

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

Office of Legislative Oversight

ZTA 25-05: DEVELOPMENT STANDARDS - OPTIONAL METHOD PUBLIC BENEFITS

SUMMARY

The Office of Legislative Oversight (OLO) cannot estimate the anticipated impact of ZTA 25-05 on RESJ in the County with current available information. If ZTA 25-05 promotes development and public benefits in areas that are well-connected to transit and employment without increasing affordable housing beyond existing requirements, it could exacerbate racial and social inequities. OLO, however, cannot determine whether ZTA 25-05 will impact development or how.

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.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 25-05

In Montgomery County, public benefit policies³ require developers submitting optional method applications⁴ to incorporate community amenities into large development projects in exchange for increased density or height allowances. Projects must achieve a minimum points total depending on their size, intensity, and location.⁵ Examples of public benefits that can be offered in exchange for increased densities and height allowance include affordable housing, public facilities, public parking, public art, open space, and pedestrian improvements (see Table 1, Appendix A for points by public benefit category). Applicants may choose from a range of specified public benefits. For example, streetscape improvements could be worth up to 20 points while a major public facility, like a library, could be worth up to 70 points.⁶

The purpose of ZTA 25-05 is to update the process for determining public benefits in developments located within the County's "incentive areas." Incentive areas are geographic areas that are connected to transit and employment and thus suitable for increased density. As observed in Appendix B, incentive areas are located throughout the County but concentrated among the Route 29 and Interstate 270 corridors among four zoning types: Commercial/Residential (CR), Commercial Residential Town (CRT), Employment Office (EOF), and Life Sciences Center (LSC).

The current system for calculating required public benefits is based on tract size or square footage. In practice, projects submitting optional method applications in CR zones are required to provide 100 points of public benefits and those in CRT zones are required to provide 50 points in public benefits. If enacted, ZTA 25-05 will require the Montgomery Department of Planning to calculate the required public benefits of projects in incentive areas based on their proposed floor area ratio (FAR) rather than based on their tract size, square footage, or point based requirements. Projects with higher FARs will be expected to provide more public benefits than developments with lower FARs.

If enacted, ZTA 25-05 would also remove the optional method development requirement for projects in EOF zones seeking higher densities or height allowances and offer additional flexibility for development in incentive zones.⁷

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ZTA 25-05 was introduced on April 29, 2025. This RESJ impact statement builds on OLO RESJISs completed for:

- ZTA 25-02: Workforce Housing – Development Standards,⁸
- ZTA 25-03: Expedited Approvals – Commercial to Residential Reconstruction;⁹ and
- ZTA 25-04: Overlay Zones – Bethesda (B) Overlay Zone.¹⁰

For additional background on residential segregation and racial inequities in housing, property ownership, and housing affordability, please refer to these RESJISs and OLO Report 2024-11, Racial Equity and Social Justice Policy Handbook: Land Use, Housing, and Economic Development.¹¹

RACIAL INEQUITY IN LAND USE AND HOUSING

Racial inequities in land use and housing foster and sustain residential racial segregation and racial disparities in homeownership, housing burden, and access to community amenities.¹² Because social determinants are so tightly connected to where one lives, the implications of zoning on racial inequity are significant, as where one lives determines where one goes to school, exposure to crime and policing, and where one can shop. Furthermore, a homeowner's residence is arguably the most critical factor influencing their family's wealth.¹³

Racial and ethnic inequities in wealth, homeownership, and income have fostered a greater need for affordable housing among Black and Latinx residents of the County. As noted in Table 1 in Appendix C below, three-quarters of White and Asian households resided in owner-occupied units in 2023 compared to less than half of Latinx and Black households. As observed in Tables 2 and 3 in Appendix C, Latinx and Black mortgage holders and renters were also more likely to experience a housing cost burden where they expended more than 30 percent of their household income on housing.

Public benefits policies that require expanded affordable housing options for larger developments could benefit Black and Latinx households disproportionately and in turn advance racial equity and social justice. ZTA 25-05, however, does not obligate developers to exceed current Moderately Priced Dwelling Unit (MPDU) minimums unless they ask for major bonuses. The minimum percentage of MPDUs required for most development ranges from 12.5 to 15 percent to create dwelling units that are affordable for households earning 65 to 70 percent of the area median income.

Of note, new development in affordable neighborhoods can improve community amenities but can also foster displacement and loss of existing affordable housing. Given higher rental rates and levels of housing cost burden experienced among Black and Latinx households (see Tables 1 and 2, Appendix C), they are especially vulnerable to the adverse effects of gentrification and displacement associated with new development. As observed in Appendix B, ZTA 25-05 could impact several communities across the County with varying income levels, including Wheaton, Silver Spring, Gaithersburg, Clarksburg, Germantown, and Bethesda.

ANTICIPATED RESJ IMPACTS

To consider the anticipated impact of ZTA 25-05 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 25-05 for two sets of stakeholders:

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- **Developers and Construction Firms.** It is unclear whether ZTA 25-05 provides greater benefits to developers than current policy. As such, OLO cannot discern whether ZTA 25-05 benefits developers by reducing the costs of development except for development in EOF zones where Optional Method Development will not be required. ZTA 25-05 may also reduce the cost of development for developers by allowing them to pay for off-site improvements such as sidewalks, bus stops, and street improvement after the project is completed. If ZTA 25-05 diminishes the costs of development, developers and construction firms would benefit. Since real estate related business are disproportionately owned by White entrepreneurs in Montgomery County, as observed in Table 3 in Appendix C, White-owned businesses could disproportionately benefit from this ZTA. This in turn could widen racial disparities in business revenue.¹⁴
- **Current and Future Residents of Incentive Areas.** ZTA 25-05 if enacted could impact a cross-section of communities across the County. Given the gaps in household wealth by race and ethnicity approximately by the disparities in homeownership (Table 1 of Appendix A) and median household income (Table 4 of Appendix A), new residential development resulting from ZTA 25-05 could disproportionately benefit White and Asian households who can better afford market-rate housing. The potential disproportionate benefit to White and Asian households would in turn widen disparities in housing by race and ethnicity. Moreover, to ensure new development does not displace existing affordable housing where Black and Latinx households disproportionately reside, commitments to affordable housing beyond existing MPDU requirements would be necessary to narrow housing disparities by race and ethnicity. OLO, however, cannot discern whether ZTA 25-05 will spur new residential development. Nor can OLO anticipate where new development might occur because of this ZTA, its potential impact on affordable housing via public benefits, or the potential risk of displacement.

Taken together, OLO cannot discern the anticipated RESJ impact of ZTA 25-05. If ZTA 25-05 promotes development and public benefits in areas that are well-connected to transit and employment without increasing affordable housing beyond existing requirements, it could exacerbate racial and social inequities. OLO, however, cannot determine whether ZTA 25-05 will impact development or how.

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.¹⁵ OLO cannot discern the anticipated impact of ZTA 25-05 on RESJ in the County. Consequently, the actual yield of affordable housing and an overall increase in general attainable through this ZTA is neither quantifiable nor could be estimated practically. Therefore, 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.

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APPENDIX A

Table 1: List of Public Benefits in the Incentive Density Implementation Guidelines

Category 1: Major Public Facility

Subcategories	Maximum Points
None. Planning Board approves or denies the choice of public facility included in a project	70

Category 2: Transit Proximity

Subcategories	Maximum Points
None. Points awarded based on distance and type of transit.	50

Category 3: Connectivity and Mobility

Subcategories	Maximum Points
Advance Dedication	30
Minimum Parking	10
Neighborhood Services	15
Public Parking	25
Through-Block Connection	20
Transit Access Improvement	20
Streetscape Improvement	20
Trip Mitigation	20
Way Finding	10

Category 4: Diversity of Uses

Subcategories	Maximum Points
Adaptive Buildings	15
Care Centers	20
Dwelling unit Mix	10
Enhanced Accessibility	20
Live/Work	15
MPDU (b)	n.a.

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Category 5: Quality Building and Site Design

Subcategories	Maximum Points
Architectural Elevations	20
Exceptional Design	10
Historic Resource Protection	20
Public Art	20
Public Open Space	15
Structured Parking	20
Tower Step-Back	10

Category 6: Protection and Enhancement of the Natural Environment

Subcategories	Maximum Points
Building Lot Terminations	30
Cool Roof 10	10
Energy Conservation and Generation	15
Habitat Preservation and Restoration	20
Recycling Facility Plan	10
Transferable Development Rights	20
Tree Canopy	15
Vegetated Area	10
Vegetated Roof	15
Vegetated Wall	10

Category 7: Retained Buildings

Subcategories	Maximum Points
None	100

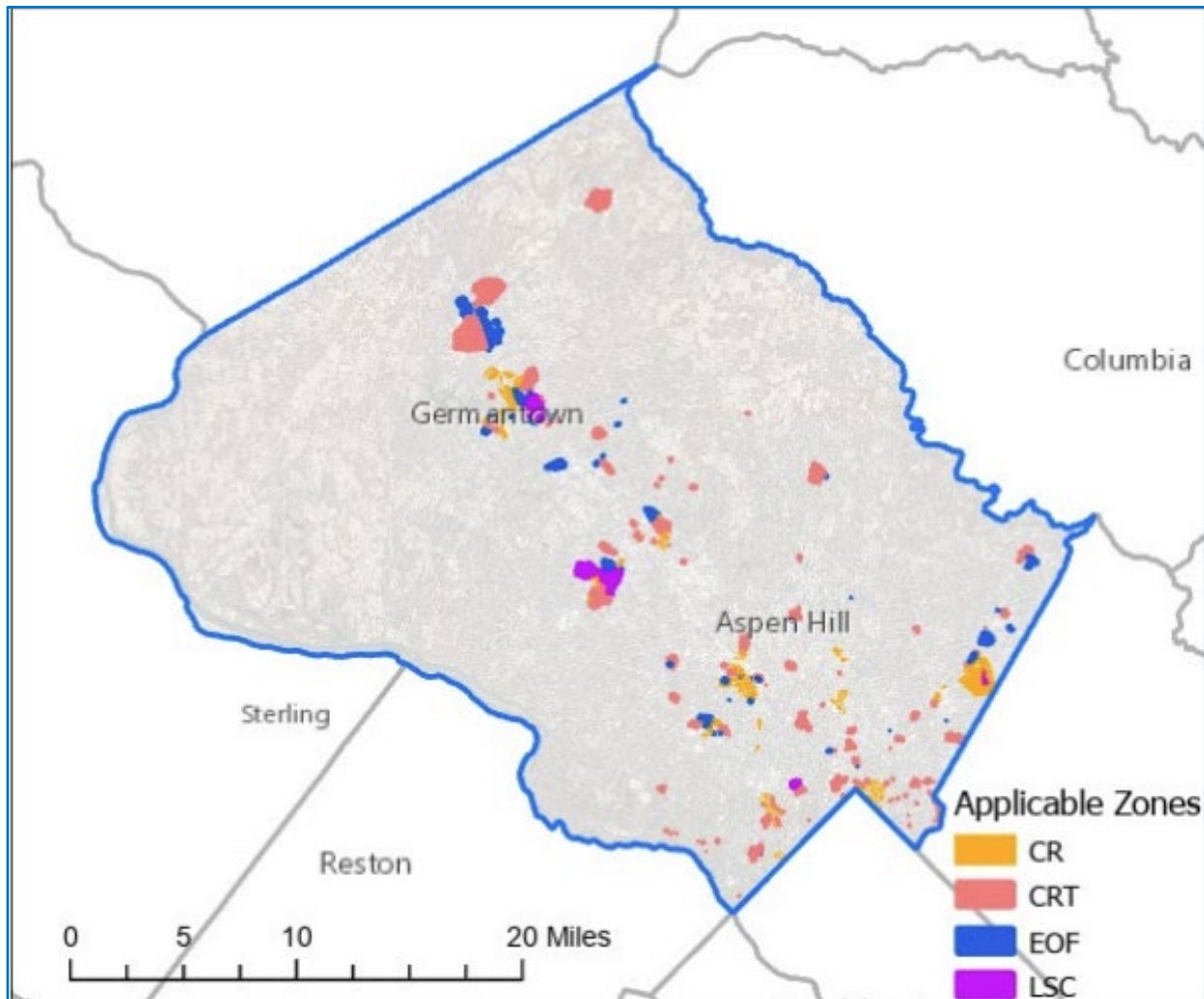
Source: Montgomery Planning. Scope of Work for the Incentive Zoning Update. April 4, 2023

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Appendix B

Figure 1: Optional Method Development applicable to the Commercial/Residential (CR), Commercial Residential Town (CRT), Employment Office (EOF), and Life Sciences Center (LSC) Zones



Source: Montgomery County Planning Board. Incentive Zones Update, Project Summary and Draft Recommendations 2024

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Appendix C

Table 1: 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 ¹⁶	49%	31%
Black	44%	39%

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

Table 2: 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 ¹⁷	51%	60%
Black	56%	58%

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

Table 3: Real Estate, Rental, and Leasing Business Owners by Race and Ethnicity, Montgomery County

Race and Ethnicity ¹⁸	Real Estate and Rental and Leasing Business Owners (NAICS 53) ^{19 20}	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 4: Median Income in 2023 Inflation-Adjusted Dollars, Montgomery County Household Income by Race and Hispanic or Latino Origin of Householder Montgomery County, Maryland

	Households Estimate	Percent Distribution Estimate	Median Income Estimate
Households	387,881	387,881	\$128,733
White	197,299	50.9%	\$159,895
Black or African American	72,470	18.7%	\$89,362
American Indian and Alaska Native	1,704	0.4%	\$105,952
Asian	55,770	14.4%	\$144,493
Native Hawaiian and Other Pacific Islander	229	0.1%	\$142,589
Some other race	30,667	7.9%	\$83,317
Two or more races	29,742	7.7%	\$118,278
Hispanic or Latino origin (of any race)	59,110	15.2%	\$94,619

Source: United States Census (2023: ACS 5--year Estimates Subject Tables): S1903: Median Income in the Past 12 Months (in 2023 Inflation-Adjusted Dollars), modified by OLO for ZTA-25-02 analysis. The number of household figures have various levels of margin of error, ranging between +96 and +1,927. The percent distribution also has margin of error ranging between +0.1 and +0.5

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 The Montgomery County Planning Department defines public benefits as “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.” The zoning regulations uses a public benefit system to incentivize developers to provide amenities that benefit the community with development projects in Commercial-Residential and Employment zones, allowing them to build at greater density and height in exchange for these public benefits. The public benefits system applies under the Optional Method Development, when a project proposes to develop with more density than allowed under the Standard Method.

⁴ Optional Method Development is a planning tool that enables developers to satisfy specific development standards through alternative strategies or approaches, such as lot size, setback, density, and height requirements. This method allows developers to achieve higher densities, create more innovative designs, or address site constraints while still conforming to the overall objectives of the development plan. Optional method projects require a Sketch Plan and Site Plan approval from the Planning Board and the provision of public benefits based on the CR Guideline categories and points.

⁵ Montgomery County Planning Department. Incentive Zoning Update 2023. Project Overview. <https://montgomeryplanning.org/development/zoning/incentive-zoning-update/>

⁶ Ibid

⁷ Additional Proposed Changes in EOF, LSC, CR and CRT Zones under ZTA 25-25 – Optional Development Public Benefits

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EOF Zones

- Allow existing EOF properties to develop up to the full mapped FAR using the Standard Method Development.
- A site plan for any development exceeding 0.5 FAR is required to ensure compliance with code requirements.

LSC Zones

- Regulate Optional Method Development and delivery of public benefits for LSC properties through the GSLS Overlay Zone.
- Exempt remaining (three) LSC properties from providing public benefits under the Optional Method Development.
- A site plan for any development exceeding 0.5 FAR is required ensure Code Requisites are met.

CR and CRT Zones

- Establish a standardized Optional Method threshold set at greater than 0.5 FAR for both CR and CRT zones:
- Maintain a density framework that includes Standard Method FAR, incentive density up to the mapped FAR per parcel, and additional Excel-to-Build density established per master and sector plans.
- Approve Incentive Density in FAR increments in exchange for scalable public benefits, enabling applicants to earn the right to build up to the mapped FAR or utilize Excel-To-Build density once the mapped FAR has been fully utilized.
- Maintain a menu-based approach but grant master plans the flexibility to modify the menu of public benefits for their applicable geography.
- Specify maximum heights during master planning while allowing for some additional Excel-to-Build density where appropriate.

⁸ OLO RESJ Impact Statement. ZTA 25-02: Workforce Housing – Development Standards. March 4, 2025 <https://www.montgomerycountymd.gov/OLO/Resources/Files/resjis/ZTA/2025/ZTA25-02.pdf>

⁹ OLO RESJ Impact Statement. [ZTA 25-03 Expedited Approvals - Commercial to Residential Reconstruction](#), March 10, 2025

¹⁰ OLO RESJ Impact Statement. [ZTA 25-04 Overlay Zones – Bethesda \(B\) Overlay Zone](#), March 26, 2025

¹¹ 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.

¹² Ibid

¹³ Ibid

¹⁴ See OLO Report 2024-11 for data on racial and ethnic disparities in local business revenue.

¹⁵ [Bill 44-20, Racial Equity and Social Justice – Impact Statements – Advisory Committee – Amendments](#), Montgomery County, Maryland, December 1, 2020.

¹⁶ Ibid.

¹⁷ Ibid.

¹⁸ Estimates for Native American and Pacific Islander community members were not available for data points in this RESJIS.

¹⁹ 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

²⁰ Margins of error for these data points may be large-as cited in RESJ Impact Statement for Bill 2-25.