



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

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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

# ATTACHMENT 1

Subdivision Regulation Amendment No.: 12-02  
Concerning: Platting Exemptions –  
Community Legacy Plan Areas  
Draft No. & Date: 1 – 11/16/12  
Introduced: November 27, 2012  
Public Hearing:  
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**

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

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**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”

<b>Boldface</b>	<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 included on  
7           a recorded plat, which has not changed in size or shape since June 1, 1958,  
8           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 in  
14           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 requires a  
27           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 commercially zoned property:

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

52 \* \* \*

53           **Sec. 2. Effective date.** This ordinance takes effect 20 days after the date of  
54 Council adoption.

55

Approved:

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Isiah Leggett, County Executive

Date

*This is a correct copy of Council action.*

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Linda M. Lauer, Clerk of the Council

Date

### **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.

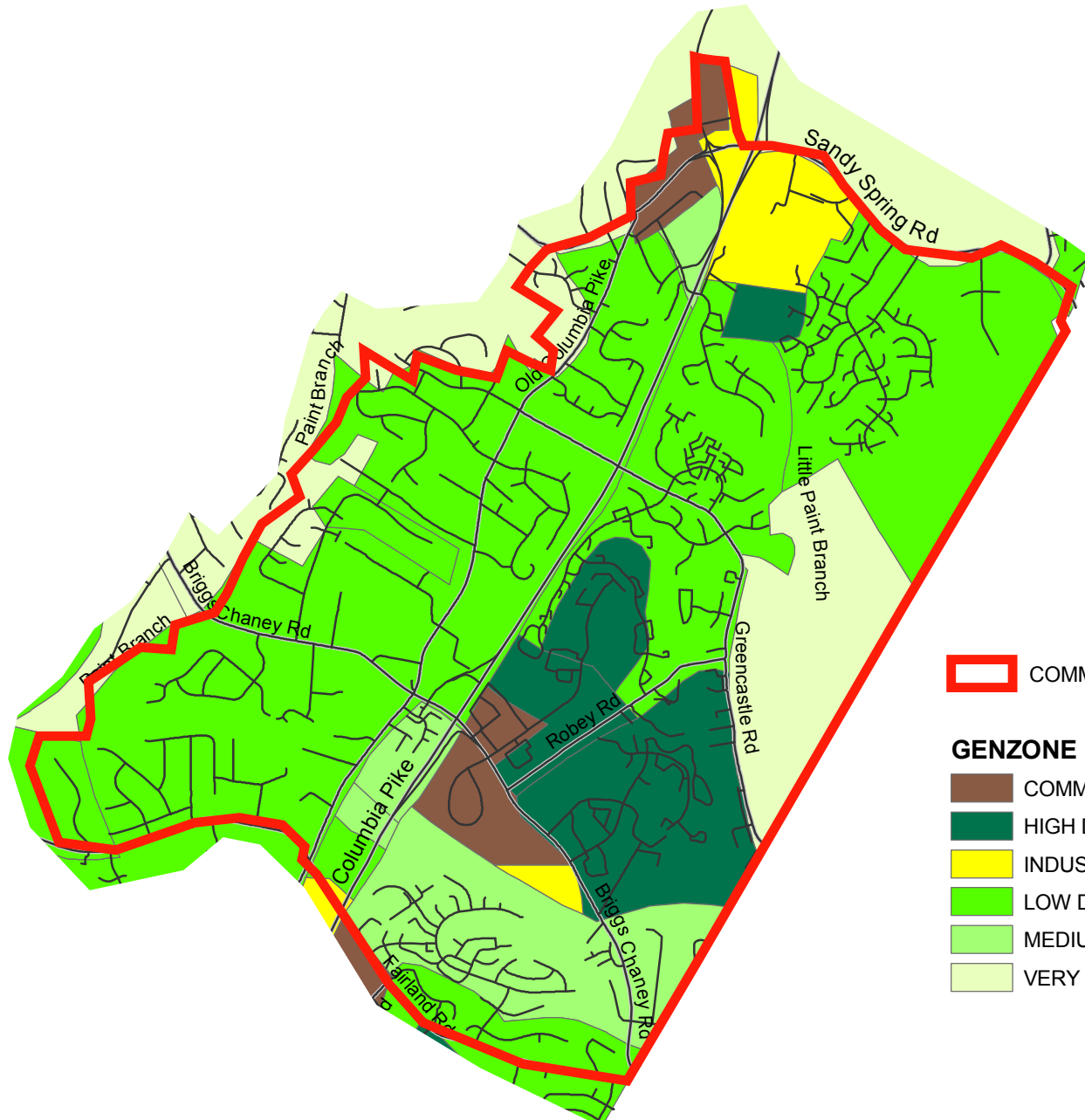
(3) The proposed lot and use comply with the zoning ordinance (except for street frontage) and the site plan shows clearly the setbacks, side and rear yards and any other information needed to check compliance with regulations, including establishment of a building restriction line along any existing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





 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

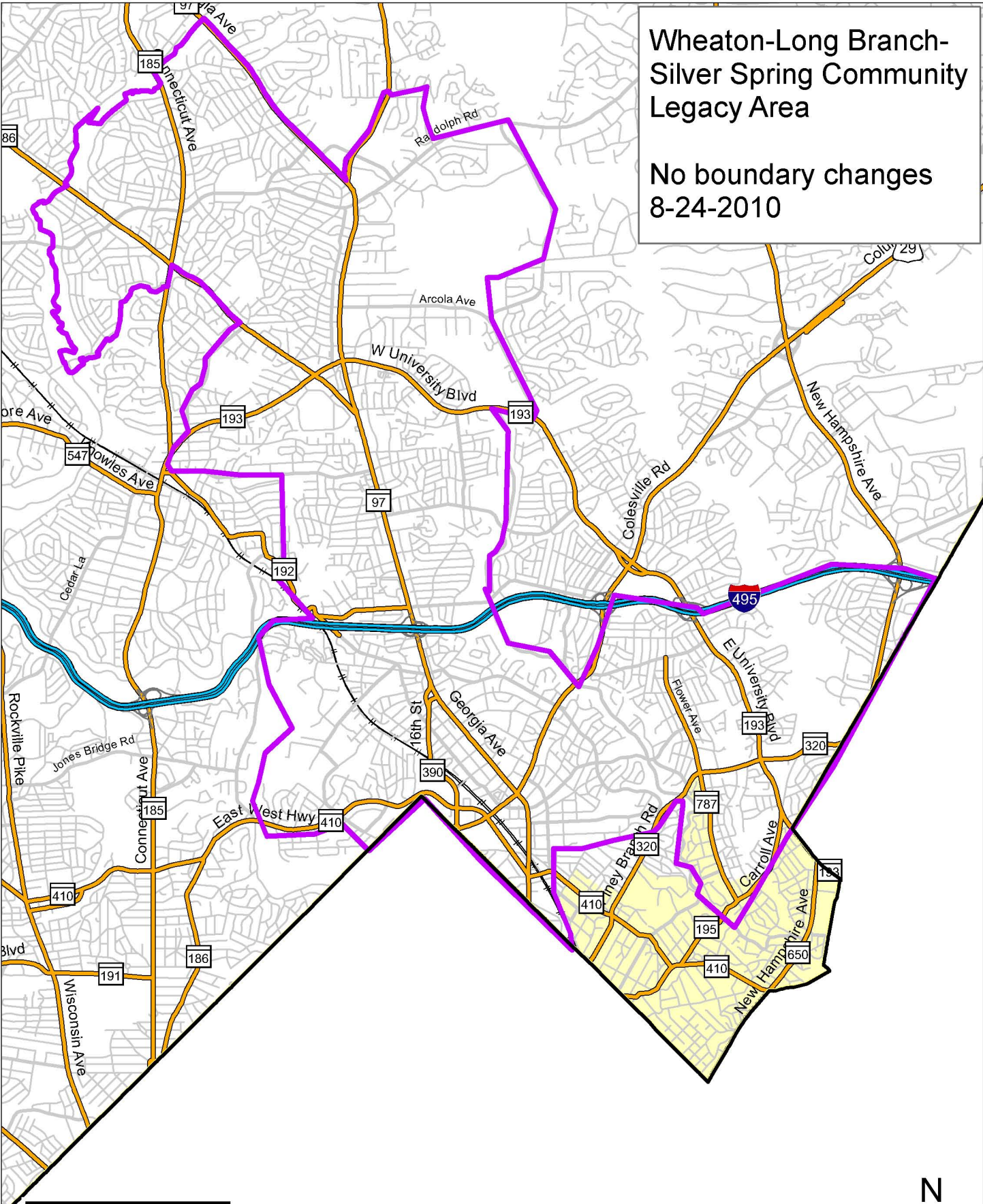
SOURCE: DTS-GIS AND MC PARK AND PLANNING

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

