

MEMORANDUM

January 31, 2024

TO: Planning, Housing, and Parks Committee

FROM: Livhu Ndou, Legislative Attorney

SUBJECT: Zoning Text Amendment (ZTA) 23-10, Parking, Queuing, and Loading – Calculation of Required Parking

PURPOSE: Worksession

EXPECTED ATTENDEES

- Artie Harris, Chair, Montgomery County Planning Board
- Jason Sartori, Director, Montgomery County Planning Department
- David Anspacher, Acting Chief – Countywide Planning and Policy, Montgomery County Planning Department
- Lisa Govoni, Supervisor – Housing, Infrastructure, and Zoning Policy, Montgomery County Planning Department
- Benjamin Berbert, Planner III – Countywide Planning & Policy, Montgomery County Planning Department

INTRODUCTION

Zoning Text Amendment (ZTA) 23-10, Parking, Queuing, and Loading – Calculation of Required Parking, lead sponsors Council President Friedson, Councilmember Mink, and then-Council President Glass, was introduced on November 28, 2023. Councilmembers Luedtke, Albornoz, Jawando, Fani-Gonzalez, Sayles, Stewart, Balcombe, and Katz are co-sponsors. ZTA 23-10 will exempt residential uses from the baseline parking minimums in the Zoning Ordinance if the use is located a certain distance from transit.

PUBLIC HEARING

A public hearing was held on January 16, 2024. Eleven speakers testified, both in opposition and support. The Council also received written testimony.¹

¹ Written testimony can be found here:
<https://www.montgomerycountymd.gov/COUNCIL/OnDemand/testimony/20240116/item6.html>.

Testimony in support noted that this ZTA would help the County meet its climate goals, by creating more walkable, transit-oriented, and livable communities. Testimony noted that requiring parking works against the County's climate goals of encouraging residents to walk, bike, or take transit, and to enjoy local retail and restaurants; and that with fluctuating market conditions, minimum parking requirements remove developers' ability to be flexible. Testimony noted that parking costs are a major factor in determining whether potential developments are feasible, that underground parking is expensive and sometimes requires complicated engineering, and that parking minimum requirements hinder the County's ability to provide more housing. Testimony in support noted that the requirement to have a car negatively affects those who do not need parking, since they still cover the cost.

Testimony in opposition expressed concerns about pedestrian and bicyclist safety if cars begin to queue due to inadequate parking, as well as concern about a lack of parking for the elderly and handicapped persons. Testimony noted that this ZTA could have a negative effect on economic development. Testimony was concerned with whether a lack of parking will reduce the number of electric vehicles people own because they do not live near a charger. Testimony noted that there will be increased inequity because the price of parking will go up with fewer spaces available. Testimony asked how distance from a transit station will be calculated, and whether a fiscal analysis was done to determine how much the ZTA will reduce rent.

Recommendations from testimony both in opposition and support include: adopting a method of measuring that focuses on pedestrian infrastructure, encouraging the use of underused county parking garages instead of building additional parking, encouraging shared parking between developments, expansion to 1 mile from Metrorail stations, eliminating parking minimums across the entire County, expanding to commercial buildings, making developers provide affordable housing in exchange for the reduced parking requirement, and adding an amendment to allow optional method of development projects to still receive incentive density points for reduced parking.

SUMMARY OF IMPACT STATEMENTS

Planning Board Recommendation

On December 21, 2023, the Planning Board unanimously recommended approval of ZTA 23-10 with amendments. The Planning Board noted that this ZTA would align with many of their recent efforts to reduce vehicle miles traveled and reduce car dependency. The Board proposed the following amendments:

1. Replace the term Bus Rapid Transit (BRT) with "non-rail transitway", as identified in the Master Plan of Highways and Transitways, to eliminate confusion on what constitutes BRT.
2. Add MARC Rail stations, which under Thrive Montgomery 2050, have the potential to become a high-frequency, bi-directional transit service.
3. Increase the radius from $\frac{1}{4}$ and $\frac{1}{2}$ mile to 1 mile, for consistency and because many residents currently travel up to a mile to reach transit.

Climate Assessment

The Planning Board reviewed the Climate Assessment and found that “ZTA 23-10 will likely result in indeterminate minor positive impacts on the County’s goals regarding greenhouse gas emissions and sequestration” because it will encourage more housing near transit that is less dependent on cars.

RESJ Impact Statement

The Office of Legislative Oversight (OLO) provided a Racial Equity and Social Justice (RESJ) Impact Statement on January 11, 2024. OLO found that ZTA 23-10 will have a favorable impact on racial equity and social justice in the County. OLO explained that “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.”

DISCUSSION

What are the current parking requirements?

Division 6.2 of the Zoning Ordinance provides vehicle and bicycle parking, queuing, and loading requirements, the intent of which is to “ensure that adequate parking is provided in a safe and efficient manner.” The way the Zoning Ordinance is set up, the number of required parking spaces is determined by the use.² Those numbers can be found in Table 6.2.4.B. Since ZTA 23-10 only changes the required parking for residential uses, that section of the table is copied below:³

² Instructions on how to calculate the number of spaces required, such as when to round up and how to count employees, electric charging stations, and other details, can be found in Section 6.2.3., here: https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-4248

³ The full table of parking requirements can be found here: <https://export.amlegal.com/media/2e626f54566a5d61ddaafa7ad2a45f9910723316/DATAOBJECTS/0-0-0-5999.pdf>.

B. Vehicle Parking Spaces

USE or USE GROUP	Metric	AGRICULTURAL, RURAL RESIDENTIAL, RESIDENTIAL, AND INDUSTRIAL ZONES Baseline Minimum	COMMERCIAL/RESIDENTIAL AND EMPLOYMENT ZONES		
			Within a Parking Lot District or Reduced Parking Area		Outside a Parking Lot District or Reduced Parking Area
			Baseline Minimum	Baseline Maximum	Baseline Minimum
RESIDENTIAL					
HOUSEHOLD LIVING					
Single-Unit Living	Dwelling Unit	2.00	1.00	2.00	2.00
Two-Unit Living					
Townhouse Living					
Multi-Unit Living					
	Efficiency Dwelling Unit	1.00	1.00	1.00	1.00
	1 Bedroom Dwelling Unit	1.25	1.00	1.25	1.25
	2 Bedroom Dwelling Unit	1.50	1.00	1.50	1.50
	3+ Bedroom Dwelling Unit	2.00	1.00	2.00	2.00
GROUP LIVING					
Dormitory	Bed	0.25	0.25	0.25	0.25
Independent Living Facility for Seniors or Persons with Disabilities	OR: Dwelling Unit or PLQ	1.00	0.50	1.00	1.00
Personal Living Quarters					
Residential Care Facility	plus, Employee	0.50	0.50	0.50	0.50
ACCESSORY RESIDENTIAL USES					
Attached Accessory Apartment	Accessory Dwelling Unit (in addition to residential spaces)	1.00	--	--	--
Detached Accessory Apartment					
Dwellings for Caretakers/Watchkeepers	Accessory Dwelling Unit	1.00	1.00	1.00	1.00
Farm Labor Housing Unit	Dwelling Unit	1.00	--	--	--
	Non-Resident Employee	1.00	1.00	1.00	1.00
Home Occupation (Low Impact)	plus, Each Client Allowed per Hour	1.00	1.00	1.00	1.00
Home Occupation (Major Impact)	(in addition to residential spaces)				

USE or USE GROUP	Metric	Baseline Minimum	Minimum	Maximum	Minimum
Home Health Practitioner (Low Impact) Home Health Practitioner (Major Impact)	Home Health Practitioner	1.00	1.00	1.00	1.00
	Non-Resident Employee	1.00	1.00	1.00	1.00
	plus, Each Client Allowed per Hour (in addition to residential spaces)	1.00	1.00	1.00	1.00
	Accessory Dwelling Unit	--	1.00	1.00	1.00
Live/Work Units					
CIVIC AND INSTITUTIONAL					

The Zoning Ordinance also includes several ways to reduce a required parking minimum.⁴ These include restricted housing types, such as MPDUs, workforce housing, and age-restricted housing; shared parking; car-share and bike-share spaces; changing facilities; and other specific scenarios. Parking Lot Districts (PLDs) and Reduced Parking Areas are other mechanisms to provide reduced parking.

What is ZTA 23-10 changing?

According to reports from the Planning Department and the Montgomery County Department of Transportation, it costs between \$70,000 to \$100,000 to build each underground parking space that is required for new development. According to advocates, these costs could be passed to future tenants in the form of higher rent. ZTA 23-10 is an attempt to encourage more housing be built,

⁴ These reductions can be found in Section 6.2.3.I., here: https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-4248

due to additional space on a site; and to provide lower-cost housing, due to saved costs. The ZTA does this by providing an adjustment to vehicle parking if the use is near transit.⁵ This does not mean that parking will not be allowed – rather, the developer will be able to determine how much parking to provide based on demand.

I. Adjustments to Vehicle Parking

* * *

8. Parking Minimums Near Transit

Residential uses are exempt from the baseline parking minimums in the parking table under Section 6.2.4.B. if located the following distance from transit:

- a. within ½ mile of a Metro station;
- b. within ½ mile of a Purple Line station; or
- c. within ¼ mile of an existing Bus Rapid Transit station or a Bus Rapid Transit station that has been funded for construction in the 6-year CIP at the time of application.

Since ZTA 23-10 says “residential uses”, based on Table 6.2.4.B. the following uses would be included in ZTA 23-10:

- Single-Unit Living
- Two-Unit Living
- Townhouse Living
- Multi-Unit Living
- Dormitory
- Personal Living Quarters
- Independent Living Facility for Seniors or Persons with Disabilities
- Residential Care Facility
- Accessory Dwelling Unit (ADU) – Attached, Detached, and Dwellings for Caretakers/Watchkeepers
- Farm Labor Housing Unit
- Home Occupation – Low and Major Impact
- Home Health Practitioner – Low and Major Impact
- Live/Work Units

What about handicapped and electric vehicle charging spaces?

State law requires a certain number of electric vehicle charging spaces.⁶ The Americans with Disabilities Act (ADA) requires accessible parking spaces. ZTA 23-10 does not make any changes to the State or federal requirements for handicapped spaces and electric vehicle charging spaces.

⁵ Based on a sampling of several resources – including Adidas, Nike, and Women’s Health Magazine – it takes an “average healthy person” person about 20 minutes to walk 1 mile.

⁶ For example, [Md. Public Safety Code Ann. 12-205](#) requires the option to include an electric vehicle charging station.

Section 6.2.3.B. of the Zoning Ordinance states that “[t]he applicant must provide the minimum number of parking spaces required for handicapped persons under State law.” Section 6.2.3.E. states that “[a]ny parking facility constructed after May 12, 2014, containing 100 parking spaces or more, must have a minimum of one parking space ready to be converted to a station for charging electric vehicles for every 100 parking spaces, or fraction thereof.” ZTA 23-10 only exempts “from the baseline parking minimums in the parking table under Section 6.2.4.B.”, not from all parking requirements in Division 6.2. Further, this Council does not have the authority to exempt these state- and federally-mandated parking requirements.

PLD Tax Issue

In a Parking Lot District (PLD), instead of providing off-street parking as required by the Zoning Ordinance, a property owner may pay an ad valorem tax to fund the construction and maintenance of public parking facilities. An ad valorem tax is a tax based on the County-assessed property value. The County currently has 4 PLDs: Silver Spring, Bethesda, Wheaton, and Montgomery Hills.

According to Planning data, there have been at least 10 projects since 2021 that used a combination of PLD, site-specific reductions, and waivers to provide less than the baseline minimum parking. Most were near Metrorail stations, and approximately half were in a PLD and would otherwise be required to pay the annual tax. Passage of ZTA 23-10 would mean that the total dollars collected from PLDs would decrease. This is because the payment is based on the parking requirement in the Zoning Ordinance. If the parking requirement is 0, then there is no payment. Because there are covenants in the parking district bonds that require the tax to be imposed if the parking revenues are not enough to pay off the bonds and the general fund cannot make up the difference, the question has been asked whether this ZTA will affect the security of parking district bonds.

There are several potential fixes to this issue, including: 1) make all buildings in PLDs liable for the tax, regardless of the parking requirement in the Zoning Ordinance; or 2) excluding PLDs from ZTA 23-10.

Council Staff does not recommend an amendment at this time. Changing the structure of PLDs is a broader conversation that would require a separate bill. Amending ZTA 23-10 to exclude PLDs could reduce the impact of the ZTA based on current mapping. A fiscal analysis should be done to determine the scope of that impact before excluding PLDs from ZTA 23-10. Council Staff recommends the Council discuss any fiscal impacts on the parking district bonds or general revenues after budget.

How will this affect pending projects?

Generally, ZTAs are not retroactive unless explicitly stated. According to DPS, for projects that have already received site plan approval from the Planning Board, the parking requirements would not be adjusted. If the applicant would like to reduce their parking consistent with ZTA 23-10, they could file for a minor amendment.⁷ Under Section 7.3.4.J. of the Zoning Ordinance, a minor

⁷ Of note, “A minor amendment may be approved by the Planning Director without a public hearing if no objection to the application is received within 15 days after the application notice is sent. If an objection is

amendment “includes any change to a parking or loading area” and “also includes a reduction in approved parking to satisfy Article 59-6.”⁸

Have any amendments been proposed?

The following are amendments that have been suggested since the introduction of ZTA 23-10:

1. Clarify how distance from transit will be measured

A common question is how the distance from transit will be measured. As established in prior discussions with the Council related to other ZTAs, DPS always measures in a straight line, to the edge of a lot or other line, “as the crow flies.” To visualize this, if a person was to put a pin at any edge of a station’s boundary, they could take a string and draw a ¼- or ½ mile circle around that pin, whichever applies. Anything within that circle would be subject to ZTA 23-10.

Planning Staff recommended an amendment to Section 1.4.1. of the Zoning Ordinance, which provides rules of interpretation such as how to compute days or months. This could include the straight-line methodology that DPS uses, although other recommendations include the actual pedestrian path or how much of the tract is within a certain range.

Council Staff recommends no amendment at this time. Since any changes or clarification to how distance is measured should be in Section 1.4.1, there would be widespread effects on other sections of the Zoning Ordinance. Therefore, if the Committee wishes to make such a change, it should be in a separate ZTA.

2. Clarify that an adjustment is permitted

Planning Staff recommended an amendment to Section 6.2.3.I.1.b. for consistency. That section of the Zoning Ordinance states: “Adjustments under Section 6.2.3.I to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum.” Since ZTA 23-10 would allow more than a 50% reduction to the baseline minimum, Planning Staff recommends the following amendment:

received within 15 days after the application notice is sent, and the objection is considered relevant, a public hearing is required. A public hearing must be held under the same procedures as an original application.” See, Section 7.3.4.J.2.

⁸ Article 59-6 contains all general development requirements, including Division 6.2 “Parking, Queuing, and Loading.” The article can be found here: https://codelibrary.amlegal.com/codes/montgomerycounty/latest/montgomeryco_md_zone2014/0-0-0-4215.

I. Adjustments to Vehicle Parking

* * *

1. In General

- a. Reduced parking rates under Section 6.2.3.I are not mandatory. The maximum number of parking spaces allowed in a Parking Lot District or Reduced Parking Area is based on the baseline maximum in the parking table under Section 6.2.4.B.
- b. Adjustments under Section 6.2.3.I to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum except for adjustments allowed under Section 6.2.3.I.8.

Council Staff agrees with this recommendation.

3. Redefine Bus Rapid Transit (BRT)

The Planning Board recommended clarifying what a Bus Rapid Transit (BRT) station is. According to the Planning, there is confusion among residents as to what qualifies as BRT. For example, some consider the US 29 FLASH a BRT route while others believe it lacks sufficient investment for this qualification. Further, ZTA 23-10 uses the term “existing”, but there may be confusion as to what routes are considered planned, versus existing, versus funded. The Planning Board therefore recommends using the term “non-rail transitway” as identified in the Master Plan of Highways and Transitways. This will clarify what qualifies and eliminate the need to determine the threshold for a BRT and ensures all planned non-rail transitways are captured, including ones in future updates to area or functional plans.

I. Adjustments to Vehicle Parking

* * *

8. Parking Minimums Near Transit

Residential uses are exempt from the baseline parking minimums in the parking table under Section 6.2.4.B. if located the following distance from transit:

- a. within ½ mile of a Metro station;
- b. within ½ mile of a Purple Line station; or
- c. within ¼ mile of an existing **[[Bus Rapid Transit]] non-rail transitway station or a **[[Bus Rapid Transit]] non-rail transitway station that has been funded for construction in the 6-year CIP at the time of application that is associated with a non-rail transitway identified in the Master Plan of Highways and Transitways.****

Council Staff generally agrees with this recommendation, but to simplify the text and avoid redundancy, recommends the last section read “that is associated with a non-rail transitway identified in the Master Plan of Highways and Transitways.”

4. Include MARC Stations

The Planning Board recommended that MARC Rail stations be added to the list of qualifying transit options. The Board recognized that the MARC rail system does not currently match the frequency of service provided by Metrorail, the future Purple Line or Bus Rapid Transit, but that it has the potential to evolve into a high-frequency, bi-directional transit service.

I. Adjustments to Vehicle Parking

* * *

8. Parking Minimums Near Transit

Residential uses are exempt from the baseline parking minimums in the parking table under Section 6.2.4.B. if located the following distance from transit:

- a. within ½ mile of a Metro station;
- b. within ½ mile of a Purple Line station;
- c. within ½ mile of a MARC station; or
- ~~[[c]]~~d. within ¼ mile of an existing [[Bus Rapid Transit]] non-rail transitway station or a [[Bus Rapid Transit]] non-rail transitway station that has been funded for construction in the 6-year CIP at the time of application that is associated with a non-rail transitway identified in the Master Plan of Highways and Transitways.

Council Staff agrees with this recommendation.

5. Increase the radius to 1 mile

The Planning Board recommended the radius around all the listed types of transit be increased to 1 mile. The Board recommends this increase for consistency and believes that the market will still be able to effectively determine the appropriate levels of parking at 1 mile. In addition, the Board notes that many residents currently travel up 1 mile to reach transit.

If the Committee is concerned with consistency, Council Staff recommends changing the radius for all listed transit types to ½ mile. Increasing to 1 mile could have positive environmental impacts, increase housing, and would provide developers with more flexibility. But it could also increase the concerns about on-street parking in nearby neighborhoods, whether the market will provide a sufficient number of parking spaces for those who want to drive, and limit the ability to travel to amenities such as retail, grocery stores, or restaurants that are further away. Further, Council Staff is unconvinced that most residents would walk 1 mile – about 20 minutes – for their daily transit needs. Increasing the radius to ½ mile for all transit types will balance these pros and cons.

6. Other recommendations

The following is a list of proposed amendments or comments from written testimony for the Committee's consideration.

- Encourage the use of underused county parking garages.
- Encourage shared parking between developments.
- Eliminate parking minimums for all development, regardless of the distance from transit.
- Require affordable housing in exchange for reduced parking minimums.
- Allow optional method of development projects to still receive incentive density points for reduced parking.

Council Staff does not recommend any amendments based on these suggestions at this time.

This packet contains:

ZTA 23-10	© 1
Planning Board recommendation	© 4
Planning Staff report	© 6
ZTA Potential Impact Map	© 15
Maryland House Bill 819	© 16
Climate Assessment	© 18
Racial Equity and Social Justice Impact Statement	© 21

Ordinance No.: _____
 Zoning Text Amendment No.: 23-10
 Concerning: Parking, Queuing, and
Loading – Calculation of
Required Parking
 Revised: 11/28/2023 Draft No.: 2
 Introduced: November 28, 2023
 Public Hearing: January 16, 2024
 Adopted: _____
 Effective: _____

**COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND
 SITTING AS THE DISTRICT COUNCIL FOR THAT PORTION OF
 THE MARYLAND-WASHINGTON REGIONAL DISTRICT WITHIN
 MONTGOMERY COUNTY, MARYLAND**

Lead Sponsors: Then Council Vice-President Friedson, Councilmember Mink, and then Council President Glass

Co-Sponsors: Councilmembers Luedtke, Albornoz, Jawando, Fani-González, Sayles, Council President Stewart, Councilmembers Balcombe, and Katz

AN AMENDMENT to the Montgomery County Zoning Ordinance to:

- (1) reduce the parking requirement near transit; and
- (2) generally amend the parking requirements.

By amending the following sections of the Montgomery County Zoning Ordinance, Chapter 59 of the Montgomery County Code:

Division 6.2.	“Parking, Queuing, and Loading”
Section 6.2.3.	“Calculation of Required Parking”

EXPLANATION: ***Boldface** indicates a Heading or a defined term.*
Underlining indicates text that is added to existing law by the original text amendment.
[Single boldface brackets] indicate text that is deleted from existing law by original text amendment.
Double underlining indicates text that is added to the text amendment by amendment.
[Double boldface brackets] indicate text that is deleted from the text amendment by amendment.
indicates existing law unaffected by the text amendment.

ORDINANCE

The County Council for Montgomery County, Maryland, sitting as the District Council for that portion of the Maryland-Washington Regional District in Montgomery County, Maryland, approves the following ordinance:

1 **Sec. 1. DIVISION 59-6.2 is amended as follows:**

2 **Division 6.2. Parking, Queuing, and Loading**

3 * * *

4 **Section 6.2.3. Calculation of Required Parking**

5 The minimum number of vehicle and bicycle parking spaces required in all zones
6 is the sum of the number of spaces required for each applicable land use in the
7 tables in Section 6.2.4.B and Section 6.2.4.C, unless the total number is reduced
8 under Section 6.2.3.I.

9 * * *

10 **I. Adjustments to Vehicle Parking**

11 * * *

12 **8. Parking Minimums Near Transit**

13 Residential uses are exempt from the baseline parking minimums in the
14 parking table under Section 6.2.4.B. if located the following distance from
15 transit:

- 16 a. within ½ mile of a Metro station;
- 17 b. within ½ mile of a Purple Line station; or
- 18 c. within ¼ mile of an existing Bus Rapid Transit station or a Bus
19 Rapid Transit station that has been funded for construction in
20 the 6-year CIP at the time of application.

21 * * *

22 **Sec. 2. Effective date.** This ordinance becomes effective 20 days after the
23 date of District Council adoption.

December 27, 2023

To: The Honorable Andrew Friedson
President, Montgomery County Council
Stella B. Werner Council Office Building
100 Maryland Avenue, Room 501
Rockville, Maryland 20850

From: Montgomery County Planning Board

Subject: Zoning Text Amendment 23-10, Parking, Queuing, and Loading – Calculation of Required Parking

BOARD RECOMMENDATION

The Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission met on December 21, 2023, and by a vote of 5:0 recommended support for Zoning Text Amendment (ZTA) 23-10 with modifications. This ZTA exempts residential development in proximity to certain transit stations from minimum parking requirements.

Currently, all uses in the Zoning Code are required to provide a minimum amount of parking, based upon the use and the underlying zone. There are multiple existing ways to reduce on-site vehicle parking, but at most the parking minimum can only be reduced by 50%. This ZTA would exempt residential uses within ½ mile of a Metrorail or Purple Line station, and ¼ mile of a Bus Rapid Transit station that has been funded for construction in the 6-year CIP from the parking minimums, permitting them to provide no parking.

The Planning Board is very supportive of these changes, as they align with many of its recent planning initiatives that are working to reduce vehicle miles traveled, reduce car dependency, and generally create great spaces that are made for people rather than vehicles. The Board has a couple of recommendations, both for clarity and to expand upon the scope of the ZTA.

First, the Board recommends that the term BRT be replaced with the term “non-rail transitway” as identified in the Master Plan of Highways and Transitways. This is to eliminate any confusion or difference of opinion on what constitutes BRT, and it aims to tie the source of the transitways to one document that is updated with each new master or functional plan.

Second, the Board recommends that MARC Rail stations be added to the list of qualifying transit options in the ZTA. The Board recognizes that the MARC rail system does not currently match the frequency of service provided by Metrorail, the future Purple Line or Bus Rapid Transit, however, as recognized by *Thrive Montgomery 2050*, it has the potential to evolve into a high-frequency, bi-directional transit service.

Third, the effective radius around all types of transit stations should be consistent and be expanded to a one-mile radius instead of the ½ and ¼ mile radiuses in the ZTA. The Board firmly believes the market will determine the appropriate levels of parking for residential uses, and many residents currently travel up to a mile to reach transit.

In addition to these direct changes recommended to the ZTA, the Planning Board also wants to affirm its desire that this ZTA be seen as the first step in a broader conversation toward county-wide parking reforms. The Board is also interested in pursuing a future ZTA that would clarify in the Zoning Code how proximity to transit stations is measured.

The Board also reviewed the climate assessment prepared by Planning staff for ZTA 23-10. The assessment found there may be slight to moderate positive impacts to greenhouse gas emissions, and community resilience and adaptive capacity. The ZTA would encourage additional development in areas well served by transit, reducing vehicle miles traveled, and private vehicle ownership. This increased density would also help strengthen these existing communities' social networks and create new places for community and civic gatherings.

The Planning Board appreciates the opportunity to review ZTA 23-10 and recommends the District Council adopt the zoning changes with the recommended modifications. The Planning Board hopes this ZTA is just the beginning of implementing parking reform and is excited to assist in additional efforts in the future. Planning staff is available to assist if the Council has any questions.

CERTIFICATION

This is to certify that the attached report is a true and correct copy of the technical staff report and the foregoing is the recommendation adopted by the Montgomery County Planning Board of the Maryland-National Capital Park and Planning Commission, at its regular meeting held in Wheaton, Maryland, on Thursday, December 21, 2023.



Artie L. Harris

Chair

Attachments:

A - Planning Board Staff Packet

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

Description

This ZTA exempts residential uses from providing minimum parking if 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 improvement program.

ZTA 23-10
Completed: 12-14-2023

MCPB
Item No. 08
12-21-2023

2425 Reedie Drive
Floor 14
Wheaton, MD 20902

BB	Benjamin Berbert, Planner III, Countywide Planning and Policy Benjamin.Berbert@montgomeryplanning.org , 301-495-4644
ymg	Lisa Govoni, Acting Supervisor, Countywide Planning and Policy Lisa.Govoni@montgomeryplanning.org , 301-650-5624
DA	David Anspacher, Acting Chief, Countywide Planning and Policy David.Anspacher@montgomeryplanning.org , 301-495-2191

ZTA SPONSORS

Lead Sponsors:
Council President Friedson
Councilmembers Mink, and Glass

Cosponsors:
Councilmembers Luedtke, Albornoz,
Jawando, Fani-Gonzalez, Sayles, Stewart,
Balcomb, and Katz

INTRODUCTION DATE

November 28, 2023

COUNCIL PUBLIC HEARING DATE

January 16, 2024

REVIEW BASIS

Chapter 59

Summary

- Under current zoning, all uses have some level of required on-site parking, as specified in the baseline parking minimums table under Section 59-6.2.4.B.
- ZTA 23-10 creates a new adjustment to vehicle parking, exempting residential uses from providing the baseline parking minimums if they are located within ½ mile of Metro or Purple Line Stations, or within ¼ mile of an existing or funded Bus Rapid Transit station.
- Planning Staff is recommending changes to clarify what is meant by a Bus Rapid Transit station, and to ensure the full intent of eliminating parking minimums are able to be implemented.

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SECTION 1 – BACKGROUND

Rationale For Introduction

Zoning Text Amendment (ZTA) 23-10, Parking, Queuing, and Loading – Calculation of Required Parking, was introduced by Council President Friedson, and Councilmembers Glass, and Mink, and co-sponsored by Councilmembers Luedtke, Albornoz, Jawando, Fani-Gonzalez, Sayles, Stewart, Balomb, and Katz, on November 28, 2023 (Attachment A). The ZTA is scheduled for a District Council Public Hearing on January 16, 2024. The ZTA exempts residential uses from providing the baseline parking minimums if located within ½ mile of a Metro or Purple Line station, or within ¼ mile of an existing or capitolly funded for construction Bus Rapid Transit (BRT) station.

All uses in the Zoning Code require some level of off-street parking, and the code also provides opportunities to reduce amount of required parking by providing elements such as shared parking, unbundling of residential parking, or better bicycle amenities. The Council sponsors, in their press release for ZTA 23-10 pointed out how expensive providing parking can be, at a cost of between \$70,000 and \$100,000 per space when constructing underground parking. These costs are passed onto the future residents in the form of higher rent. Eliminating parking minimums does not restrict developers from providing parking, but permits them to provide the amount they feel is necessary to accommodate anticipated demand. This frees up space for more development adjacent to the County’s transit stations, and helps reduce the cost of construction. The Council also notes this measure is supported by many of the County’s recently adopted plans and policies that prioritize people over cars, and support concentrated development along development corridors and around transit.

During the 2023 State legislative session, House Bill 819 was introduced which would have prohibited Montgomery County from enforcing off-street parking minimums for residential development near Metro or Purple Line stations. This Bill was not adopted, but it started the conversation at the local level that similar legislation should be considered by the County.

SECTION 2 – TEXT AS INTRODUCED

ZTA 23-10 As Introduced

ZTA 23-10 adds a new subsection “Parking Minimums Near Transit” to the “Adjustments to Vehicle Parking” section located in Section 59-6.2.3.I. of the Zoning Code. The new subsection is as follows:

8. Parking Minimums Near Transit

Residential uses are exempt from the baseline parking minimums in the parking table under Section 6.2.4.B. if located the following distance from transit:

- a. Within ½ mile of a Metro station;
- b. Within ½ mile of a Purple Line station; or
- c. Within ¼ mile of an existing Bus Rapid Transit station or a Bus Rapid Transit station that has been funded for construction in the 6-year CIP at the time of application.

Planning Staff has included in Attachment 3 a map showing the above listed distances from transit, for reference on where the parking exemption would apply.

SECTION 3 – ANALYSIS AND RECOMMENDATIONS

ZTA 23-10 Analysis and Recommendations

Montgomery Planning Staff recommends the Planning Board support ZTA 23-10 with modifications. Planning Staff are very supportive of allowing a more market driven approach to providing parking, especially in close proximity to frequent, high-quality transit where alternatives to driving are available and land values are highest.

The current code has various options for reducing parking below the baseline parking minimums. There are general provisions that apply to larger geographies such as the provisions for Parking Lot Districts¹ (PLDs), which allow a property to pay an annual tax in exchange for providing on-site parking, and the Reduced Parking Areas² which have lower baseline minimum parking requirements, and allow for a waiver to reduce parking further. The code also includes site specific adjustments to vehicle parking that may reduce parking up to 50% below baseline minimums, including reductions for:

- Affordable and age-restricted housing
- Certain religious assembly
- Providing shared parking
- Providing car-share spaces
- Unbundling parking from leases
- Federal agencies

¹ The Parking Lot Districts include Downtown Bethesda, Downtown Silver Spring, Montgomery Hills, and Downtown Wheaton

² A designated area defined by a property's zoning and location, including any property not in a Parking Lot District, and in a CR, CRT, LSC, EOF, or equivalent Floating zone, or in a CRN, NR, GR, or equivalent Floating zone that is within 1 mile of a transit station or stop, as defined by Transit Proximity.

- Carpool parking
- Providing Bike-share stations
- Providing on-site showers and lockers

Since 2021, there have been at least 10 projects, mostly in downcounty or midcounty, near Metrorail stations, that have utilized a combination of the PLD, site specific reductions, and waivers to provide less than the baseline minimum parking. Approximately half were in a PLD and would be required to pay the annual tax. Passing this ZTA could have future impacts on one of the funding mechanisms of PLDs if no new residential projects would be required to make those annual payments.

Planning Staff have a couple of minor recommendations to modify the ZTA, some are direct, and a couple that requires follow-up discussions with the Board and the District Council.

MODIFICATION TO NEW SECTION

Planning Staff's first recommendation is to update an additional Section, 59-6.2.3.I.1.b. to ensure the full intent of this ZTA can be achieved. This section of code currently reads as follows:

- b. Adjustments under Section [6.2.3.I](#) to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum.

This provision seems to limit the effect of any adjustment to vehicle parking under Subsection I to no more than 50% of the baseline minimum with no exceptions.

Recommendation - Planning Staff recommend the following amendment to the ZTA to provide an exception for residential uses near transit:

- b. Adjustments under Section [6.2.3.I](#) to the minimum number of required parking spaces must not result in a reduction below 50% of the baseline parking minimum or shared parking model minimum **except for adjustments allowed under Section 6.2.3.I.8.**

DEFINE BUS RAPID TRANSIT

Planning Staff's second recommendation is to clarify what is meant by a Bus Rapid Transit (BRT) Station, as BRT planning and implementation can vary greatly. As an example, Montgomery County recently constructed and opened the US 29 FLASH as a high-quality transit line, with premium vehicles and stations and frequent service, but lacking dedicated transit lanes. Some consider the US 29 FLASH to be a BRT route while others feel it lacks sufficient investment to qualify as BRT. In the existing code, any references to proximity to BRT have been based on proximity to planned BRT routes, which is more straightforward since the planned routes are generally along our major roadway corridors and do not often change in alignment, and a BRT route is still considered planned, regardless of the level of infrastructure investment that may have gone into implementing high-

quality transit upgrades. This ZTA bases the benefit of not having to provide minimum parking on proximity to existing or funded BRT stations, which makes sense because the purpose this ZTA is to allow reduced or no parking in places with existing high-quality transit service. However, clarity should be given to what is considered an existing or funded BRT station to avoid differing opinions when it comes to implementing the zoning.

Recommendation – Planning Staff recommend that the term BRT in the ZTA be replaced with a reference to non-rail transitways as identified in the Master Plan of Highways and Transitways. This change serves two purposes, first by specifying a specific source for what qualifies as a transitway, it removes the ambiguity about whether any particular corridor with upgraded with high-quality transit infrastructure meets the threshold of BRT. This definition also ensures all planned non-rail transitways are captured including the BRT routes from the 2013 Countywide Transit corridors Functional Plan, amendments made in the 2014 White Oak Science Gateway Master Plan, the 2022 Corridor Forward plan, and any future updates to area plans or functional plans. The amended text would read as follows:

- c. Within ¼ mile of an existing [Bus Rapid Transit] non-rail transitway station or a [Bus Rapid Transit]non-rail transitway station that has been funded for construction in the 6-year CIP at the time of application that is associated with a non-rail transitway identified in the Master Plan of Highways and Transitways.

FUTURE ANALYSIS – DEFINE HOW TO MEASURE DISTANCE

Planning Staff’s last recommendation does not directly apply to ZTA 23-10, but warrants further discussion because this ZTA is one of multiple ZTAs recently that have established zoning policies based on distance from features such as transit lines or stations. Planning Staff recommends a Rule of Interpretation be added to the code explaining how to perform distance measurements from features such as transit stations and transit lines. Currently, there is no definition or written interpretation in the Code on how to interpret a property or project's distance to a fixed location such as a transit station. There are at least three approaches that could be taken.

- Planning Staff’s understanding is the Department of Permitting Services (DPS) makes this determination based on a straight-line “as the crow flies” distance from the station to the site or property, and if any part of a site or property falls within the specified distance, the whole site or property qualifies.
- The Commercial/Residential and Employment Zones Incentive Density Guidelines also uses straight-line measurements for the Transit Proximity category, but specifies that at least 75% of a tract must fall within the range to fully qualify for incentive points, and for tracts with less than 75% coverage, a weighted average should be applied to the benefit.

- A third approach would be to base distance not on straight-line measurement, but instead based on the actual pedestrian path, determined by an existing sidewalk and shared use path connections.

Planning Staff is not at this point advocating that any methodology is better than the others, but does recommend a future ZTA be considered that amends Section 59-1.4.1 Rules of Interpretation to spell out the methodology on how to perform distance measurements to avoid misinformation or confusion among Planning Staff, DPS Staff, and applicants.

PARKING LOT DISTRICTS

Because PLDs are administered by the Montgomery County Department of Transportation, Planning Staff have no direct recommendations to the ZTA or on other code amendments to consider, but note this ZTA could cut off a substantial source of funding going forward. Currently all developments in PLDs providing less than the minimum parking (after allowed adjustments) must pay an annual tax to the PLD. Once this ZTA is adopted, the tax would still apply to new commercial development, but would no longer be required for new residential development. Also, as introduced there is nothing that would stop an existing residential development that pays the annual PLD tax from submitting a site plan amendment to remove their parking requirement going forward. The District Council should consider these implications for the PLDs which may need modified or new sources of funding in the future.

SECTION 4 – CLIMATE ASSESSMENT

Bill 3-22, passed by the County Council on July 12, 2022, requires the Planning Board to prepare a climate assessment for each zoning text amendment, master plan, and master plan amendment, effective March 1, 2023. Each climate assessment must include the potential positive or negative effects a ZTA may have on climate change (including greenhouse gas emissions) and upon community resilience and adaptive capacity. The full climate impact assessment for ZTA 23-10 is attached in Attachment B with a brief summary provided below.

ZTA 23-10 will likely have minor positive impacts on greenhouse gas emissions by encouraging the development of more housing units that are not as car-dependent, resulting in fewer vehicle trips and vehicle miles traveled than may have otherwise occurred. The ZTA is also predicted to have indeterminate minor positive impacts on adaptive capacity by increasing the number of future residents with accessibility to community gathering spaces, increasing future access to public transportation, and encouraging less car-dependent lifestyles.

SECTION 5 – CONCLUSION

Planning Staff recommends the Planning Board support ZTA 23-10 with modifications to ensure that parking may be fully eliminated near transit stations for residential uses and to define what is meant by a BRT station as discussed in this report. This ZTA is a major step toward implementing the County’s goals of reducing housing costs, incentivizing housing along existing development corridors and transit hubs, and placing people over vehicles in the built environment.

SECTION 6 – ATTACHMENTS

Attachment A: Zoning Text Amendment 23-10 Intro Packet

Attachment B: Climate Assessment 23-10

Attachment C: Map of transit buffers proposed by ZTA 23-10

Attachment D: HB 819

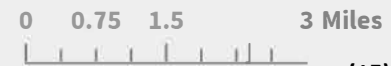
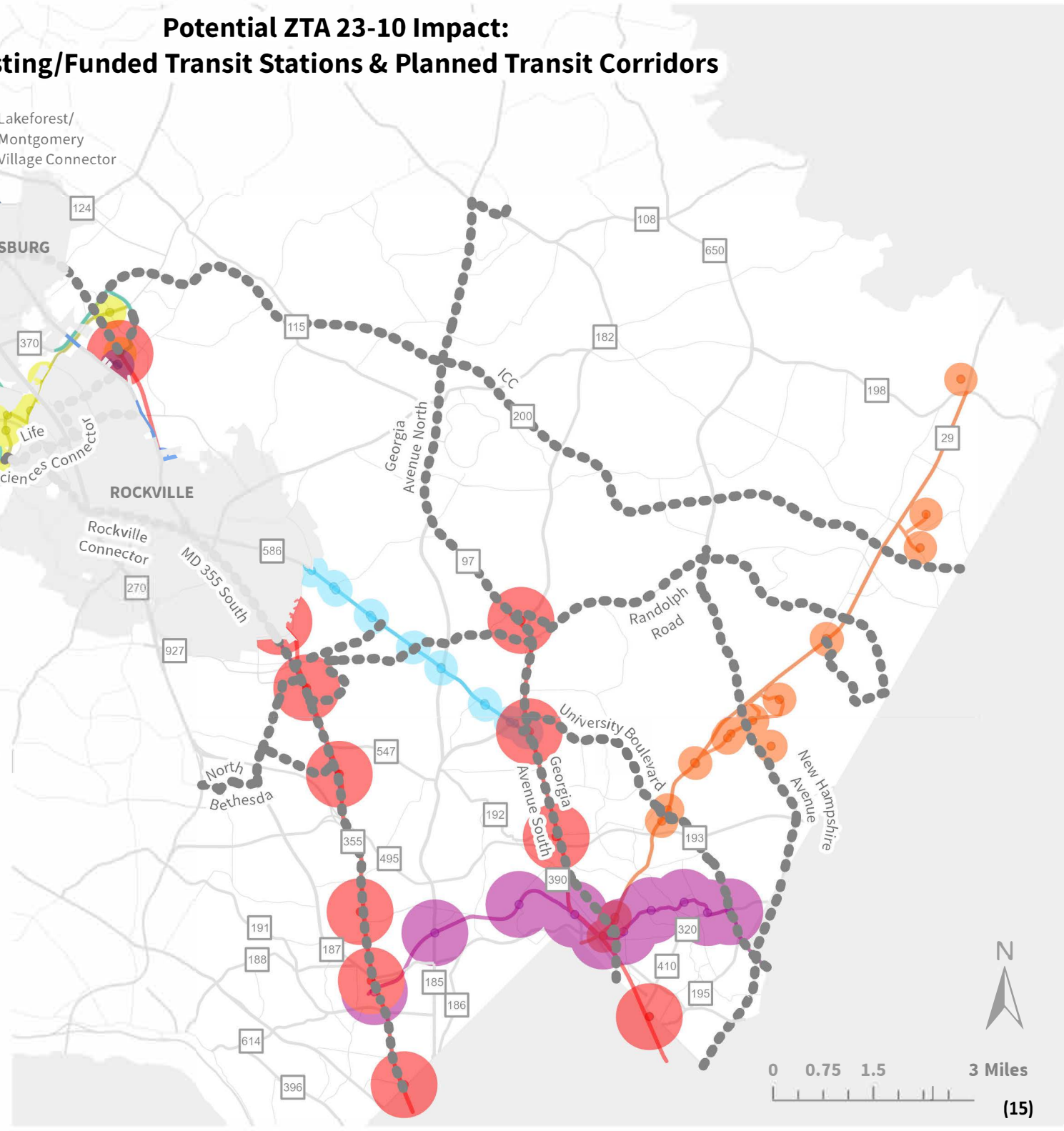
Potential ZTA 23-10 Impact: Existing/Funded Transit Stations & Planned Transit Corridors

Stations Where ZTA 23-10 Would Apply

- Red Line
- Purple Line
- US 29
- MD 355 Central
- Veirs Mill
- GSTN Lime RideOn Extra
- GSTN Pink RideOn Extra

Planned Transit Corridors Where ZTA 23-10 Could Apply in the Future

- Georgia Avenue North & South
- Germantown Connector
- Great Seneca Connector
- ICC
- Lakeforest/Montgomery Village Connector
- Life Sciences Connector
- Manekin West Connector
- MD 355 North & South
- Milestone/COMSAT East Clarksburg Connector
- New Hampshire Avenue
- North Bethesda
- Randolph Road
- Red Line Extended
- Rockville Connector
- University Boulevard



HOUSE BILL 819

L5

3lr0550

By: **Montgomery County Delegation and Prince George's County Delegation**

Introduced and read first time: February 8, 2023

Assigned to: Environment and Transportation

Committee Report: Favorable

House action: Adopted

Read second time: March 7, 2023

CHAPTER _____

1 AN ACT concerning

2 **Montgomery County – Off-Street Parking Requirements Near Mass Transit**
3 **Stations**

4 **MC/PG 106–23**

5 FOR the purpose of prohibiting the Montgomery County district council from adopting or
6 enforcing a local law that requires the creation of new off-street parking for a
7 residential development that is located within a certain distance of a present or
8 planned Metro or Purple Line station; and generally relating to requirements for
9 off-street parking for developments in Montgomery County.

10 BY adding to
11 Article – Land Use
12 Section 22–109
13 Annotated Code of Maryland
14 (2012 Volume and 2022 Supplement)

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
16 That the Laws of Maryland read as follows:

17 **Article – Land Use**

18 **22–109.**

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 (A) IN THIS SECTION, "PURPLE LINE" MEANS THE 16-MILE LIGHT RAIL
2 TRANSIT LINE BETWEEN BETHESDA IN MONTGOMERY COUNTY AND NEW
3 CARROLLTON IN PRINCE GEORGE'S COUNTY.

4 (B) THIS SECTION APPLIES ONLY IN MONTGOMERY COUNTY.

5 (C) NOTWITHSTANDING § 22-104 OF THIS SUBTITLE, THE DISTRICT
6 COUNCIL MAY NOT ADOPT OR ENFORCE A LOCAL LAW THAT REQUIRES THE
7 CREATION OF NEW OFF-STREET PARKING FOR A RESIDENTIAL DEVELOPMENT THAT
8 IS LOCATED WITHIN A 0.25-MILE RADIUS OF A PRESENT OR PLANNED METRO OR
9 PURPLE LINE STATION.

10 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
11 October 1, 2023.

Approved:

Governor.

Speaker of the House of Delegates.

President of the Senate.

CLIMATE ASSESSMENT FOR ZTA 23-10, PARKING, QUEUING, AND LOADING – CALCULATION OF REQUIRED PARKING

PURPOSE OF CLIMATE ASSESSMENTS

The purpose of the climate assessments is to evaluate the anticipated impact of master plans and zoning text amendments (ZTAs) on the County’s contribution to addressing climate change. These assessments will provide the County Council with a better understanding of the potential climate impacts and implications of proposed master plans and ZTAs at the County level. The scope of the climate assessments is limited to the County’s contribution to addressing climate change, specifically upon the County’s contribution to greenhouse gas (GHG) emissions, and how actions proposed by master plans and ZTAs could improve the County’s adaptive capacity to climate change and increase community resilience.

While co-benefits such as health and cost savings may be discussed, the focus is on how proposed master plans and ZTAs may impact GHG emissions and community resilience.

SUMMARY

ZTA 23-10 will exempt residential uses from the baseline parking minimums in the Zoning Ordinance if located near transit. To qualify as “near transit”, the use will need to be within ½ mile of a Metro station; within ½ mile of a Purple Line station; or within ¼ mile of an existing Bus Rapid Transit station or a Bus Rapid Transit station that has been funded for construction in the 6-year CIP at the time of application.

BACKGROUND AND PURPOSE OF ZTA 23-10

ZTA 23-10 is intended to allow residential projects around transit stations to reduce or fully eliminate vehicle parking spaces. Providing parking is a substantial driver in construction costs, especially in urban areas with structured parking. Reducing the parking minimums provides developers the flexibility to provide only as much parking as deemed necessary for future residents, resulting in fewer parking spaces and less project cost. This policy fits into the larger framework of prioritizing people over cars and supporting development and redevelopment along major corridors and transit infrastructure.

VARIABLES THAT COULD AFFECT THE ASSESSMENT

CLIMATE-RELATED VARIABLES

Greenhouse Gas-related Variables:

Transportation: Vehicle miles traveled (VMT); Number of trips; Non-vehicle modes of transportation; Public Transportation use

Community Resilience and Adaptive Capacity-Related Variables:

Adaptive Capacity Factors: Change in prevalence of or accessibility to community and public spaces; Change in access to transportation; Change to community accessibility

OTHER VARIABLES

None

ANTICIPATED IMPACTS

GREENHOUSE GAS EMISSIONS, CARBON SEQUESTRATION, AND DRAWDOWN

To the degree that applicants utilize this ZTA, Montgomery Planning anticipates that ZTA 23-10 will likely have an indeterminate minor positive impact on greenhouse gas emissions by encouraging more housing near transit that is less car-dependent. This will tend to reduce VMT and non-vehicle modes of transportation and encourage the use of public transportation.

COMMUNITY RESILIENCE AND ADAPTIVE CAPACITY

To the degree that applicants utilize this ZTA, Montgomery Planning anticipates that ZTA 23-10 will likely have an indeterminate minor positive impact on adaptive capacity by encouraging more housing near transit that is less car-dependent. This will tend to increase accessibility to community and public spaces, access to transportation, and overall community accessibility.

RELATIONSHIP TO GHG REDUCTION AND SEQUESTRATION ACTIONS CONTAINED IN THE MONTGOMERY COUNTY CLIMATE ACTION PLAN (CAP)

ZTA 23-10 does not involve any GHG or sequestration activities that relate to the GHG reduction and sequestration actions from the County's Climate Action Plan.

RECOMMENDED AMENDMENTS

ZTA 23-10 will likely result in indeterminate minor positive impacts on the County’s goals regarding greenhouse gas emissions and sequestration, and Planning staff does not have any recommended climate-related amendments to add. The ZTA does not offer obvious additional opportunities to significantly enhance positive climate change-related impacts beyond the potential benefits associated with the proposed required parking calculation as discussed in this assessment.

SOURCES OF INFORMATION, ASSUMPTIONS, AND METHODOLOGIES USED

The climate assessment for ZTA 23-05 was prepared using the methodology (tables 1, 2, and 8, in particular) for ZTAs contained within the [*Climate Assessment Recommendations for Master Plans and Zoning Text Amendments in Montgomery County, December 1, 2022*](#).

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.

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.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 23-10

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.l(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,³ shared parking spaces,⁴ 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.”⁵ Building underground parking facilities for new developments could cost up to \$100,000 for each development.⁶ 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.⁷

RESJ Impact Statement

Zoning Text Amendment 23-10

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.

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.⁸ 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.⁹

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

- 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.”¹² Residents of color still experience discrimination in the housing market due to predatory lending practices and bias in the rental and real estate markets.¹³ As such, racial disparities in housing security by race and ethnicity persist.¹⁴ 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.¹⁵
- 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.¹⁶ Additionally, more than 20,000 households earning under \$31,000 per year are severely cost burdened, spending more than half their incomes on rent.¹⁷ 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.¹⁸
- 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.¹⁹

RESJ Impact Statement

Zoning Text Amendment 23-10

- 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.²⁰
- 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.²¹

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.

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)²² 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.²³ 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.

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.²⁴ 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.

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.

RESJ Impact Statement

Zoning Text Amendment 23-10

CONTRIBUTIONS

OLO staffer Elsabett Tesfaye, Performance Management and Data Analyst, drafted this racial equity and social justice 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 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

⁴ 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

⁵ 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

⁶ Ibid.

⁷ Ibid.

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

⁹ Ibid.

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

¹¹ 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

¹² Rothstein

¹³ 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>

¹⁴ 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>

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

¹⁶ Ibid.

¹⁷ 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>

¹⁸ 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

¹⁹ 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

²⁰ 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](#)

²¹ Ibid.

²² 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.²² 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).

²³ 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>

RESJ Impact Statement

Zoning Text Amendment 23-10

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