

## ZTA 25-06

### VEHICLE SERVICE- FILLING STATION

#### Description

This ZTA would clarify that any fuel dispenser in a Filling Station that dispenses at least 3.6 million gallons of fuel per year must be at least 500 feet from certain Sensitive Uses. It adds that if one of the identified Sensitive Uses were to locate within 500 feet of a fuel dispenser after the Filling Station's approval, the Filling Station would not be considered a nonconforming use.

ZTA 25-06  
Completed: 5-22-25

MCPB  
Item No. 7  
5-29-25

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#### ZTA SPONSORS

Lead Sponsors:  
Council Vice President Jawando, and  
Councilmembers Mink, and Friedson

#### INTRODUCTION DATE

May 6, 2025

#### COUNCIL PUBLIC HEARING DATE

June 10, 2025

#### REVIEW BASIS

Chapter 59

## Summary

- Currently, a large Filling Station that dispenses over 3.6 million gallons annually must be set back 500 feet from the nearest property line of a site with an identified Sensitive Use.
- This ZTA would clarify the setbacks are measured from the fuel dispensers at a Filling Station, and that a legally approved Filling Station is not made nonconforming if a Sensitive Use later locates to a property less than 500 feet from a fuel dispenser.

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## SECTION 1 – BACKGROUND

### Rationale For Introduction

Zoning Text Amendment (ZTA) 25-06, Vehicle Service – Filling Station, was introduced on May 6, 2025, by Council Vice President Jawando and Councilmembers Mink and Friedson (Attachment A). The ZTA is scheduled for a District Council Public Hearing on June 10, 2025.

Currently, the Zoning Ordinance requires any Filling Station that dispenses at least 3.6 million gallons per year to be located at least 500 feet from a lot line of any land with a sensitive use. The Zoning Code specifies may include a dwelling unit; public or private educational institution; public or private park or playground; daycare center; outdoor uses categorized as Civic and Institutional or Recreation and Entertainment; or any wetland, stream, river, floodplain, or other environmentally sensitive area (“Sensitive Uses”). While the code clearly states that a Filling Station must be set back from the lot line containing Sensitive Uses, it does not define the components of a Filling Station. Therefore, it is unclear where the 500foot measure starts. Montgomery County Department of Permitting Services (DPS) and Montgomery County Office of Zoning and Administrative Hearings (OZAH) previously determined the measuring point would be based on the closest structural improvement on a site containing a Filling Station, which could include a canopy, underground storage tanks, associated convenience store, or a tire air pump. This ZTA would clearly set the fuel dispenser (pump) as the measuring point on the Filling Station.

ZTA 25-06 also adds language clarifying that any Filling Station approved to dispense more than 3.6 million gallons per year would not become a nonconforming use if a Sensitive Use were to later locate on a property with a lot line that is within 500 feet of a fuel dispenser. This would allow a Filling Station to make site modifications in the future.

To understand the scale of a Filling Station that dispenses 3.6 million gallons a year, Planning Staff reviewed current market analysis from industry sources on Filling Stations. On average, a Filling Station of four dispensers or eight pumps (each dispenser includes two pumps) is expected to dispense slightly over 1 million gallons per year. It would require over 12 dispensers with over 24 pumps to approach the 3.6 million gallon threshold discussed by the ZTA. Using 3.6 million gallons to define a large Filling Station is an existing metric in the Zoning Code and has also been used by other jurisdictions in setting additional regulations. Generally, Filling Stations of this size are only found as part of highway truck/vehicle stops or associated with bulk discount retailers.

## SECTION 2 – TEXT AS INTRODUCED

### ZTA 25-06 As Introduced

As discussed above, ZTA 25-06 makes two changes, both located within the use standards for Filling Stations located in Section 5.3.13.C.

The first change is a minor change to standard C.2.c. that begins on line 32 of the ZTA. The code here is amended to clarify that the Filling Station must locate fuel dispensers at least 500 feet from the lot line of a Sensitive Use. The existing code only required the Filling Station, without specifying what part of the Filling Station, to be at least 500 feet away.

Any Filling Station [facility] designed to dispense a minimum of 3.6 million gallons per year must locate all fuel dispensers [be located] at least 500 feet from the lot line of any land with a...

The second change, clarifying that a Sensitive Use moving within 500 feet of an already approved Filling Station does not make the Filling Station a nonconforming use, is a new standard C.2.d. located on lines 40-48 of the ZTA.

d. If a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area is constructed or established within 500 feet of a fuel dispenser at a Filling Station that dispenses a minimum of 3.6 million gallons per year after the Filling Station's conditional use approval, the Filling Station is not a nonconforming use under Section 7.7.2.

To account for the new d. starting on line 40, the remaining standards in this section are adjusted alphanumerically by one.

### ZTA 25-06 Recommendation

Planning Staff recommends that the Board support ZTA 25-06 but offers two amendments. First, by setting the fuel dispenser as the component of the Filling Station that must meet the setback, the ZTA implies the intent is to set back the portion of the Filling Station that causes the most nuisance. This makes sense when setting back from other above grade uses such as residential, recreational, or institutional uses that are part of the identified Sensitive Uses. However, setbacks from the environmental features such as wetlands, streams, floodplains, or other environmentally sensitive areas may be better served by requiring any underground storage tanks be set back at least 500 feet from those features. Planning Staff recommends amending Section C.2.c. on lines 32-39 as follows:

Any Filling Station [facility] designed to dispense a minimum of 3.6 million gallons per year must locate all fuel dispensers [be located] at least 500 feet from the lot line of any land with a dwelling unit; public or private school; park; playground; day care center; any outdoor use categorized as a Civic and Institutional use or a Recreation and Entertainment use; or any wetland, stream, river, flood plain, or environmentally sensitive area **and must locate all underground storage tanks at least 500 feet from any wetland, stream, river, flood plain, or environmentally sensitive area.**

Further, Section C.2.d. from lines 43-45 would be amended as follows:

...or environmentally sensitive area is constructed or established within 500 feet of a fuel dispenser **or an underground storage tank** at a Filling Station that dispenses a minimum of...

Planning Staff's second recommendation is to clarify that although a Filling Station would not become nonconforming if a new Sensitive Use is constructed on a property within 500 feet of a fuel dispenser, any restrictive 500 foot setbacks identified on the original conditional use approval would remain. The intent of the ZTA is to allow a Filling Station to make future site modifications or expansions which would not be allowed if the use became a nonconforming use. Planning Staff's recommendation would ensure a Filling Station at minimum remains beholden to the site restrictions at the time of development. Planning Staff recommend the following modifications to Section C.2.d. on line 48:

...the Filling Station is not a nonconforming use under Section 7.7.2. **but must respect the 500 foot setback that existed at the time of the conditional use approval.**

### SECTION 3 – 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 25-06 is attached in Attachment B.

The Climate Assessment found no significant climate related impacts to variables that impact Greenhouse Gas Emissions, Carbon Sequestration, Community Resiliency, or Adaptive Capacity. There are also no clear relationships to any action items from the Climate Action Plan. This ZTA does not make any clear changes to land use policy that would impact development. It only clarifies how to measure existing setback requirements and protects Filling Stations from nonconformity due to future adjacent developments.

The Climate Assessment does make one recommendation, to include underground storage tanks in addition to fuel dispensers, in what needs to be set back at least 500 feet from environmentally sensitive uses.

## SECTION 4 – CONCLUSION

Planning Staff recommends the Planning Board support ZTA 25-06 with amendments to require that both the fuel dispensers and underground storage tanks meet the required 500 foot setbacks from environmentally sensitive areas, and to clarify that Filling Station amendments must continue to meet any 500 foot setbacks that existed at the time of conditional use approval. This ZTA adds clarity to the existing code provisions requiring large Filling Stations to maintain a 500 foot setback from identified Sensitive Uses and ensures the use does not become a nonconformity if a Sensitive Use locates within 500 feet in the future.

## SECTION 5 – ATTACHMENTS

*Attachment A: Zoning Text Amendment 25-06 Intro Packet*

*Attachment B: Climate Assessment 25-06*