

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

Office of Legislative Oversight

ZTA 23-07: BETHESDA OVERLAY ZONE - PARK IMPROVEMENT PAYMENTS AND DOWNTOWN SILVER SPRING OVERLAY ZONE - CIVIC IMPROVEMENT FUNDS

SUMMARY

The Office of Legislative Oversight (OLO) cannot discern the anticipated impact of ZTA 23-07, Bethesda Overlay Zone – Park Improvement Payments and Downtown Silver Spring Overlay Zone – Civic Improvement Funds – on racial equity and social justice (RESJ) in the County with available data.

PURPOSE OF RESJ STATEMENTS

The purpose of RESJ impact statements (RESJIS) 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 23-07

The purpose of ZTA 23-07 is to modify biennial adjustments to the Bethesda Overlay Zone’s Park Improvement Payment and the Downtown Silver Spring Overlay Zone’s Civic Improvement Fund to mirror changes in how impact taxes are calculated for transportation and public-school improvements codified by Expedited Bill 25-23 that became effective June 30, 2023.³

ZTA 23-07 would calculate changes in park improvement payments and civic improvement fund taxes based on a two-year change in construction costs rather than combine the annual change in costs for a two-year period. ZTA 23-07 would also cap biennial increases to a 20 percent inflation cap for both development taxes and require that any biennial tax rate adjustments exceeding 20 percent be carried over and added to the next biennial adjustment. ZTA 23-07 also amends the density provisions of the Bethesda Overlay Zone and the Downtown Silver Spring Overlay Zone.

ZTA 23-07 was introduced on October 24, 2023. Of note, this RESJIS builds on two RESJIS’s for:

- Expedited Bill 25-23, Taxation - Development Impact Taxes for Transportation and Public-School Improvements - Amendments, published on June 8, 2023;⁴ and
- ZTA 23-06, Fenton Village Overlay Zone, published on November 1, 2023.⁵

Refer to these RESJIS’s for background on commercial real estate, capital projects, and racial equity.

RESJ Impact Statement

Zoning Text Amendment 23-07

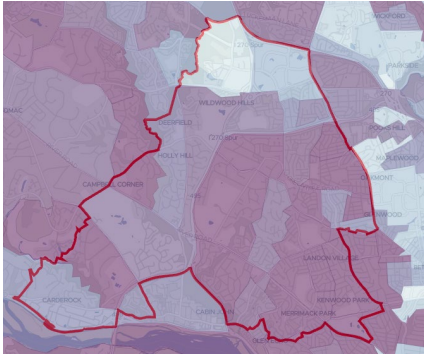
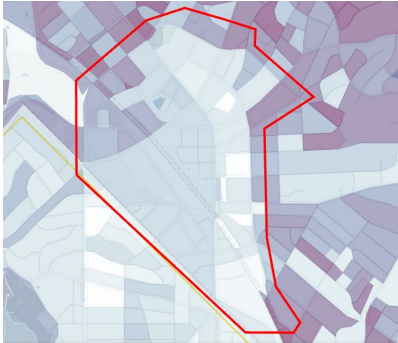
ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-07 on racial equity and social justice, OLO considers two related questions:

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

Consistent with the RESJIS for Expedited Bill 25-23, OLO anticipates that developers could benefit from the cap in development taxes for park improvements in Bethesda and civic improvement funds for Downtown Silver Spring associated with ZTA 23-07. Available data suggests that developers are disproportionately White. However, the actual benefit of this ZTA to developers and its fiscal impact to the County remains unknown. More specifically, it remains unclear how much developers costs for either park improvement or civic improvement would decrease with this ZTA.

Also unknown is how this ZTA would impact County residents who live, work, or play in these overlay zones. While the racial demographics of those residing in Bethesda and Downtown Silver Spring overlays are known, with White constituents accounting for a majority of residents in Bethesda and a minority of residents in Downtown Silver Spring per the table below, the racial demographics of people who work and enjoy free time in these communities are unknown. As such, OLO cannot discern the anticipated impact of ZTA 23-07 on RESJ in the County with available data.

	BETHESDA ⁶ 	DOWNTOWN SILVER SPRING⁷ 
Race	2021 Population: 7,412 ^{8*}	2021 Population: 66,294^{9**}
White	70.1%	41.1%
Black	4.69%	25.8%
Latinx	9.03%	9.5%
Asian	11.3%	5.8%
Two or more races	4.37%	17.6%

Source: ^{*}Data USA 2021 ^{**}Citydata.com (unofficial)

RECOMMENDED AMENDMENTS

Bill 44-20 amending the County’s Racial Equity and Social Justice Act¹⁰ 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 23-07 on RESJ in the County with available data. As such, OLO does not offer recommended amendments.

RESJ Impact Statement

Zoning Text Amendment 23-07

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.

CONTRIBUTIONS

OLO staffers Elsabett Tesfaye, Performance Management and Data Analyst, and Elaine Bonner-Tompkins, Senior Legislative Analyst, drafted this RESJ impact statement.

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 RESJIS for Bill 25-23E, Taxation - Development Impact Taxes for Transportation and Public School Improvements – Amendments, Montgomery County Office of Legislative Oversight, June 8, 2023.

<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill25-23E.pdf>

⁴ Racial Equity and Social Justice (RESJ) Impact Statement. Office of Legislative Oversight-RESJIS Expedited Bill 25-23 - Taxation – Development Impact Taxes for Transportation and Public School Improvements – Amendments. June 8, 2023

<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill25-23E.pdf>

⁵ Racial Equity and Social Justice (RESJ) Impact Statement. Office of Legislative Oversight-RESJIS ZTA 23-06 – Fenton Overlay Zone – Site Plan. November 1, 2023 <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/ZTA/2023/ZTA23-06.pdf>

⁶ Data USA. 2023. Demographics, Bethesda, Maryland

<https://datausa.io/profile/geo/bethesda-md/>

⁷ City Data.com.2023. Downtown Silver Spring (Downtown) neighborhood in Silver Spring, Maryland (MD), 20910 detailed profile.

<https://www.city-data.com/neighborhood/Downtown-Silver-Spring-Silver-Spring-MD.html>

⁸ Data USA. 2023.

⁹ City Data.com.2023.

¹⁰ 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