

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

## Office of Legislative Oversight

### ZTA 25-04: OVERLAY ZONES – BETHESDA (B) OVERLAY ZONE

#### SUMMARY

The Office of Legislative Oversight (OLO) cannot predict whether ZTA 25-04: Overlay Zones – Bethesda (B) Overlay Zone will create more housing units in the Bethesda Overlay Zone. Thus, OLO cannot predict the impact of this ZTA on racial disparities in housing across the County or on racial equity and social justice (RESJ).

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#### PURPOSE OF RESJ STATEMENTS

RESJ impact statements (RESJIS) for zoning text amendments (ZTAs) evaluate the anticipated impact of ZTAs on racial equity and social justice in the County. RESJ is a **process** that focuses on centering the needs, leadership, and power of Black, Indigenous, and other people of color (BIPOC) and communities with low incomes with a **goal** of eliminating racial and social inequities. Applying a RESJ lens is essential to achieve RESJ.<sup>1</sup> This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.<sup>2</sup>

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#### PURPOSE OF ZTA 25-04

The purpose of ZTA 25-04 is to implement the recommendation of the Bethesda Downtown Plan Minor Master Plan Amendment (MMPA)<sup>3</sup> currently under review by the County Council. Specifically, the ZTA would amend the Bethesda (B) Overlay Zone (BOZ) to be consistent with the recommendations of the MMPA as it relates to density, building heights, affordable housing, and design.<sup>4</sup>

Of note, the MMPA amends the 2017 Bethesda Downtown Plan and covers the same plan area.<sup>5</sup> Notable changes to the Zoning Ordinance proposed under ZTA 25-04 include:<sup>6</sup>

- Creation of height incentives for the construction of a new recreation center;
- Retroactive removal of any conditions of approval requiring applications to file for a building permit within two years of site plan approval;
- Removal of the existing development cap;<sup>7</sup>
- Incentives for including family-sized and deeply affordable Moderately Priced Dwelling Units (MPDU)<sup>8</sup> as part of the 15 percent MPDU requirement;
- Minor changes to public benefits<sup>9</sup> associated with energy codes, expanding the height incentive area, and adjusting the rate for the park impact payments (PIP) to be split into two payments; and
- Clarification that developments are eligible for a BOZ density once an application has maximized all its commercial or residential density.

For a detailed comparison between current policy in the BOZ and proposed changes with ZTA 25-04 see Appendix B.

ZTA 25-04 was introduced on February 25, 2025.

# RESJ Impact Statement

## Zoning Text Amendment 25-04

This RESJ impact statement builds on OLO RESJ impact statements completed for:

- ZTA 23-09: Farming - Incidental Outdoor Stays;<sup>10</sup>
- Bill 13-23: Montgomery County Urban Districts – Friendship Heights Urban District;<sup>11</sup> and
- ZTA 25-03: Expedited Approvals - Commercial to Residential Reconstruction.<sup>12</sup>

For background on residential segregation and racial inequities in housing, property ownership, and housing affordability, please refer to these RESJISs.

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## ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 25-04 on racial equity and social justice, OLO considers two related questions:

- Who would primarily benefit or be burdened by this ZTA?
- What racial and social inequities could the passage of this ZTA weaken or strengthen?

OLO considered the potential benefits and burdens of ZTA 25-04 for three sets of stakeholders:

- **Developers and Construction Firms.** OLO anticipates that real estate developers could benefit from ZTA 25-04 because its incentives could increase the profitability of their developments in the BOZ. Construction firms that build parks, recreation centers, and infrastructure could also benefit from additional business opportunities resulting from this ZTA. ZTA 25-04's incentives are summarized in Appendix B. Eight in ten real estate businesses in the County are owned by White people (Table 1, Appendix A), so they could disproportionately benefit from these incentives, that in turn could widen racial disparities in development. OLO, however, cannot discern whether ZTA 25-04's incentives would increase housing development, or the amenities planned in the BOZ.
- **Current Residents of the BOZ.** OLO anticipates that current residents in the BOZ could also benefit from this ZTA as it offers incentives to encourage new development and upgrades of commercial/residential buildings, commercial uses, parks, a new County recreation center, road networks, and other infrastructure improvements. White and Asian residents account for 76 percent of residents in the Downtown Bethesda area as well as the wider Bethesda CDP area (Table 2, Appendix A),<sup>13</sup> so they could disproportionately benefit from ZTA 25-04's incentives. OLO, however, cannot discern whether ZTA 25-04's incentives would increase the amenities or infrastructure planned for the BOZ.
- **New Residents in the BOZ.** OLO also anticipates that new residents to the BOZ could benefit from additional housing and amenities incentivized under ZTA 25-04. If new housing is built under ZTA 25-04, most of it would be for market-rate units. Given existing disparities by race and ethnicity in homeownership and housing cost burden (see Tables 3 and 4 in Appendix A), White and Asian residents could disproportionately benefit from the increase in market rate housing in the BOZ, potentially undermining RESJ. Yet, Black, Latinx, and Indigenous households could disproportionately benefit from the affordable units built with new development, and potentially the greater share of family-sized and deeply affordable MPDUs incentivized under ZTA 25-04. An increase in affordable units could advance RESJ. OLO, however, cannot discern whether ZTA 25-04 would increase the number of units built in the BOZ that are affordable or market rate.

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Overall, if ZTA 25-04 worked as intended and increased the number of housing units and public benefits available in the BOZ, it would disproportionately benefit White residents, and to a lesser extent Asian residents, widening racial disparities in housing and entrepreneurship and diminishing RESJ. However, OLO cannot discern whether ZTA 25-04 will work as intended and increase housing development in the BOZ. Thus, OLO cannot predict the impact of this ZTA on the County's overall housing supply or its effects on RESJ.

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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 to zoning text amendments aimed at narrowing racial and social inequities are warranted in developing RESJ impact statements.<sup>14</sup> OLO cannot discern the anticipated impact of ZTA 25-04 on RESJ in the County. Consequently, the actual yield of affordable housing attainable through this ZTA is neither quantifiable nor could be estimated practically. Therefore, 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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## Appendix A

**Table 1: Real Estate, Rental, and Leasing Business Owners by Race and Ethnicity, Montgomery County**

Race and Ethnicity <sup>15</sup>	Real Estate and Rental and Leasing Business Owners (NAICS 53) <sup>16 17</sup>	County Population
White	82.3%	46.6%
Asian	12.4%	15.3%
Latinx	3.9%	20.0%
Black	5.1%	18.5%

Source: 2022 American Business Survey (Table AB2200CSA01) and 2022 American Community Survey 5-Year Estimates (Table DP05), Census Bureau.

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**Table 2: Bethesda, Maryland: Demographics by Race and Ethnicity, 2023**

Bethesda, Maryland: Population 69,966	
Race/ethnicity	Population Percentage
White	63.0%
Asian	13.0%
Latinx <sup>18</sup>	9.0%
Black	7.0%
American Indian and Alaskan Native	0.2%
Native	0.0%
Two or More Races	5.0%

*Source: Census Reporter: Census data: ACS 2023 1-year unless noted*

**Table 3: Homeownership and Cost Burden Rates of Homeowners. Montgomery County, 2023**

Race and Ethnicity	Homeownership Rate	Homeowner Cost Burden Rate
White	74%	20%
Asian	75%	28%
Latinx <sup>19</sup>	49%	31%
Black	44%	39%

*Source: Table S0201, 2023 American Community Survey 1-Year Estimates, Census Bureau*

**Table 4: Renter-Occupied Households and Cost Burden Rates of Renter Households. Montgomery County, 2023**

Race and Ethnicity	Renter-Occupied Households	Renter Burden Rate
White	26%	50%
Asian	25%	41%
Latinx <sup>20</sup>	51%	60%
Black	56%	58%

*Source: Table S0201, 2023 American Community Survey 1-Year Estimates, Census Bureau*

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### Appendix B

#### Current Bethesda Overlay Zone (BOZ) Policies and Proposed Changes with ZTA 25-04

BOZ Focus Areas	Current BOZ Policy	Proposed Amendments-ZTA 25-04
New Community Recreation Facility	None	<ul style="list-style-type: none"> <li>New recreation center with project earning up to 24 feet of maximum height</li> <li>Reduce a PIP for land dedicated to a new recreation center</li> <li>Update the “priority public benefits” to include a new recreation center as a “Major Public Facility” and credit the recreation center area toward any required public open space</li> </ul>
Affordable Housing	Required minimum of 15% MPDUs in new optional method of development projects	<ul style="list-style-type: none"> <li>Family size (3-4 bedrooms) exceeding required minimum and/or deeply affordable MPDUs (30% to 50% of AMI)</li> <li>Strive for no net loss of naturally occurring affordable housing (NOAH)</li> <li>Extend current incentives</li> <li>Height incentives for higher percentages of MPDUs (exceeding 17.5%) in height incentive areas (Appendix C)</li> <li>Public benefit points for developments providing more than 15% MPDUs</li> </ul>
Development CAP and Building Permit Deadline	<ul style="list-style-type: none"> <li>Development cap in the BOZ area to no more than 32,400,000 sq ft of density.</li> <li>Two-year deadline for applying for permit</li> </ul>	<ul style="list-style-type: none"> <li>Removal of the development cap with the MMPA</li> <li>Remove statutory deadline</li> </ul>
Height Incentive Area	<ul style="list-style-type: none"> <li>Not included in the height incentive area</li> </ul>	<ul style="list-style-type: none"> <li>Add two more blocks to the height incentive area (Appendix C)</li> </ul>
Park Impact Payment (PIP)	Calculated based on annual average	<ul style="list-style-type: none"> <li>Calculated using cumulative inflationary increases</li> <li>New methodology for the 2025 adjustment, with a maximum 20% increase</li> <li>Developers will be allowed to make the PIP in two equal payments</li> <li>Extend current PIP reduction to owners who make private space accessible to public</li> </ul>
Public Art	Maximum benefit of 15 points	<ul style="list-style-type: none"> <li>Add public art public benefit for optional method of development projects</li> <li>Maximum benefit of 20 points</li> <li>Allow fee payments to also be accepted by civic arts organization</li> </ul>
Public Benefits for Optional Method of Development Projects	The 2017 Plan lists five top-priority public benefits for optional method of development projects	<ul style="list-style-type: none"> <li>Add a sixth priority “Major Public Facility: New Recreation Center” to incentivize the new public recreation center</li> <li>Qualify for a fee-in-lieu payment under the Zoning Ordinance</li> </ul>
Green Canopy in Downtown Bethesda	Expanded tree canopy in Downtown Bethesda and surrounding communities	<ul style="list-style-type: none"> <li>Expand the potential for planting more trees in parks and open spaces</li> <li>Build programs that offer property owners incentives to plant trees (e.g. Reforest Montgomery)</li> </ul>

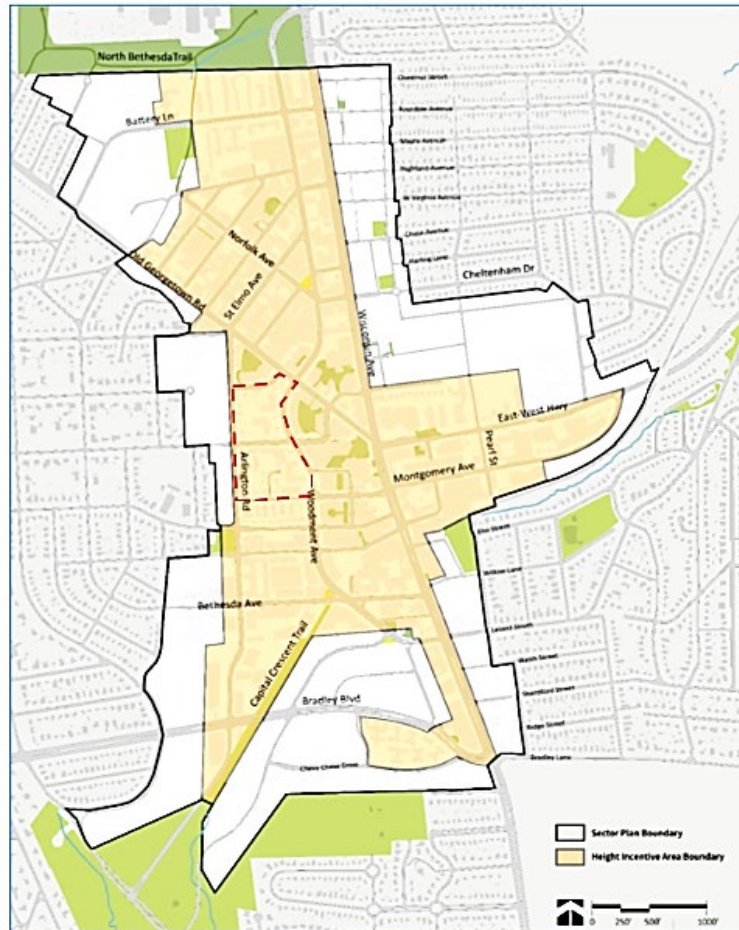
Source: Bethesda Downtown Plan Minor Master Plan Amendment Planning Board draft December 2024 and Staff memorandum to Planning, Housing, and Parks (PHP) Committee. Montgomery County Council. Bethesda Downtown Plan Minor Master Plan Amendment.

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### Appendix C

Recommended Expanded BOZ Height Incentive Area Map



Source: Bethesda Downtown Plan Minor Master Plan Amendment Planning Board draft December 2024

<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.raciaequitytools.org/glossary>

<sup>2</sup> Ibid.

<sup>3</sup> A Minor Master Plan Amendment (MMPA) provides an update of an existing Master Plan or Sector Plan, with a more narrow focus, either in terms of geography or the topics to be covered. These plans follow the same process steps as a Master Plan and Sector Plan, with community outreach, a public hearing, and the Planning Board and County Council's review. *Montgomery County Planning Department website.*

<sup>4</sup> Montgomery County Zoning Ordinance 2014. Division 4.9 Overlay Zones.

<sup>5</sup> Bethesda Downtown Plan Minor Master Plan Amendment Planning Board draft December 2024.

<https://montgomeryplanning.org/wp-content/uploads/2024/12/Bethesda-Downtown-Plan-Minor-Master-Plan-Amendment-Planning-Board-Draft-20241219-FINAL-web.pdf>

<sup>6</sup> Montgomery County Council. Introduction, ZTA 25-04. Agenda Item 3A. February 25, 2025

[https://montgomerycountymd.granicus.com/MetaViewer.php?view\\_id=169&clip\\_id=17810&meta\\_id=189812](https://montgomerycountymd.granicus.com/MetaViewer.php?view_id=169&clip_id=17810&meta_id=189812)

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<sup>7</sup> Letter from Montgomery County Planning Board to Kate Stewart, Montgomery County Council President. Board recommendation for proposed ZTA 25-04-BOZ. February 12, 2025.

<sup>8</sup> In Montgomery County, households with income ranging between 50%-70% of the Area Medium Income (AMI) qualify to purchase or rent MPDUs. Deeply affordable MPDUs are offered for renters or first-time home buyers with household income ranging between 30% to 50% of the AMI. *MPDUS -Montgomery County, Maryland Consolidated Annual Performance Evaluation Report County Fiscal Year 2021*

<sup>9</sup> A broad range of amenities or features that are provided through the development review process that enhance or contribute to the objectives of a zone or a master plan. *Planning Terms Glossary, Montgomery County, MD Planning Department*, <https://montgomeryplanning.org/about-planning/mission/glossary/#p>

<sup>10</sup> OLO RESJ impact statement. ZTA 23-09: Farming - Incidental Outdoor Stays. January 3, 2024  
<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/ZTA/2023/ZTA23-09.pdf>

<sup>11</sup> OLO RESJ impact statement. Expedited Bill 13-23. Montgomery County Urban Districts – Friendship Bill 13-23: Heights Urban District  
<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/2023/Bill13-23E.pdf>

<sup>12</sup> OLO RESJ Impact Statement. ZTA 25-03 Expedited Approvals - Commercial to Residential Reconstruction, March 10, 2025  
<https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/ZTA/2025/ZTA25-03.pdf>

<sup>13</sup> Bethesda Downtown Plan Minor Master Plan Amendment Planning Board Draft., December 2024, Attachment.  
<https://montgomeryplanning.org/wp-content/uploads/2024/12/Bethesda-Downtown-Plan-Minor-Master-Plan-Amendment-Planning-Board-Draft-Attachments-20241220-web.pdf>

<sup>14</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)

<sup>15</sup> Estimates for Native American and Pacific Islander community members were not available for data points in this RESJIS.

<sup>16</sup> The Real Estate and Rental and Leasing Sector includes establishments that rent, lease, or otherwise allow the use of their own real estate or other assets by others. This sector also includes establishments primarily engaged in managing real estate for others, selling, renting, and/or buying real estate for others, and appraising real estate- as cited in RESJ Impact Statement for Bill 2-25

<sup>17</sup> Margins of error for these data points may be large-as cited in RESJ Impact Statement for Bill 2-25.

<sup>18</sup> Latinx is an ethnicity rather than a race; therefore, Latinx people are included in multiple racial groups throughout this impact statement unless where otherwise noted. Estimates for Native American and Pacific Islander constituents not available for all data points presented in impact statement.

<sup>19</sup> Ibid.

<sup>20</sup> Ibid.