

# Racial Equity and Social Justice (RESJ) Zoning Text Amendment Statement

Office of Legislative Oversight

## ZTA 21-06: EXEMPTIONS – DENSITY TRANSFER AND HISTORIC RESOURCES

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Zoning Text Amendment 21-06 will sustain or exacerbate racial and social inequities in historic preservation in Montgomery County. But because this ZTA will likely impact a limited number of properties in the County, OLO anticipates that this ZTA will have a minimal impact in the County.

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### PURPOSE OF RESJ STATEMENT

The purpose of RESJ impact statements for zoning text amendments (ZTAs) is to evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. Racial equity and social justice refer to a **process** that focuses on centering the needs, power, and leadership of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.<sup>1</sup> Achieving racial equity and social justice usually requires seeing, thinking, and working differently to address the racial and social harms that have caused racial and social inequities.<sup>2</sup>

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### PURPOSE OF ZTA 21-06

If enacted, ZTA 21-06 will allow eligible property owners to pursue limited commercial uses in existing and new structures on historically preserved sites with site plan approval and a recommendation of support by the Historic Preservation Commission. The proposed limited commercial uses include:

1. Any use permitted in the underlying zone;
2. Medical and dental clinics for up to four practitioners;
3. Professional offices;
4. Retail sales and services;
5. Antique shops;
6. Drive-thru as an accessory use to any other allowed primary use; and
7. Uses allowed by Conditional Use, subject to the provisions of Section 7.3.1.

The primary purpose of ZTA 21-06 is to re-establish provisions to the former Zoning Ordinance that were omitted in the 2014 update. The proposed provisions provide incentives for property owners to renovate historic structures that make the properties economically viable while maintaining the character of historic sites and districts. Thus, in addition to receiving density transfer credits that they can sell to other property owners seeking higher residential densities, eligible historic property owners also benefit from the commercial uses allowed for their properties under ZTA 21-06.

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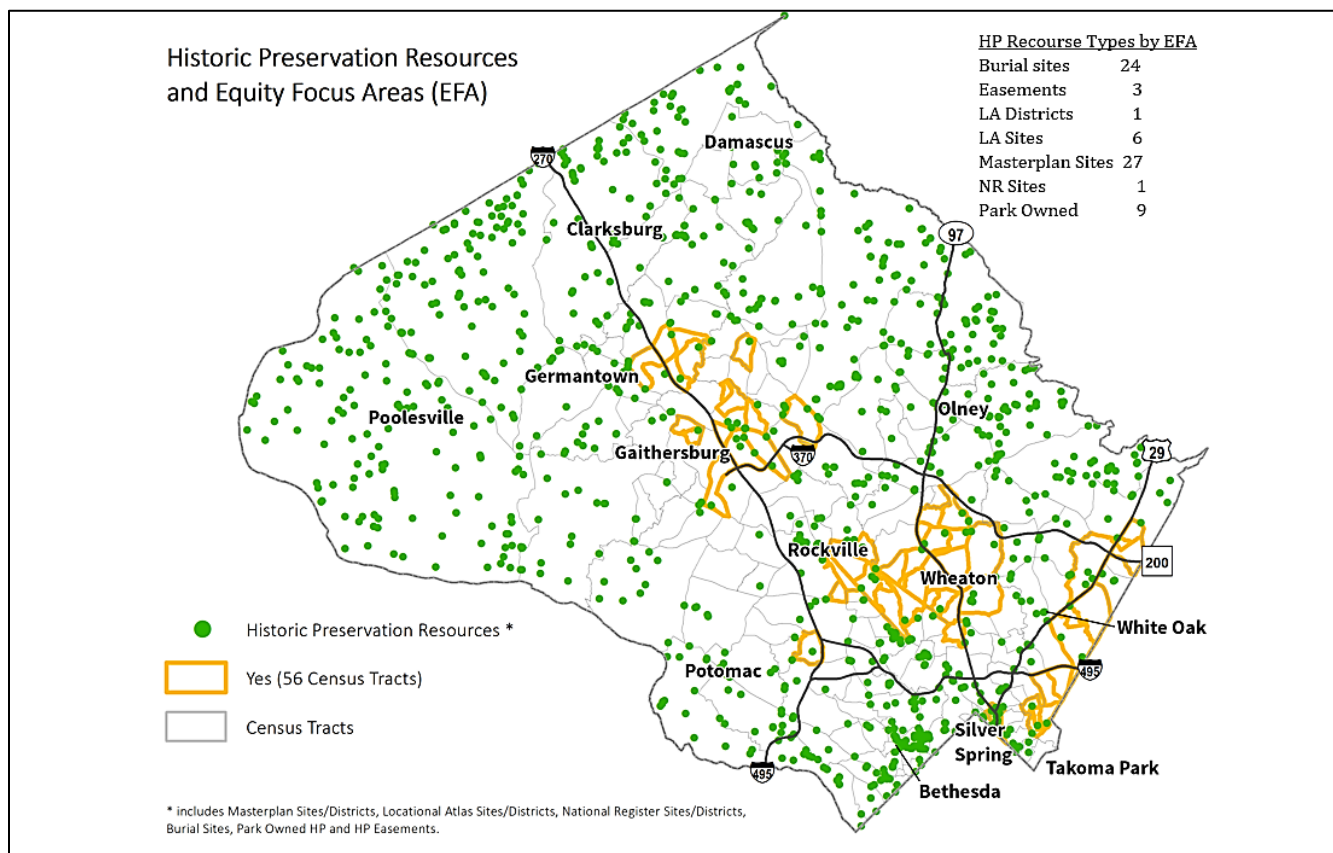
## Zoning Text Amendment 21-06

### HISTORIC PRESERVATION AND RACIAL EQUITY

Historic preservation aims to provide a tangible link to our past. The benefits of preserving historic assets can include deepening community identity, attracting visitors, and ensuring a rich, diverse building stock.<sup>3</sup> Empirical studies have also sought to document the community-wide benefits of historic preservation that offset the economic constraints that limit development and potentially harm property values to individual historic property owners.<sup>4</sup>

Critics of historic preservation often contend that historic preservation too often favors certain historical narratives and assets over others and largely serves high-income and White communities.<sup>5</sup> This includes a recognition among some researchers that “the preservation movement in the U.S. has primarily invested in maintaining White spaces, and for much of American history, little was done to protect Black and other spaces historically significant to people of color.”<sup>6</sup>

**Figure 1: Historic Preservation Resources and Equity Focus Area**



Increasingly, inclusionary planners and preservationists note that the “persistence of certain structures or sites and the effects of decisions over time can perpetuate patterns of segregation and exacerbate injustice.”<sup>7</sup> They note that through decisions about land use, zoning, restrictive covenants, building codes, transportation, affordable housing, and financial lending, the U.S. has a long history of spatially marginalizing people of color, the foreign-born, and/or the poor.<sup>8</sup> As such, there is an increased understanding that legacies of exclusion are entrenched within the build environment and can contribute to inequitable decision-making about what constitutes “historic.”<sup>9</sup>

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Marisa Brown in the June 2020 blog for the National Trust’s Preservation Leadership Forum finds that “federal, state, and local regulations that govern many of the most important preservation mechanisms reflect bias against communities of color.”<sup>10</sup> She further finds that “of the nearly 95,000 entries in the National Register of Historic Places, only 2% (focus) on the experience of Black-Americans” and “of the more than \$100 billion awarded from the Federal Historic Preservation Fund since 1968, the majority has benefited White Americans.”<sup>11</sup> Similarly, researchers with the African American Cultural Heritage Action Fund find that historically African American neighborhoods are underrepresented in historic designation programs.<sup>12</sup>

A review of available local data demonstrates similar racial disparities in historic preservation resources. Of the 1,215 historic preservation resources in the County mapped in Figure 1, about 6.5 percent (79) are located in a quarter of the County’s census tracts (56 out of 215 tracts) where a majority of the County’s low-income residents and people of color reside. These census tracts are referred to as Equity Focus Areas by Montgomery Planning.”<sup>13</sup> Further, less than one quarter of one percent of historic preservation sites in the County are designated as sites of historical significance to African Americans (25-26 sites) with many of these being parks owned by the County or state, or facilities owned by community-based groups and institutions rather than by individuals.<sup>14</sup>

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## ANTICIPATED RESJ IMPACTS

Available data on the location of historic properties across the County and the limited number of privately owned properties of historical significance to African Americans suggests the White and affluent historic property owners will disproportionately benefit from changes to the zoning ordinance proposed under ZTA 21-06.

If no eligible historic property owners take advantage of the commercial use options offered by ZTA 21-06, OLO anticipates that current racial and social inequities in historic preservation and economic development across the County will be sustained. However, if eligible historical property owners take advantage of the commercial use options offered by ZTA 21-06, OLO anticipates the racial and social inequities in historic preservation and economic development across the County will widen.

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## CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of zoning text amendments on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement on the proposed zoning text amendment is intended to inform the Council’s decision-making process rather than determine it. Thus, any conclusion made in this statement does not represent OLO’s endorsement of, or objection to, the ZTA under consideration.

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<sup>1</sup> See the Government Alliance for Race and Equity’s “Advancing Racial Equity and Transforming Government” for understanding of government role in creating inequities [https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource\\_Guide.pdf](https://racialequityalliance.org/wp-content/uploads/2015/02/GARE-Resource_Guide.pdf)

<sup>2</sup> Adopted from racial equity definition provided by Racial Equity Tools. <https://www.racialequitytools.org/glossary>

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<sup>3</sup> Ingrid Gould Ellen, Brian McCabe, and Gerard Torrats-Espinoza, **How Can Historic Preservation Be More Inclusive? Learning from New York City's Historic Districts** - <https://www.arch.columbia.edu/books/reader/503-preservation-and-social-inclusion#reader-anchor-3>

<sup>4</sup> Allison Arlotta and Erica Arvami, **Preservation's Engagement in Questions of Inclusion: A Literature Review** - <https://www.arch.columbia.edu/books/reader/503-preservation-and-social-inclusion#reader-anchor-23>

<sup>5</sup> Ingrid Gould Ellen, Brian McCabe, and Gerard Torrats-Espinoza

<sup>6</sup> Kerry Young, **Building a More Inclusive Preservation Movement**, Heritage News, San Francisco Heritage, Volume XLVIII, No 4, October – December 2020 - <https://www.sfheritage.org/wp-content/uploads/2020/10/OctoberHN2020-FINAL.pdf>

<sup>7</sup> See **Issues in Preservation and Policy** edited by Erica Arvami and her chapter **Preservation's Reckoning** - <https://www.arch.columbia.edu/books/reader/503-preservation-and-social-inclusion> -

<sup>8</sup> Ibid

<sup>9</sup> Ibid

<sup>10</sup> Marisa Brown in the June 2020 blog for the National Trust's Preservation Leadership Forum from "Preservation's Existential Crisis" - <https://forum.savingplaces.org/blogs/marisa-brown1/2020/06/18/preservations-existential-crisis>

<sup>11</sup> Ibid

<sup>12</sup> Brent Leggs, Jenna Dublin, and Michael Powe, **Telling the Full American Story: Insights from African American Cultural Heritage Action Fund** - <https://www.arch.columbia.edu/books/reader/503-preservation-and-social-inclusion#reader-anchor-5>

<sup>13</sup> Montgomery Planning, published and unpublished data

<sup>14</sup> Ibid