

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

Office of Legislative Oversight

## ZTA 23-10: PARKING, QUEUING, AND LOADING – CALCULATION OF REQUIRED PARKING

### SUMMARY

The Office of Legislative Oversight (OLO) anticipates Zoning Text Amendment (ZTA) 23-10, Parking, Queuing, and Loading – Calculation of Required Parking, will have a favorable impact on racial equity and social justice (RESJ) in the County if it increases the supply of affordable housing units for low-and moderate-income households. The extent of the favorable RESJ impact of this ZTA is indeterminant as it is unclear how many affordable housing units would result from the proposed ZTA and how many of these units would be affordable to the lowest income residents.

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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 23-10

The purpose of ZTA 23-10 is to exempt residential uses from providing minimum required parking (baseline parking minimum) for a residential development located within ½ mile of a Metro or Purple Line station, or within ¼ mile of a Bus Rapid Transit Station that exists or is funded for construction in the 6-year Capital Improvements Program (CIP). The ZTA would amend Section 6.2.3: Calculation of required parking by adding a new subsection, 6.2.3.I(8): Parking Minimums Near Transit.

Article 59-6 (General Development Requirements) of the Montgomery County Zoning Ordinance establishes the minimum number of off-street parking spaces required for the various types of residential developments. The Ordinance also contains provisions that allow for reduced parking at certain locations, and under certain circumstances – including Parking Lot Districts,<sup>3</sup> shared parking spaces,<sup>4</sup> and certain special uses (i.e., affordable housing, senior and assisted housing facilities, religious institutes) – as well as a parking waiver.

A press release by the sponsors of ZTA 23-10 indicates the current housing shortage in the County calls for “meaningful reforms” and that “...reducing parking near transit is a commonsense approach that will make housing more affordable, help us reach our housing goals, and move us toward a more sustainable, green future.”<sup>5</sup> Building underground parking facilities for new developments could cost up to \$100,000 for each development.<sup>6</sup> The sponsors of ZTA 23-10 believe the ZTA would encourage the development of housing, including affordable units, near transit corridors and would help Montgomery County reach its climate goals by taking cars off the road.<sup>7</sup>

# RESJ Impact Statement

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This RESJ impact statement (RESJIS) builds on the RESJIS for ZTA 22-07: Residential Multi-Unit Low Density, R-30 – Optional Method Development, ZTA 21-07: Density and Height Allocation – Development with Moderately Priced Dwelling Units, and Bill 37-23: Tenant Displacement – Right of First Refusal to Buy Rental Housing – Amendments.

ZTA 23-10 was introduced on November 28, 2023.

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### AFFORDABLE HOUSING, REDUCED PARKING REQUIREMENTS AND RACIAL EQUITY

With the increasing shortage of affordable housing in urban areas, many urbanized jurisdictions are increasingly offering various forms of incentives to encourage developers to build more affordable housing. These incentives include a density bonus, streamlined and reduced review process, tax abatement, fee waivers, and reduction or elimination of required parking.<sup>8</sup> The reduced parking incentive can result in significant construction cost savings for projects that would typically build parking structures. Reductions of 10 to 20 percent in required parking are common.<sup>9</sup>

Historically, zoning laws and other government policies have restricted the supply of affordable housing and exacerbated the racial wealth gap.<sup>10</sup> Collectively, exclusionary zoning, restrictive covenants, redlining, New Deal housing policies, the Federal Housing Administration, and GI Bill created two disparate housing systems:<sup>11</sup>

- Government subsidized White-only enclaves that enabled many White families to build home equity and inter-generational wealth; and
- Underinvested communities for People of Color where residents actually paid more for lesser housing and fewer amenities and were in turn denied opportunities to build family wealth.

Although the Fair Housing Act of 1968 eliminated racially explicit segregation in housing, the policies that built the segregated housing market “have never been remedied and their effects endure.”<sup>12</sup> Residents of color still experience discrimination in the housing market due to predatory lending practices and bias in the rental and real estate markets.<sup>13</sup> As such, racial disparities in housing security by race and ethnicity persist.<sup>14</sup> For instance:

- Nationwide, there are only 30 units of housing that are affordable and available for every 100 extremely low-income Americans. “Extremely low-income family” is defined as a very-low-income family whose income does not exceed the higher of the poverty guidelines or 30 percent of the median family income for the area.<sup>15</sup>
- Federal housing assistance only serves one-quarter of those who qualify for it.
- The U.S. loses two affordable apartments each year for every one apartment created.
- State and local housing programs can be quite volatile because they are often dependent on revenue from market-driven private sources instead of federal funding.

Montgomery County households with low-incomes experience high rates of housing insecurity. Eighty percent of County households earning up to \$70,000 per year are cost burdened, expending more than 30 percent of their household income on housing.<sup>16</sup> Additionally, more than 20,000 households earning under \$31,000 per year are severely cost burdened, spending more than half their incomes on rent.<sup>17</sup> Local data on three metrics of housing insecurity – rent-burdened households, rental assistance during the pandemic, and homelessness – demonstrate that Black and Latinx households in Montgomery County are especially housing insecure:

- In 2022, 59 percent of Black renters and 56 percent of Latinx renters were cost-burdened (expending 30 percent or more of income on rent), compared to 47 percent of White renters and 42 percent of Asian renters.<sup>18</sup>
- Among COVID Relief Rental Program clients (approved as of April 4, 2021), 43 percent were Black and 37 percent were Latinx while 9 percent were White and 3 percent were Asian or Pacific Islanders.<sup>19</sup>

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- Among single adults experiencing homelessness in 2022, 60 percent were Black, 27 percent were White, 8 percent were Native American, and 5 percent were Asian or Pacific Islander.<sup>20</sup>
- Among families experiencing homelessness in 2022, 73 percent were Black, 22 percent were White, 3 percent were Native American, and 3 percent were Asian or Pacific Islander.<sup>21</sup>

Local data on racial and ethnic inequities in housing security demonstrates that Black and Latinx residents have a higher demand for affordable housing than White and Asian residents.

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### ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 23-10 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?

Given the disproportionate need for affordable housing among Black and Latinx households, OLO anticipates that ZTA 23-10 will have a favorable impact on reducing housing disparities by race and ethnicity if it results in the construction of more affordable housing. OLO anticipates that reducing parking minimums could encourage increased housing development, which would create more affordable housing units through the Moderately Priced Dwelling Unit (MPDU)<sup>22</sup> program and the various other County programs that provide housing assistance to moderate, low, and very low-income households.

The construction of affordable housing in transit-oriented districts that characterize many of the County's commercial residential zones could also narrow racial and social disparities in transit and access to employment that could further reduce racial and social inequities in the County.<sup>23</sup> It is unclear; however, how many affordable housing units would result from the proposed ZTA and how many of these units would be affordable to the lowest income residents. Therefore, the extent of the favorable impact of this ZTA on Black and Latinx residents could not be determined.

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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>24</sup> OLO anticipates that ZTA 23-10 will have an overall small favorable impact on existing disparities in affordable housing 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.

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

<sup>2</sup> Ibid.

<sup>3</sup> Chapter 59 Montgomery County Zoning Ordinance defines Parking Lot Districts as: “A designated area defined in Chapter 60 that does not require provision of a minimum amount of parking and limits parking that may be provided to a maximum number.”

[https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md\\_zone2014/0-0-0-60](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-60)

<sup>4</sup> Chapter 59 Montgomery County Zoning Ordinance defines shared parking as: *Privately-owned parking that is available as public parking at least for some time periods.*

[https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco\\_md\\_zone2014/0-0-0-60](https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-60)

<sup>5</sup> Montgomery County Council Press Release. Councilmembers Introduce Proposed Zoning Measure to Promote Housing Near Transit Hubs. November 28, 2023. [https://www2.montgomerycountymd.gov/mcgportalapps/Press\\_Detail.aspx?Item\\_ID=44385&Dept=1](https://www2.montgomerycountymd.gov/mcgportalapps/Press_Detail.aspx?Item_ID=44385&Dept=1)

<sup>6</sup> Ibid.

<sup>7</sup> Ibid.

<sup>8</sup> Inclusionary Housing. Incentives: Parking Reduction. 2019. <https://inclusionaryhousing.org/designing-a-policy/land-dedication-incentives/parking-reduction/>

<sup>9</sup> Ibid.

<sup>10</sup> Richard Rothstein, *The Color of Law: A Forgotten History of How Government Segregated America*, 2017

<sup>11</sup> Oliver, Melvin 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. As cited in OLO RESJ statement for ZTA 21-07.

[https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital\\_8.pdf](https://www.urban.org/sites/default/files/publication/85341/2000986-2-the-color-of-wealth-in-the-nations-capital_8.pdf)

<sup>12</sup> Rothstein

<sup>13</sup> Keeanga-Yamahtta Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermine Black Homeownership*, 2019; Urban Institute, *Exposing Housing Discrimination*. As Cited in OLO RESJ statement for ZTA 21-07.

<https://www.urban.org/features/exposing-housing-discrimination>

<sup>14</sup> Poverty USA. A History of Discrimination, Redlining, And Affordable Housing Work in Washington, D.C. CCHD 50th Anniversary. 2022 *Poverty USA.org*. <https://www.povertyusa.org/stories/affordable-housing-dc>

<sup>15</sup> Leading Age. 2021. HUD posts FY2021 Income Limits. April 2. <https://leadingage.org/regulation/hud-posts-fy2021-income-limits>

<sup>16</sup> Ibid.

<sup>17</sup> 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>

<sup>18</sup> Table S0201, Selected Population Profile in the United States, 2022 American Community Survey 1-Year Estimates, Census Bureau. As cited in OLO RESJIS for Bill 38-23

<sup>19</sup> Linda McMillan memorandum to County Council regarding FY22 Operating Budget: Homeless Services, Rental Assistance, and Housing Initiative, May 11, 2021 (Agenda Item #30, Joint Committee Worksession), see page circle 13.

[https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512\\_30.pdf](https://www.montgomerycountymd.gov/council/Resources/Files/agenda/col/2021/20210512/20210512_30.pdf)

<sup>20</sup> Montgomery County Government, *Housing for All. The numbers: Point in Time Survey*. 2022. As cited in OLO RESJIS for Bill 38-23 [Numbers - Ending Homelessness in Montgomery County MD](#)

<sup>21</sup> Ibid.

<sup>22</sup> MPDUs refer to dwelling units offered for sale or rent to eligible low- or moderate-income households through the Department of Housing and Community Affairs’ MPDU program.<sup>22</sup> The MPDU program requires that 12.5 to 15 percent of new housing units in projects with 20 or more units to be affordable to households earning up to 65 or 70 percent of the area median income. (see RESJ impact statement for ZTA-27-1).

<sup>23</sup> See OLO Racial Equity Profile for current data on transit, employment and income disparities by race and ethnicity in Montgomery County. <https://www.montgomerycountymd.gov/OLO/Resources/Files/2019%20Reports/RevisedOLO2019-7.pdf>

24 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)