

Racial Equity and Social Justice (RESJ) Impact Statement

Office of Legislative Oversight

ZTA 26-04: Mixed-Income Housing Community – Eligibility

SUMMARY

The Office of Legislative Oversight (OLO) anticipates ZTA 26-04 could have a positive impact on racial equity and social justice (RESJ) if it increases the development of affordable housing in the County. The proposed changes to eligibility requirements for the Mixed-Income Housing Community (MIHC) could narrow racial disparities in housing outcomes. However, since it is anticipated that changes in MIHC eligibility requirements will at best only modestly increase development, OLO anticipates a small favorable impact of this ZTA on RESJ.

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. RESJ is also a **goal** of eliminating racial and social inequities. Applying a RESJ lens is essential to achieve RESJ.¹ This involves seeing, thinking, and working differently to address the racial and social inequities that cause racial and social disparities.²

PURPOSE OF ZTA 26-04

The Mixed-Income Housing Community (MIHC) was created in 2023 as a new residential use category.³ Table 1 in the Appendix lists the full requirements for a project to be defined as a MIHC. The MIHC designation enables projects to go through the Expedited Approval Plan process, which can cut the approval timeline in half.⁴ Table 2 in the Appendix compares the standard and expedited plan approval processes.

The purpose of ZTA 26-04 is to make changes to the definition of a mixed-income housing community (MIHC). The proposed changes⁵ would:

1. Eliminate the 150,000 square foot minimum requirement for a MIHC;
2. Increase the minimum number of dwelling units from 30 units to 50 units; and
3. Allow projects using four and nine percent Low-Income Housing Tax Credits (LIHTC) to qualify to be a MIHC.⁶ Previously, only projects receiving nine percent LIHTC qualified.

Table 1 compares current MIHC eligibility requirements to the changes proposed in ZTA 26-04. According to Montgomery Planning, ZTA 26-04 aims to allow more projects to go through the expedited approval process.⁷ As of January 2026, only one MIHC project has been approved in the County.⁸

The Council introduced ZTA 26-04 on January 27, 2026.⁹

This RESJIS builds on the one for ZTA 23-02, Regulatory Approvals – Mixed-Use Housing Community.¹⁰ For additional background on land use, housing and racial equity, please refer to this RESJIS and OLO Report 2024-11, Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development.¹¹

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HOUSING ACCESS AND RACIAL EQUITY

Historically, government policies and practices have restricted housing access for BIPOC community members.¹² These include exclusionary zoning, restrictive covenants, redlining, racially biased New Deal housing policies, and the inequitable implementation of the G.I. Bill. Today, discriminatory practices such as predatory lending and racial discrimination in the housing market continue to lock out BIPOC community members from housing opportunities.¹³ Collectively, racial inequities in housing access perpetuate and sustain residential racial segregation and racial disparities in housing outcomes.¹⁴ For example, in Montgomery County:

- Roughly three-quarters of White and Asian households own their home compared to 54 percent of Latinx households and 40 percent of Black households (Appendix Table 4).
- Latinx and Black households are more likely than White and Asian households to experience a housing cost burden, spending more than 30 percent of their household income on mortgage or rent (Appendix Table 4).
- On the night of the 2025 Annual Point-in-Time (PIT) count of persons experiencing homelessness, 56 percent of individual adults identified as Black; a disproportionately high share compared to the 18 percent who identified as Black at the time of the 2024 American Community Survey. Overall, 84 percent of individual adults experiencing homelessness identified as people of color.¹⁵

Mixed-Income Housing Communities and RESJ. Due to racial inequities in housing and the racial wealth gap, BIPOC households disproportionately demand affordable housing in the County. Yet growth in demand for affordable rental housing has far exceeded supply. Montgomery Planning’s 2020 Housing Needs Assessment Analysis found that:

- There is not enough supply of housing for households earning up to 60 percent Area Median Income (AMI).
- Areas with more relatively affordable housing have faced the most significant pricing pressure, leading to the loss of affordably priced units.¹⁶

Expanding the supply of affordable housing through mixed-income development is a proven approach for cross-subsidizing units that can then be rented or sold at below-market rates. This is especially true in areas of the County where rents are high enough to generate the profits required to be able to produce and maintain affordable units without substantially more government funding.¹⁷

Experts do not agree on whether mixed-income housing improves neighborhoods, creates more opportunities, reduces segregation, or promotes inclusion among people of different backgrounds.¹⁸ Just living in the same area does not guarantee social inclusion or fix social inequities. Research conducted in New York City, Chicago, and Washington, D.C. found racial and class divides remain in mixed-income community settings.¹⁹ Housing scholar Derek Hyra recommends mixed-income developments receiving government subsidies be required to have diverse resident governing boards that oversee things like amenities, utilities, and community programming. This shared decision-making can help community members from different racial, ethnic, and social backgrounds to share power, work together and solve problems.²⁰

ANTICIPATED RESJ IMPACTS

If adopted, ZTA 26-04 will allow smaller projects to be defined as Mixed-Income Housing Communities and qualify for an expedited review. The 50-unit minimum guarantees the creation of at least 10 affordable units per MIHC, depending on the level chosen for affordability.²¹ Table 3 in the Appendix presents scenarios for the minimum number of affordable units created based on a 50-unit MIHC.

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To determine the anticipated impact of ZTA 26-04 on RESJ in the County, OLO considers two related questions:

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

OLO identified the following groups who could be impacted by ZTA 26-04:

- **Developers.** In theory, ZTA 26-04 makes it easier for developers to design MIHC projects eligible for the expedited approval process, which would save developers money by cutting their review time in half. However, these savings are a small fraction compared to total development costs. As such, it is unlikely that developers will be able to pass along the cost-savings associated with the expedited process in the form of reduced rents or other benefits. Additionally, Montgomery Planning does not anticipate a large increase in MIHC applications from this ZTA.²²
- **Community Members Who Demand Affordable Housing.** If ZTA 26-04 does result in the production of additional mixed-income housing communities in the County, BIPOC households would benefit since Latinx and Black households experience higher levels of housing insecurity and housing cost burden. Yet, OLO cannot determine whether eliminating the square footage requirement and allowing the use of four percent tax credits would, in and of itself, be a sufficient incentive for developers to increase the number of mixed-income housing communities built in the County. Nor can OLO assess what impact these changes would have on the ability of BIPOC community members to move into affordable units built in mixed-income housing communities.

Taken together, OLO anticipates ZTA 26-04 could have a positive impact on RESJ given its potential to increase the development of housing affordable to a range of incomes in the County. However, since it is anticipated that changes in MIHC eligibility requirements will at best only modestly increase development, OLO anticipates a small favorable impact of this ZTA on RESJ.

RECOMMENDED AMENDMENTS

The County's RESJ Act requires OLO to consider whether to recommend amendments to ZTAs that could reduce racial and social inequities and advance RESJ.²³ OLO finds ZTA 26-04 could have positive impact on RESJ if it increases the number of affordable housing units available in the County. As such, OLO does not offer any recommended amendments for this ZTA. Should the Council seek to further advance RESJ with mixed income housing communities, OLO offers one policy option for consideration as a companion to this ZTA:

- **Develop a training specifically for MIHC board members and residents.** This could be similar to the Community Governance Fundamentals training program provided by the Montgomery County Commission on Common Ownership Communities. Such a training could:
 - 1) Encourage resident governing boards of mixed-income housing communities to reflect the racial and economic diversity of the County,
 - 2) Promote knowledgeable and responsible management of mixed-income housing communities, and
 - 3) Delineate the roles and responsibilities of board members and residents of mixed-income communities.

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CAVEATS

Two caveats to this RESJIS should be noted. First, predicting the impact of ZTAs on RESJ is challenging due to data limitations, uncertainty, and other factors. Second, this RESJIS 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.

APPENDIX

Table 1: Requirements to be Defined as a Mixed-Income Housing Community as Outlined in ZTA 26-04

Category	Current Requirements of MIHC	Changes Made Under ZTA 26-04
Square footage	150,000 square foot minimum	No square footage minimum
Unit count	30 unit minimum	50 unit minimum
Building type	Apartment or multi-use building (residential and commercial mix)	No changes made
Unit affordability	<p>The project must meet one of the following criteria:</p> <ol style="list-style-type: none"> At least 30 years that at least 50% of the units will be affordable to households earning 60% or less of Area Median Income (AMI); At least 10% of the units will be affordable to households earning 30% or less of AMI and at least 20% of the total units will be affordable to households earning incomes eligible for the MPDU program; At least 20% of the units will be affordable to households earning 50% or less of AMI and at least 10% of the total units will be affordable to households earning incomes eligible for the MPDU program; or Receive an award of 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD). 	Allows projects using 4% Low-Income Housing Tax Credits (LIHTC) to be defined as a Mixed-Income Housing Community.

Source: [Introduction Staff Report for ZTA 26-04](#), Montgomery County Council, Introduced January 27, 2026.

Note: Moderately Priced Dwelling Units (MPDUs) are County-regulated housing units that must be affordable to households earning up to 65% of Area Median Income (AMI) for garden-style apartments and up to 70% for high-rise apartments and for-sale units.

See [Moderately Priced Dwelling Unit \(MPDU\) Program - Montgomery Planning](#).

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Table 2: Comparison of Standard Approval Process versus the MIHC Expedited Plan Process

Feature	Standard Process	Expedited Process
Sketch Plan and Site Plan	Required	MIHC Plan replaces the sketch and site plan.
Development Review Committee (DRC)	Required meeting	MIHC Plans do not go to the DRC
State and County Agency Comment Period	Most agencies require 45-day review period	Due within 15 days after application is accepted
Planning Board Hearing Timing	Within 120 days	Within 60 days

Source: [Section 7.3.5. Expedited Approval Plan](#) and [Mixed Income Housing Community Plan - Montgomery Planning](#).

Table 3: Minimum Number of Affordable Units Created Based on a 50-Unit Mixed-Income Housing Community

Affordability Level Scenario Chosen by Developer	Minimum Number of Affordable Units Created	Minimum Number of Years Units Must Remain Affordable
At least 50% of the units will be affordable to households earning 60% or less of Area Median Income (AMI)	25 units	30 years
At least 10% of the units will be affordable to households earning 30% or less of AMI; and at least 20% of the total units will be affordable to households earning 65% or less of AMI	15 units	30 years
At least 20% of the units will be affordable to households earning 50% or less of AMI; and at least 10% of the total units will be affordable to households earning 65% or less of AMI	15 units	30 years
Receive an award of either 4% or 9% Low-Income Housing Tax Credits (LIHTC) from the Maryland Department of Housing and Community Development (DHCD). In Maryland, to qualify for LIHTC, developers must choose between the 20/50 rule (20% of units at 50% AMI) or the 40/60 rule (40% of units at 60% AMI).	20/50 rule: 10 units 40/60 rule: 20 units	40 years

Source: OLO staff calculations based on the text of [ZTA 26-04](#), Montgomery County Council, Introduced January 27, 2026.

Note: Many developers choose to designate 100% of units as affordable to maximize their tax credit award.

See [Low Income Housing Tax Credit Program](#), Maryland DHCD.

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Table 4. Homeownership Rate and Cost Burden Rates of Homeowners and Renters. Montgomery County, 2024

Race and Ethnicity	Homeownership Rate	Homeowner Cost Burden Rate	Renter Cost Burden Rate
White	77%	23%	37%
Asian	71%	26%	37%
Hispanic or Latino origin (of any race)	54%	27%	56%
Black	40%	33%	54%

Source: [Table S0201](#), 2024 American Community Survey 1-Year Estimates, Census Bureau.

¹ Definition of racial equity and social justice adopted from [Marlysa Gamblin et.al., “Applying a Racial Equity Lens into Federal Nutrition Programs,” Bread for the World](#) and from [Racial Equity Tools](#).

² Ibid.

³ See [ZTA 23-02](#).

⁴ See [Section 7.3.5. Expedited Approval Plan](#) and [Mixed Income Housing Community Plan - Montgomery Planning](#)

⁵ [Introduction Staff Report for ZTA 26-04](#), Montgomery County Council, Introduced January 27, 2026.

⁶ In Maryland, to qualify for LIHTC, developers must choose between the 20/50 rule (20% of units at 50% AMI) or the 40/60 rule (40% of units at 60% AMI). The building must remain in compliance and is subject to a covenant to enforce compliance for a minimum of 40 years. For more information on the LIHTC program, see [Low Income Housing Tax Credit Program](#), Maryland DHCD.

⁷ OLO conversation with Montgomery Planning staff. January 29, 2026.

⁸ Tevis Place will be a 7-story, 154-unit development near the North Bethesda Metro Station. All units are designated as Moderately Priced Dwelling Units. [Tevis Place — McClennan Architects](#). See also [Mixed-Income Housing Community Plan No. E20250010 for Tevis Place](#).

⁹ Of note, this ZTA will become effective 20 days after the date of Council adoption.

¹⁰ [RESJIS for ZTA 23-02](#), Office of Legislative Oversight, May 1, 2023.

¹¹ E. Bonner-Tompkins, J. Peña, & E. Tesfaye, OLO Report 2024-11: [Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#), Office of Legislative Oversight, June 18, 2024.

¹² R. Rothstein, *The Color of Law: A Forgotten History of How Our Government Segregated America*, 2017.

¹³ KY. Taylor, *Race for Profit: How Banks and the Real Estate Industry Undermined Black Homeownership*, 2019.

¹⁴ Bonner-Tompkins, Elaine, Janmarie Peña, Elsabett Tesfaye, [Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development](#). Report Number 2024-11. June 18, 2024.

¹⁵ [Memorandum to Montgomery County Council Health and Human Services Committee](#), June 23, 2025.

¹⁶ Montgomery Planning, [Montgomery County Housing Needs Assessment](#), July 2020.

¹⁷ [Common Incentives and Offsets in Mixed-Income Housing | National Housing Conference](#)

¹⁸ [What Works to Promote Inclusive, Equitable Mixed-Income Communities](#), National Initiative on Mixed-Income Communities at the Jack, Joseph, and Morton Mandel School of Applied Social Sciences, Case Western Reserve University, 2020.

¹⁹ D. Hyra, [Addressing Social Segregation in Mixed-Income Communities](#), Shelterforce, May 4, 2016.

²⁰ Ibid.

²¹ The unit affordability row in table 1 lists the minimum affordability requirements found in pages 3-4 of [ZTA 26-04](#).

²² OLO conversation with Montgomery Planning staff. January 29, 2026.

²³ [Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments, Montgomery County Council](#).