

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

Office of Legislative Oversight

## ZTA 23-09: FARMING - INCIDENTAL OUTDOOR STAYS

### SUMMARY

The Office of Legislative Oversight anticipates Zoning Text Amendment (ZTA) 23-09: Farming - Incidental Outdoor Stays, will have little to no impact on racial equity and social justice (RESJ) in the County.

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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 23-09

The purpose of ZTA 23-09 is to amend the Zoning Ordinance to allow incidental overnight stays on farms with agritourism businesses. Agritourism refers to commercial enterprises that link agricultural production and/or processing with tourism to attract visitors to farms and other agricultural businesses for the purpose of entertaining or educating them while generating income for the farm/business owner.<sup>3</sup> Examples of agritourism activities include farm tours, harvest festivals, bed and breakfast facilities, and petting zoos. Farms that provide agritourism services typically produce agricultural commodities and may provide other goods and services.<sup>4</sup>

Current accessory agricultural education and tourism activities allowed include corn mazes, hayrides, educational tours, classes, and workshops. ZTA 23-09 would expand the allowable list of agritourism activities to include incidental overnight stays on farms but restrict the number of new structures a farmer could add to their land to no more than 10 and the number of days they can be occupied per visitor to a maximum of four. ZTA 23-09 mirrors the recently adopted state legislation<sup>5</sup> that added “incidental outdoor stays” and “camping” to the state’s definition of agritourism.<sup>6</sup>

This RESJ impact statement (RESJIS) builds on the RESJIS for ZTA 23-08, Transferable Development Rights (TDR) – Cemetery, published on December 27, 2023.<sup>7</sup> For background on racial inequities in property ownership in Montgomery County and the Agriculture Reserve, refer to the RESJIS for ZTA 23-08.

ZTA 23-09 was introduced on November 7, 2023.

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### RACIAL INEQUITIES IN THE AGRICULTURE RESERVE AND AGRICULTURE BUSINESSES

Understanding the RESJ impact of ZTA 23-09 requires understanding the local history of racial inequity in land use that has fostered racial disparities in the Agriculture Reserve and agritourism businesses. Indigenous peoples affiliated with the Piscataway Conoy Tribal Nation lived in the area known as Montgomery County when Europeans first colonized the area in the 1600's.<sup>8</sup> In 1688, the earliest colonial land grants began to carve up Indigenous land into large land tracts that formed the spatial basis for a plantation economy reliant upon enslaved African labor that lasted until the Civil War.

Before the Civil War and Post-Emancipation, Black people accounted for about a third of the County's population and White people accounted for the remainder. Despite the challenges faced post-Reconstruction, African Americans developed 40 Black settlements across the County. As observed by Nspiregreen in the Draft Plan of Thrive 2050:<sup>9</sup>

*After the Civil War, African Americans suffered from all forms of discrimination (social, housing, education, employment, commerce, health, etc.). The resulting alienation led to the creation of self-reliant kinship communities in many parts of Montgomery County in the late 19<sup>th</sup> century. A significant part of history of racial injustice and discrimination suffered by African Americans includes the formation and subsequent decline (in some cases, destruction) of kinship communities in the early 20<sup>th</sup> century.*

*Overtime, these communities suffered from a lack of public investment in infrastructure such as new roads, sewer and water, schools, health clinics, and other public amenities and services needed to be viable places to live. Some communities suffered the devastating impacts of urban renewal policies of the 1960's. Others faced pressure to sell their houses or farms to developers for housing subdivisions. These communities declined because an accumulation of racially motivated actions paired with social, political, and economic circumstances. Very few of these communities that survived in some way include Ken-Gar in Kensington, Laytonsville in Silver Spring, River Road in Bethesda, Scotland in Potomac, Stewartown in Gaithersburg, and Tobytown in Travilah.*

The decline in Black settlements in the early 20<sup>th</sup> century occurred due to White suburbanization of the County. Between 1900 and 1960, as the County shifted from rural to suburban, the population grew 11-fold from 30,451 to 340,928 residents.<sup>10</sup> With exclusionary zoning, redlining, racial covenants, and racial steering, almost all the population growth in the County occurred exclusively among White households. Between 1940 and 1960 the White population increased more than four-fold from 74,986 to 327,663 residents while the Black population only increased from 8,926 to 13,265 residents.<sup>11</sup> As such, the Black share of County constituents diminished from a third to only three percent.<sup>12</sup>

Overall, Black people were systemically excluded from benefiting from the County's exponential growth and increasing property values resulting from suburbanization.<sup>13</sup> The legacy of discriminatory policies and land use decisions led to the decline in the Black share of the County's population and reinforced racial segregation. Within this context the Agriculture Reserve was enacted in 1980 and cemented racial segregation as many Black rural communities within it had been depopulated and its zoning requirements prohibit the development of new affordable multi-family housing units. As a result, few Black people benefited as farmers and agrotourism business owners in the Agriculture Reserve, despite Black people historically accounting for a third of the County's population before suburbanization.

Data on farm operators and producers shows that Black, Indigenous and Other People of Color (BIPOC) are under-represented as farm producers and potential agritourism operators in the Agriculture Reserve. Approximately 70 percent of the 93,000-acre Agriculture Reserve is used for farm operations.<sup>14</sup> In 2017, there were 558 farms in the County with a total of 1,026 farm producers.<sup>15</sup>

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Among Montgomery County farm producers, 93 percent were White, 3 percent were Latinx, 3 percent were multiracial, 2 percent were Black, 2 percent were Asian and less than 1 percent were Indigenous.<sup>16</sup> Yet, White people currently account for 42 percent of the County's population, Latinx people account for 20 percent, Black people account for 19 percent, and Asian people account for 15 percent.<sup>17</sup> Thus, White people are over-represented among farm producers and BIPOC are under-represented among farm producers compared to their relative shares of the County's population.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-09 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?

OLO observes the primary beneficiaries of the ZTA are agriculture businesses that may profit from incidental overnight stays. White people accounting for 93 percent of farm producers in the County suggests they are over-represented among agricultural business owners that could potentially benefit from ZTA 23-09.

Yet, the number of local agriculture businesses offering agritourism activities remains unknown as does the number of businesses that would offer incidental overnight stays because of this ZTA. Given the number of farms operating in the County at 558, OLO anticipates the number of farms impacted by ZTA 23-09 would be insufficient to significantly impact racial and social inequities in the County. Thus, OLO anticipates ZTA 23-09 will have little to no impact on existing racial and social inequities in the County.

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### RECOMMENDED AMENDMENTS

Bill 44-20 amending the County's Racial Equity and Social Justice Act 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.<sup>18</sup> OLO anticipates that ZTA 23-09 will have little to no impact on existing disparities in property ownership by race and ethnicity in the County. As such, OLO does not offer recommended amendments.

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### 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.

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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

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<https://www.racialequitytools.org/glossary>

<sup>2</sup> Ibid.

<sup>3</sup> Agritourism – National Agricultural Library, United States Department of Agriculture

<https://www.nal.usda.gov/human-nutrition-and-food-safety/local-foods-and-communities/agritourism#:~:text=Agritourism%20is%20a%20form%20of,%2C%20ranch%2C%20or%20business%20owner.>

<sup>4</sup> Bagi, Faqir. 2014. Economic research service. U.S. Department of Agriculture.

<https://www.ers.usda.gov/amber-waves/2014/october/agritourism-farms-are-more-diverse-than-other-us-farms/>

<sup>5</sup> Chapter 430. Maryland House Bill 558. 2022.

[https://mgaleg.maryland.gov/2022RS/Chapters\\_noln/CH\\_430\\_hb0558t.pdf](https://mgaleg.maryland.gov/2022RS/Chapters_noln/CH_430_hb0558t.pdf)

<sup>6</sup> Herron, Patrick. 2023. Zoning Measure Introduced That Would Allow Overnight Stays on Farms. The MOCO show. November 7

<https://mocoshow.com/2023/11/07/zoning-measure-introduced-that-would-allow-overnight-stays-on-farms/>

<sup>7</sup> OLO RESJ Impact Statement for ZTA 23-08. Office of Legislative Oversight, January 04, 2024

<sup>8</sup> David S. Rothstein, Baltimore and Ohio Railroad, Metropolitan Branch Bridge 9A (Talbot Avenue Bridge), Silver Spring, Maryland – Written Historical and Descriptive Data. Historic American Engineering Record (HAER No. MD-195), National Park Service, U.S. Department of the Interior, 2019

<sup>9</sup> Nspiregreen and Public Engagement Associates. 2022. Thrive Montgomery 2050: Racial Equity and Social Justice Review. September 13.

<https://www.montgomerycountymd.gov/COUNCIL/Resources/Files/2022/RESJ%20Chapter.pdf>

<sup>10</sup> Montgomery History, How Montgomery County Grew in the 1950's, Online Exhibit, May 5, 2021 (Cited in RESJIS for ZTA 23-08)

<https://montgomeryhistory.org/exhibit/how-montgomery-county-grew-in-the-1950s/>

<sup>11</sup> Ibid

<sup>12</sup> Montgomery Planning, Attachment A: Working Draft of the Mapping Segregation Report: Racial Restrictive Covenants, Black Homeownership, and HOLC Loans in the Downcounty Planning Area, December 1, 2022 <https://montgomeryplanning.org/wp-content/uploads/2022/12/Mapping-Segregation-Staff-Report-Attachment-A.pdf>

<sup>13</sup> OLO RESJ Impact Statement for ZTA 23-08.

<sup>14</sup> Montgomery County 2017 Ag Census Fact Sheet. Montgomery County Maryland Government (Cited in RESJIS for ZTA 2308)

<https://montgomerycountymd.gov/agsservices/Resources/Files/2017AGCensusMCFactSheetFINAL.pdf>

<sup>15</sup> Montgomery County Office of Agriculture Website. Ag Facts. (Cited in RESJIS for ZTA 23-08)

<https://www.montgomerycountymd.gov/agsservices/ag-facts.html>

<sup>16</sup> 2017 Census of Agriculture. County Profile. Montgomery County, Maryland. (Cited in RESJIS for ZTA 23-08)

[https://www.nass.usda.gov/Publications/AgCensus/2017/Online\\_Resources/County\\_Profiles/Maryland/cp24031.pdf](https://www.nass.usda.gov/Publications/AgCensus/2017/Online_Resources/County_Profiles/Maryland/cp24031.pdf)

<sup>17</sup> Demographic and Housing Estimates, Table DP05, American Community Survey, 2022 – 1 year estimates for Montgomery County, Maryland, DP05, <https://data.census.gov/table/ACSDP1Y2022.DP05?q=DP05&g=050XX00US24031>

<sup>18</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)