

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

Office of Legislative Oversight

ZTA 21-09: OFFICE AND PROFESSIONAL-BIOHEALTH PRIORITY CAMPUS

SUMMARY

The Office of Legislative Oversight (OLO) anticipates that Zoning Text Amendment 21-09 could negatively impact racial equity and social justice as its benefits would disproportionately accrue to White business owners and employees. Given the size of the biohealth industry in Maryland and Montgomery County, OLO anticipates a moderate impact. To improve racial equity and social justice, this statement offers several recommended policy options for consideration.

PURPOSE OF RESJ IMPACT STATEMENTS

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 of communities of color and low-income communities with a **goal** of eliminating racial and social inequities.¹ 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.²

PURPOSE OF ZTA 21-09

The primary purpose of ZTA 21-09 is to expedite the permitting process for biohealth campuses from 120 days to 60 days. Toward this end, this ZTA would make the following changes to the Zoning Ordinance if enacted:

- Create a new commercial use category for Biohealth Priority Campus under the use group Office and Professional Section 59-3.5.8.
- Create a new regulatory review category, Biohealth Campus - Section 7.3.6, amending, Division 59-7.3.
- Expedite regulatory reviews for new biohealth facilities of 150,000 square feet or more and for existing facilities expanding 50,000 square feet or more by reducing the regulatory review process from 120 to 60 days.
- Allow a biohealth campus as a permitted use in the Commercial/Residential and Employment Office zones for developments within a Red Policy Area³ (or adjacent to it), within an Opportunity Zone,⁴ or within ½ mile of a planned or existing Bus Rapid Transit route.⁵

The intent of ZTA 21-09 is to grow the biohealth sector in the County to advance economic development. ZTA 21-09 was introduced on October 19, 2021.

LAND USE, ECONOMIC DEVELOPMENT, AND RACIAL EQUITY

Understanding the impact of ZTA 21-09 on racial equity and social justice requires understanding the historical context that shapes land use and economic development in the County today. To describe this historical context, this section describes the historical drivers of racial inequities in land use and economic development and available data on racial disparities, especially within the biohealth industry.

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Inequities in Land Use: The way land is used and regulated either helps or hinders people's access to opportunity. Throughout the 20th century, jurisdictions have used zoning as a way to separate not only uses – like residential, commercial, and industrial – but also people according to wealth, class, and race.⁶ More specifically, land use regulations have been used to exclude people of color and low-income residents from predominantly White and affluent residents in several ways. For example, by allowing single family homes or homes on large lots, both of which exclude more affordable housing.⁷ This has resulted in the concentration of poverty, especially in BIPOC communities.⁸ Because social determinants are so tightly connected to where one lives, implications of zoning on inequality are large as where one lives determines where they go to school, their exposure to crime and policing, and where they can shop.⁹ For homeowners, where one resides is perhaps the most important determinant of their family's wealth.¹⁰

Data show that many poor neighborhoods have disproportionately high people of color populations and lack access to jobs, good schools, and other opportunities necessary to help residents rise out of poverty.¹¹ The land use injustices and social inequities impacting localities are multi-faceted.¹² They manifest not only in housing segregation but also in disparities in exposure to pollution, health inequities, unequal access to green and blue infrastructure (e.g. parks, trees, well-functioning waterways), transportation infrastructure, and economic investment.¹³ These inequities result from zoning and a variety of other government policies and private actions that include environmental laws, housing policies, transportation policies, restrictive covenants, housing-market discrimination, and redlining.¹⁴

Patterns of inequitable land use in the County manifest as racial and economic segregation by Council district, higher rates of unemployment, poverty, and housing burden among Black and Latinx residents, and has greater reliance on public transit and longer commutes for Black residents. More specifically, the data shows:

- Racial and economic segregation by Council district where 72 percent of District 1 (Bethesda, Poolesville and Potomac) residents were White, average household income was \$205,600, and the poverty rate was 3 percent compared to 66 percent of District 5 residents (Burtonsville, Silver Spring, and Takoma Park) were BIPOC, average household income was \$102,500, and the poverty rate was 9 percent from 2011 to 2015.¹⁵
- Racial inequities in unemployment where 5 percent of Black residents and 4 percent of Latinx residents were unemployed compared to 3 percent of Asian and White residents in 2019.¹⁶
- Racial inequities in poverty where 13 percent of Latinx residents and 12 percent of Black residents lived in poverty compared to 6 percent of Asian residents and 3 percent of White residents in 2019.¹⁷
- Racial inequities in housing burden where 59 percent of Latinx renters and 54 percent of Black renters expended more than 30 percent of their household income on housing compared to 43 percent of Asian renters and 42 percent of White renters in 2019.¹⁸
- Racial inequities in public transit use where 21 percent of Black residents commuted to work via public transit compared to 14 percent of Asian residents, 13 percent of White residents and 11 percent of Latinx residents.¹⁹
- Racial inequities in commuting time where Black residents averaged a 38 minute commute to work compared to a 36 minute commute for Asian residents and a 34 minute commute for both White and Latinx residents.²⁰

Inequities in Economic Development: Historically inequitable policies have fostered racial and ethnic inequities in economic development among business owners and employees. As noted by the Federal Reserve Bank of Boston:²¹

“(T)he practices and policies that laid the groundwork for and built the U.S. were explicitly designed to ensure an absolute accumulation of intergenerational wealth and concentrated power for white people, particularly men. A legacy of land theft, slavery, racial segregation, disenfranchisement, and other exclusive policies against Black and

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Indigenous people and people of color produced a racialized economy that decimated these communities and intentionally barred survivors and descendants from building wealth, socioeconomic well-being and resilience.”

Current inequities in policies and practices adversely impact people of color as they consider starting and growing businesses. These include disparities by race and ethnicity in educational attainment, personal wealth, access to mainstream capital, and exposure to entrepreneurship in family and social networks.²² They also include disparities by race and ethnicity in access to credit with Black- and Latinx-owned businesses more likely to have been denied credit, to receive only a portion of the funding requested, or to refrain from applying for needed funding out of fear that their applications will be rejected.²³ Other factors that explain the disparity in capital include discriminatory lending practices, less wealth to leverage, recent financial challenges, and lower credit scores.

Historic and current inequities in economic opportunity result in sizable disparities in business ownership, employment, and income by race and ethnicity. More specifically:

- Despite Black and Latinx firms each accounting for 15 percent of local firms in 2012 and Asian firms accounting for 14 percent of local firms, Black and Latinx firms each accounted for less than 2 percent of business revenue, and Asian firms accounted for 4 percent of business revenue.²⁴
- Nearly two-thirds (64 and 62 percent) of White and Asian residents in the County were employed in management, business, science and arts occupations in 2017 compared to less than half of Black residents (45 percent) and only a quarter of Latinx residents were employed in such positions.²⁵
- The median household income for White families in the County was \$119,000 in 2017 and was \$109,000 for Asian families compared to \$73,000 for Black households and \$72,000 for Latinx households.²⁶

Inequities in the Biohealth Industry: Systemic racism has also fostered racial inequities in health care and the biohealth industry. The nation’s history of inequitable health care by race predates its founding with the near genocide of Indigenous people due to their exposure to smallpox and other diseases from European colonists and the inhumane treatment of enslaved Africans that made them more susceptible to disease and death.²⁷ Post slavery, health care services remained segregated by race and it was not until the 1960’s with the passage of Medicare and Medicaid that health care services became integrated.²⁸

Racial inequities have also characterized the biohealth industry where historically the medical community has exploited Black people through experimentation.²⁹ Additionally, educational and occupational segregation continue to limit the participation of Black and Latinx people as professionals in Science, Technology, Engineering, and Mathematics (STEM) fields that include the biohealth industry. Nationally, between 2017 and 2019: ³⁰

- Black people accounted for 11 percent of all jobs, 9 percent of STEM jobs, and 6 percent of life science jobs.
- Latinx people accounted for 17 percent of all jobs and 8 percent of STEM and 8 percent of life science jobs.
- Asian people accounted for 6 percent of all jobs, 13 percent of STEM jobs and 19 percent of life science jobs.
- White people accounted for 63 percent of all jobs, 67 percent of STEM jobs and 65 percent of life science jobs.

A recent study of personnel and executives in the biotech industry also find an under-representation of Black, Latinx and Indigenous employees and executives. The 2020 survey of 18 biotech firms found that:³¹

- Black people accounted for 7 percent of biotech employees and 3 percent of executives;
- Latinx people accounted for 4 percent of biotech employees and 4 percent of executives;

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- Asian people accounted for 18 percent of biotech employees and 14 percent of executives;
- Native Americans, Hawaiians and Pacific Islanders accounted for 0.4 percent of biotech employees and 0 percent of executives; and White people accounted for 65 percent of biotech employees and 78 percent of executives.

These racial and ethnic disparities in the biohealth workforce are significant because the industry offers high wages. In 2017, bioscience workers earned an average income of nearly \$99,000.³² In Maryland, the average annual pay for biomedical positions was nearly \$70,000 with workers at the 25th percentile earning \$44,000 annually and those at the 90th percentile earning \$107,000 annually.³³

The racial and ethnic disparities in the biohealth workforce are also significant because the industry is sizable. More than 800,000 people work in the biopharmaceutical industry in the U.S. across a broad range of occupations; it is estimated that the biohealth industry supports another 4.7 million jobs across the country.³⁴ Of note, the Biohealth Capital Region of Maryland, the District of Columbia, and Virginia employs an estimated 75,000 workers and ranks fourth among U.S. biopharma hubs, behind Boston, San Francisco, and New Jersey/New York.³⁵

ANTICIPATED RESJ IMPACTS

Understanding the impact of ZTA 21-09 on racial equity and social justice requires understanding the stakeholders most likely to be impacted by this zoning text amendment. Since it is aimed at expediting the permitting process for biohealth facilities, biotech firm owners and employees are the stakeholders most likely to be impacted by this ZTA as follows.

- **Biohealth Business Owners.** Available data on local business revenue suggest that White-owned firms predominate the biohealth industry and thus could disproportionately benefit from ZTA 21-09. While White-owned firms accounted for slightly more than half of all County businesses in 2012, they accounted for more than 90 percent of local business revenue. If White-owned firms benefit more from ZTA 21-09 than BIPOC-owned firms, this ZTA could widen current racial and ethnic inequities in entrepreneurship.
- **Biohealth Workers.** Available data on occupations and the biohealth workforce from national and local sources suggests Asian residents are significantly over-represented among local biohealth workers and could disproportionately benefit from growth in the local biotech industry fostered by ZTA 21-09 and White people account for a majority of the biotech workforce and would benefit from biotech industry growth as well. Nationally, Asian people account for 18 percent of biotech positions compared to 6 percent of the overall workforce; White people account for 65 percent of biotech positions compared to 63 percent of the overall workforce. If Asian and White employees benefit more from ZTA 21-09 than Black, Latinx and Indigenous residents, this ZTA could widen current racial and ethnic inequities in biohealth employment.

Taken together, OLO finds that ZTA 21-09 could have a net impact of widening racial and ethnic inequities in the County as available data suggests the two groups to benefit the most from this bill – biohealth business owners and employees – are disproportionately White and Asian. To narrow racial and social inequities, ZTA 21-09 would have to yield greater benefits for BIPOC groups under-represented in the biohealth industry as business owners and employees: Black, Indigenous, and Latinx people. Because the biotech industry is large in the County and is anticipated to grow,³⁶ OLO anticipates a moderate impact of ZTA 21-09 on racial equity and social justice. Further, if ZTA 21-09 spurs economic development, County residents could benefit from increased economic activity associated with the growth of the biohealth industry. The community only gains, however, if there are spillover effects of the ZTA, OLO anticipates that these spillover benefits would favorably impact every racial and ethnic group and thus sustain racial and social inequities in the County.

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Finally, there is also the potential for ZTA 21-09 to further widen racial and social inequities in the County if it displaces future affordable housing units due to biohealth campuses locating in Commercial/Residential (C/R) zones in or near Red Policy Areas or Bus Rapid Transit routes. If enacted, the ZTA could create competition between residential developments and biohealth campuses in C/R zones that could reduce the future supply of affordable housing units near transit and employment hubs. Since Black and Latinx residents experience higher rates of housing burden, the displacement of potential affordable housing units could worsen racial and social disparities in housing in the County.

RECOMMENDED AMENDMENTS

The County's Racial Equity and Social Justice Act requires OLO to consider whether recommended amendments to bills aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.³⁷ OLO finds that ZTA 21-09 could widen racial and ethnic inequities because its provisions could exacerbate racial inequities in business revenue and employment in the biohealth sector. Should the Council seek to advance equitable growth in the biohealth industry that reduces racial and social inequities, the following options could be considered and paired with enacting ZTA 21-09 that would require and/or encourage biohealth firms seeking to create or expand biohealth campuses to:

- **Enter into Community Benefit Agreements.**³⁸ A community benefit agreement would reflect the commitment that biohealth firms make to the public as a condition of having their applications to develop biohealth campuses approved. Community benefit agreements can commit to providing affordable housing, workforce training, job placement services, or other benefits that are agreed upon with community partners. Community benefit agreements should require biotech firms to report data disaggregated by race, ethnicity and place that describes the impact of their community benefit agreement to the public at large on a regular basis.
- **Invest in Biohealth Workforce Development Opportunities for BIPOC Residents.**³⁹ To ensure growth in the biohealth industry benefits a cross-section of communities and reduces disparities in the biohealth workforce by race and ethnicity, biohealth firms seeking biohealth campuses could be encouraged to enter into agreements to provide biohealth workforce development opportunities for underrepresented persons of color. Biohealth firms investing in biohealth workforce development programs should be encouraged to partner with community members, education institutions and non-profit partners to design and deliver programs. Biohealth firms could also be required to report outcomes disaggregated by race, ethnicity, and place to the public.
- **Invest in Underrepresented BIPOC Small Businesses.**⁴⁰ To ensure that BIPOC businesses benefit from expansion of biotech business opportunities, biotech firms seeking biotech campuses could be encouraged or required to: (a) partner with underrepresented BIPOC businesses to increase the success of such firms in the biohealth industry; and (b) provide opportunities to BIPOC businesses that offer spillover benefits for industry expansion. For example, biohealth firms could be encouraged to use BIPOC businesses as vendors to deliver goods and services on biohealth campuses and/or to employees. Biohealth firms could also be required to report outcomes disaggregated by race, ethnicity, and place to the public.
- **Locate Biohealth Campuses in BIPOC Communities.**⁴¹ To begin to correct for the land use inequities that fostered the mismatch between BIPOC communities and employment centers, biohealth firms developing biohealth campuses could be required or encouraged to locate their campuses in these areas. If required, ZTA 21-09 could be amended to only allow biohealth campuses in Opportunity Zones. If encouraged, the County could consider offering incentives to biohealth firms to locate their campuses in BIPOC communities. Locating biohealth campuses in BIPOC

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communities could help bring BIPOC communities into the economic mainstream, helping to ensure that Black, Latinx and Indigenous residents benefit from growth in the biohealth industry. Locating biohealth campuses in BIPOC communities could also foster economic development in such communities and help to launch activity centers: “(S)tarting points for public, private, and civic sector leaders – in partnership with communities – to leverage transformative placemaking investments that increase public access to public and private amenities, promote innovation and productivity, efficiently use infrastructure, and more equitably spread the economic, health, and social benefits of proximity.”⁴²

CAVEATS

Two caveats to this racial equity and social justice impact statement should be noted. First, predicting the impact of legislation on racial equity and social justice is a challenging, analytical endeavor due to data limitations, uncertainty, and other factors. Second, this RESJ impact statement is intended to inform the legislative process rather than determine whether the Council should enact legislation. Thus, any conclusion made in this statement does not represent OLO's endorsement of, or objection to, the bill under consideration.

¹ Definition of racial equity and social justice adopted from “Applying a Racial Equity Lens into Federal Nutrition Programs” by Marlysa Gamblin, et.al. Bread for the World, and from Racial Equity Tools <https://www.racialequitytools.org/glossary>

² Ibid

³ Red Policy Areas, also known as Metro Station Areas Policy Areas (MSPA), are one of the four areas within the Transportation Policy Area. MSPAs are characterized by high-density development and the availability of premium transit service (Metrorail, MARC). Montgomery County Planning Department

⁴ Opportunity Zones are designed to spur economic development by providing tax benefits to investors. They are part of a federal tax code that allow investors to roll capital gains into Opportunity Funds that invest in businesses, equipment, and real property in select census tracts. Montgomery County Planning Department: Montgomery County Economic Indicators Briefing 2019.

⁵ Bus Rapid Transit is a high-quality and high-capacity bus-based transit system that delivers fast, comfortable, reliable and cost-effective transit service. Montgomery County Planning Department, Transportation.

⁶ Tyler Quinn-Smith, Zoning for Equity: Raising All Boats. Smart Growth America

⁷ Lance Freeman, Build Race Equity Into Zoning Decisions, Brookings Institution

⁸ Tyler Quinn-Smith

⁹ Lance Freeman

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¹¹ Kathleen McCormick, Planning for Social Equity, Land Lines, Winter 2017

¹² Tony Arnold, “Land-Use Regulation: What’s It Worth Anyway?” Urban Institute

¹³ Ibid

¹⁴ Ibid

¹⁵ Leah Headey and Lily Posey, Racial Inequities in Montgomery County, 2011-15, Urban Institute, https://www.urban.org/sites/default/files/publication/95386/2017.12.28_montgomery_county_finalized_7.pdf

¹⁶ National Equity Atlas, <https://nationalequityatlas.org/indicators/Unemployment#/?geo=04000000000024031>

¹⁷ Ibid

¹⁸ Ibid

¹⁹ Ibid

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- ²⁴ Jupiter Independent Research Group, Racial Equity Profile Montgomery County, OLO Report 2019-7, Office of Legislative Oversight, July 15, 2019
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- ²⁷ W.M. Byrd and L.A. Clayton, Race, medicine, and health care in the United States: a historical survey, 2001, National Medical Association. <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2593958/>
- ²⁸ Ibid
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- ³⁰ Richard Fry, Brian Kennedy, and Cary Funk, STEM Jobs See Uneven Progress in Increasing Gender, Racial, and Ethnic Diversity, Pew Research Center, April 1, 2021
- ³¹ Coqual/Bio: Measuring Diversity in the Biotech Industry: Advancing Equity and Inclusion, Second Annual Report, July 2021
- ³² TEconomy/Bio: Investment, Innovation, and Job Creation is Growing in U.S. Bioscience Industry, 2018
- ³³ Biomedical Salary in Maryland, ZipRecruiter, November 2021. <https://www.ziprecruiter.com/Salaries/Biomedical-Salary--in-Maryland>
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- ³⁶ Genetic Engineering and Biotechnology News
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- ³⁹ Andre Perry and Carl Romer, To Expand the Economy Invest in Black Businesses, Brookings, December 2020; Sarah Treuhart and Victor Rubin, Economic Inclusion: Advancing an Equity Driven Growth Model, Big Ideas for Jobs, Policy Link, 2012; and Donnie Charleston, “How States Can Support Shared Prosperity by Promoting Quality Jobs,” Shared Prosperity Partnership, Urban Institute, March 2020
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