

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

Office of Legislative Oversight

ZTA 23-02: REGULATORY APPROVALS - MIXED-USE HOUSING COMMUNITY

SUMMARY

If Zoning Text Amendment 23-02 increases the supply of affordable housing in the County, the Office of Legislative Oversight (OLO) anticipates that it will favorably impact racial equity and social justice (RESJ) in the County. OLO, however, cannot discern whether this ZTA will increase the supply of affordable housing in the County.

PURPOSE OF RESJ 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, power, and leadership 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 23-02

The purpose of ZTA 23-02, Regulatory Approvals - Mixed-Use Housing Community, is to increase the number of affordable housing units in the County by expediting the regulatory review process for eligible multi-unit housing communities that include at least two commercial uses. Toward this end, this ZTA would change the Zoning Ordinance as follows:³

- Create a new use category for Mixed-Use Housing Community, under Division 3.3. Residential Uses.
- Create a new regulatory review category, Mixed-Use Housing Community under Section 7.3.7, amending Division 59-7.3.
- Define a Mixed-Use Housing Community as:
 - At least 150,000 square feet of new commercial and residential floor area containing Multi-Unit Living under Section 3.3.1.E.
 - At least two commercial uses allowed in the underlying zone with 30 or more dwelling units and either:
 - 50 percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent; or
 - 35 percent of the units must satisfy the requirements for an MPDU in Chapter 25A or a DHCA equivalent with 15 percent of the total units affordable to a household with a household income of 30 percent of Area Median Income (AMI) or below for at least 30 years.
- Reduce the regulatory review process from 120 days to 60 days.
- Allow mixed-use housing communities in all zones where multi-unit dwellings are currently allowed.
- Allow a waiver of the parking requirement for a mixed-use housing community if it is located within ½ mile of a red policy area or a planned or existing Bus Rapid Transit route.

ZTA 23-02 was introduced on March 28, 2023. Companion Subdivision Regulation Amendment (SRA) 23-01: Administrative Subdivision-Mixed Use Housing was also introduced on March 28, 2023.

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HOUSING SECURITY AND RACIAL EQUITY

Historically, government policies have restricted the supply of affordable housing.⁴ These include exclusionary zoning, restrictive covenants, redlining, New Deal housing policies, the Federal Housing Administration, and the inequitable implementation of the G.I. Bill. Black, Indigenous, and other People of Color (BIPOC) constituents also continue to experience discrimination in housing due to predatory lending practices and bias in the rental and real estate markets.⁵ Collectively, these historical and contemporary racial inequities have fostered two disparate housing systems where:⁶

- Government subsidized White-only enclaves enabled many White families to build home equity and inter-generational wealth; and
- Underinvested BIPOC communities where constituents often paid more for lesser housing and fewer amenities were in turn denied opportunities to build family wealth.

These racial inequities have also fostered racial disparities in wealth. For example, in 2014, White households in the Metropolitan Washington Region had 81 times (\$284,000) the median net wealth of the typical Black household (\$3,500) and 21 times the wealth of the typical Latinx household (\$13,000).⁷ Moreover, these racial inequities have fostered racial disparities in housing security in Montgomery County where:

- A majority of Latinx and Black renters (63 percent and 57 percent respectively) were cost-burdened (expending 30 percent or more of income on rent) in 2021, compared to 45 percent of White renters and 38 percent of Asian renters.⁸
- Among COVID-19 rent relief clients that disclosed their race and ethnicity, 51 percent were Black and 56 percent were Latinx compared to Black and Latinx persons each accounting for 20 percent of the County's population.^{9,10}
- Among single adults experiencing homelessness in 2021, 56 percent were Black, 33 percent were White, 5 percent were Native American, and 4 percent were Asian or Pacific Islander.¹¹
- Among families experiencing homelessness, in 2021, 84 percent were Black, 12 percent were White, and 3 percent were Native American.¹²

Affordable Housing Supply and Demand. A review of existing data demonstrates that the demand for affordable housing, especially for the lowest income households, exceeds the supply of affordable housing units in the County. For example, the Montgomery County Planning Department's Housing Needs Assessment Analysis finds that:¹³

- Between 2014 and 2018, the housing supply tightened rapidly for households earning less than 65 percent of Area Median Income (AMI). In 2014 there was a 5,700-unit surplus of housing at 65 percent AMI that receded to 800 units in 2018.
- Every submarket in Montgomery County faced a supply gap for households earning up to 60 percent AMI.
- Submarkets with relatively affordable stock have also faced the most significant pricing pressure, leading to the loss of affordably priced units.

Montgomery County households with lowest incomes also experience highest rates of housing insecurity. For example, more than 20,000 households earning under \$31,000 per year are severely house burdened in 2020 because they spend more than half their incomes on rent.¹⁴ Additionally, 80 percent of County households earning up to \$70,000 per year were housing cost burdened in 2020 because they expended more than 30 percent of their income on housing.¹⁵

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Best Practices for Expanding Affordable Rental Housing. Public funding is essential to the building of affordable housing. Partners for Dignity and Rights, an organization focused on building a broad movement for economic and social rights, identifies three stages of rental housing development that all rely on funding:¹⁶

- Property acquisition and pre-development that includes site control and calculating the costs and financing for all building stages;
- Construction/Rehabilitation that relies on equity (cash) and debt; and
- Operation that includes paying off loans, maintenance, repair, and creating “reserves” for emergencies.

Partners for Dignity and Rights further note that operational subsidies are key to developing affordable housing, particularly for households with incomes that are less than 30 percent of AMI.¹⁷ To increase the supply of affordable housing units, they recommend the expansion of direct operating subsidies by all levels of government, the expansion of local programs that provide public equity that can reduce the debt that gets carried into operating costs, and other public sector funding to reduce the costs of debt (e.g., government loan guarantees).

The Poverty and Race Research Action Council (PRRAC)¹⁸ and the Grounded Solutions Network also offer several promising practices for increasing the supply of affordable housing based on their reviews of the literature.¹⁹ Like Partners for Dignity and Rights, they also recommend that local governments focus on funding to increase the supply of affordable housing especially for low-and very low-income households. Specific strategies recommended include:

- Acquiring and rehabilitating “at-risk” housing stock;
- Using publicly owned land to facilitate affordable housing; and
- Developing a housing trust fund for public investments in affordable housing.

Additionally, PRRAC and the Ground Solutions Network identify three additional promising practices for increasing affordable housing opportunities for renters:

- Provide for expanded tenants’ rights and services;
- Expand financial assistance programs for renters; and
- Enact tenant option to purchase laws.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-02 on racial equity and social justice, OLO considers two related questions:

- Who are the primary beneficiaries of this bill?
- What racial and social inequities could passage of this bill weaken or strengthen

In response to the first question, OLO considered the demographics of households needing affordable housing. Given higher levels of housing insecurity experienced among Latinx and Black households, both households would be the primary beneficiaries of ZTA 23-02 if it resulted in the production of additional affordable housing units. Yet, OLO cannot determine whether reducing the administrative review time from 120 days to 60 days, in and of itself, would be a sufficient enough incentive to increase the production of affordable housing in the County.

In response to the second question, OLO considered the potential impact of ZTA 23-02 on housing disparities in the County. If the ZTA increased the number of affordable housing units in the County, it could narrow racial and social inequities in housing. However, OLO cannot discern whether this ZTA will increase the supply of affordable housing in the County.

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Taken together, OLO finds that if ZTA 23-02 increases the number of affordable housing units in the County, it will favorably impact RESJ in the County. OLO, however, cannot discern whether ZTA 23-02 will increase the number of affordable housing units in the County.

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.²⁰ OLO finds the RESJ impact of ZTA 23-02 would be favorable if it increased the number of affordable housing units available in the County. As such, OLO does not offer any recommended amendments for this ZTA.

CAVEATS

Two caveats to this RESJ 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.

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 Memorandum from Livhu Ndou to Montgomery County Council. March 28, 2023
https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2023/20230328/20230328_4A-4B.pdf

⁴ Richard Rothstein, The Color of Law: A Forgotten History of How Government Segregated America, 2017

⁵ Keeanga-Yamahatta Taylor, Race for Profit: How Banks and the Real Estate Industry Undermine Black Homeownership, 2019; Urban Institute, Exposing Housing Discrimination, <https://www.urban.org/features/exposing-housing-discrimination>

⁶ Melvin Oliver and Thomas Shapiro, "Disrupting the Racial Wealth Gap" Sociology for the Public, May 7, 2019; Kilolo Kijakazi, et. al, The Color of Wealth in the Nation's Capital, November 2016.
https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital_8.pdf

⁷ The Color of Wealth, figure 6, Comparison of White and Non-White Household Median Net Worth (dollars).

⁸ Table S0201, Selected Population Profile in the United States, 2021 American Community Survey 1-Year Estimates, Census Bureau.

⁹ DHHS Pulse Report: COVID-19 Impact and Recovery, Montgomery County Department of Health and Human Services, March 22, 2023. <https://www.montgomerycountymd.gov/covid19/Resources/Files/pulse/DHHS-Pulse-230322.pdf>

¹⁰ United States Census. Quick Facts, Montgomery County, Maryland Population Estimates, July 1, 2022 (V2021)
<https://www.census.gov/quickfacts/montgomerycountymaryland>

¹¹ "Point in Time Survey," Montgomery County Interagency Commission on Homelessness, Accessed December 5, 2022.
<https://www.montgomerycountymd.gov/homelessness/numbers.html>

¹² Ibid

¹³ Montgomery County Planning Department, 2020. Montgomery County Housing Needs Assessment, July.
<https://montgomeryplanning.org/wp-content/uploads/2020/07/MoCo-HNA-July-2020.pdf>

¹⁴ Montgomery County Department of Housing and Community Affairs. 2021. Annual Report for Fiscal Year 2020 and 2021, July 1, 2019 – June 30, 2021. <https://www.montgomerycountymd.gov/DHCA/reports.html>

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¹⁵ Ibid

¹⁶ Peter Sabonis and Zachary Murray, Partners for Dignity and Rights, Creating Community Controlled, Deeply Affordable Housing: A Resource Toolkit for Community Activists and Allied Community-Based Housing Developers, Spring 2021
<https://dignityandrights.org/wp-content/uploads/2021/05/PDR-Housing-Report-Final-R2.pdf>

¹⁷ Ibid

¹⁸ The Poverty & Race Research Action Council (PRRAC) is a civil rights law and policy organization based in Washington, D.C. Our mission is to promote research-based advocacy strategies to address structural inequality and disrupt the systems that disadvantage low-income people of color. PRRAC was founded in 1989-1990.
<https://www.prrac.org/vision/>

¹⁹ Grounded Solutions Network supports strong communities from the ground up. The Organization works nationally, connecting local experts with the networks, knowledge, and support they need. Advocates and help to promote affordable housing solutions that lasts for generation. <https://groundedsolutions.org/about-us>

²⁰ Bill 27-19, Administration – Human Rights – Office of Racial Equity and Social Justice – Racial Equity and Social Justice Advisory Committee – Established, Montgomery County Council
<https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/RacialEquity/Bill27-19.pdf>