

MEMORANDUM

January 31, 2013

TO: Planning, Housing, and Economic Development Committee
FROM: Jeff Zyontz,  Legislative Attorney
SUBJECT: SRA 12-02, Platting Exemptions – Community Legacy Plan Areas

SRA 12-02, Platting Exemptions – Community Legacy Plan Areas, sponsored by Councilmembers Elrich, Floreen, Leventhal, Riemer, and Ervin, was introduced on November 27, 2012.

A building permit generally may only be issued when the site of the building satisfies the requirements of subdivision. A subdivision record plat requires engineered drawings and the dedication of land for master planned rights-of-way. The County generally wants landowners to file a record plat, but has allowed exceptions to those requirements. The County wants commercial properties in Community Legacy Plan Areas to develop.

SRA 12-02 would address the situation where the burdens of proposed rights-of-way fall on small unplatted parcels. The sponsors believe that the platting requirements for small projects are in conflict with the identification of an area as a Community Legacy Plan Area.

A public hearing was held January 22, 2013. The Planning Board and Planning Staff recommended approval of SRA 12-02 with modifications for the purpose of clarity and to ensure that building additions are not constructed within master planned rights-of-way. The County Executive also recommended approval. There was no testimony in opposition.

ISSUES

Why are properties required to record plats for their property?

Plats are accurately drawn maps that describe a property in relationship to surrounding property lines. With a plat, DPS can determine whether zoning standards for lot area, frontage, and setbacks are being satisfied for buildings on the lot. Plats indicate a property's access to roadway. When the master plan road right-of-way includes part of the owner's property, dedication is necessary; that dedication is made by platting the property. As a general matter, plats are required before DPS issues a building permit. It is in the public interest to require the filing of plats when land develops. When the right-of-way is required before the property owner records a plat, the County must purchase the right-of-way.

What does it cost to record a plat?

Generally, a landowner must get the property surveyed. Surveying costs are highly variable. Costs are lower where locational monuments are nearby and more expensive when such monuments are further away. For a one-acre site survey, costs can be between \$8,000 and \$18,000. After a survey is completed, a civil engineer prepares the plat for approval and recording. A civil engineering firm charges about \$5,000. The Planning Board fee for processing a record plat is \$2,100. (This fee is based on the number of plat sheets filed, not the number of lots on the sheet.) At a minimum, the out-of-pocket cost for a record plat is something over \$15,000. Plats that require more survey work could cost as much as \$25,000. In the context of a major improvement, the cost might be a minor percentage of the total costs of development.

In addition to out-of-pocket costs, an owner who is required to file a plat may also be required to dedicate property. There is no compensation for this dedication. The owner would be compensated by the County if the County requires the right-of-way before the land is dedicated.

Should an exemption to platting be provided under limited circumstances?

ZTA 12-02 would not require a plat when an owner with an existing small business (in a building with less than 10,000 square feet of gross floor area) wants to add an addition of less than 2,000 square feet under certain circumstances. The parcel must:

- 1) be located in a Community Legacy Plan area;
- 2) be adjoining a state highway; and
- 3) provide a locational description of the proposed building and the parcel.

There are 2 areas in the County designated as Community Legacy Plan areas: Burtonsville and Wheaton–Long Branch–Silver Spring. Community Legacy Plan areas are County designated areas in which the State provides funding for essential projects aimed at strengthening communities. In these areas, the State has funded activities such as business retention and attraction, and commercial revitalization. They are areas in which increased commercial activity is encouraged.

As a general matter, State roads require more right-of-way width than local roads. Landowners proposing minor additions have a disproportionately high dedication burden. In addition, there are relatively few state roads. Limiting the exemption to property abutting state roads has the effect of limiting the number of properties that can use the exemption to platting.

There are 2 reasons to require a locational description of the proposed building: 1) It will allow DPS to determine if the setbacks satisfy zoning; and 2) It will allow DPS to determine if the proposed building is in the area of a master planned road right-of-way. The Planning Board made a further suggestion. In their opinion, a proposed build should be required to avoid locating in a master planned road right-of-way. *Staff agrees with this recommendation and generally with their other suggestions for clarity.*

<u>This packet contains</u>	<u>Circle</u>
SRA 12-02 as amended	1 – 4
Planning Board Recommendation	5 – 6
Planning Staff Recommendation	7 – 12

Subdivision Regulation Amendment No.: 12-02
Concerning: Platting Exemptions –
Community Legacy Plan Areas
Draft No. & Date: 2 – 1/24/13
Introduced: November 27, 2012
Public Hearing: January 22, 2013
Adopted:
Effective:
Ordinance No:

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

By: Councilmembers Elrich, Floreen, Leventhal, Riemer, Ervin, and Berliner

AN AMENDMENT to the Subdivision Regulations for the purpose of:

- exempting small commercial additions in Community Legacy Plan areas, near new roads, and adjoining state highways from subdivision requirements

By amending the following section of County Code Chapter 50:

Section 50-9 “Exceptions to platting requirements.”

Boldface	<i>Heading or defined term.</i>
<u>Underlining</u>	<i>Added to existing law by introduced Subdivision Regulation Amendment.</i>
[Single boldface brackets]	<i>Deleted from existing law by introduced Subdivision Regulation Amendment.</i>
<u>Double underlining</u>	<i>Added to the Subdivision Regulation Amendment by amendment.</i>
[[Double boldface brackets]]	<i>Deleted from existing law or the Subdivision Regulation Amendment by amendment.</i>
* * *	<i>Existing law unaffected by Subdivision Regulation Amendment.</i>

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. Section 50-9 is amended as follows:**

2 **Sec. 50-9. Exceptions to platting requirements.**

3 Recording of a subdivision plat under this Chapter is not required for:

4 * * *

5 (f) *Single residential lot.* An application for a building permit for one (1)
6 single-family detached dwelling unit[[,]] on a parcel[[,]] not previously
7 included on a recorded plat, which has not changed in size or shape since
8 June 1, 1958, provided:

9 (1) A description and location plat of the lot and proposed structure have
10 been furnished with the permit application, sufficiently detailed, to
11 locate the same on the base maps of Montgomery County.

12 (2) Approval of the permit application would not result in obstructing the
13 future opening, extension, or widening of any road deemed essential
14 in the public interest, nor would it otherwise jeopardize any planned
15 public facility.

16 (3) The proposed lot and use comply with the zoning ordinance (except
17 for street frontage) and the site plan shows clearly the setbacks, side
18 and rear yards, and any other information needed to check compliance
19 with regulations, including establishment of a building restriction line
20 along any existing or proposed road sufficient to provide for future
21 expansion or opening of such road to its ultimate width.

22 (4) Approval of the permit would not affect adversely the general plan for
23 the physical development of the regional district or any portion
24 thereof.

25 (g) Telecommunications towers/antennas, including associated accessory
26 structures, unless [[or until]] other development of the land [[which]]
27 requires a subdivision plan.

28 (h) *Certain Residential Property in the City of Takoma Park.* An application for
29 a building permit for one single-family detached dwelling unit on property
30 located in the portion of the City of Takoma Park annexed into Montgomery
31 County on July 1, 1997 that was recorded by a deed prior to January 1, 1982
32 and which remains otherwise buildable under the Prince George’s County
33 Zoning and Subdivision Regulations on June 30, 1997, provided that a
34 description and locational survey drawing of the lot and proposed structure
35 have been furnished with the permit application, sufficiently detailed to
36 locate the lot and structure on the 1 inch [equal] equals 200 foot scale base
37 map of Montgomery County.

38 (i) *Certain commercial properties adjoining state highways.* ~~[[For]]~~ An
39 application for a building permit for an addition to a building on
40 commercially zoned property:

- 41 (1) adjoining a state highway;
- 42 (2) located within a state approved Community Legacy Plan area on
43 October 30, 2012;
- 44 (3) with less than 10,000 square feet of gross floor area on October 30,
45 2012 ~~[[and]]~~ where subsequent building permits ~~[[increase]]~~
46 cumulatively allow increases in total gross floor area by less than
47 2,000 square feet; and
- 48 (4) that includes a description and locational survey drawing of the lot
49 and proposed structure on a 1 inch equals 50-foot scale base map of
50 Montgomery County in any building permit application that
51 demonstrates that the additional floor area will not extend into any
52 adopted master plan road right-of-way.

53 * * *



MONTGOMERY COUNTY PLANNING BOARD
THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

OFFICE OF THE CHAIR

MONTGOMERY COUNTY PLANNING BOARD

The Maryland-National Capital Park and Planning Commission

January 17, 2013

TO: The County Council for Montgomery County, Maryland, sitting as the District Council for the Maryland-Washington Regional District in Montgomery County, Maryland

FROM: Montgomery County Planning Board

SUBJECT: Subdivision Regulation Amendment No. 12-02

BOARD RECOMMENDATION

The Montgomery County Planning Board of The Maryland-National Capital Park and Planning Commission reviewed Subdivision Regulation Amendment No. 12-02 at its regular meeting on January 17, 2013. By a vote of 5:0, the Board recommends approval of the subdivision regulation amendment as modified for plain language clarifications and to clarify the sponsors' intent to limit any expansion of a small business utilizing the platting exemption to a cumulative increase in floor area of less than 2,000 square feet. The modifications also clarify that any increase in floor area must not encroach into any adopted master plan road right-of-way. These changes are provided as an attachment separate from the technical staff report.

SRA No. 12-02 proposes to expand the existing provisions of Chapter 50 to exempt small commercial additions to structures located in Community Legacy Plan areas from subdivision platting requirements. Specifically, the recording of a subdivision plat under this Chapter would not be required for commercially zoned property:

- (1) adjoining a state highway;
- (2) located within a state approved Community Legacy Plan area on October 30, 2012;

⑤

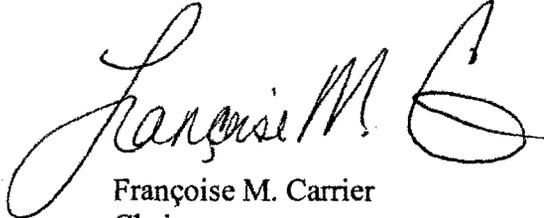
- (3) with less than 10,000 square feet of gross floor area on October 30, 2012, where subsequent building permits increase gross floor area by a total of less than 2,000 square feet; and
- (4) that includes a description and locational survey drawing of the lot and proposed structure.

Community Legacy Plan areas originate from the Department of Housing and Community Affairs as part of the Community Legacy Program administered by the state. The Community Legacy Program provides local governments and community development organizations with funding for essential projects aimed at strengthening communities through activities such as retaining and attracting businesses and encouraging homeownership and commercial revitalization throughout Maryland. SRA No. 12-02 would address the situation where the burdens of proposed rights-of-way fall on small unplatted parcels.

With modification as stated above to clarify the intent, the Planning Board supports expanding the existing provisions of Chapter 50 to exempt small commercial additions to structures located in Community Legacy Plan areas from subdivision platting requirements.

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 Silver Spring, Maryland, on Thursday, January 17, 2013.



Françoise M. Carrier
Chair

FC:GR:am



Subdivision Regulation Amendment (SRA) No. 12-02, Platting Exemptions – Community Legacy Plan Areas



Gregory Russ, Planner Coordinator, gregory.russ@montgomeryplanning.org, 301-495-2174



Mary Dolan, Chief, FP&P, mary.dolan@montgomeryplanning.org, 301-495-4552

Completed 1/10/13

Description

SRA No. 12-02 proposes to expand the existing provisions of Chapter 50 to exempt small commercial additions to structures located in Community Legacy Plan areas from subdivision platting requirements. Specifically, the recording of a subdivision plat under this Chapter would not be required for commercially zoned property:

- (1) adjoining a state highway;
- (2) located within a state approved Community Legacy Plan area on October 30, 2012;
- (3) with less than 10,000 square feet of gross floor area on October 30, 2012 and subsequent building permits increase total gross floor area by less than 2,000 square feet; and
- (4) that includes a description and locational survey drawing of the lot and proposed structure.

Summary

Staff recommends approval of SRA 12-02, as modified by staff, to clarify the intent to limit any expansion of a small business utilizing the platting exemption to a cumulative increase in floor area of less than 2,000 square feet. The modifications by staff also clarify that any increase in floor area does not encroach into any adopted master plan road right-of-way.

The Subdivision Regulations generally specify that whenever land in the county is subdivided for any purpose, a plat of such subdivision must be recorded in the land records of the county. They further specify that, with certain exceptions, the Department of Permitting Services must not approve a building permit for the construction of a dwelling or other structure, unless the dwelling or structure is located on a lot or parcel of land which is shown on a recorded plat. A subdivision record plat requires engineered drawings and the dedication of land for master planned rights-of-way. As with certain other exceptions to the platting requirements (see Attachment 2), the County wants certain small commercial properties in Community Legacy Plan areas to be exempt from these requirements.

Community Legacy Plan areas originate from the Department of Housing and Community Affairs as part of the Community Legacy Program administered by the state. The Community Legacy Program provides local governments and community development organizations with funding for essential projects aimed at strengthening communities through activities such as retaining and attracting businesses and encouraging homeownership and commercial revitalization throughout Maryland. Community Legacy Plan Areas under the jurisdiction of the County Department of Housing and Community Affairs as of October 30, 2012 include the Burtonsville Legacy Plan Area and the Wheaton-Long Branch-Silver Spring Community Legacy Area (Attachment 3).

SRA No. 12-02 would address the situation where the burdens of proposed rights-of-way fall on small unplatted parcels. The sponsors believe that the platting requirements for small projects are in conflict with the identification of an area as a Community Legacy Plan Area.

In general, staff supports expanding the existing provisions of Chapter 50 to exempt small commercial additions to structures located in Community Legacy Plan areas from subdivision platting requirements. Staff recommends certain plain language modifications to the SRA as introduced to clarify that the intent is to limit any expansion of a small business utilizing the platting exemption to a cumulative increase in floor area of less than 2,000 square feet. The modifications by staff also clarify that an increase in floor area would not encroach into any adopted master plan road right-of-way. The language as modified by staff is depicted below.

- (i) Certain commercial properties adjoining state highways. ~~[[For]]~~ An application for a building permit for commercially zoned property:
- (1) adjoining a state highway;
 - (2) located within a state approved Community Legacy Plan area on October 30, 2012;
 - (3) containing an existing building with less than 10,000 square feet of gross floor area on October 30, 2012 and subsequent building permits cumulatively increase total gross floor area by less than 2,000 square feet; and
 - (4) that includes a description and locational survey drawing of the lot and proposed structure on a 1 inch equals 50-foot scale base map of Montgomery County in any building permit application that demonstrates that the additional floor area will not extend into any adopted master plan road right-of-way.

Staff recommends approval of SRA 12-02 with these modifications.

GR/MD/am

ATTACHMENTS

1. SRA 12-02 as modified by staff
2. Chapter 50-9, Exceptions to platting requirements.
3. Map of Community Legacy Plan Areas

Sec. 50-9. Exceptions to platting requirements.

Recording of a subdivision plat under this Chapter is not required for:

(a) *Agriculture and uses located on agricultural land.*

(1) A bona fide division or partition of land that is and will remain in exclusively agricultural use, as agriculture is defined in this chapter.

(2) Land that is and will remain part of a farm, as defined in this chapter, but that is used concurrently for a related use that requires issuance of a building permit. This includes a special exception use approved under divisions 59-G-1 and 59-G-2, unless the Board of Appeals requires subdivision as a condition of the special exception.

(3) The issuance of a building permit for any equestrian facility building or structure on land classified in an agricultural zone.

(b) *Court action.* Partition of lands by will or through action of a court of competent jurisdiction unless or until development of the lands is proposed.

(c) *Public taking.* Where a property has been changed in size or shape subsequent to the date of its inclusion within the district or subsequent to October 19, 1934, whichever is the later date, by reason of the taking of a part of such property for public use by reference to a properly drawn and recorded plat, such as a right of way plat; provided, that the outlines and dimensions of such remainder may be clearly determined by reference to the previously recorded plats.

(d) *Adjoining properties.* The sale or exchange of parcels of land (not to exceed a total of 2,000 square feet or one percent of the combined area, whichever is greater) between owners of adjoining properties for the purpose of small adjustments in boundaries; provided, that additional lots are not thereby created and that the original lots are not reduced below the minimum sizes required by this Chapter or by Chapter 59 of this Code. This exemption is not applicable to minor lot line adjustments that occur after May 19, 1997.

(e) *Utility rights-of-way.* A bona fide division of a tract of land in order that one or more of the resulting parcels may be used as part of an electric transmission line right of way or other public utility right of way; provided, that if a parcel resulting from such division is ever to be used as a building site for other than an electric transmission line or other public right of way, then before a building permit may be issued for such other use, a plat must be filed and recorded.

(f) *Single residential lot.* An application for a building permit for one (1) single-family detached dwelling unit, on a parcel, not previously included on a recorded plat, which has not changed in size or shape since June 1, 1958, provided:

(1) A description and location plat of the lot and proposed structure have been furnished with the permit application, sufficiently detailed, to locate the same on the base maps of Montgomery County.

(2) Approval of the permit application would not result in obstructing the future opening, extension or widening of any road deemed essential in the public interest, nor would it otherwise jeopardize any planned public facility.

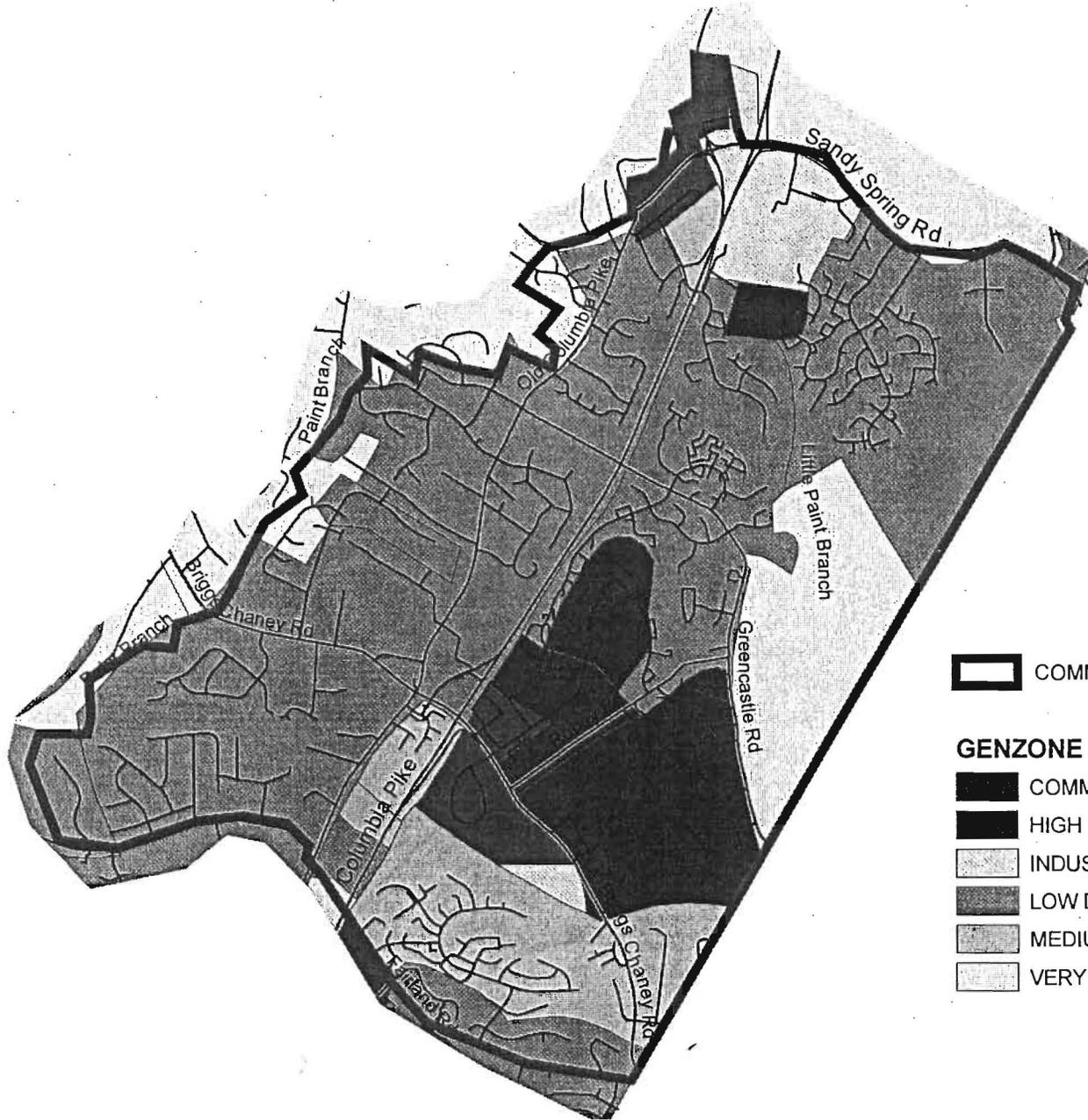
(3) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing or proposed road sufficient to provide for future expansion or opening of such road to its ultimate width.

(4) Approval of the permit would not affect adversely the general plan for the physical development of the regional district or any portion thereof.

(g) Telecommunications towers/antennas, including associated accessory structures, unless or until other development of the land which requires a subdivision plan.

(h) *Certain Residential Property in the City of Takoma Park.* An application for a building permit for one single-family detached dwelling unit on property located in the portion of the City of Takoma Park annexed into Montgomery County on July 1, 1997 that was recorded by a deed prior to January 1, 1982 and which remains otherwise buildable under the Prince George's County Zoning and Subdivision Regulations on June 30, 1997, provided that a description and locational survey drawing of the lot and proposed structure have been furnished with the permit application, sufficiently detailed to locate the lot and structure on the 1 inch equal 200 foot scale base map of Montgomery County. (Mont. Co. Code 1965, § 104-8; Ord. No. 5-171, § 1; Ord. No. 10-60, § 1; Ord. No. 10-78, § 2; Ord. No. 13-57, §2; Ord. No. 13-84, §1; Ord. No. 15-22, § 2.)

11



-  COMMUNITY LEGACY AREA

- GENZONE**
-  COMMERCIAL
-  HIGH DENSITY RESIDENTIAL
-  INDUSTRIAL
-  LOW DENSITY RESIDENTIAL
-  MEDIUM DENSITY RESIDENTIAL
-  VERY LOW DENSITY RESIDENTIAL



MAP PRODUCED BY : TRIVENS KARGBO
 DHCA- COMMUNITY DEVELOPMENT
 MONTGOMERY COUNTY

BURTONSVILLE EAST COUNTY @ 5.5 SQUARE MILES

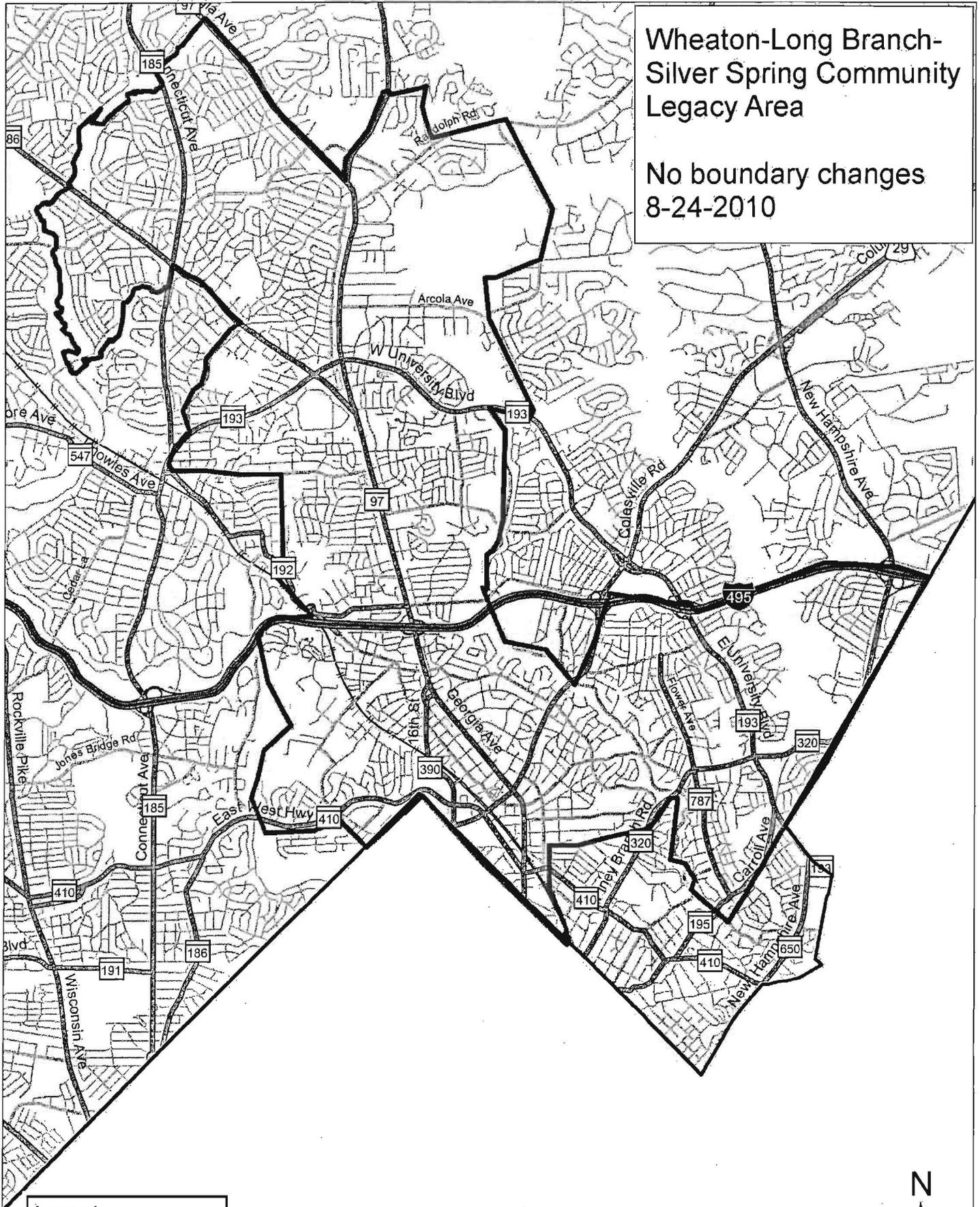


SOURCE: DTS-GIS AND MC PARK AND PLANNING

JUNE 27, 2006

Wheaton-Long Branch-Silver Spring Community Legacy Area

No boundary changes
8-24-2010



Legend

-  Community Legacy Area
-  City of Takoma Park

