

Ordinance No.: 17-11
Zoning Text Amendment No.: 11-06
Concerning: Fenton Village Overlay
Zone – Building Height
Draft No. & Date: 2 – 1/30/12
Introduced: November 8, 2011
Public Hearing: January 17, 2012
Adopted: February 7, 2012
Effective: February 27, 2012

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

By: Councilmember Floreen and Council President Ervin

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- modify building heights in the Fenton Village Overlay zone and the adjacent CBD-0.5 zone
- generally amend the provision for building heights in the Fenton Village Overlay zone

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

Division 59-C-6	“Central Business District Zones”
Division 59-C-6.235	“Development Standards”
Division 59-C-18	“Overlay Zones”
Section 59-C-18.192	“Regulations”

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 that text 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.*

OPINION

Zoning Text Amendment (ZTA) 11-06, sponsored by Councilmember Floreen, was introduced on November 8, 2011. For any building that includes residential uses or a mix of residential and commercial uses, Zoning Text Amendment 11-06 proposes a revision to Section 59-C-18.19 (Fenton Village Overlay Zone) and the CBD-0.5 zone that would allow the height of buildings on properties that front on both Wayne Avenue and Fenton Street to be 75 feet. The current building height limit in this area is 60 feet. The additional building height must be within 200 feet of the right-of-way line for Fenton Street, as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan.

The Planning Board recommended approval of ZTA 11-06 with a revision to assure that the additional height is set back from residentially zoned property. The Planning Board and Planning Staff believed that the ZTA as modified protects single-family residences located along “the edges” of the CBD and the Overlay zone. In their opinion, ZTA 11-06 would meet one of the overall Sector Plan objectives for maintaining compatibility with surrounding properties.

The County Council held a public hearing on January 17, 2012 to receive testimony concerning the proposed text amendment. The two speakers included a property owner and a representative of the nearby civic association. Both speakers supported ZTA 11-06. The text amendment was referred to the Planning, Housing, and Economic Development Committee for review and recommendation.

The Planning, Housing, and Economic Development Committee held a worksession to review the amendment on January 30, 2012. The Committee (3-0) recommended approval of ZTA 11-06 with amendments to require setbacks from residentially zoned property. This would be accomplished by the adding the following provision:

However, any building using additional height must be set back from adjoining residentially zoned land no less than the setback required in the adjacent residential zone or the height of the building, whichever is greater.

In the opinion of the Committee, the circumstances under which additional building height would be allowed provided flexibility for development and protection for residential neighborhoods.

The District Council reviewed Zoning Text Amendment No. 11-06 at a worksession held on February 7, 2012 and agreed with the recommendations of the Planning, Housing, and Economic Development Committee.

For these reasons, and because to approve this amendment will assist in the coordinated, comprehensive, adjusted and systematic development of the Maryland-Washington Regional District located in Montgomery County, Zoning Text Amendment No. 11-06 will be approved as amended.

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:

Sec. 1. 59-C-6 is amended as follows:

Sec. 59-C-6. CENTRAL BUSINESS DISTRICT ZONES.

* * *

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
59-C-6.235. [Maximum] Maximum Building Heights (in feet).												
(a) Standard method of development.												
—Normally:	45		60		60		60		72		60	
—If adjoining or directly across a street from land which is recommended for or developed in a residential zone with a maximum density of less than 15 dwelling units per acre:	35		35		35							
plus an additional 8 feet for air conditioners or similar rooftop structures and mechanical appurtenances pursuant to [division] Division 59-B-1(b).												
(b) Optional method of development.												
—Normally:		60		60		60		143		143		143

	CBD-0.5		CBD-R1 ²		CBD-1		CBD-2		CBD-3		CBD-R2	
	S	O	S	O	S	O	S	O	S	O	S	O
—If approved by the Planning Board in the process of site plan or combined urban renewal project plan approval as not adversely affecting surrounding properties, height may be increased to:		60 ^{12,*}		143		90 ¹		200 ¹¹		200		200

* For certain properties adjacent to the Fenton Village Overlay Zone, permitted heights may be increased under Section 59-C-18.192(b)(1)(E).

* * *

Sec. 2. Division 59-C-18 is amended as follows:

* * *

59-C-18.192. Regulations

* * *

(b) Development Standards. The development standards are the same as those in the underlying zones, except:

(1) Building height in the Overlay Zone:

* * *

(D) for property located in a block that includes property zones in any one-family residential classification, must not exceed 45 feet for all uses, except the building height must not exceed 60 feet for:

(i) residential use; or

(ii) mixed-use optional method project, if at least 33% of the project’s floor area is residential and the project includes a hotel;

(E) for properties with frontage on both Wayne Avenue and Fenton Street, notwithstanding the height limitations in Subsection (b)(1)(B)-(D), may be increased by 15 feet for a building that includes residential uses or a

mix of residential and commercial uses, if such additional height is not more than 200 feet from the right-of-way line for Fenton Street as recommended in the Approved and Adopted 2000 Silver Spring CBD Sector Plan. However, any building using additional height must be set back from adjoining residentially zoned land no less than the setback required in the adjacent residential zone or the height of the building, whichever is greater.


[(E)](F) Building heights may be approved under the standards of this subsection without regard to the building height recommendations of the sector plan.

[(F)](G) Any project plan approved before August 18, 2008 may be constructed under the conditions of its approval and any site plan thereafter that implements the previously approved project plan. Any site plan approved before [the] August 18, 2008 may be constructed under the conditions of its approval. Any building constructed under this subsection is conforming and may be maintained and reconstructed under the conditions of their approval.

* * *

Sec. 3. Effective date. This ordinance takes effect 20 days after the date of Council adoption.

This is a correct copy of Council action.


Mary Anne Paradise, Acting Clerk of the Council