a result of the CR zoning that was implemented in the area.

Since the passage of the 2022 Silver Spring Downtown and Adjacent Communities Plan, there have been a few properties in Fenton Village that have wanted to do small expansions to existing structures to accommodate expanded restaurant and entertainment uses. These requests have been very small in scale, but because of the existing overlay zone language, would still require a site plan review to proceed. This ZTA was introduced to address the burden the site plan process places on small modifications and expansions.

## SECTION 2: ZTA 23-06 AS INTRODUCED

### ZTA NO. 23-06 AS INTRODUCED

ZTA 23-06 modifies subsection 59-4.9.9.C. Site Plan, in the Fenton Village (FV) Overlay Zone by making the following addition:

#### **C. Site Plan**

Site Plan approval under Section 7.3.4 is required for any development in the FV Overlay zone, except for any addition, reconstruction, or exterior alteration that is one-story, up to a maximum of 15 feet, and that changes the gross floor area by less than 1,000 square feet and meets the minimum setbacks in the underling zone.

## SECTION 3: ZTA ANALYSIS AND RECOMMENDATIONS

### ZTA 23-06 ANALYSIS AND RECOMMENDATIONS

Planning staff recommends the Planning Board support ZTA 23-06 as introduced. The ZTA language will exempt small modifications and additions from the site plan process. Limits on building height and area of expansion provide both reasonable flexibility to potential applicants and reasonable protections to adjacent owners and residents. This is a reasonable means of providing relief to small applicants without significantly impacting the intent of the overlay zone or the physical characteristics of Fenton Village.

## SECTION 4: LEGISLATED ANALYSIS

### CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each zoning text amendment, master plan, and master plan amendment, effective March 1, 2023. Each climate assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and upon community resilience and adaptive capacity. The climate impact assessment for ZTA 23-06 is attached in Attachment B.

The ZTA is anticipated to have indeterminate negative greenhouse gas emissions and sequestration rates that are insignificant compared to the county's overall greenhouse emissions, and which would only be realized if this ZTA were to increase the likelihood of redevelopment activities. There are anticipated slightly positive impacts on community resilience and adaptive capacity factors because this ZTA would enable small business owners to avoid an often expensive site plan review process, encouraging business expansion, which could increase community resources, local jobs, and economic opportunities.

### RACIAL EQUITY AND SOCIAL JUSTICE (RESJ)

As of the posting of this staff report, the Office of Legislative Oversight has not completed a Racial Equity and Social Justice analysis for ZTA 23-06.

## SECTION 5: CONCLUSION

Planning staff recommends the Planning Board support ZTA 23-06 as introduced. This ZTA removes the site plan requirements for small applications that propose modifications or additions that are 15 feet in height and under 1,000 square feet in size. This is a reasonable change to provide applicants

flexibility while holding to the intent of scale and compatibility from the Fenton Village Overlay Zone and the 2022 Silver Spring Downtown and Adjacent Communities Plan.

## ATTACHMENTS

*Attachment A: Zoning Text Amendment 23-06 Intro Packet*

*Attachment B: Climate Assessment 23-06*



**Committee:** PHP  
**Committee Review:** At a future date  
**Staff:** Livhu Ndou, Legislative Attorney  
**Purpose:** To introduce agenda item – no vote expected  
**Keywords:** #FentonVillage(FV)OverlayZone #SitePlan

AGENDA ITEM #3A  
October 17, 2023  
**Introduction**

**SUBJECT**

Zoning Text Amendment (ZTA) 23-06, Fenton Village (FV) Overlay Zone – Site Plan  
Lead Sponsors: Council President Glass and Councilmember Stewart

**EXPECTED ATTENDEES**

None

**COUNCIL DECISION POINTS & COMMITTEE RECOMMENDATION**

To introduce agenda item – no vote expected

**DESCRIPTION/ISSUE**

ZTA 23-06 will remove the site plan requirement for certain projects in the Fenton Village (FV) Overlay Zone.

**SUMMARY OF KEY DISCUSSION POINTS**

- Under the current zoning ordinance, site plan approval is required for any development in the Fenton Village (FV) Overlay Zone.
- ZTA 23-06 will exempt minor developments from site plan approval. This exemption will include any addition, reconstruction, or exterior alteration that is one-story, up to a maximum of 15 feet, and/or that changes the gross floor area by less than 1,000 square feet. The minimum setbacks in the underlying zone will also need to be met.
- A public hearing is tentatively scheduled for November 28, 2023.

**This report contains:**

ZTA 23-06

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Ordinance No.: \_\_\_\_\_  
Zoning Text Amendment No.: 23-06  
Concerning: Fenton Village (FV)  
Overlay Zone – Site Plan  
Revised: 10/9/2023 Draft No.: 1  
Introduced: October 17, 2023  
Public Hearing: \_\_\_\_\_  
Adopted: \_\_\_\_\_  
Effective: \_\_\_\_\_

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND  
SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF  
THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN  
MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsors: Council President Glass and Councilmember Stewart

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**AN AMENDMENT** to the Montgomery County Zoning Ordinance to:

- (1) remove the site plan requirement for certain projects in the Fenton Village (FV) Overlay Zone; and
- (2) generally amend the development standards for the Fenton Village (FV) Overlay Zone.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 4.9.           “Overlay Zones”  
Section 4.9.9.       “Fenton Village (FV) Overlay Zone”

**EXPLANATION:** ***Boldface** indicates a Heading or a defined term.*  
*Underlining indicates text that is added to existing law by the original text amendment.*  
*[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.*  
*Double underlining indicates text that is added to the text amendment by amendment.*  
*[[Double boldface brackets]] indicate text that is deleted from the text amendment by amendment.*  
*\* \* \* indicates existing law unaffected by the text amendment.*



*ORDINANCE*

*The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:*



 **Montgomery Planning****CLIMATE ASSESSMENT FOR  
23-06, FENTON VILLAGE****PURPOSE OF CLIMATE ASSESSMENTS**

The purpose of the Climate Assessments is to evaluate the anticipated impact of master plans and zoning text amendments (ZTAs) on the county's contribution to addressing climate change. These assessments will provide the County Council with a better understanding of the potential climate impacts and implications of proposed master plans and ZTAs, at the county level. The scope of the Climate Assessments is limited to addressing climate change, specifically the effect of land use recommendations in master plans and ZTAs on greenhouse gas (GHG) emissions and sequestration, and how actions proposed by master plans and ZTAs could improve the county's adaptive capacity to climate change and increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed master plans and ZTAs may impact GHG emissions and community resilience.

**SUMMARY**

Montgomery Planning anticipates that ZTA 23-06, Fenton Village Overlay Zone will result in very slight and indeterminate impacts on the county's goals of addressing greenhouse gas emissions, carbon sequestration, and the resilience and adaptive capacity to our communities. ZTA 23-06 will remove site plan submittal requirements for projects under 1,000 square feet within the Fenton Village Overlay Zone located within the boundaries of the Silver Spring Downtown and Adjacent Communities Plan. Due to the large size of most existing buildings and lot sizes, this submittal exemption would apply to only a few properties within the overlay zone. Carbon impacts associated with 1,000 square feet of new construction will be slight in relation to the local and county's overall carbon footprint and sequestration rates. There will be an indeterminate yet slightly positive benefit on several community adaptive capacity-related variables. It is unknown but likely that there will be improved building energy efficiency, enhanced commercial and community vibrancy, and increased economic development in underdeveloped portions of the Plan area.

The focus of this assessment is on how the ZTA may impact GHG emissions and community resilience.

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## BACKGROUND AND PURPOSE OF ZTA 23-06

Zoning Text Amendment (ZTA) 23-06, Fenton Village (FV) Overlay Zone – site plan, was introduced by Council President Glass and co-sponsored by Councilmember Stewart on October 17, 2023. The Fenton Village overlay zone was established as a recommendation of the 2000 Silver Spring CBD Sector Plan which wanted to allow more flexibility in the development standards and range of permitted uses, while ensuring compatibility of new uses through limits on height and design elements. Requiring all sites developed or modified in Fenton Village to go through site plan was one mechanism enacted to ensure this. Recently there have been a few properties in Fenton Village that have wanted to do small expansions to existing structures to accommodate expanded restaurant and entertainment uses. These requests have been very small in scale, but because of the existing overlay zone language, would still require a site plan review to proceed. This ZTA was introduced to address the burden the site plan process places on small modifications and expansions.

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## VARIABLES THAT COULD AFFECT THE ASSESSMENT

### CLIMATE-RELATED VARIABLES

The following variables were identified in Tables 1 and 8 of the *Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County*.

#### **GHG Emissions and Sequestration Checklist of Variables.**

##### **Greenhouse Gas:**

- Building embodied emissions: New additions will incur embodied emissions from new construction and/or deconstruction of existing buildings.
- Pavement infrastructure: It is ‘possible’ that new construction will increase impervious cover if the additions are placed in areas that are now in green cover.
- Material waste produced: New construction may require the deconstruction of existing build materials.

##### **Energy Related.**

- Electricity usage: New buildings will require energy use.
- Stationary fuel usage: New buildings will require energy use.

##### **Land Coverage Change.**

- Area of non-forest tree canopy: It’s possible that a few trees will be lost during new construction as the properties within the Fenton Village Overlay Zone impacted by this ZTA would likely qualify for a Forest Conservation Exemption under Chapter 22A-5(t) of the Forest Conservation Law. This exemption provides protection for areas of forest cover but does not include protection or mitigation for impact to individual trees.
- Area of green cover: It’s possible to have loss in lawn cover.

#### **Community Resilience and Adaptive Capacity Checklist of Variables.**

### Exposure-Related Factors.

- Activity in Urban Heat: New buildings could contribute to urban heat if they replace green cover or have darker surfaces than existing impervious surfaces.

### Sensitivity-Related Factors

- Change to non-forest tree canopy: Its possible individual trees will need to be removed for construction.
- Change to quality or quantity of other green areas: Its possible lawn will be lost due to construction.
- Change to impacts of heat: Its possible new buildings will increase urban heat island.
- Change in perviousness: Its possible new construction will increase impervious cover.

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## ANTICIPATED IMPACTS

### GREENHOUSE GAS EMISSIONS, CARBON SEQUESTRATION, AND DRAWDOWN

Montgomery Planning anticipates ZTA 23-06 will result slight and indeterminant negative greenhouse gas emissions and sequestration rates. These increases are far below what would otherwise be allowed under the existing zoning within the master plan and all exclusions to site plan submittal must still meet underlying zoning requirements and energy efficient building standards. Relative to what is allowed under the current zone, the ZTA carbon and sequestration impacts for building construction less than 1,000 square feet is minimal. There will be slight embodied carbon emissions from material use, waste, and disposal during construction, and slight carbon emissions associated with energy demands for heating and cooling of new buildings.

It is possible that new construction may result in the loss of green lawns and trees which will have slight and limited impacts on Silver Springs sequestration and drawdown capacities.

### COMMUNITY RESILIENCE AND ADAPTIVE CAPACITY

Montgomery County Planning anticipates ZTA 23-06 to result in slightly positive impact on community resilience and adaptive capacity factors. If amended this ZTA will allow small business owners to avert the arduous and expensive site plan submittal process. It would encourage small business expansion in downtown Silver Spring resulting in increased community resources and benefits, reduced transportation demand, local jobs and enhance economic opportunities.

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## RELATIONSHIP TO GREENHOUSE GAS REDUCTION AND SEQUESTRATION ACTIONS CONTAINED IN THE MONTGOMERY COUNTY CLIMATE ACTION PLAN (CAP)

ZTA 23-06 does not involve any GHG or sequestration activities that relate to the GHG reduction and sequestration actions from the County's Climate Action Plan.

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## RECOMMENDED AMENDMENTS

Planning staff does not have any recommended climate-related amendments to ZTA 23-06 because it will likely result in unpredictable minor to insignificant impacts on the County’s greenhouse gas emissions and sequestration goals. It does not offer additional opportunities for enhancing positive climate change impacts as it will not have to implement Green Cover recommendations in the master plan, protect individual trees, or provide replacement plantings per the applicable requirements of the Forest Conservation Laws. However, as noted, there will be slightly positive community adaptive benefits by increasing local business expansion, resources, jobs, reduced travel demands, and social gatherings opportunities.

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## SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

The climate assessment for ZTA 23-06 was prepared using the methodology (Tables 1, 2, and 8, in particular) for ZTAs contained within the [\*Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County, December 1, 2022\*](#).