

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

Office of Legislative Oversight

## ZTA 23-06: FENTON VILLAGE (FV) OVERLAY ZONE – SITE PLAN

### SUMMARY

The Office of Legislative Oversight (OLO) cannot discern the anticipated impact of ZTA 23-06, Fenton Village (FV) Overlay Zone-Site Plan on racial equity and social justice (RESJ) in the County with available data.

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### 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.<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 23-06

The purpose of ZTA 23-06 is to remove the site plan requirement for certain projects in the Fenton Village (FV) Overlay Zone exempting minor developments from site plan approval. This exemption will include any addition, reconstruction, or exterior alteration that is one-story, up to a maximum of 15 feet, and/or that changes the gross floor area by less than 1,000 square feet. The minimum setbacks in the underlying zone will also need to be met.<sup>3</sup>

ZTA 23-06 was introduced on October 17, 2023.

Of note, this RESJ impact statement (RESJIS) builds on the RESJIS for Expedited Bill 29-21, Contracts and Procurement – Minority-Owned Businesses – Sunset Date – Amendments, published on September 13, 2021,<sup>4</sup> and the RESJIS for Bill 38-21, Economic Development Fund – Local Business Child Care Grant Program – Established, published on November 15, 2021.<sup>5</sup> Refer to these RESJIS for background on entrepreneurship, economic development, and racial equity.

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### COMMERCIAL REAL ESTATE AND RACIAL EQUITY

Nonresidential commercial real estate generated \$512 billion in revenue in 2020.<sup>6</sup> Yet, Black, Indigenous, and other People of Color (BIPOC) investors, especially Black investors, are under-represented among commercial property owners as they often have less wealth needed to start businesses than White investors. As noted by the Brookings Institute:<sup>7</sup>

- Only three percent of Black households own nonresidential commercial real estate, compared to eight percent of White households.
- Among households that own commercial real estate, the average value of the real estate owned by White households was \$34,000 compared to \$3,600 for Black households.

Racial disparities in commercial real estate ownership are rooted in the legacy of racism. As noted by the Federal Reserve Bank of Boston:<sup>8</sup>

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“(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 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 also adversely impact BIPOC entrepreneurs. These include racial disparities in educational attainment, personal wealth, access to mainstream capital, and exposure to entrepreneurship in family and social networks.<sup>9</sup> 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 their applications will be rejected.<sup>10</sup> Further, many businesses owned by Black and Latinx Americans still lack access to capital and technical assistance needed to qualify for commercial loans.<sup>11</sup>

### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-06 on racial equity and social justice, OLO considers two related questions:

**Figure 1: Silver Spring Downtown and Adjacent Communities Plan<sup>12</sup>**



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

OLO anticipates that building owners, contractors, developers, and the Planning Department, will benefit from ZTA 23-06 as it reduces the costs and time required to process minor developments exempted in Fenton Village.

OLO, however, cannot discern the anticipated RESJ impact of ZTA 23-06 as demographic data regarding who owns nonresidential commercial buildings in Fenton Village that would benefit from this ZTA are not available. Thus, the anticipated impact of ZTA 23-06 on RESJ in the County is indeterminate.

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### RECOMMENDED AMENDMENTS

Bill 44-20 amending the County's Racial Equity and Social Justice Act<sup>13</sup> requires OLO to consider whether recommended amendments aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements for zoning text amendments. OLO cannot discern the anticipated impact of ZTA 23-06 on RESJ in the County with available data. As such, OLO does not offer recommended amendments.

### 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.

<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> Ndou, Livhu. Montgomery County Council, Agenda Item #3A, October 17, 2023 [https://montgomerycountymd.granicus.com/Viewer.php?view\\_id=169&event\\_id=15931&meta\\_id=165992](https://montgomerycountymd.granicus.com/Viewer.php?view_id=169&event_id=15931&meta_id=165992)

<sup>4</sup> RESJIS for Expedited Bill 29-21, Contracts and Procurement – Minority-Owned Businesses – Sunset Date – Amendments, Montgomery County Office of Legislative Oversight, September 13, 2021 <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill29-21RESJ.pdf>

<sup>5</sup> RESJIS for Bill 38-21, Economic Development Fund – Local Business Child Care Grant Program – Established, Montgomery County Office of Legislative Oversight, November 15, 2021 <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2021/Bill38-21.pdf>

<sup>6</sup> Loh, Tracy and Perry, Andre. 2022. Commercial Real Estate Has an Equity Problem, City Lab Economy-Bloomberg. July 13. [https://www.bloomberg.com/news/articles/2022-07-13/commercial-real-estate-has-an-equity-problem?utm\\_medium=social&utm\\_content=citylab&utm\\_source=twitter&utm\\_campaign=socialflow-organic](https://www.bloomberg.com/news/articles/2022-07-13/commercial-real-estate-has-an-equity-problem?utm_medium=social&utm_content=citylab&utm_source=twitter&utm_campaign=socialflow-organic)

<sup>7</sup> Rothwell, Jonathan, Tracy Hadden Loh, and Perry, Andre M: 2022. The Devaluation of Assets in Black Neighborhoods: The Case of Commercial Property. Brookings. July 11. <https://www.brookings.edu/articles/the-devaluation-of-assets-in-black-neighborhoods-the-case-of-commercial-property/>

<sup>8</sup> Field Note, 2020-2, December 2020 – Turning the Floodlights on the Root Causes of Today's Racialized Economic Disparities: Community Development Work at the Boston Fed Post-2020, Regional and Community Outreach

<sup>9</sup> Stephen Roblin, COVID-19 Recovery Outlook: Minority-Owned Businesses, Office of Legislative Oversight, September 21, 2020

<sup>10</sup> Alicia Robb, "Minority-Owned Employer Businesses and their Credit Market Experiences in 2017," Office of Advocacy U.S. Small Business Administration, July 22, 2020 cited by Stephen Roblin

<sup>11</sup> Osemwengie, Prince, Hanna Love, and Tracy Hadden Loh. 2023. Five ways city leaders can support Black entrepreneurs' efforts to 'buy back the block', Brookings. January 9. <https://www.brookings.edu/articles/five-ways-city-leaders-can-support-black-entrepreneurs-efforts-to-buy-back-the-block/>

<sup>12</sup> Montgomery Planning. 2022. Approved and adopted Silver Spring Downtown and Adjacent Communities Plan. June. <https://montgomeryplanning.org/wp-content/uploads/2022/11/Silver-Spring-DAC-Approved-Adopted-web.pdf>

<sup>13</sup> Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments, Montgomery County, Maryland, December 1, 2020. [https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2682\\_1\\_12149\\_Bill\\_44-20\\_Signed\\_20201211.pdf](https://apps.montgomerycountymd.gov/ccllms/DownloadFilePage?FileName=2682_1_12149_Bill_44-20_Signed_20201211.pdf)