

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

Office of Legislative Oversight

## ZTA 22-04: COMMERCIAL USES – LIGHT VEHICLE SALES AND RENTAL (INDOOR)

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates that ZTA 22-04 could sustain or marginally widen racial and social inequities in the County as its benefits would disproportionately accrue to White business owners. OLO, however, anticipates a negligible impact of this ZTA on racial equity and social justice (RESJ) as there are a limited number of properties readily available for the new uses authorized with this ZTA. To advance RESJ in entrepreneurship, OLO proposes additional policies for Council consideration.

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### 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, leadership, and power 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 22-04

ZTA 22-04 will allow Light Vehicle Sales and Rental (Indoor) in the Neighborhood Retail (NR) Zone as a Limited Use.<sup>3</sup> Currently, Light Vehicle Sales and Rental (Indoor) is not permitted in the NR Zone and the proposed ZTA would allow the use subject to the provisions of Section 3.5.12.B.2.a.

The Zoning Code defines Light Vehicle Sales and Rental (Indoor) as “a building for the indoor sales, rental, or leasing of light equipment and vehicles, including vehicles for hauling and moving.” Light Vehicle Sales and Rental (Indoor) includes the repair of vehicles and equipment for sale, rent, or lease as an incidental use if it is conducted indoors. It also includes indoor storage of vehicles for sale, and an accessory car wash for vehicles and equipment for sale, rent, or lease.<sup>4</sup>

ZTA 22-04 was introduced on June 14, 2022.

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### INEQUITY IN ENTREPRENEURSHIP AND ECONOMIC OPPORTUNITY

According to a 2022 report published by Alliance for Entrepreneurial Equity (AEE),<sup>5</sup> only two percent of businesses in the U.S., or 134,600, are Black-owned, even though 13 percent of the country's population is Black. If business ownership was proportionate to population, there would be 872,200 Black-owned businesses, according to a report by AEE. Similarly, only six percent of businesses are Latinx-owned, or 346,800. But, if the numbers were proportionate, there would be 1.2 million, Latinx business owners.<sup>6</sup> Latinx are currently 18 percent of the country's population<sup>7</sup>.

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Prior research shows that a variety of factors adversely impact people of color as they consider starting and growing businesses, including disparities in educational attainment, personal wealth, access to mainstream capital, and exposure to entrepreneurship in family and social networks. For example, a study by the Small Business Administration found that Black- and Latinx-owned businesses are more likely to have been denied credit, to receive only a portion of funding requested, or to refrain from applying for needed funding out of fear their applications will be rejected. Other factors that explain the disparity in capital include discriminatory lending practices, less wealth to leverage (e.g. home equity), recent financial challenges, and lower credit scores.<sup>8</sup>

Available local data also show evidence of disparities in entrepreneurship by race and ethnicity, particularly with respect to revenue. For example, while the 2012 Survey of Business Owners indicates that Black and Latinx firms each accounted for 15 percent of local firms in Montgomery County and Asian firms accounted for 14 percent of County firms, Asian firms accounted for 4 percent of local business revenue, Black firms accounted for 1.7 percent of local business revenue, and Latinx firms accounted for 1.5 percent of local business revenue.<sup>9</sup>

Data from Montgomery County's Minority, Female, and Disabled-Owned Business Program also demonstrates an under representation of minority-owned businesses. Whereas Black, Indigenous and Other Persons of Color (BIPOC) accounted for 55 percent of County residents, BIPOC-owned firms accounted for 18 percent of procurement contracts for County Government in FY20.<sup>10</sup> More specifically:

- Latinx-owned firms accounted for 7.5 percent of contracts;
- African American-owned firms accounted for 6.5 percent of contracts;
- Asian-owned firms accounted for 3.6 percent of contracts; and
- Native American-owned firms accounted for less than one-tenth of one percent of contracts.<sup>11</sup>

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## ANTICIPATED RESJ IMPACTS

Given local disparities in entrepreneurship and business revenue by race and ethnicity, OLO anticipates ZTA 22-04 will primarily benefit White residents. In turn, OLO anticipates ZTA 22-04 could marginally widen racial and social inequities in the County relative to entrepreneurship and business revenue. OLO, however, anticipates a negligible to small impact of this ZTA on RESJ in the County as there are a limited number of properties readily available for the new uses authorized with this ZTA.

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## RECOMMENDED AMENDMENTS

The 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.<sup>12</sup> OLO anticipates that ZTA 22-04 could sustain or marginally widen racial and social inequities as its benefits would disproportionately accrue to White business owners. Should the Council consider enacting parallel legislation with this ZTA aimed at increasing business opportunities for BIPOC residents in the County, two sets of policy proposals could be considered:<sup>13</sup>

1. **Focus on increasing County Government contracting opportunities for BIPOC-owned businesses** by enacting legislation to advance the following set of best practices recommended by OLO in its RESJ statement for Bill 29-21.<sup>14</sup>
  - Use “best value contracting” to require prime bidders to propose plans for maximizing utilization of Minority Business Enterprises (MBE),

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- Streamline MBE certification processes,
- Break up large contracts into smaller subcontracts to encourage more MBE applicants,
- Help MBE subcontractors grow into prime contractors, and
- Remove onerous financial burdens for small businesses that may disproportionately impact MBE's.

2. **Prioritize narrowing the diversity gap in entrepreneurship overall** by enacting legislation to advance best practice in investing and developing strategies for entrepreneur opportunities for BIPOC residents through business accelerators and mentorship opportunities.

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### 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.

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<sup>1</sup> 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>

<sup>2</sup> Ibid

<sup>3</sup> The Montgomery County Zoning Ordinance describes the intent of the Neighborhood Retail (NR) zone, which is one of the Employment Zones, as follows:

- The NR zone is intended for commercial areas that have a neighborhood orientation and which supply necessities usually requiring frequent purchasing and convenient automobile access. The NR zone addresses development opportunities within primarily residential areas with few alternative mobility options and without a critical mass of density needed for pedestrian-oriented commercial uses.
- The NR zone allows flexibility in building, circulation, and parking lot layout.

Of note, the Planning Department staff review and analysis of the proposed ZTA indicates that although there are instances of small NR zoned properties for convenience stores or other small-scale retail, much of the NR zone across the County is assigned for mid-sized shopping areas over 10 acres in size that are grocery store anchored and often include additional in-line retail and standalone retail with drive-throughs.

<sup>4</sup> Chapter 59. Zoning Code Montgomery County Zoning Ordinance. 2014. *Light Vehicle Sales and Rental (Indoor)*

<sup>5</sup> Horwitz, Gabe, Curran McSwigan. Don Cravins, Jr. 2022. Alliance for Entrepreneurial Equity (AEE). *Entrepreneurial Inequity in America*. March 10. <https://www.aeequity.org/product/entrepreneurial-inequity-in-america>

<sup>6</sup> Ibid.

<sup>7</sup> World Population Review. 2022. *Hispanic population by state 2022*. <https://worldpopulationreview.com/state-rankings/hispanic-population-by-state>

<sup>8</sup> Office of Legislative Oversight (OLO). 2021. RESJ impact statement ZTA 21-08. 2021. November 16. [Racial Equity and Social Justice Impact Statement \(montgomerycountymd.gov\)](https://www.montgomerycountymd.gov/OLR/Pages/Racial-Equity-and-Social-Justice-Impact-Statement.aspx)

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<sup>9</sup> Jupiter Independent Research Group, Racial Equity Profile Montgomery County, OLO Report 2019-7, Office of Legislative Oversight, July 15, 2019. *As cited in OLO's RESJ statement for ZTA 21-08*

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190611/20190611\\_3.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2019/20190611/20190611_3.pdf)

<sup>10</sup> Minority, Female, and Disabled-Owned Business Program, FY20 Annual Report, Office of Procurement, Montgomery County, Maryland. As cited in OLO. RESJ impact statement Bill 29-21, September 13, 2021. [Bill 29-21 Contracts and Procurement – Minority Owned Businesses – Sunset Date - Amendments RESJ \(montgomerycountymd.gov\)](#)

<sup>11</sup> Ibid

<sup>12</sup> Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council

<sup>13</sup> Treuhaft, Sarah and Victor Rubin, Economic Inclusion: Advancing an Equity-Driven Growth Model, PolicyLink, as cited in OLO. RESJ impact statement Bill 29-21, September 13, 2021.

[https://www.policylink.org/sites/default/files/4A\\_TREUHAFT\\_RUBIN\\_POLICYLINK\\_REPORT\\_SECTORAL\\_INDUSTRY.PDF](https://www.policylink.org/sites/default/files/4A_TREUHAFT_RUBIN_POLICYLINK_REPORT_SECTORAL_INDUSTRY.PDF)

<sup>14</sup> Ibid