


## Briefing on the 2020-2024 Growth and Infrastructure Policy

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### Description and Summary

On Monday, November 16, 2020 the County Council unanimously adopted the 2020-2024 Growth and Infrastructure Policy (GIP), formerly known as the Subdivision Staging Policy. The Council also unanimously adopted Bills 37-20 and 38-20, which pertain to the extension of an adequate public facilities validity period and development impact taxes for transportation and public school improvements.

The Council's approvals follow 18 Council work sessions, 6 Planning Board work sessions, two public hearings and 17 months of work by Montgomery Planning staff. Key features of the new policy include:

- Eliminating residential development moratoria.
- Requiring developers of new housing to make tiered Utilization Premium Payments (UPP) in areas with overcrowded schools.
- Modifying the calculation and applicability of development impact taxes to better reflect actual costs and to provide incentives for desired development in desired areas.
- Changing the name of the policy to "Growth and Infrastructure Policy."
- Designating neighborhoods by School Impact Areas, which are characterized by the amount and type of residential development they experience and its impact on school enrollment.
- Incorporating Vision Zero concepts in transportation adequacy reviews.
- Eliminating the motor vehicle adequacy test in areas around Metro rail stations and future Purple Line stations.
- Updating the multimodal adequacy tests that require developer-funded bicycle, pedestrian and bus transit improvements.

This briefing will provide the Planning with an overview of the Council's decisions, highlighting changes from the recommendations that the Planning Board submitted to the Council in July 2020. This will also help prepare the Board for consideration of the updated FY21 school test results and its review of the Annual School Test Guidelines, both of which will be presented to the Board on December 17.

### Attachments

- Attachment 1 – Text of the Adopted Growth and Infrastructure Policy Resolution
- Attachment 2 – Bill 37-20 (Adequate Public Facilities Validity Period Extensions) as enacted
- Attachment 3 – Bill 38-20 (Development Impact Taxes for Transportation and Public School Improvements) as enacted

## **2020-2024 Growth and Infrastructure Policy**

Legislative history:

- Adopted through [Council Resolution 19-655](#) on November 16, 2020

### **Applicability; transition**

#### **AP1 Effective dates**

This resolution takes effect on January 1, 2021 and applies to any application for a preliminary plan of subdivision filed on or after that date.

#### **AP2 Transition**

For any complete application for subdivision approval submitted before January 1, 2021 or any preliminary plan application filed prior to February 26, 2021 that includes at least 25% affordable units as defined in Sections 52-41(g)(1) through 52-41(g)(4) or 52-54(d)(1) through 52-54(d)(4) of the County code, the rules of the 2016-2020 Subdivision Staging Policy continue to apply, unless an applicant elects to be reviewed under the 2020-2024 Growth and Infrastructure Policy for schools (Sections S-1 through S-6) and the 2016-2020 Subdivision Staging Policy for transportation.

### **Guidelines for the Administration of the Adequate Public Facilities Ordinance**

County Code Chapter 8 Article IV (“the Adequate Public Facilities Ordinance or APFO”) directs the Montgomery County Planning Board to approve preliminary plans of subdivision only after finding that public facilities will be adequate to serve the subdivision. This involves predicting future demand from private development and comparing it to the capacity of existing and programmed public facilities. The following guidelines describe the methods and criteria that the Planning Board and its staff must use in determining the adequacy of public facilities. These guidelines supersede all previous ones adopted by the County Council.

The Council accepts the definitions of terms and the assignment of values to key measurement variables that were used by the Planning Board and its staff in developing the recommended Growth and Infrastructure Policy/Subdivision Staging Policy (“Policy”). The Council delegates to the Planning Board and its staff all other necessary administrative decisions not covered by the guidelines outlined below. In its administration of the APFO, the Planning Board must consider the recommendations of the County Executive and other agencies in determining the adequacy of public facilities.

The findings and directives described in this Policy are based primarily on the public facilities in the approved FY 2021-26 Capital Improvements Program (CIP) and the Maryland Department of Transportation FY 2020-25 Consolidated Transportation Program (CTP). The Council also reviewed related County and State and Federal funding decisions, master plan guidance and zoning where relevant, and related legislative actions. These findings and directives and their supporting planning and measurement process have been the subject of a public hearing and

review during worksessions by the County Council. Approval of the findings and directives reflects a legislative judgment that, all things considered, these findings and procedures constitute a reasonable, appropriate, and desirable set of staged growth limits, which properly relate to the ability of the County to program and construct facilities necessary to accommodate growth. These growth stages will substantially advance County land use objectives by providing for coordinated and orderly development.

These guidelines are intended to be used as a means for government to fulfill its responsibility to provide adequate public facilities. Quadrennial review and oversight, combined with periodic monitoring by the Planning Board, allows the Council to identify problems and initiate solutions that will serve to avoid or limit the duration of any imbalance between the construction of new development and the implementation of transportation improvements in a specific policy area. Further, alternatives may be available for developers who wish to proceed in advance of the adopted public facilities program, through the provision of additional public facility capacity beyond that contained in the approved Capital Improvements Program, or through other measures that accomplish an equivalent effect.

The administration of the Adequate Public Facilities Ordinance must at all times be consistent with adopted master plans and sector plans. Where development staging guidelines in adopted master plans or sector plans are more restrictive than Policy guidelines, the guidelines in the adopted master plan or sector plan must be used to the extent that they are more restrictive. The Policy does not require the Planning Board to base its analysis and recommendations for any new or revised master or sector plan on the public facility adequacy standards in this resolution.

## **Guidelines for Public School Facilities**

### **S1 Geographic Areas**

#### **S1.1 School Impact Areas**

The county was divided into small geographic areas predefined by census tract boundaries for the purpose of analyzing the various housing and enrollment growth trends across different parts of the county. These small geographic areas have then been classified into School Impact Areas based on their recent and anticipated growth contexts. The three categories of School Impact Areas and the growth contexts characteristic of each are:

- **Greenfield** - Areas with high housing growth predominantly in the form of single-family units, consequently experiencing high enrollment growth.
- **Infill** - Areas with high housing growth predominantly in the form of multifamily units.
- **Turnover** - Areas with low housing growth, where enrollment growth is largely due to turnover of existing single-family units.

The census tracts associated with each School Impact Area are identified in Table S1 and the School Impact Areas are shown in Map S1.

**Table S1. School Impact Area Census Tracts**

<b>Greenfield Impact Areas</b>	<b>Infill Impact Areas</b>			<b>Turnover Impact Areas</b>
None at this time	7048.03	7007.11	7003.10	All remaining census tracts
	7048.04	7007.17	7003.11	
	7048.05	7007.18	7003.12	
	7048.06	7007.22	7008.18	
	7024.02	7007.23	7008.30	
	7025	7007.24	7009.01	
	7026.01	7008.16	7009.04	
	7055.01	7008.17	7038	
	7056.02	7002.05	7012.02	
	7007.04	7003.08	7012.13	
	7014.21	7003.09	7012.16	

Additionally, all Red Policy Areas (identified in TP1), are designated as Infill School Impact Areas.

At each quadrennial update to the Growth and Infrastructure Policy, the latest growth contexts of the small geographic areas are to be reviewed and the School Impact Area classifications are to be revised accordingly.

## **S1.2 MCPS School Service Areas**

For the purpose of analyzing the adequacy of public school facilities by various school service areas, the boundaries of Montgomery County Public Schools (MCPS) are adopted to define individual school service areas for each grade level of school (elementary, middle, and high school). For paired elementary schools – where students attend grades K to 2 at one school and grades 3 to 5 at another – the service areas of the schools paired together are treated as one homogenous area.

- Individual Elementary School Service Area
- Individual Middle School Service Area
- Individual High School Service Area

## **S2 Annual School Test**

Each year, no later than July 1, the Planning Board is to review and certify the results of an Annual School Test to evaluate the adequacy of public school facilities. The test assesses each individual elementary, middle, and high school facility. The findings from the test are used to establish the adequacy status of each school service area and dictate applicable standards for prospective development applications accordingly.

Along with certifying the test results, the Planning Board is required to approve or reaffirm the Annual School Test procedures and guidelines that govern how the test is conducted and utilized. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.



The Annual School Test results remain in effect for the entirety of the fiscal year, unless there is a change to the Montgomery County Public Schools Capital Improvements Program (CIP). If at any time during a fiscal year the County Council notifies the Planning Board of a material change in the MCPS CIP, the Planning Board may revise the results of the Annual School Test to reflect that change. The Annual School Test results will include adequacy ceilings identifying the number of students each school's projected enrollment is from the next adequacy status level as indicated by subsequent utilization thresholds. Each development application will be evaluated against the applicable adequacy status identified in the Annual School Test results and its estimated enrollment impacts evaluated against the applicable adequacy ceilings, to determine mitigation as appropriate. If a development application's enrollment impact exceeds an adequacy ceiling, the proportion of development associated with the number of students in excess of the ceiling will be required to meet the mitigation requirement of the subsequent adequacy status level. The results of the Annual School Test (i.e., the status of a school) will not change during the fiscal year as development applications are approved.

## **S2.1 Determination of Adequacy**

For the purpose of conducting the Annual School Test, adequacy is defined as capacity utilization, measured as a derivative of enrollment and capacity. Capacity herein refers to the program capacity specified for each school by MCPS based on the allocation of space for different grades and types of programs. Capacity utilization can be measured in two dimensions – a utilization rate and the number of students under/over-capacity. A utilization rate is calculated by dividing enrollment by capacity. The number of students under/over capacity is calculated by subtracting enrollment from capacity, in which case a positive number is identified as a seat surplus and a negative number is identified as a seat deficit.

MCPS provides data for each facility's enrollment and capacity in its annual Educational Facilities Master Plan and Capital Improvements Program. For the purpose of accurately reflecting potential changes to enrollment or capacity figures not officially included in MCPS's data, limited adjustments may be made to the projected enrollment and planned capacity of certain schools on the following terms:

- Adjustments are made to the projected enrollment of schools slated for student reassignments when a capital project at one school is described in the Project Description Form as being intended to relieve overcrowding at another school. The adjustment is to be reflective of the estimated number of students to be reassigned. If an estimated number is explicitly identified in the Project Description Form, it is to be used. Otherwise, the estimate will be based on an assumed balance of projected utilization across all schools involved for the year tested.
- Adjustments are made to the planned capacity of a school when the Council implements a placeholder solution. The adjustment is to be reflective of the potential relief provided by the solution project.

## **S2.2 Adequacy Standards and School Service Area Status**

Every MCPS elementary, middle, and high school with a predefined geographic boundary is assessed by the capacity utilization of their facility projected for four fiscal years in the future

(e.g., the FY2021 Annual School Test will evaluate projected utilization in the 2024-25 school year).

If a school's four-year projected utilization does not exceed both 105% utilization and the applicable seat deficit threshold identified in Table S2, the facility is considered adequate and the service area's status is open. If a school's four-year projected utilization is found to exceed the standards indicated in Table S2, the service area's status will require mitigation in the form of Utilization Premium Payments (UPP).

Tables S2 and S3 summarize the adequacy parameters of the Annual School Test described above.

**Table S2. School Adequacy Standards**

Utilization Standard		Seat Deficit Standard	School Service Areas Status
< 105%	or	< 85 for ES < 126 for MS < 180 for HS	Open
≥ 105%	and	≥ 85 for ES ≥ 126 for MS ≥ 180 for HS	Tier 1 UPP Required
≥ 120%	and	≥ 102 for ES ≥ 151 for MS ≥ 216 for HS	Tier 2 UPP Required
≥ 135%	and	≥ 115 for ES ≥ 170 for MS ≥ 243 for HS	Tier 3 UPP Required

**Table S3. School Service Area Status Descriptions**

School Service Area Status	Status Descriptions and Development Implications
Open	Development applications may proceed from the standpoint of adequate school facilities.
Utilization Premium Payments Required	Development applications require Utilization Premium Payments as specified in Section S3 as a condition of adequate public facilities approval.

### **S3 Utilization Premium Payment Requirements**

The Annual School Test and an application's estimated enrollment impacts determine whether, and the extent to which, Utilization Premium Payments are required as a condition of Planning Board approval on the basis of adequate school facilities.

#### **S3.1 Utilization Premium Payment Calculation**

The Utilization Premium Payments are applied at the individual school level and will be calculated by applying the applicable payment factors identified in Table S4 to the applicable non-exempt and undiscounted school impact tax rates, by School Impact Area and dwelling unit type.

**Table S4. Utilization Premium Payment**

UPP Tier	Payment Factors			Total, if all three schools at the same status
	Elementary	Middle	High	
Tier 1 UPP	16⅔%	10%	13⅓%	40%
Tier 2 UPP	33⅓%	20%	26⅔%	80%
Tier 3 UPP	50%	30%	40%	120%

An application for development may be subject to payments at multiple UPP tiers for an individual school if the estimated number of students generated by the application exceeds the adequacy ceilings identified in the Annual School Test.

### **S3.2 Exemptions from Utilization Premium Payments**

#### **S3.2.1 Affordable Housing Units**

Moderately Priced Dwelling Units and other affordable housing units, which are exempt from development impact taxes for schools under Section 52-54(d), paragraphs 1 through 4, are exempt from the Utilization Premium Payments. In addition, any dwelling unit in a development for which a preliminary plan application is filed prior to February 26, 2021 that includes 25% affordable units as defined in Sections 52-41(g)(1) through 52-41(g)(4) or 52-54(d)(1) through 52-54(d)(4) are exempt from the Utilization Premium Payment.

### **S4 Utilization Report**

The Annual School Test is to be accompanied by a Utilization Report each year, which provides supplemental information pertaining to the county's public school infrastructure. The report will include a utilization analysis both from a countywide perspective and individual school perspective.

#### **S4.1 Countywide Analysis**

From a countywide perspective, the Utilization Report will provide an analysis of all schools collectively for each school grade level. The data should include, as available:

- historic trends and projections of collective utilization rates of all schools countywide by school grade level
- historic trends and projections of the share and number of schools at each school grade level within certain utilization bands (e.g., between 100% and 120% utilization)

#### **S4.2 Individual School Analysis**

The Utilization Report will also provide additional utilization data for each individual school. The information reported for each individual school should include, as available:

- historic trend and projection of enrollment, capacity, and capacity utilization (both utilization rate and number of students over capacity)
- information relevant to core capacity and usage

- current number of relocatable classrooms being used
- list of three nearest schools of the same grade level, and approximate travel distance to each nearest school

## **S5 Student Generation Rates**

Student generation rates are the ratio of students enrolled in public schools to the total number of dwelling units and is a depiction of the average number of students per unit for a given geography and housing type. Student generation rates are to be calculated for each School Impact Area and updated biennially on July 1 of every odd-numbered year using the most recent MCPS enrollment data. The School Impact Area student generation rates are to be used to estimate the enrollment impacts of a development application.

## **Guidelines for Transportation Facilities**

### **TP Policy Areas**

#### **TP1 Policy Area Boundaries and Definitions**

For the purposes of transportation analysis, the County has been divided into areas called traffic zones. Based on their transportation characteristics, these zones are grouped into transportation policy areas, as shown on Map T1. In many cases, transportation policy areas have the same boundaries as planning areas, sector plan areas, or master plan analysis (or special study) areas. Each policy area is categorized as Red, Orange, Yellow or Green Policy Areas. The policy areas in effect, and their applicable category for 2020-2024 are:

**Red Policy Areas:** Bethesda Central Business District (CBD) Metro Station Policy Area (MSPA), Forest Glen MSPA, Friendship Heights MSPA, Glenmont MSPA, Grosvenor MSPA, Medical Center MSPA, Rockville Town Center MSPA, Shady Grove MSPA, Silver Spring CBD MSPA, Takoma MSPA, Twinbrook MSPA, Wheaton CBD MSPA, White Flint MSPA, Chevy Chase Lake, Lyttonsville, Purple Line East, and Woodside.

**Orange Policy Areas:** Bethesda/Chevy Chase, Burtonsville Town Center, Clarksburg Town Center, Derwood, Gaithersburg City, Germantown Town Center, Kensington/Wheaton, North Bethesda, Research and Development Village, Rockville City, Silver Spring/Takoma Park, and White Oak.

**Yellow Policy Areas:** Aspen Hill, Clarksburg, Cloverly, Fairland/Colesville, Germantown East, Germantown West, Montgomery Village/Airpark, North Potomac, Olney, and Potomac.

**Green Policy Areas:** Damascus, Rural East, and Rural West.

The boundaries of the policy areas are shown on maps T2-T43.

The boundaries of the Gaithersburg City and Rockville City policy areas reflect existing municipal boundaries, except where County-regulated land is surrounded by city-regulated land. The boundaries of these municipal policy areas do not automatically reflect any change in municipal boundaries; any change in a policy area boundary requires affirmative Council action. Upon annexation of the 10-acre King Buick property by the City of Rockville, that property and the adjacent 10-acre property within the City will be excised from the Shady Grove MSPA and the Rockville City PA, respectively, and become part of the Rockville Town Center PA.

## **TP2 Development District Participation**

Under Chapter 14 of the County Code, the County Council may create development districts as a funding mechanism for needed infrastructure in areas of the County where substantial development is expected or encouraged.

### **TP2.1 Additional Facilities Recommended for Funding**

The County Executive and Planning Board may also recommend to the County Council additional facilities to be provided by the development district or by the public sector to support development within the district. These facilities may include, but are not limited to libraries, health centers, local parks, social services, green ways, and major recreation facilities.

### **TP2.2 Satisfaction of APF Requirements**

As provided in Chapter 14 of the County Code, once the development district is created and the financing of all required infrastructure is arranged, the development in the district is considered to have satisfied all APF requirements, any additional requirements that apply to development districts in the Subdivision Staging Policy, and any other requirement to provide infrastructure which the County adopts within 12 years after the district is created.

## **TP3 Desired Growth and Investment Area**

As referenced in Section 52-49 of the County Code, Desired Growth and Investment Areas include certain Metropolitan Washington Council of Governments (MWCOG) designated Activity Centers and a 500-foot buffer around existing and certain planned bus rapid transit (BRT) lines (excluding any area located within the City of Rockville), as detailed in Table T1. The resulting Desired Growth and Investment Areas are identified in Map T44.

**Table T1. Desired Growth and Investment Areas**

<b>MWCOG Activity Centers</b>	<b>BRT Lines</b>
Friendship Heights Gaithersburg Central Gaithersburg Kentlands Gaithersburg Metropolitan Grove Germantown Glenmont Grosvenor Life Sciences Center-Gaithersburg Crown Rock Spring Rockville King Farm-Research Center-Shady Grove Rockville Montgomery College Silver Spring Takoma Park Wheaton White Flint White Oak-FDA	US 29 BRT MD 355 BRT Veirs Mill BRT

## **TL Local Area Transportation Review (LATR)**

Local Area Transportation Review must at all times be consistent with the standards and staging mechanisms of adopted master and sector plans.

Because the various modes of the transportation system are not isolated, LATR adequacy tests are required for any subdivision that generates 50 or more peak-hour weekday person trips.

### **TL1 Vision Zero Resources**

Since adopting the Vision Zero Action Plan, the county launched several Vision Zero-related initiatives supported by transportation network database. These initiatives shall be leveraged and incorporated into the LATR process. Some of these initiatives have been completed and adopted while others are ongoing and will be incorporated in the future.

Roads immediately adjacent to new development should be designed to account for all identified recommendations from applicable planning documents including Functional Plans, Master Plans and Area Plans. The resources listed above, in particular the Bicycle Level of Traffic Stress and Pedestrian Level of Comfort maps, are only useful if the models are built on data that accurately reflects the conditions for bicyclists and pedestrians. In the context of performing a transportation impact study for any development project, the transportation consultant must check the accuracy of the transportation network attributes in the county's database relative to the observed existing conditions. The consultant should identify any inaccurate network attributes and any attributes to be updated in accordance with the development "as built" plans and report this information to Montgomery Planning staff to update the county's databases accordingly.

## **TL2 LATR System Adequacy Tests**

### **TL2.1 Safety System Adequacy**

This section is reserved for a future amendment detailing a safety system adequacy test upon completion of applicable Vision Zero tools.

### **TL2.2 Motor Vehicle System Adequacy**

To achieve an approximately equivalent transportation level of service in all areas of the county, greater vehicular traffic congestion is permitted in policy areas with greater transit accessibility and usage. For motor vehicle adequacy, Table T3 shows the intersection level of service standards by policy area. The motor vehicle adequacy test will not be applied in Red Policy Areas and these areas will not be subject to LATR motor vehicle mitigation requirements. For intersections located within Orange policy areas, the Highway Capacity Manual (HCM) delay-based level of service standard applies to all study intersections. For intersections located within Yellow or Green policy areas, the Critical Lane Volume (CLV) level of service standard applies to study intersection with a CLV of 1,350 or less and the HCM delay-based level of service standard applies to study intersections with a CLV of more than 1,350. The Planning Board may adopt administrative guidelines that allow use of Highway Capacity Manual 2010 methodologies and other analysis techniques consistent with guidance published by the Transportation Research Board.

Motor vehicle mitigation in the Orange, Yellow and Green policy areas is required for any intersection failing the HCM test (i.e., exhibiting delay exceeding the applicable policy area HCM delay standard). However, it is important to emphasize that safety for all roadway users is the top priority. The applicant must mitigate its impact on vehicle delay or down to the applicable policy area standard, whichever is less. In this context, transportation demand management is the first mitigation option to be pursued. Operational changes are the next priority. Roadway capacity improvements can be considered next but only if they do not negatively impact safety.

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable or desirable due to unattainable right-of-way, an existing CIP project, or because it creates conditions that adversely impact safety, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT's estimated cost of constructing the required facilities. These funds must be used by MCDOT for transportation demand management actions, roadway operational changes or roadway capacity improvements within the same policy area, or—for an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

The scope of the motor vehicle adequacy test is based on the size of the project and the number of peak-hour vehicle trips generated by the project. Each LATR motor vehicle study must examine, at a minimum, the number of signalized intersections identified in Table T2, unless the Planning Board affirmatively finds that special circumstances warrant a more limited study.

**Table T2. Motor Vehicle LATR Scoping**

Maximum Peak-Hour Vehicle Trips Generated	Minimum Signalized Intersections in Each Direction
< 250	1
250 – 749	2
750 – 1,249	3
1,250 – 1,749	4
1,750 – 2,249	5
2,250 – 2,749	6
>2,750	7

**Table T3. LATR Intersection Congestion Standards**

Policy Area	Policy Area Category	HCM Average Vehicle Delay Standard (seconds/vehicle)*	Critical Lane Volume Congestion Equivalent	HCM Volume-to- Capacity Equivalent
29 Rural East	Green	41	1,350	0.84
30 Rural West	Green			
9 Damascus	Green	48	1,400	0.88
6 Clarksburg	Yellow	51	1,425	0.89
14 Germantown East	Yellow			
16 Germantown West	Yellow			
13 Gaithersburg City	Orange			
21 Montgomery Village/Airpark	Yellow			
8 Cloverly	Yellow	55	1,450	0.91
23 North Potomac	Yellow			
25 Potomac	Yellow			
24 Olney	Yellow			
26 R&D Village	Orange			
10 Derwood	Orange	59	1,475	0.92
1 Aspen Hill	Yellow			
11 Fairland/Colesville	Yellow			
7 Clarksburg Town Center	Orange	63	1,500	0.94
15 Germantown Town Center	Orange			
27 Rockville City	Orange			
4 Burtonsville Town Center	Orange	71	1,550	0.97
22 North Bethesda	Orange			
3 Bethesda/Chevy Chase	Orange	80	1,600	1.00
19 Kensington/Wheaton	Orange			
33 Silver Spring/Takoma Park	Orange			
38 White Oak	Orange			

\* The Veirs Mill Corridor Master Plan set the HCM Average Delay Standard at 100 seconds/vehicle at all Veirs Mill Road intersections between the boundaries of the Wheaton CBD Policy Area and the City of Rockville.



### TL2.3 Pedestrian System Adequacy

The Pedestrian System Adequacy Test consists of three components:

1. **Pedestrian Level of Comfort (PLOC).** Pedestrian system adequacy is defined as providing a “Somewhat Comfortable” or “Very Comfortable” PLOC score on streets and intersections for roads classified as Primary Residential or higher (excluding Controlled Major Highways and Freeways, and their ramps),<sup>1</sup> within a certain walkshed from the site frontage, specified in Table T4. The table also identifies the maximum span of improvement that the applicant must provide beyond the frontage. Specific improvements to be constructed should be identified in consultation with Montgomery Planning and MCDOT.
2. **Street Lighting.** The applicant must evaluate existing street lighting based on MCDOT standards along roadways or paths from the development to destinations within a certain walkshed from the site frontage, specified in Table T4. The table also identifies the maximum span of streetlighting that the applicant must provide beyond the frontage. Where standards are not met, the developer must upgrade the street lighting to meet the applicable standards.
3. **ADA Compliance.** The applicant must fix Americans with Disabilities Act (ADA) noncompliance issues within a certain walkshed from the site frontage equivalent to half the walkshed specified in Table T4. The table also identifies the maximum span of ADA improvements that the applicant must provide beyond the frontage.

**Table T4. Pedestrian Adequacy Test Scoping**

<b>Peak-Hour Person Trips Generated</b>	<b>Red and Orange Policy Area Walkshed*</b>	<b>Yellow and Green Policy Area Walkshed*</b>
50 – 99	400'	250'
100 – 199	750'	400'
200 – 349	900'	500'
350 or more	1,000'	600'

\* The maximum required length of sidewalk and streetlighting improvements beyond the frontage is 4 times the appropriate value in this column. The maximum span required for ADA improvements beyond the frontage is equal to the appropriate value in this column.

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of these requirements may not be practicable due to unattainable right-of-way, an existing CIP project, other operational conditions outside the applicant’s control, or otherwise not considered practicable by the Planning Board and MCDOT, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT’s estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other pedestrian system improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

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<sup>1</sup> Or the equivalent classifications in the Complete Streets Design Guidelines, when approved by the County Council.

## TL2.4 Bicycle System Adequacy

Bicycle system adequacy is defined as providing a low Level of Traffic Stress (LTS-2) for bicyclists. Bicycle system analysis will be based on the following standards and scoping:

For any site generating at least 50 peak-hour person trips, conduct an analysis of existing and programmed conditions to ensure low Level of Traffic Stress (LTS-2) conditions on all transportation rights-of-way within a certain distance of the site frontage, specified in Table T5. If current and programmed connections will not create adequate conditions, the applicant must construct sidepaths, separated bike lanes, or trails, consistent with the Bicycle Master Plan, that create or extend LTS-2 conditions up to the specified distance from the site frontage.

**Table T5. Bicycle Adequacy Test Scoping**

Peak-Hour Person Trips Generated	Red and Orange Policy Areas	Yellow and Green Policy Areas
50 – 99	400'	250'
100 – 199	750'	400'
200 – 349	900'	500'
350 or more	1,000'	600'

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable due to undesirable transitions, unattainable right-of-way, or an existing CIP project, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT's estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other LTS-1 or LTS-2 bicycle system improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

## TL2.5 Bus Transit System Adequacy

For any site generating at least 50 peak-hour person trips in Red, Orange, and Yellow policy areas, conduct an analysis of existing and programmed conditions to ensure that there are bus shelters outfitted with realtime travel information displays and other standard amenities, along with a safe, efficient, and accessible path between the site and a bus stop, at a certain number of bus stops within a certain distance of the site frontage, specified in Table T6. Where shelters and associated amenities are not provided, an applicant must construct up to the number of shelters and amenities specified in Table T6.

**Table T6. Transit Adequacy Test Scoping**

Peak-Hour Person Trips Generated	Red and Orange Policy Areas	Yellow Policy Areas
50 – 99	2 shelters within 500'	1 shelters within 500'
100 – 199	2 shelters within 1,000'	2 shelters within 1,000'
200 – 349	3 shelters within 1,300'	2 shelters within 1,300'
350 or more	4 shelters within 1,500'	3 shelters within 1,500'

Alternatively, if the Planning Board and MCDOT agree that constructing all or part of this requirement may not be practicable due to undesirable transitions, unattainable right-of way, or an existing CIP project, an applicant may meet this requirement with a mitigation payment to MCDOT that is reasonably related to MCDOT's estimated cost of constructing the required facilities. These funds must be used by MCDOT in the construction of other bus shelters with the same amenities and improvements to pedestrian access to and from bus stops, such as improved paved connections, crossings, and lighting. These funds must be spent on such improvements within the same policy area, or—for a Red policy area or an Orange town center policy area—either in that area or an adjacent one, unless the applicant agrees otherwise.

## **TL2.6 Temporary Suspension for Bioscience Facilities**

The Local Area Transportation Review (section TL2) requirements of the Subdivision Staging Policy must not apply to a development or a portion of a development where:

- (a) the primary use is for bioscience facilities, as defined in Section 52-39 of the County Code; and
- (b) an application for preliminary plan, site plan, or building permit that would otherwise require a finding of Adequate Public Facilities is approved after January 1, 2021 and before January 1, 2025; and
- (c) an application for building permit is filed within 3 years after the approval of any required preliminary plan or site plan.

## **TL3 LATR Vision Zero Statement**

All LATR studies for a site that will generate 50 or more peak-hour person trips must develop a Vision Zero Statement. This statement must assess and propose solutions to high injury network and safety issues, review traffic speeds, and describe in detail how safe site access will be provided. With concurrence of the responsible agency, projects must implement or contribute to the implementation of safety countermeasures. The County Council may adopt predictive safety analysis as part of this statement, when available.

## **TL4 Additional LATR Standards and Procedures**

In administering Local Area Transportation Review, the Planning Board must not approve a subdivision if it finds that inadequate travel conditions will result after considering existing roads, programmed roads, available or programmed mass transportation, and improvements to be provided by the applicant. If the subdivision will affect an intersection or roadway link for which congestion is already unacceptable, then the subdivision may only be approved if the applicant agrees to mitigate the impacts of either:

- a sufficient number of trips to bring the inadequate travel conditions to a level of adequacy, or
- a number of trips attributable to the development.

The nature of the LATR test is such that a study is necessary if inadequate travel conditions are likely to occur. The Planning Board and staff must examine the applicant's traffic study to determine whether adjustments are necessary to assure that the LATR study is a reasonable and appropriate reflection of the traffic impact of the proposed subdivision after considering all approved development and programmed transportation projects.

If use and occupancy permits for at least 75% of the originally approved development were issued more than 12 years before the LATR study scope request, the number of signalized intersections in the study must be based on the increased number of peak hour trips rather than the total number of peak hour trips. In these cases, LATR is not required for any expansion that generates 5 or fewer additional peak hour trips.

For Local Area Transportation Review purposes, the programmed transportation projects to be considered are those fully funded for construction in the first 6 years of the current approved Capital Improvements Program, the state's Consolidated Transportation Program, or any municipal capital improvements program. For these purposes, any road required under Section 302 of the County Charter to be authorized by law is not programmed until the time for petition to referendum has expired without a valid petition or the authorizing law has been approved by referendum.

If an applicant is participating in a traffic mitigation program or one or more intersection improvements to meet Local Area Transportation Review requirements, that applicant must be considered to have met Local Area Transportation Review for any other intersection where the volume of trips generated is less than 5 Critical Lane Movements.

Any LATR study must be submitted by a registered Professional Engineer, certified Professional Traffic Operations Engineer, or certified Professional Transportation Planner.

At the Planning Board's discretion, each traffic mitigation program must be required to operate for at least 12 years but no longer than 15 years. The Planning Board may select either trip reduction measures or road improvements, or a combination of both, as the required means of traffic mitigation.

The Planning Board has adopted guidelines to administer Local Area Transportation Review. To the extent that they are consistent with this Policy, the Planning Board guidelines may continue to apply or may be amended as the Planning Board finds necessary.

In administering Local Area Transportation Review, the Planning Board must carefully consider the recommendations of the County Executive concerning the applicant's LATR study and proposed improvements or any other aspect of the review. To achieve safe and convenient pedestrian travel, the Planning Board may adopt administrative guidelines requiring construction of off-site sidewalk improvements consistent with County Code §50-25. To support creating facilities that encourage transit use, walking, and bicycling, to maintain an approximately equivalent level of service at the local level for both auto and non-auto modes, the Board may allow the applicant to use peak hour vehicle trip credits for providing non-auto facilities. Before approving credits for non-auto facilities to reduce Local Area Transportation Review impacts,

the Board should first consider the applicability and desirability of traffic mitigation agreement measures. The Board's *LATR Guidelines* must identify applicable facilities in terms of actions that can be given trip credits and the maximum number of trips that can be credited. If the Board approves any credits, it must specify mechanisms to monitor the construction of any required facility. During each quadrennial Subdivision Staging Policy, the Board must report on the number of credits issued and confirm the construction of any required facility.

In general, any mitigation measure or combination of mitigation measures must be scheduled for completion or otherwise operational either before or at the same time as the proposed development is scheduled to be completed. The nature, design, and scale of any additional facility or program must receive prior approval from any government agency that would construct or maintain the facility or program, and the applicant and the public agency must execute an appropriate public works agreement before the Planning Board approves a record plat.

Both the subdivision plan and the necessary mitigation measures must be consistent with an adopted master plan or other relevant land use policy statement. For the Planning Board to accept an intersection improvement as a mitigation measure, the applicant must show that alternative non-auto mitigation measures are not feasible or desirable. In evaluating mitigation measures proposed by an applicant, the Board must place a high priority on design excellence to create a safe, comfortable, and attractive public realm for all users, with particular focus on high-quality pedestrian and transit access to schools, libraries, recreation centers, and other neighborhood facilities.

If an approved subdivision already has constructed or participated in the construction of off-site improvements to accommodate its peak hour trips, based on the LATR requirements the Board imposed when it approved a preliminary subdivision plan, and if the subdivision later converts one or more approved uses or reduces its size so that the subdivision generates fewer peak hour trips than estimated when the Board imposed the LATR requirements, the trip mitigation agreement must reduce the subdivision's peak hour trip mitigation requirement by one trip for each peak hour trip that the subdivision would no longer generate. If the conversion of all or part of a subdivision from one use to another would cause a different trip distribution or would place new or different burdens on one or more intersections, and if the subdivision is otherwise required to do so, the subdivision must construct or contribute to improvements specified by the Board to mitigate that result.

## **TL5 Unique Policy Area Issues**

### **TL5.1 White Flint Policy Area LATR Standards**

Any proposed development located in the White Flint Metro Station Policy Area is exempt from Local Area Transportation Review if the development will be required to provide substantial funds to the Special Tax District created to finance master planned public improvements in the Policy Area. However, the traffic impact of any development in that Policy Area must be considered in any Local Area Transportation Review calculation for any development elsewhere where it would otherwise be considered.

## **TL5.2 Potomac LATR Standards**

In the Potomac Policy Area, only the areas contributing traffic to the following intersections must be subject to Local Area Transportation Review: (a) Montrose Road at Seven Locks Road; (b) Democracy Boulevard at Seven Locks Road; (c) Tuckerman Lane at Seven Locks Road; (d) Westlake Drive at Tuckerman Lane; (e) Bradley Boulevard at Seven Locks Road; (f) River Road at Bradley Boulevard; (g) River Road at Piney Meetinghouse Road; (h) River Road at Falls Road; (i) Falls Road at Democracy Boulevard; and (j) River Road at Seven Locks Road.

## **TL5.3 Silver Spring CBD Policy Area and Transportation Management District**

The Local Area Transportation Review for the Silver Spring CBD policy area must use the following assumptions and guidelines:

- The Planning Board and the Department of Transportation must implement Transportation Systems Management for the Silver Spring CBD. The goal of this program must be to achieve the commuting goals for transit use and auto occupancy rates set out below.
- The County Government, through the Silver Spring Parking Lot District, must constrain the amount of public and private long-term parking spaces.

The parking constraints and commuting goals needed to achieve satisfactory traffic conditions with these staging ceilings are:

**Parking constraint:** A maximum of 17,500 public and private long-term spaces when all nonresidential development is built; this maximum assumes a peak accumulation factor of 0.9, which requires verification in Silver Spring and may be subject to revision. Interim long-term parking constraints must be imposed in accordance with the amount of interim development. Long-term public parking spaces must be priced to reflect the market value of constrained parking spaces.

**Commuting goals:** For employers with 25 or more employees, attain 25 percent mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 46% non-drivers during the peak periods. For new nonresidential development, attain 30% mass transit use and auto occupancy rates of 1.3 persons per vehicle during the peak periods, or attain any combination of employee mode choice that results in at least 50% non-drivers during the peak periods.

Progress towards achieving these goals should be measured annually by scientific, statistically valid surveys.

To achieve these goals, it will be necessary to require developers of new development in Silver Spring to enter into traffic mitigation agreements and the employers and certain owners to submit transportation mitigation plans under County Code Chapter 42A.

In accordance with the amendment to the Silver Spring Sector Plan, subdivision applications for nonresidential standard method projects throughout the CBD may be approved for development or additions of not more than 5,000 square feet of gross floor area. However, if, for a particular use the addition of 5 peak hour trips yields a floor area greater than 5,000 square feet, that additional area may be approved for that particular use.

#### **TL5.4 Greater Shady Grove TMD**

Each development that receives preliminary plan approval in the Shady Grove Metro Station Policy Area and generates at least 100 additional peak-hour vehicle trips, other than pass-by trips, must enter into a Traffic Mitigation Agreement (TMAg). The trip mitigation requirement for this Agreement is 50% of the residential-related vehicle trips and 65% of the non-residential-related vehicle trips that would otherwise be expected, based on countywide trip generation rates before any applicable deduction, such as proximity to a Metrorail station. The breakdown in the reduction of trips should be identified in the Agreement. County-owned property in the Shady Grove Policy Area must enter into a TMAg on all new development or redevelopment, with no deduction of existing trips.

#### **TL5.5 White Oak Policy Area**

- (a) The Board may approve a subdivision in the White Oak Policy Area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a White Oak Local Area Transportation Improvement Program, including the costs of design, land acquisition, construction, site improvements, and utility relocation. The proportion is based on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the White Oak Policy Area approved after January 1, 2016.
- (b) The components of the White Oak Local Area Transportation Improvement Program and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the Program and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the White Oak Policy Area.

#### **TL6 Non-Auto-Driver Mode Share Goals**

Bill 36-18, Transportation Demand Management (TDM), was adopted by the County Council in 2019. The legislation sets the stage for TDM efforts in every Red, Orange and Yellow policy area to achieve desired non-auto-driver mode share (NADMS) goals. Many master and sector plans include NADMS goals for their respective planning or policy areas, whereas other NADMS goals are established through the Subdivision Staging Policy. Table T7 identifies the

NADMS goals applicable to different master/sector plan areas, transportation management districts (TMDs) and policy areas.

**Table T7. NADMS Goals**

<b>Master/Sector Plan Area, Policy Area or TMD</b>	<b>NADMS Goal(s) at Buildout</b>
Aspen Hill PA	35% for residents and employees blended
Bethesda TMD	55% for residents and employees blended
Bethesda/Chevy Chase PA	41% for residents and employees blended
Burtonsville Town Center PA	25% for residents and employees blended
Chevy Chase Lake MP Area	49% for residents 36% for employees
Clarksburg PA	25% for residents and employees blended
Clarksburg Town Center PA	25% for residents and employees blended
Cloverly PA	23% for residents and employees blended
Derwood PA	39% for residents and employees blended
Fairland/Colesville PA	27% for residents and employees blended
Forest Glen PA	48% for residents 25% for employees
Friendship Heights TMD	39% for residents and employees blended
Gaithersburg City PA	N/A*
Germantown East PA	28% for residents and employees blended
Germantown Town Center PA	25% employees
Germantown West PA	27% for residents and employees blended
Glenmont MSPA	35% for residents and employees blended
Great Seneca Science Corridor MP Area	18% for employees before Stage 2 begins 23% for employees before Stage 3 begins 28% for employees before Stage 4 begins
Greater Shady Grove TMD	35% transit ridership for residents in the Shady Grove PA 25% transit ridership for residents elsewhere in the Shady Grove SP area 12.5% transit ridership for office employees
Grosvenor PA	50% for residents and employees blended
Kensington/Wheaton PA	40% for residents and employees blended
Lyttonsville PA	50% for residents and employees blended
Medical Center MSPA	41% for residents and employees blended
North Bethesda TMD	30% for residents 39% for employees
North Potomac PA	27% for residents and employees blended
Olney PA	22% for residents and employees blended
Potomac PA	29% for residents and employees blended
Purple Line East PA	50% for residents and employees blended
Rock Spring MP Area	41% for residents 23% for employees
Rockville City PA	N/A*
Rockville Town Center PA	N/A*



Silver Spring TMD	50% for employees
Silver Spring/ Takoma Park PA	48% for residents and employees blended
Takoma MSPA	48% for residents and employees blended
Twinbrook MSPA	45% for residents and employees blended
Wheaton CBD	30% for employees
White Flint MSPA	51% for residents 50% for employees
White Flint 2 Planning Area	42% for residents east of CSX tracks 51% for residents elsewhere 50% for employees
White Oak PA (Life Sciences/ FDA Village Center)	30% for residents and employees blended
White Oak PA (White Oak Center and Hillandale Center)	25% for residents and employees blended
Woodside PA	50% for residents and employees blended

## **TL7 Unified Mobility Programs**

- (a) The Board may approve a subdivision in any policy area conditioned on the applicant paying a fee to the County commensurate with the applicant's proportion of the cost of a Unified Mobility Program (UMP), including the costs of design, land acquisition, construction, site improvements, and utility relocation. One option is to base this proportion on a subdivision's share of net additional peak-hour vehicle trips generated by all master-planned development in the policy area.
- (b) The components of the UMP and the fee per peak-hour vehicle trip will be established by Council resolution, after a public hearing. The Council may amend the UMP and the fee at any time, after a public hearing.
- (c) The fee must be paid at a time and manner consistent with Transportation Mitigation Payments as prescribed in Section 52-59(d) of the Montgomery County Code.
- (d) The Department of Finance must retain funds collected under this Section in an account to be appropriated for transportation improvements that result in added transportation capacity serving the policy area.

## **TL8 Red Policy Area LATR Standards**

Any proposed development in Red policy areas is exempt from the LATR motor vehicle adequacy test. In lieu of the motor vehicle adequacy test, the assessment of transportation system performance in these areas should be performed through the biennial monitoring program, including a Comprehensive Local Area Transportation Review (or comparable analysis), to identify and prioritize master planned infrastructure implementation needs. Concurrently, the establishment of Unified Mobility Programs (UMPs) should be considered for Red policy areas, as appropriate.

## **TA Alternative Review Procedures**

### **TA1 Expiration of Approvals under Previous Alternative Review Procedures**

Annual Growth Policy resolutions in effect between 1995 and 2001 contained Alternative Review Procedures that required any development approved under those procedures to receive each building permit no later than 4 years after the Planning Board approved the preliminary plan of subdivision for that development. Any outstanding development project approved under an Alternative Review Procedure is subject to the expiration dates in effect when that development project was approved.

### **TA2 Automobile related uses in the Cherry Hill Employment Area**

For any property located in the Cherry Hill Employment Area with automobile repair, service, sales, parking, storage, or related office uses, **TL Local Area Transportation Review** is not required.

This provision applies to any application for a preliminary plan of subdivision, site plan, or building permit approved before July 26, 2016.

### **TA3 Public Facility Project**

An applicant for a development which will be built solely as a public facility (such as a school, firehouse, police station, or library) need not take any action under TL Local Area Transportation Review when it undergoes a mandatory referral review by the Planning Board.

### **TA4 Affordable Housing**

The provision of affordable housing in the County is crucial to providing long lasting reductions to regional congestion. Long distance trips affect the County's traffic in many parts of our community. The provision of affordable housing is a fundamental element of the County's General Plan and part of the County's economic development strategy. All trips generated by any moderately priced dwelling unit (MPDU) and any other low-and moderate-income housing which is exempt from paying a development impact tax must also be exempt from any Transportation Mitigation payment.

## **Guidelines for Water and Sewerage Facilities**

In accordance with the Adequate Public Facilities Ordinance, applications must be considered adequately served by water and sewerage if the subdivision is located in an area in which water and sewer service is presently available, is under construction, is designated by the County Council for extension of service within the first two years of a current approved Comprehensive Water Supply and Sewerage Systems Plan (i.e., categories 1-3), or if the applicant either provides a community water and/or sewerage system or meets Department of Permitting Services requirements for septic and/or well systems, as outlined in the Adequate Public Facilities Ordinance. These requirements are determined either by reference to the Water and

Sewerage Plan, adopted by the Council, or by obtaining a satisfactory percolation test from the Department of Permitting Services.

Applications must only be accepted for further Planning staff and Board consideration if they present evidence of meeting the appropriate requirements as described above.

### **Guidelines for Police, Fire and Health Services**

The Planning Board and staff must consider the programmed services to be adequate for facilities such as police stations, firehouses, and health clinics unless there is evidence that a local area problem will be generated. Such a problem is one which cannot be overcome within the context of the approved Capital Improvements Program and operating budgets of the relevant agencies. Where such evidence exists, either through agency response to the Subdivision Review committee clearinghouse, or through public commentary or Planning staff consideration, a Local Area Review must be undertaken. The Board must seek a written opinion from the relevant agency, and require, if necessary, additional data from the applicant, to facilitate the completion of the Planning staff recommendation within the statutory time frame for Planning Board action. In performing this Local Area Review, the facility capacity at the end of the sixth year of the approved CIP must be compared to the demand generated by the “most probable” forecast for the same year prepared by the Planning Department.

### **Guidelines for Resubdivisions**

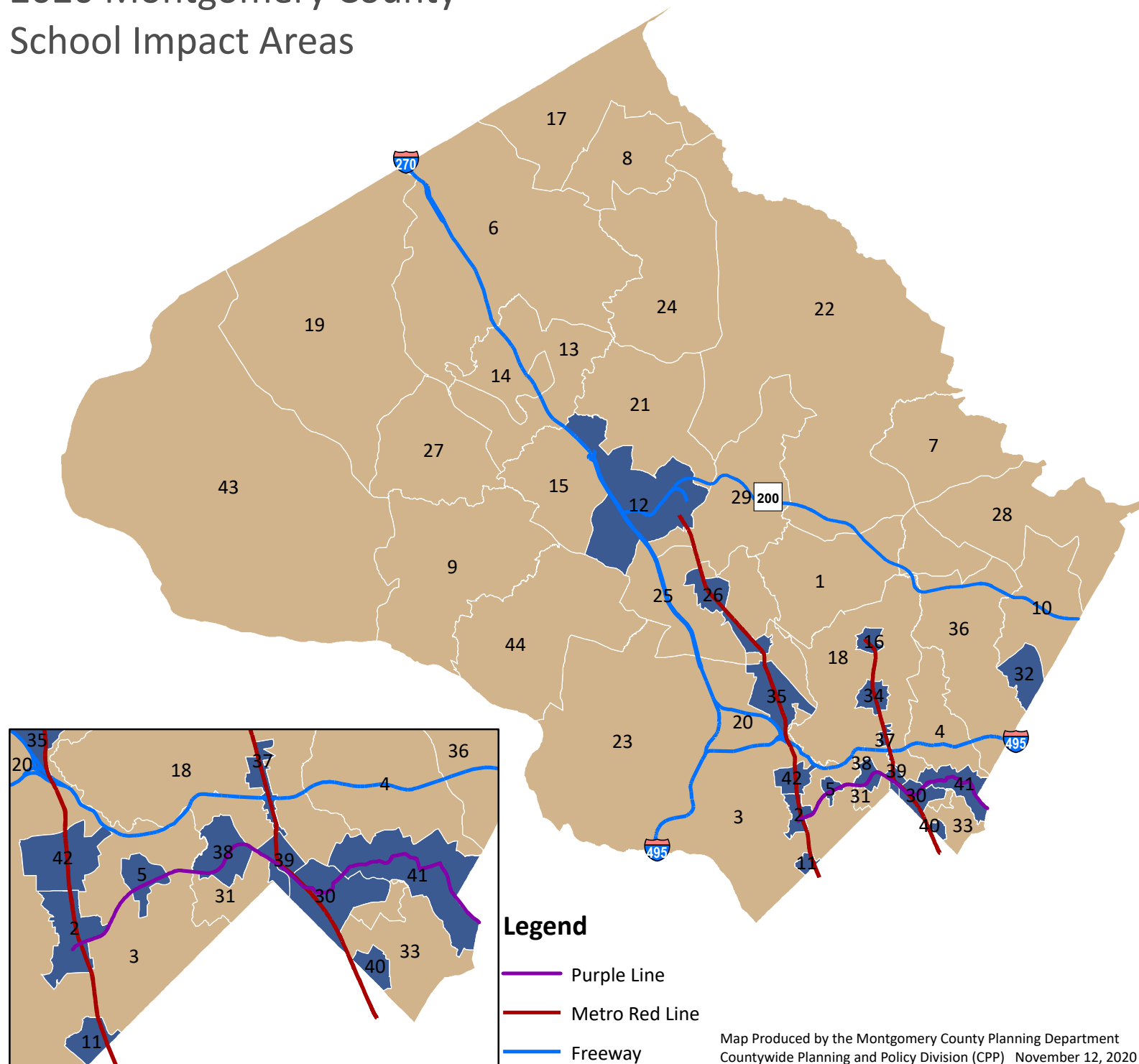
An application to amend a previously approved preliminary plan of subdivision does not require a new test for adequacy of public facilities if:

- Revisions to a preliminary plan have not been recorded, the preliminary plan has not expired, and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.
- Resubdivision of a recorded lot involves 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 to make small adjustments in boundaries.
- Resubdivision of a recorded lot involves more than 2,000 square feet or one percent of the lot area and the number of trips which will be produced by the revised plan is not greater than the number of trips produced by the original plan.

# 2020 Montgomery County School Impact Areas

MAP

S1

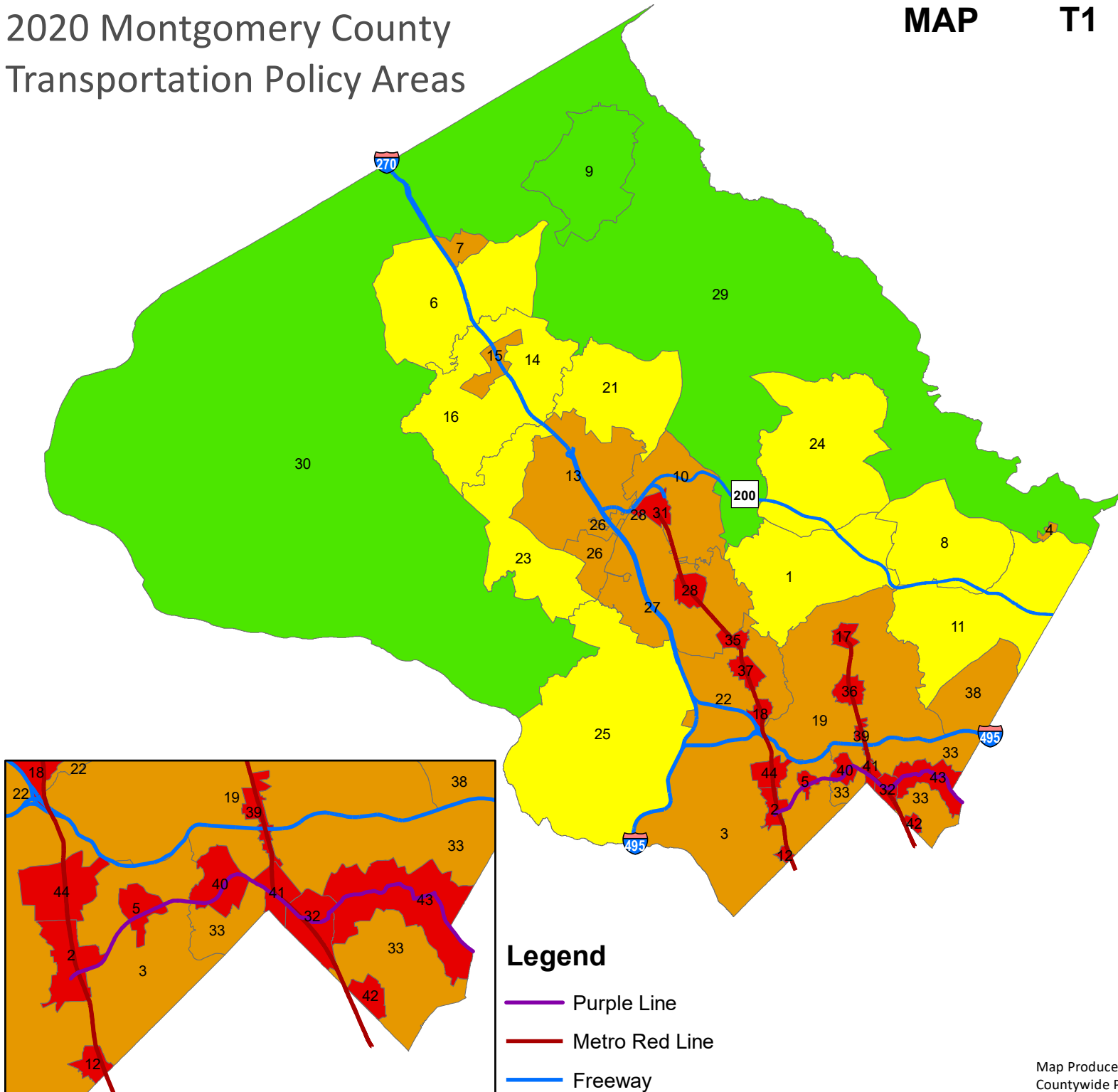


Infill	
2	Bethesda
5	Chevy Chase Lake
11	Friendship Heights
12	Gaithersburg East
16	Glenmont
26	Rockville 355
30	Downtown Silver Spring
32	White Oak RDA
34	Wheaton CBD
35	White Flint
37	Forest Glen
38	Lyttonsville
39	Woodside
40	Takoma
41	East Purple Line
42	Medical Center
Turnover	
1	Aspen Hill
3	Bethesda/Chevy Chase
4	Kemp Mill/4 Corners
6	Clarksburg
7	Cloverly
8	Damascus
9	Darnestown
10	Fairland
13	Germantown
14	Germantown North
15	Gaithersburg West
17	Bennett
18	Kensington/Wheaton
19	Dickerson
20	North Bethesda
21	Gaithersburg North
22	Olney
23	Potomac
24	Goshen
25	Rockville
27	Lower Seneca
28	Patuxent
29	Upper Rock Creek
31	Silver Spring
33	Takoma Park
36	White Oak
43	Poolesville
44	Travilah

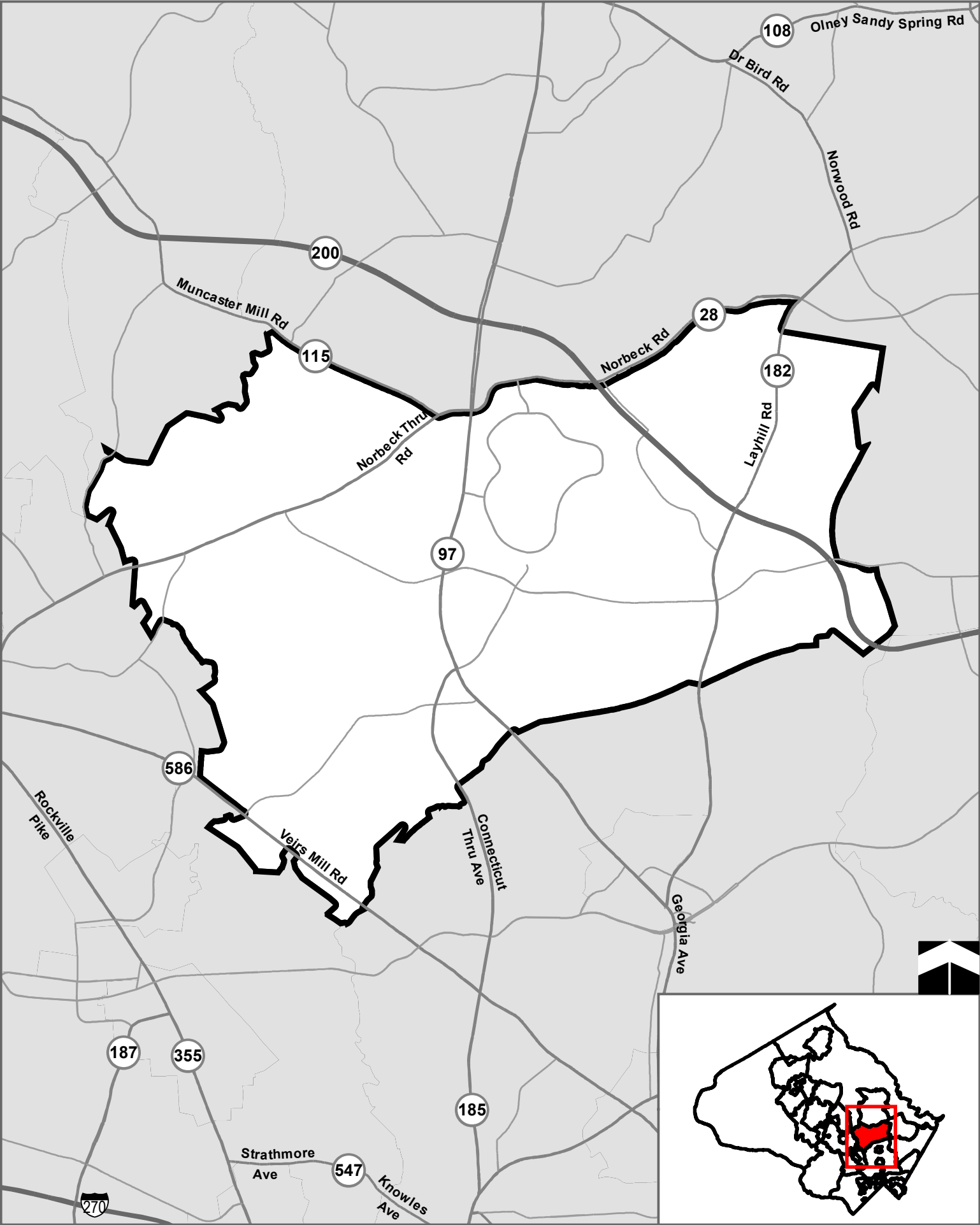
# 2020 Montgomery County Transportation Policy Areas

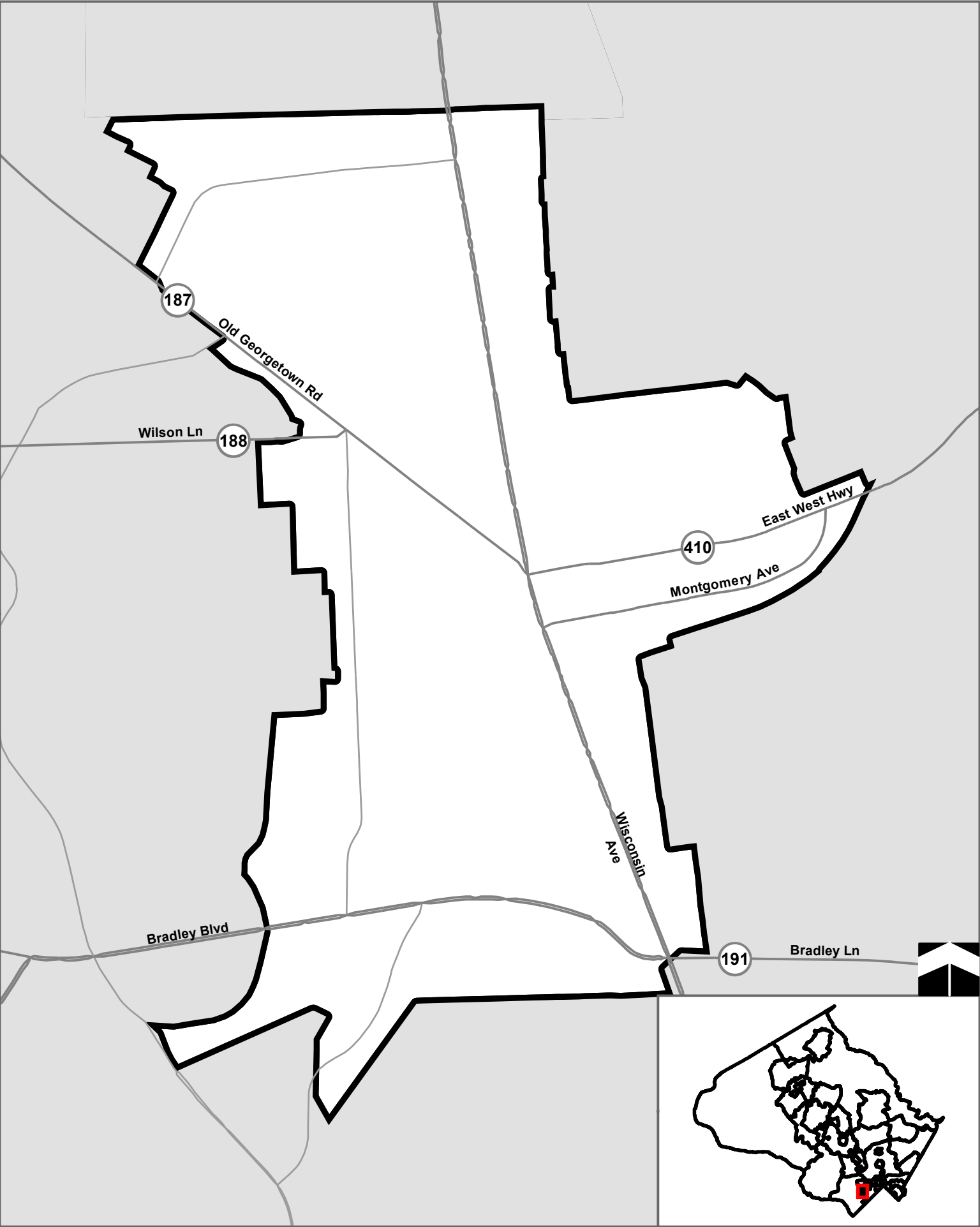
MAP

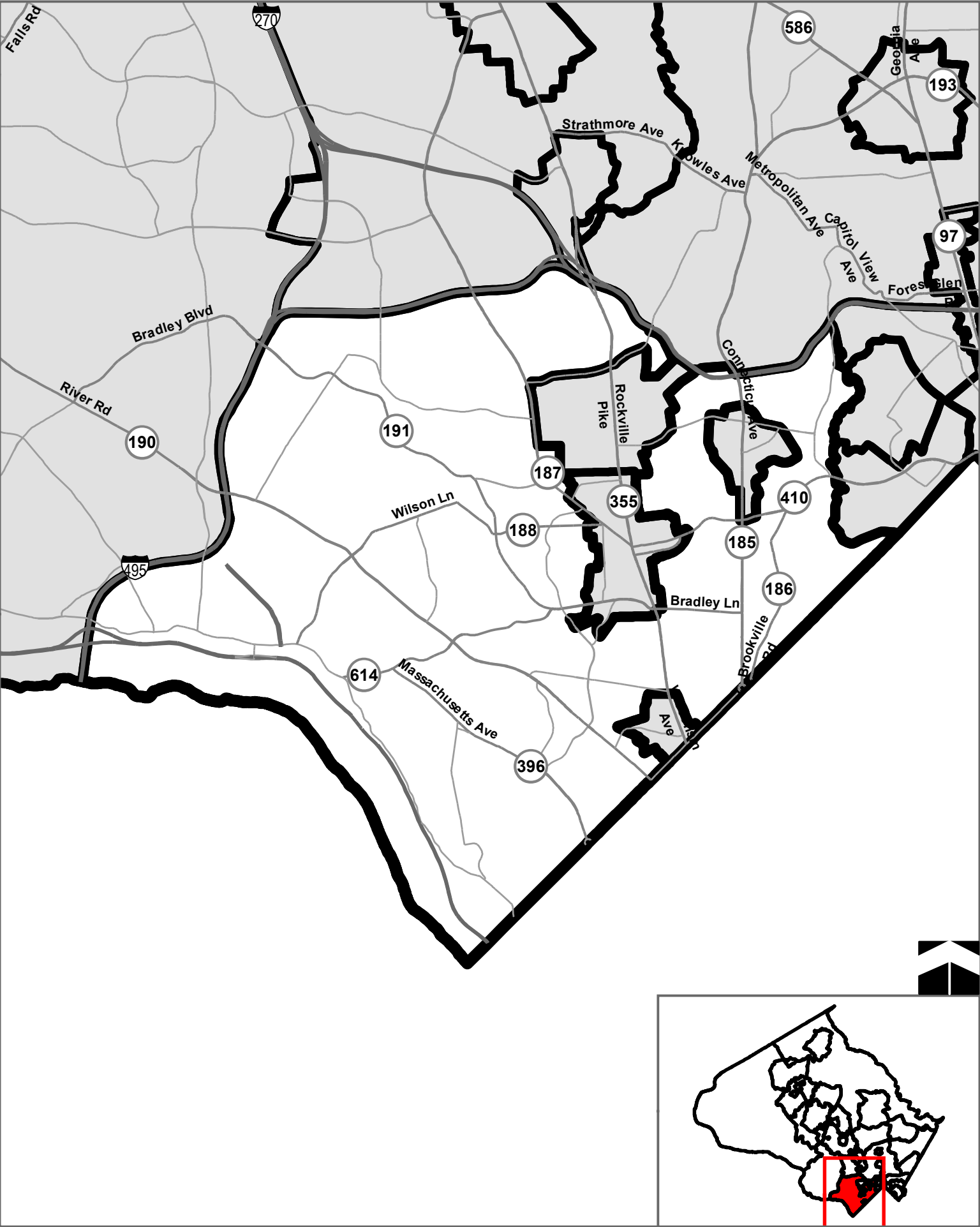
T1



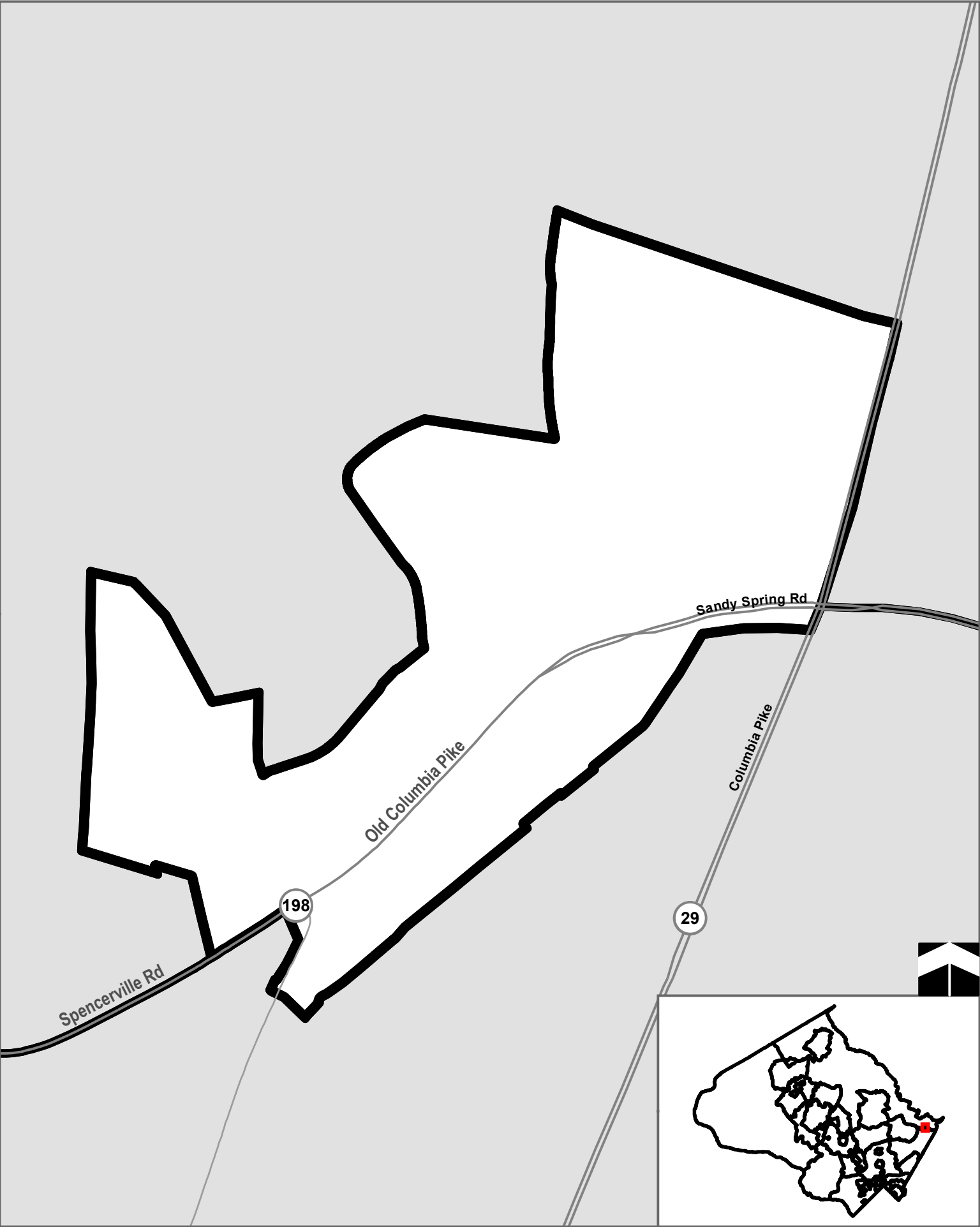
Red	
2	Bethesda CBD
5	Chevy Chase Lake
12	Friendship Heights
17	Glenmont
18	Grosvenor
28	Rockville Town Center
31	Shady Grove
32	Silver Spring CBD
35	Twinbrook
36	Wheaton CBD
37	White Flint
39	Forest Glen
40	Lyttonsville
41	Woodside
42	Takoma
43	Purple Line East
44	Medical Center
Orange	
3	Bethesda/Chevy Chase
4	Burtonsville Town Center
7	Clarksburg Town Center
10	Derwood
13	Gaithersburg City
15	Germantown Town Center
19	Kensington/Wheaton
22	North Bethesda
26	R&D Village
27	Rockville City
33	Silver Spring/Takoma Park
38	White Oak
Yellow	
1	Aspen Hill
6	Clarksburg
8	Cloverly
11	Fairland/Colesville
14	Germantown East
16	Germantown West
21	Montgomery Village/Airpark
23	North Potomac
24	Olney
25	Potomac
Green	
9	Damascus
29	Rural East
30	Rural West

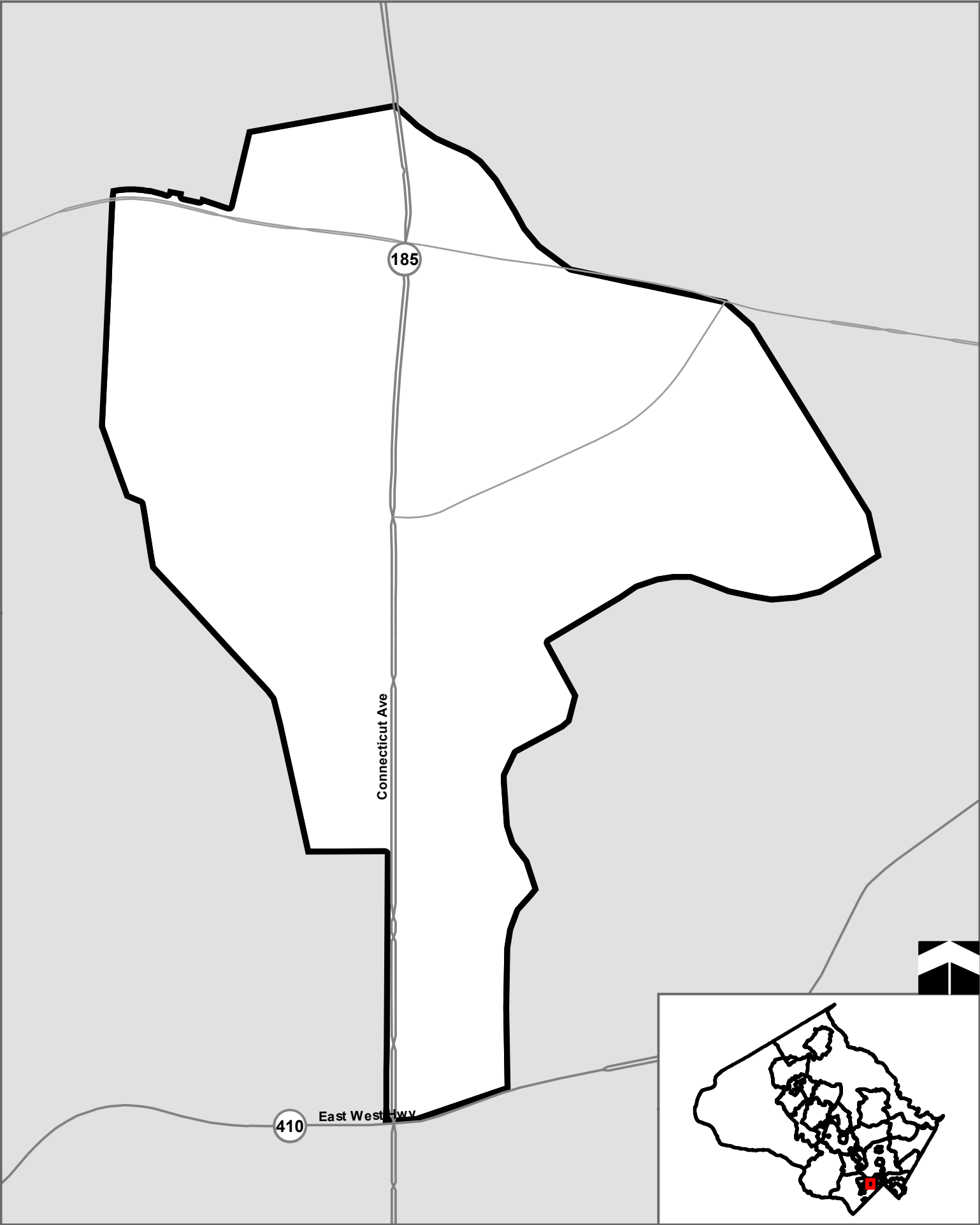


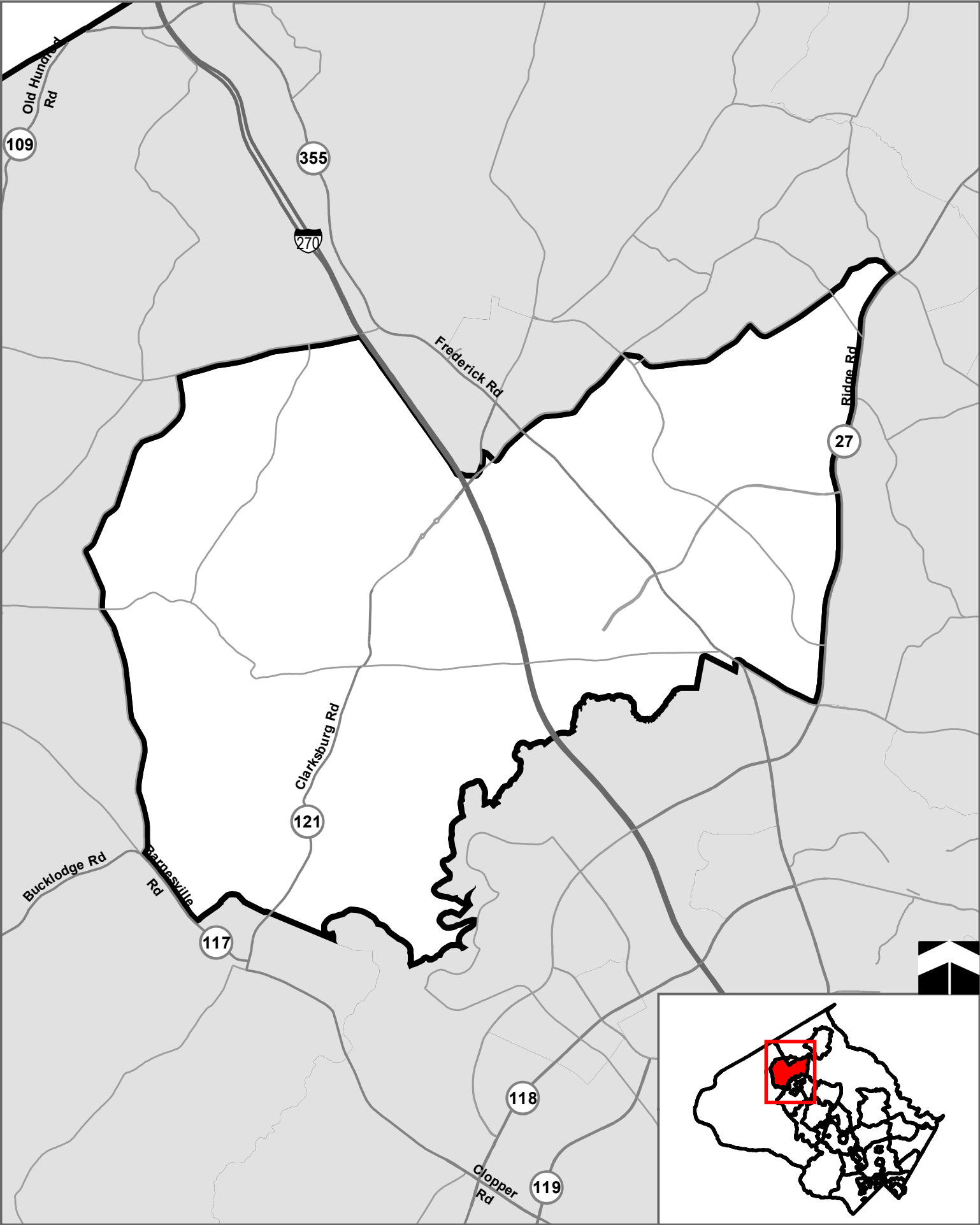


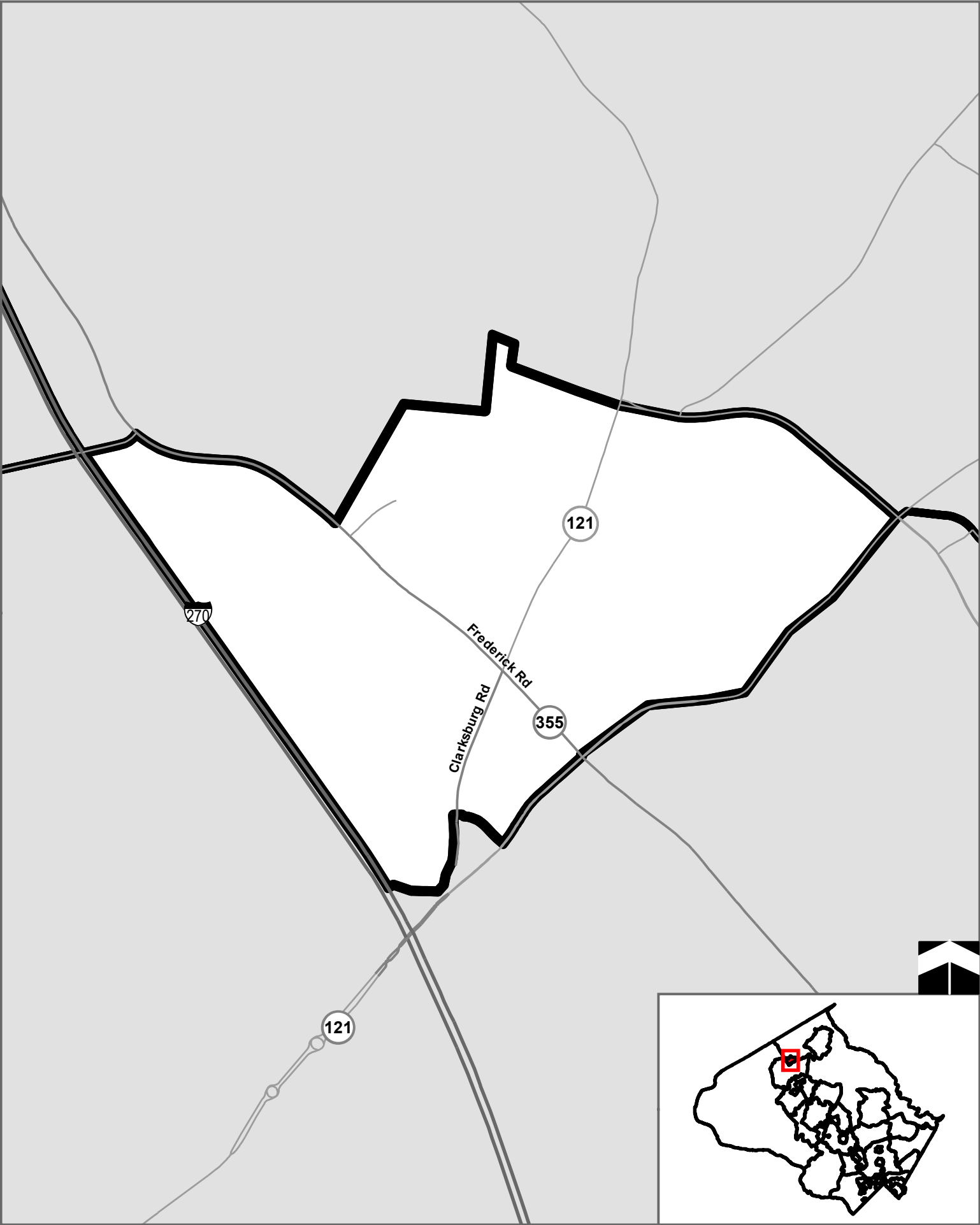


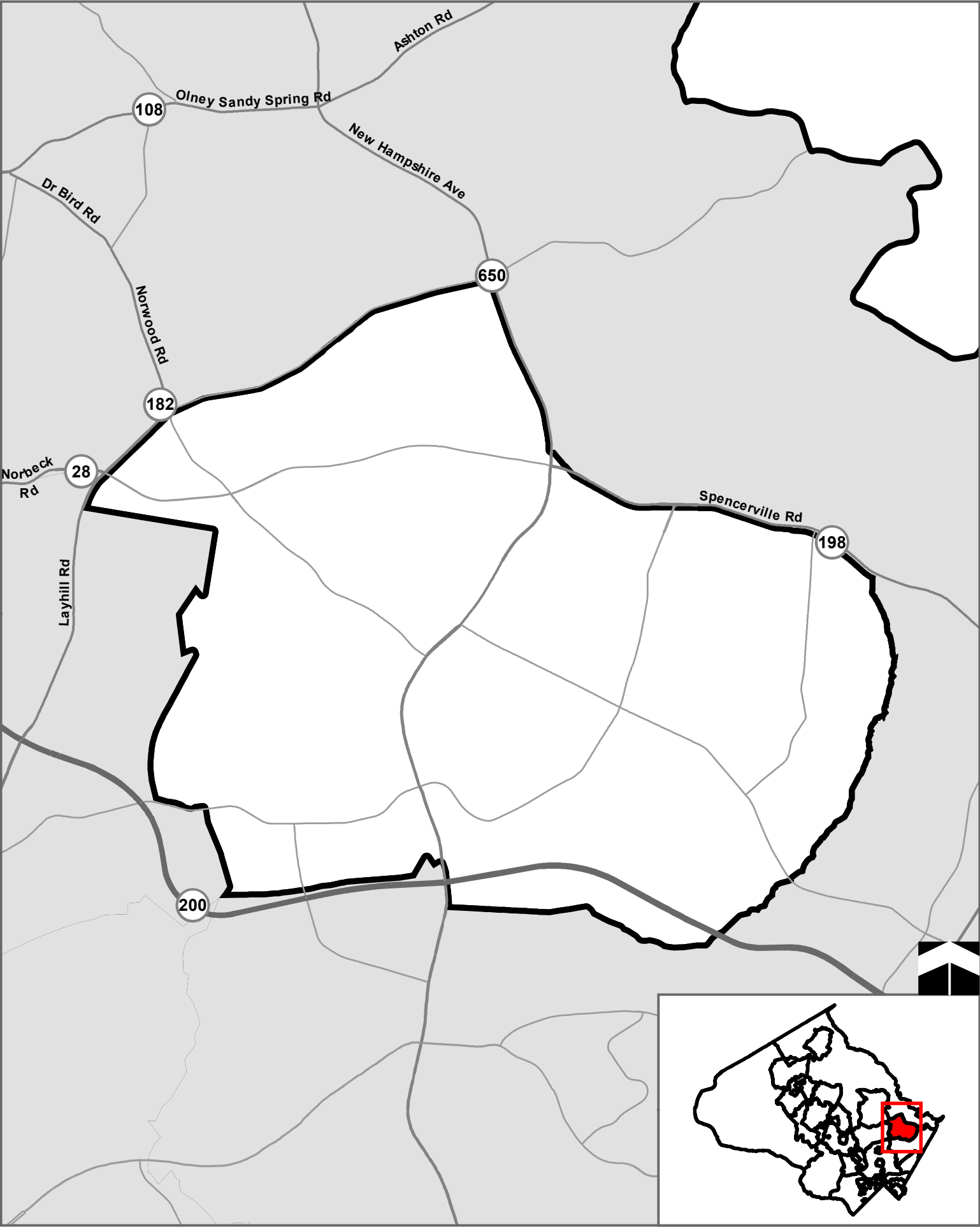


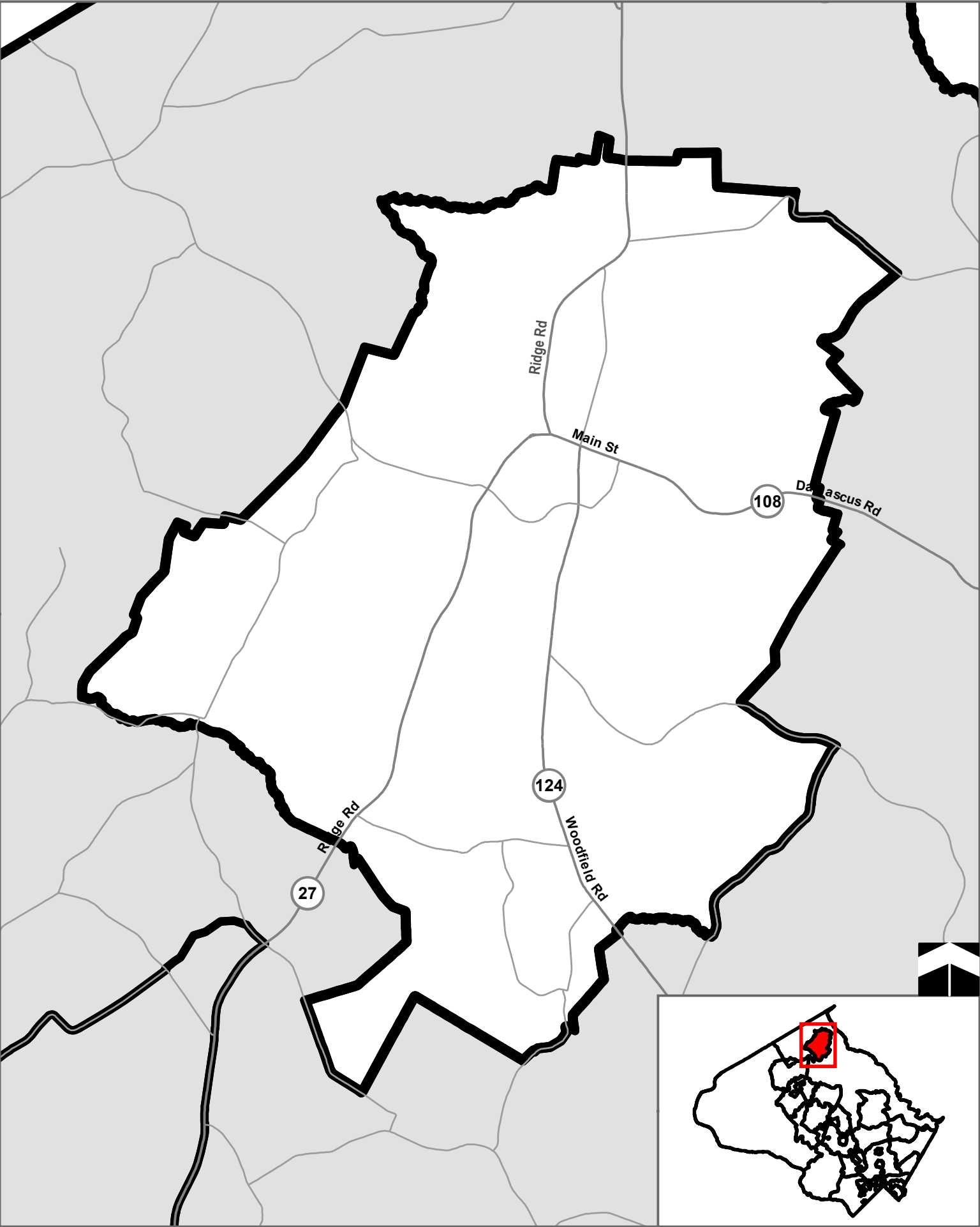


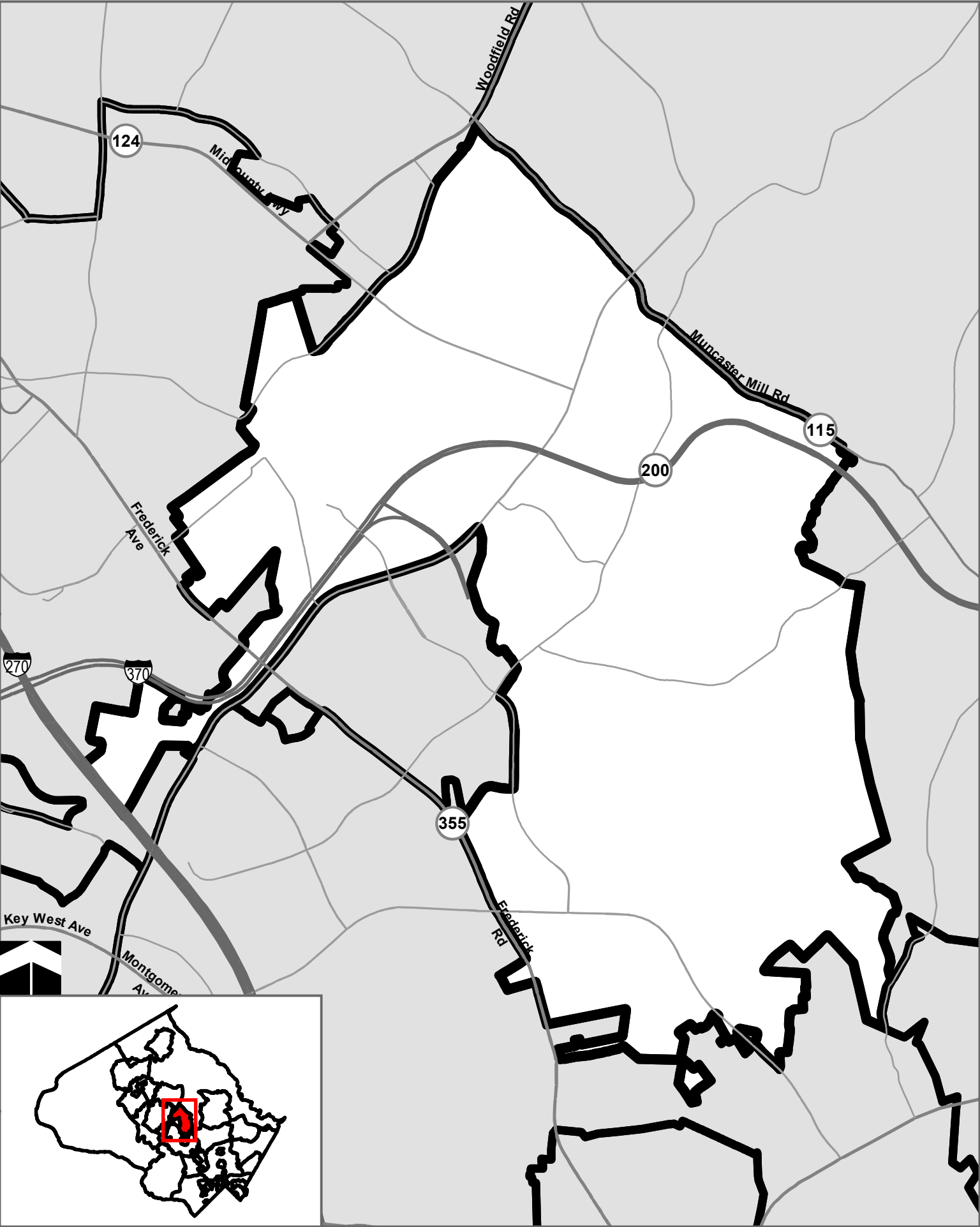


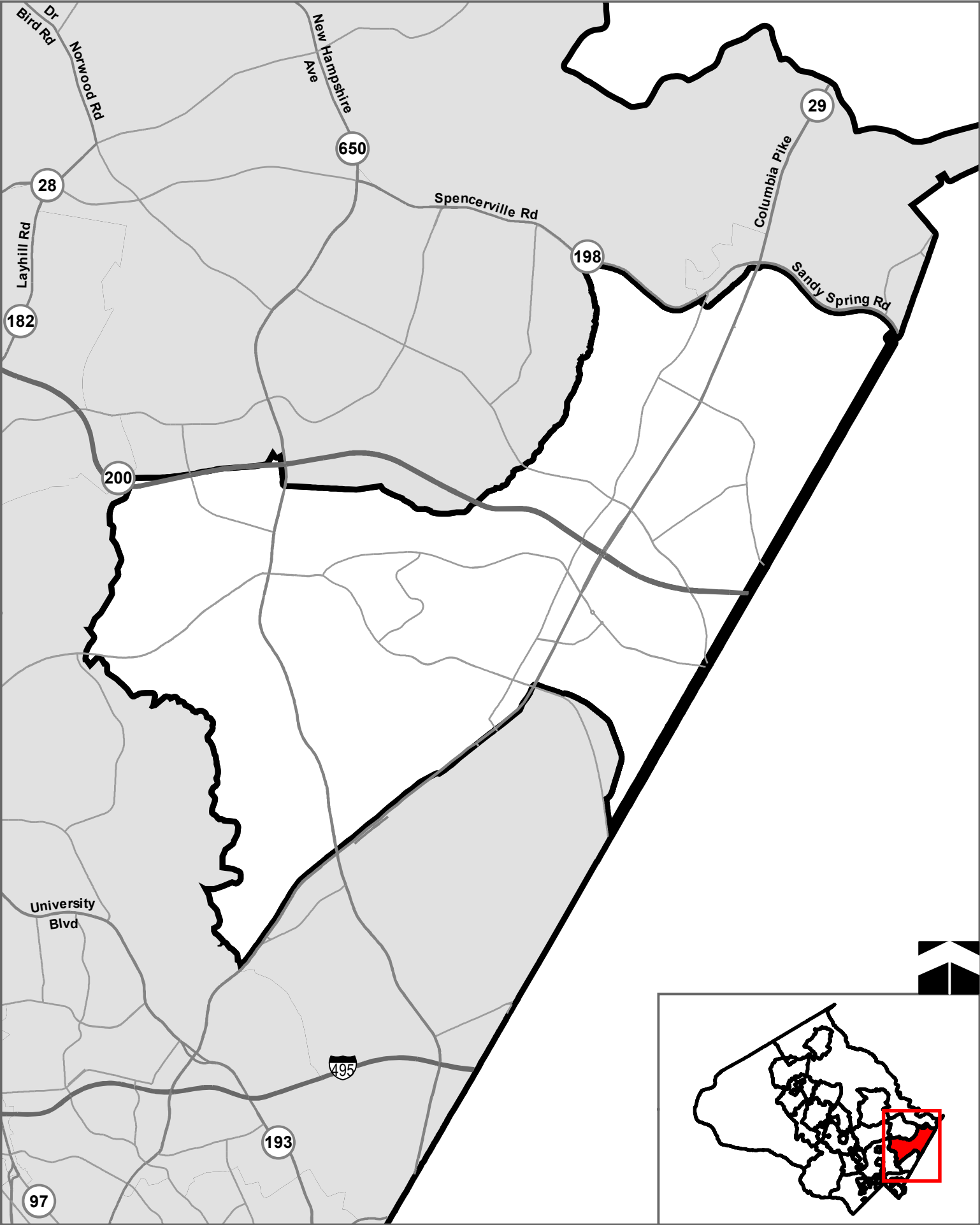




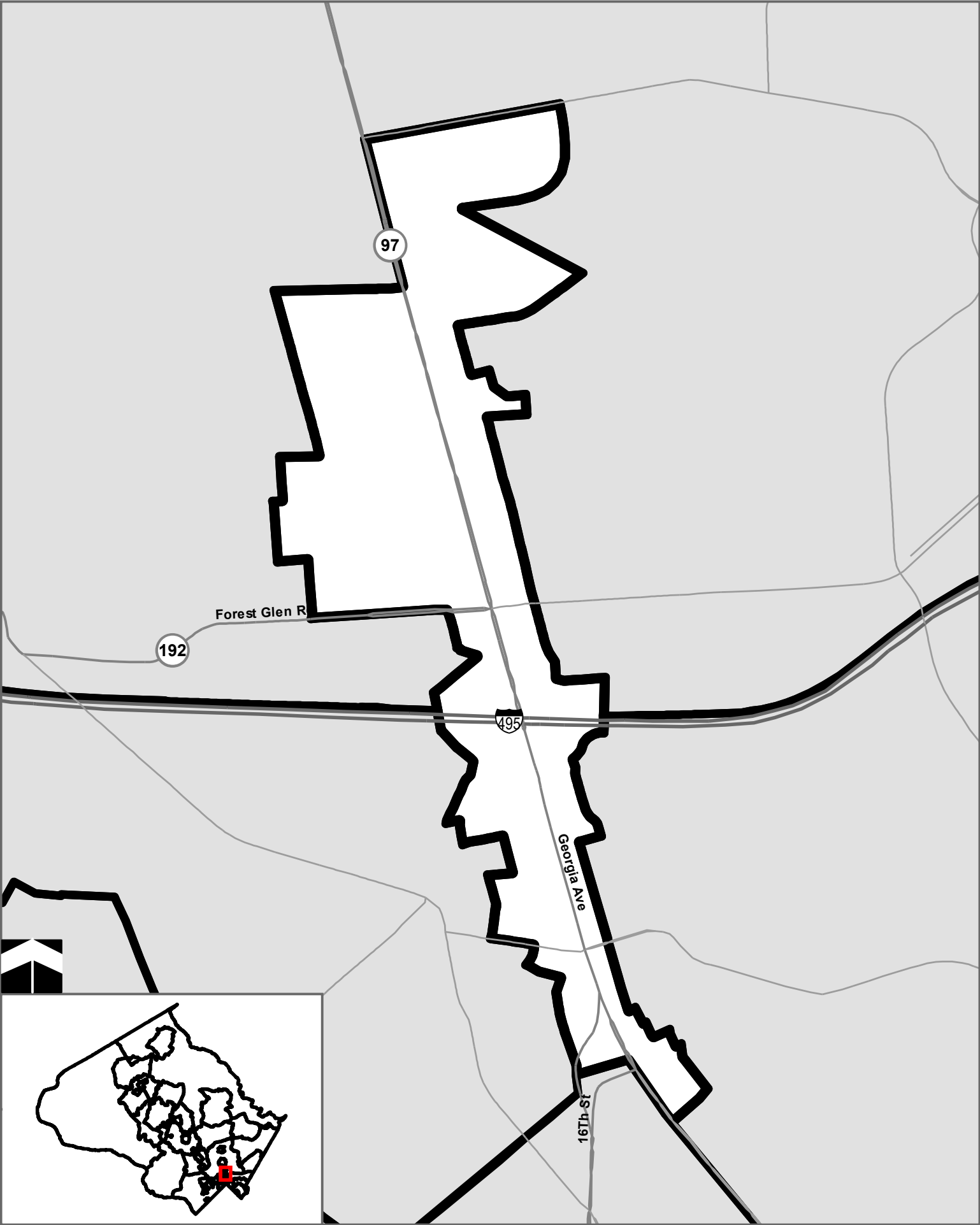


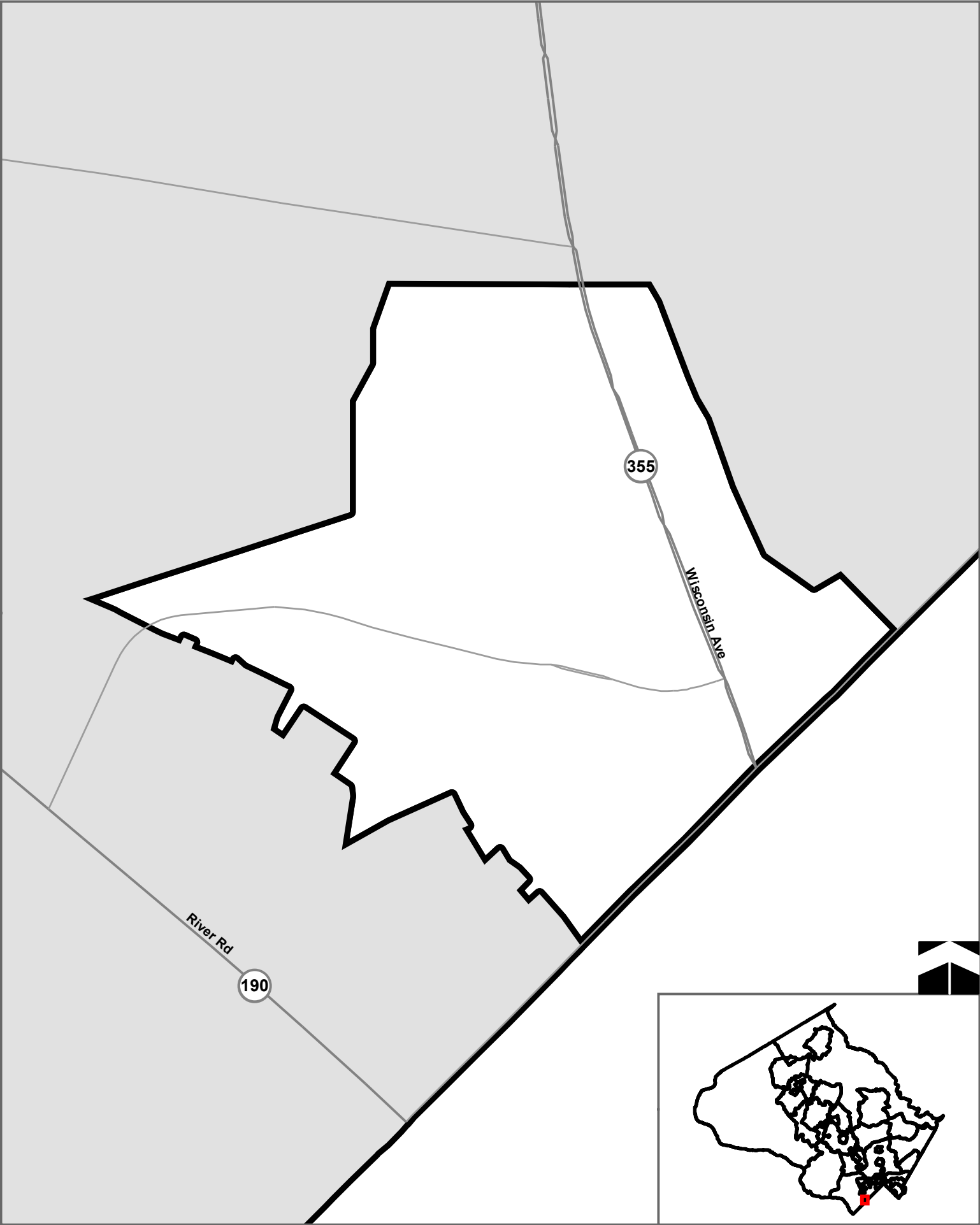


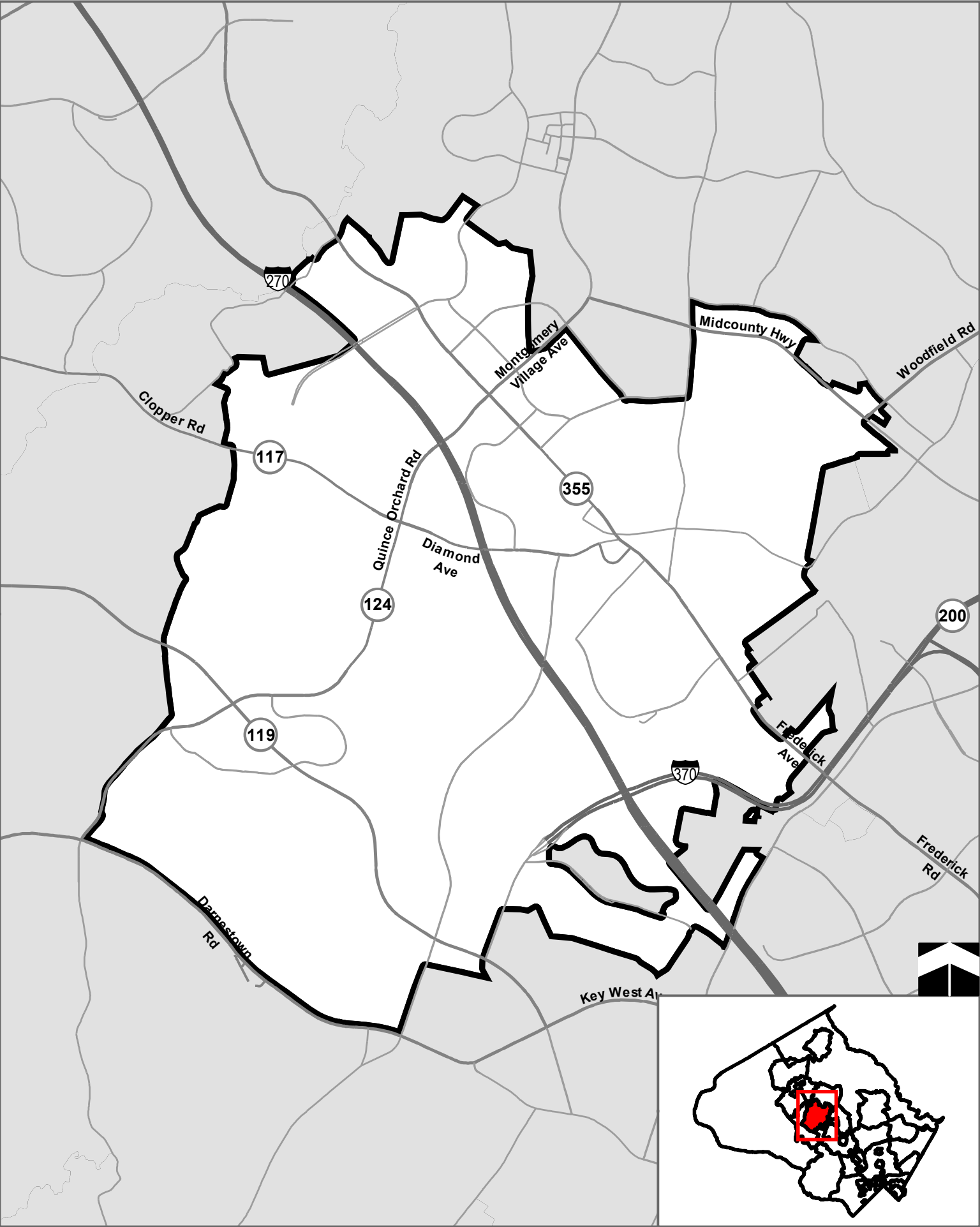


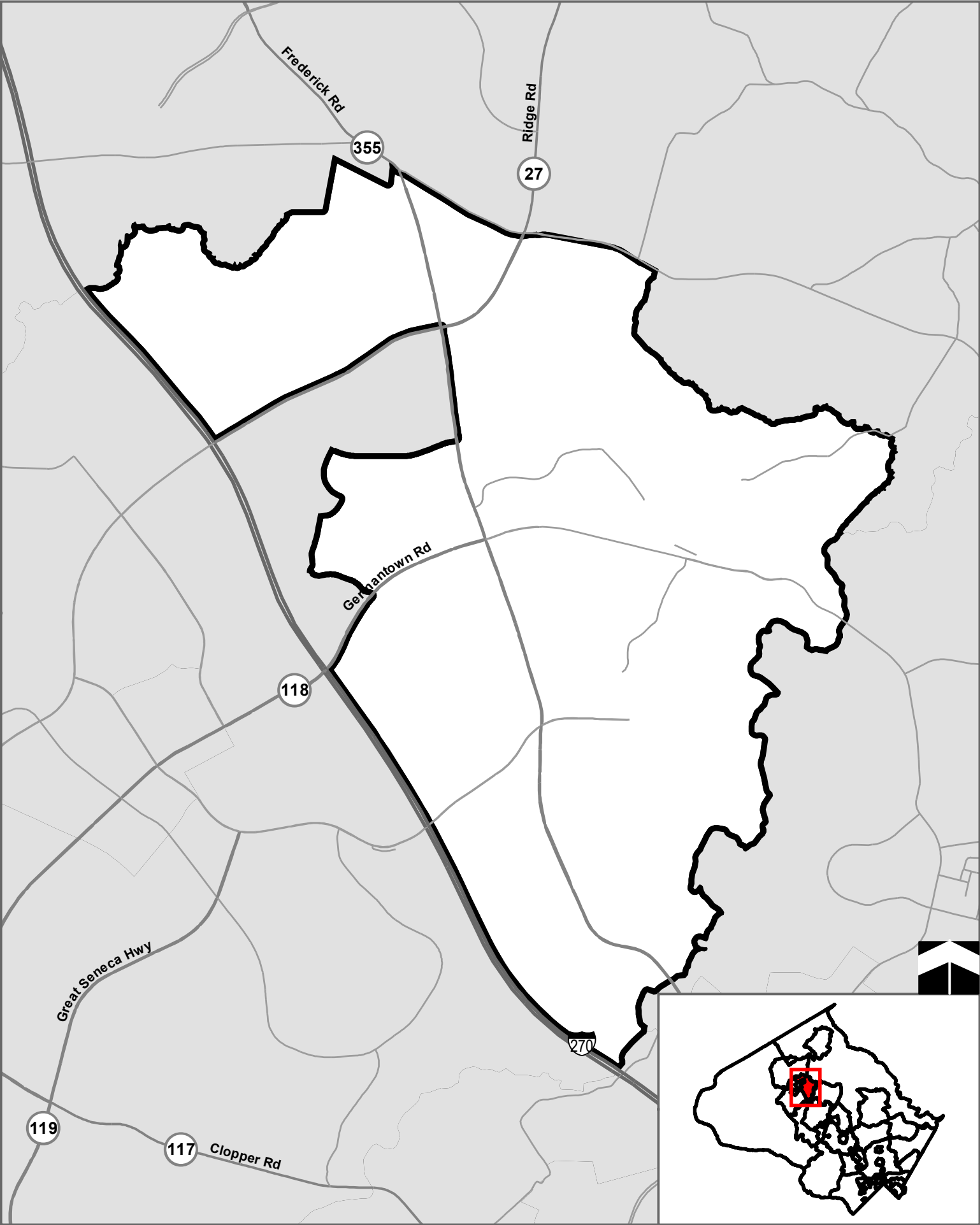


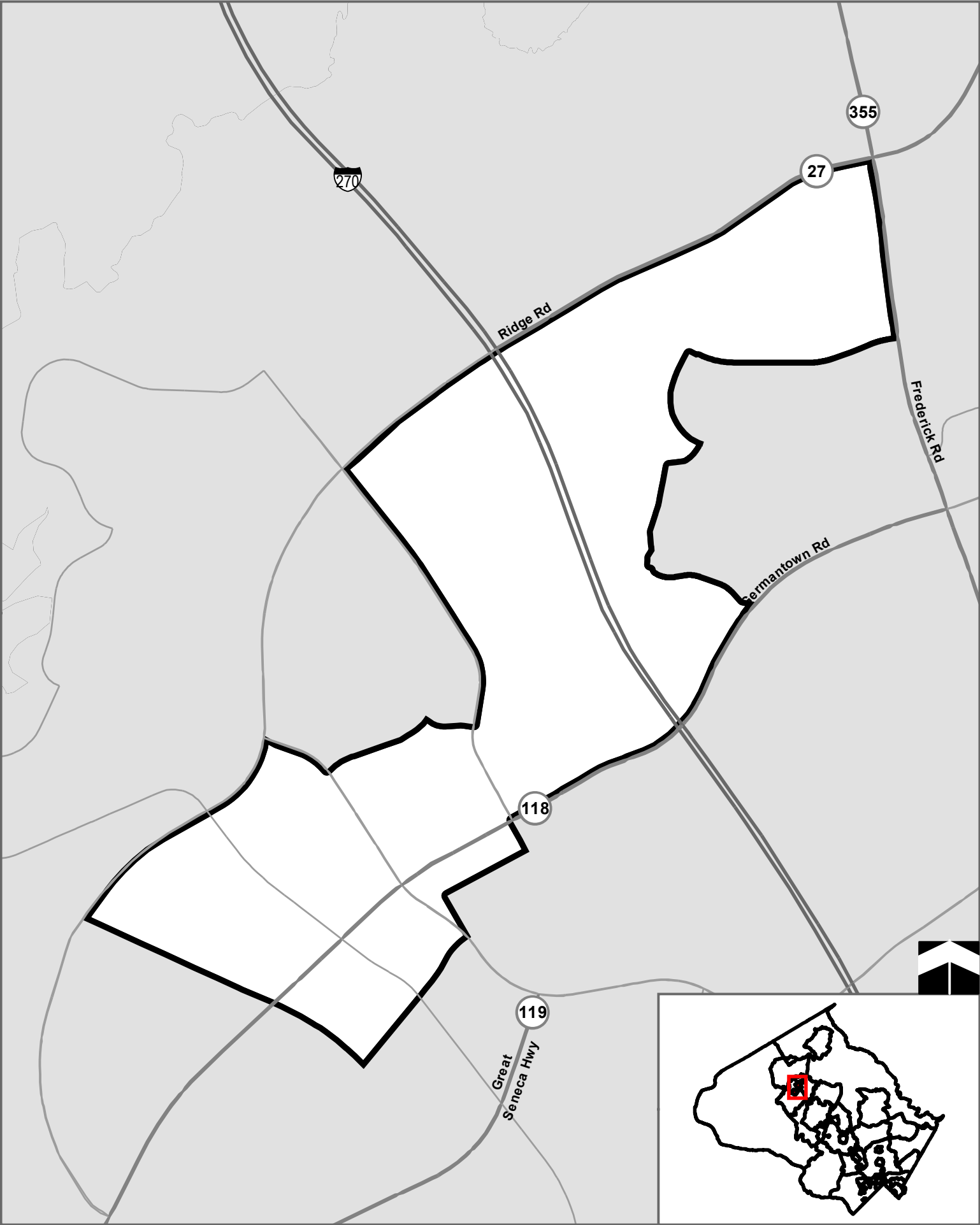


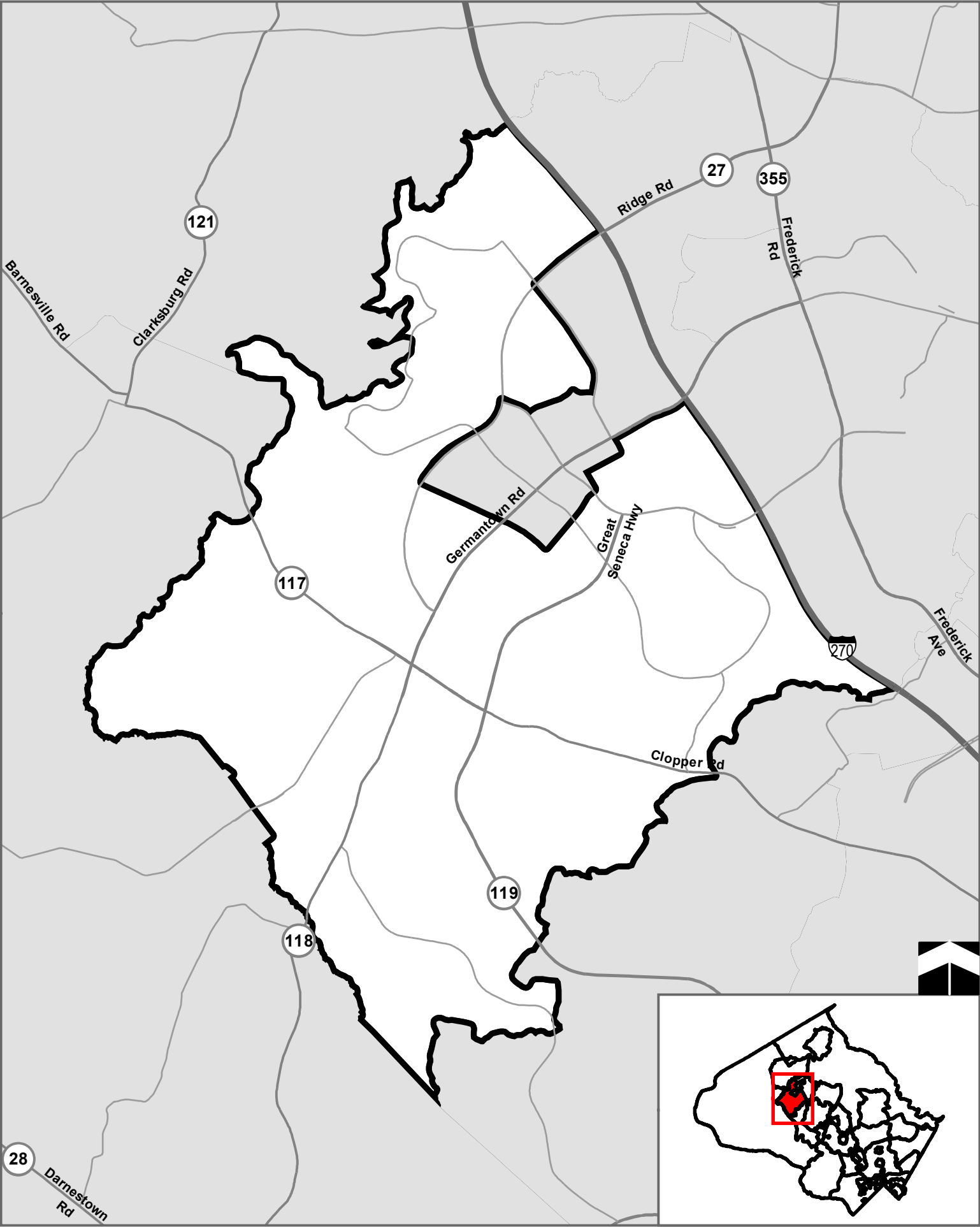


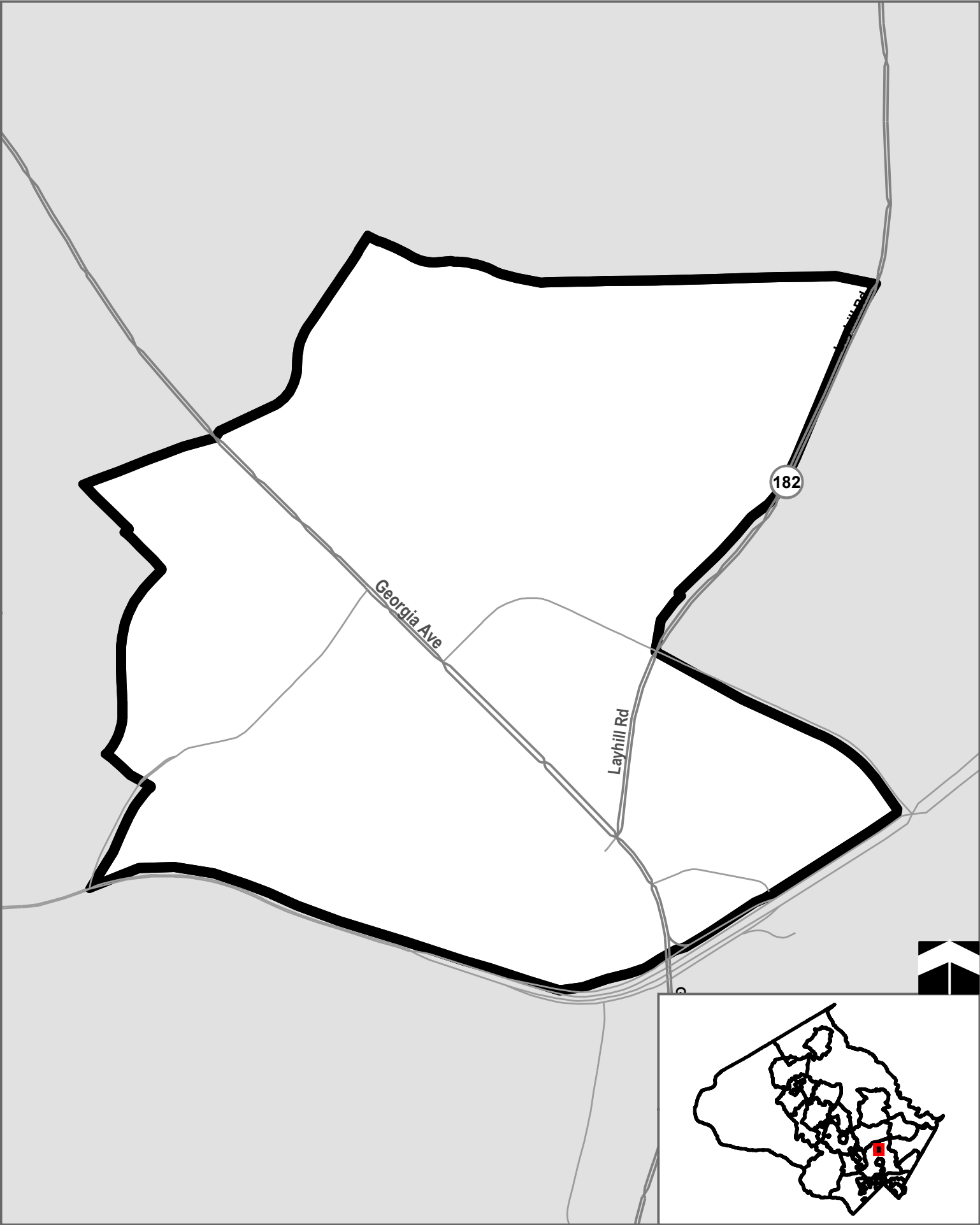


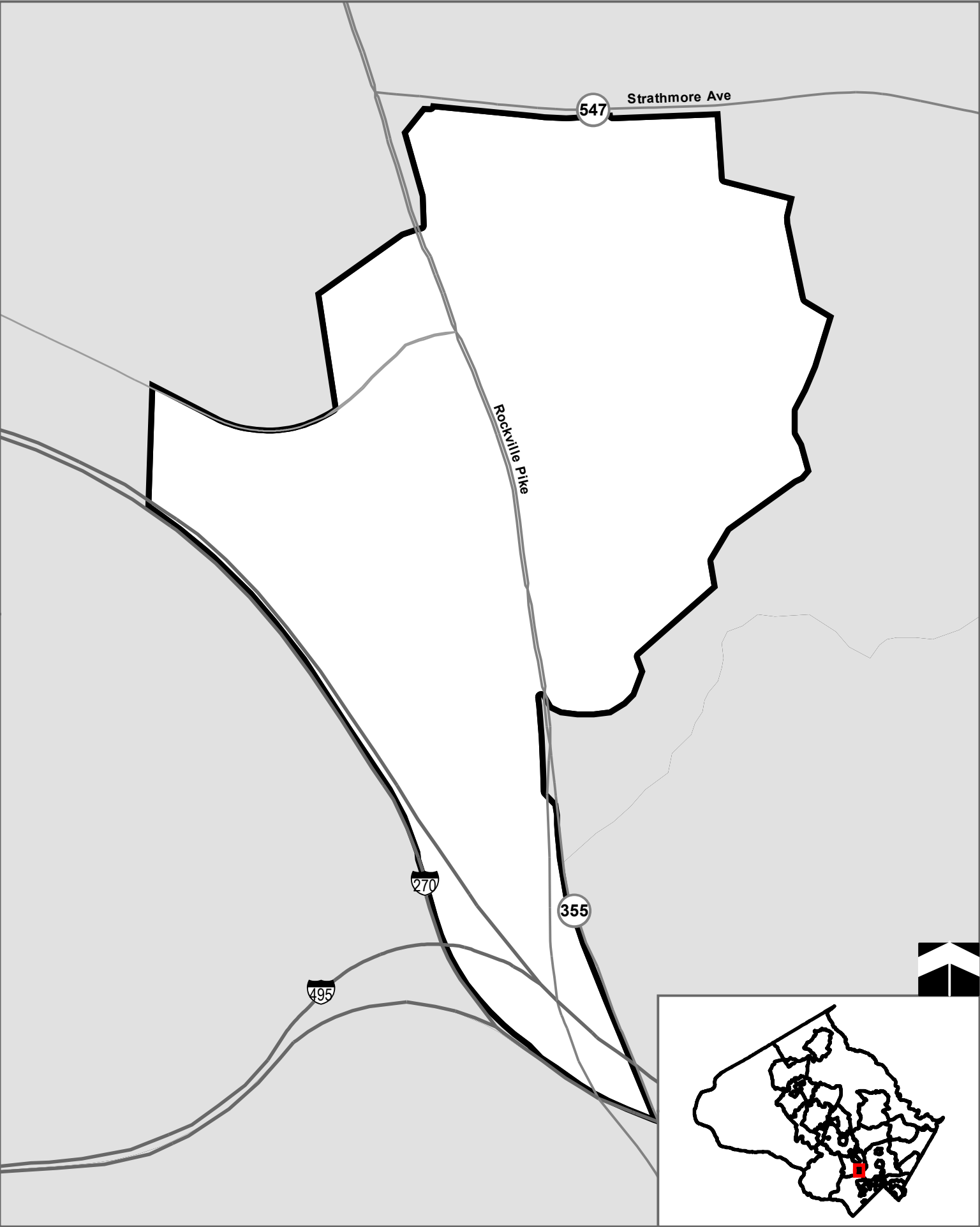




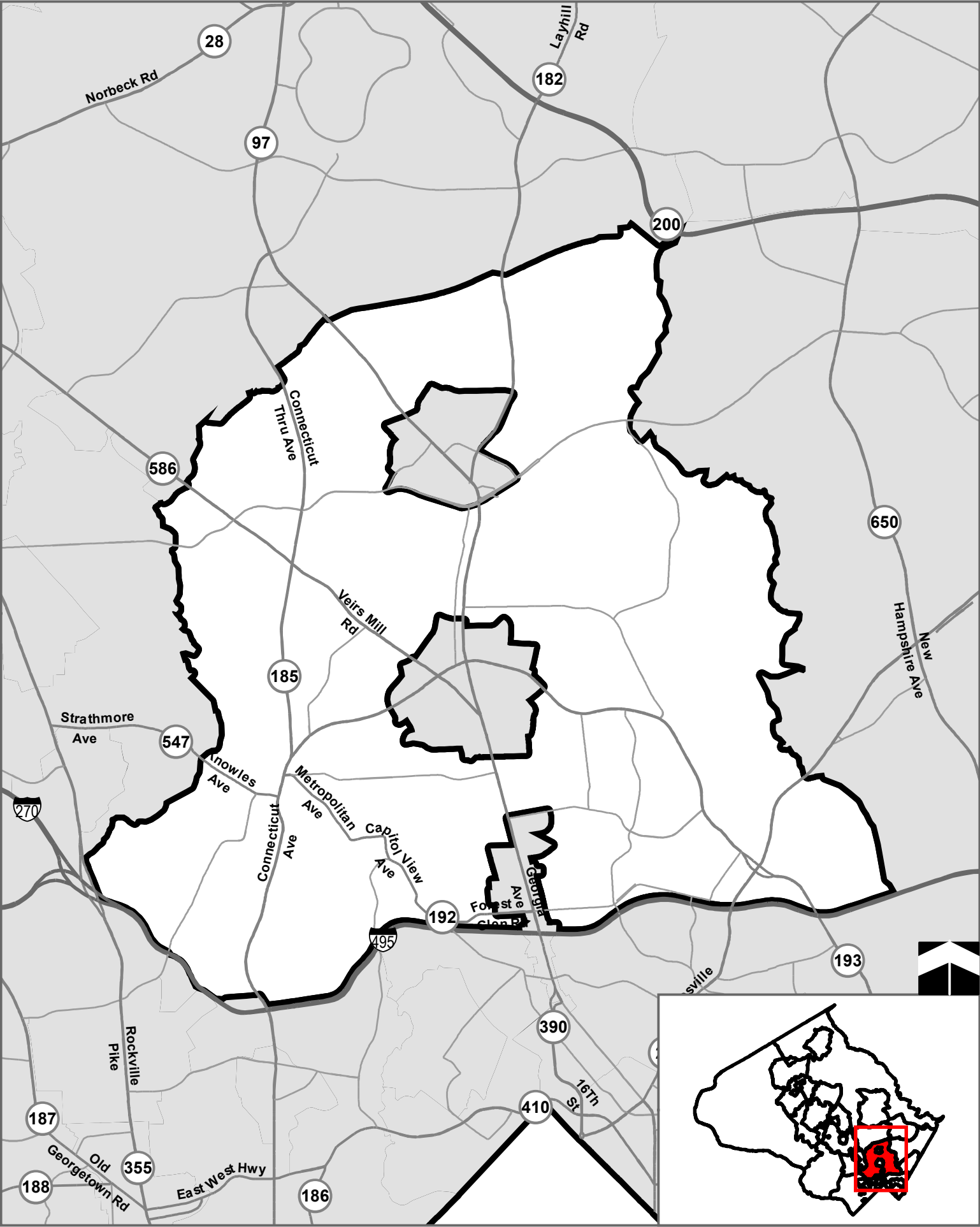


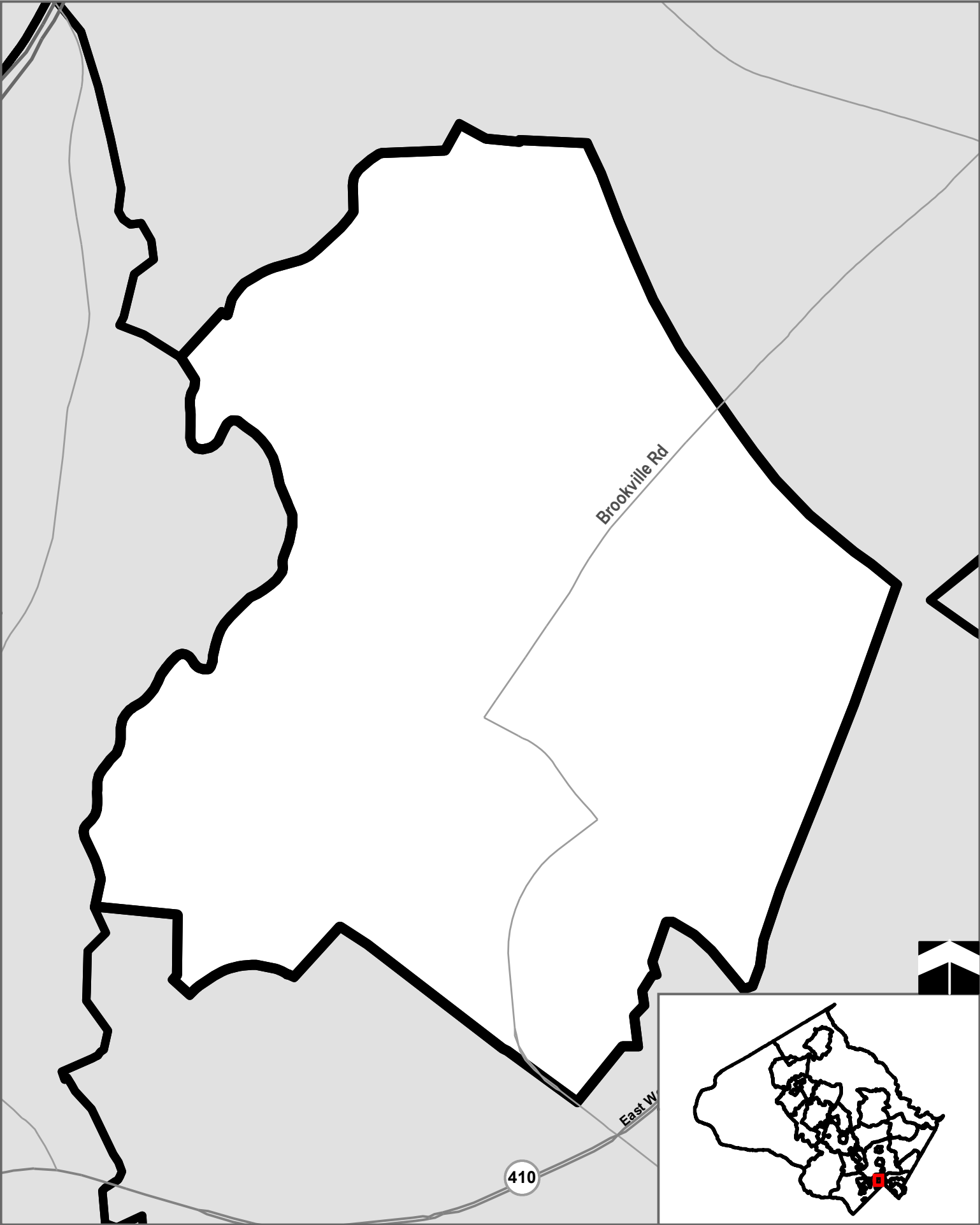


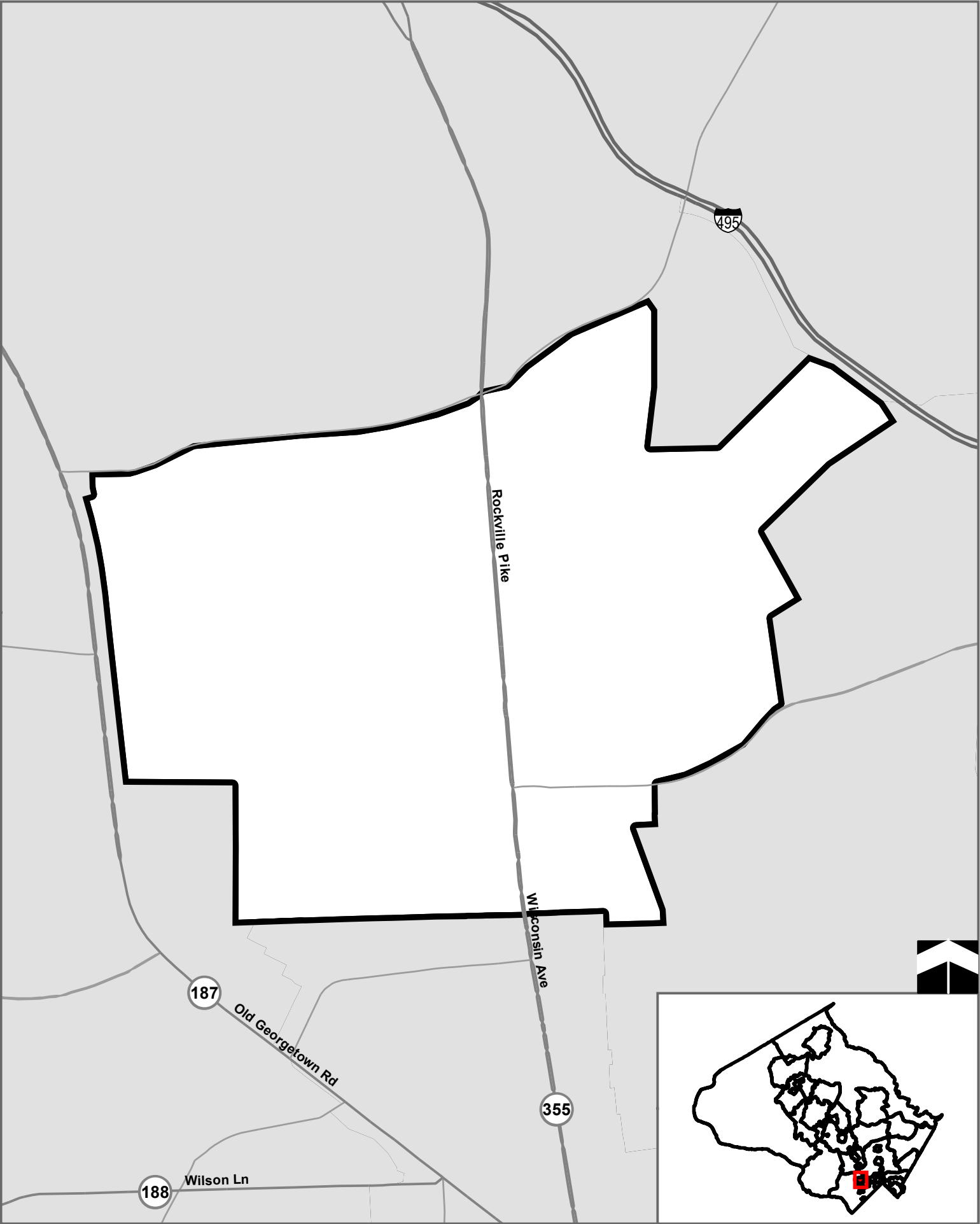


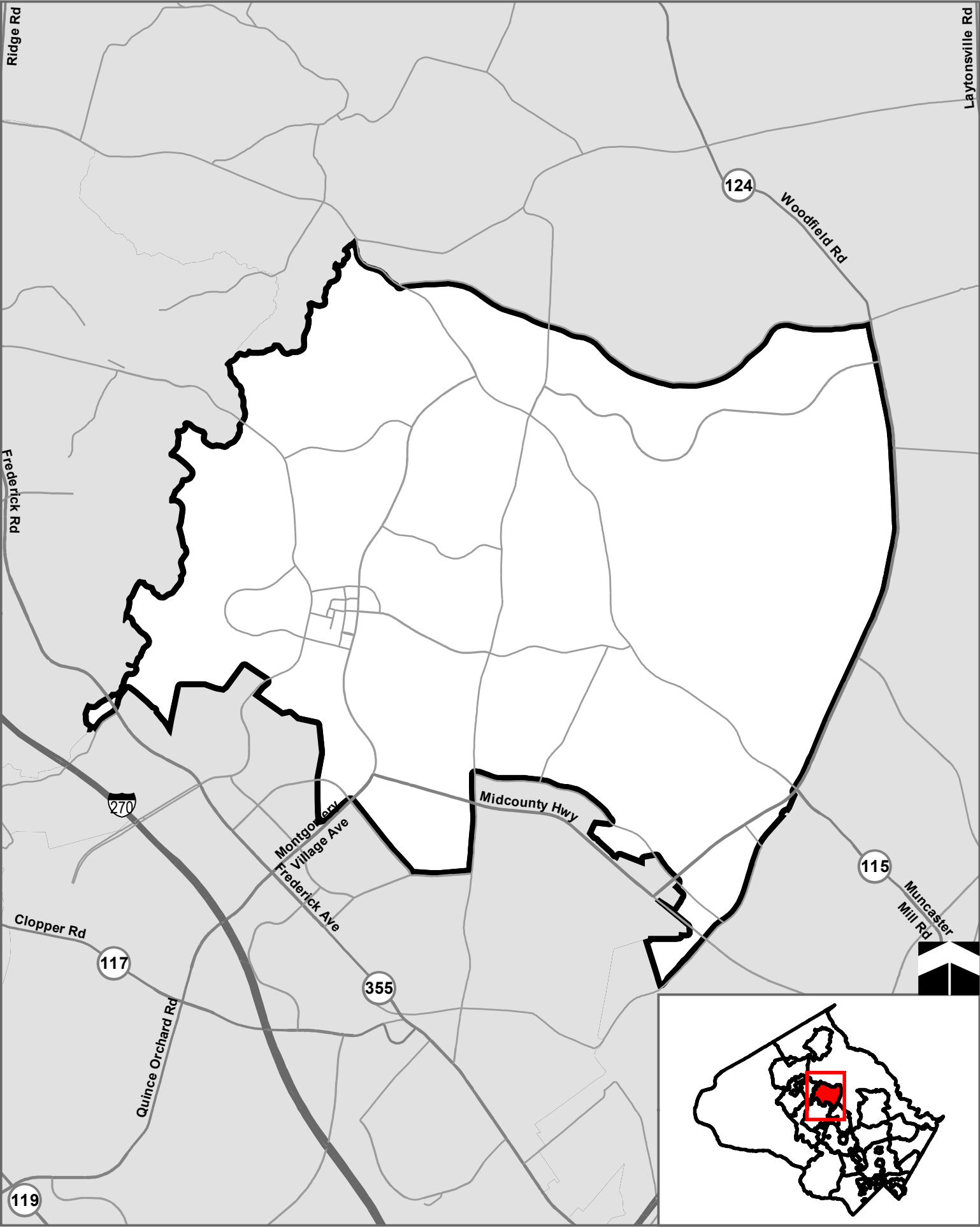


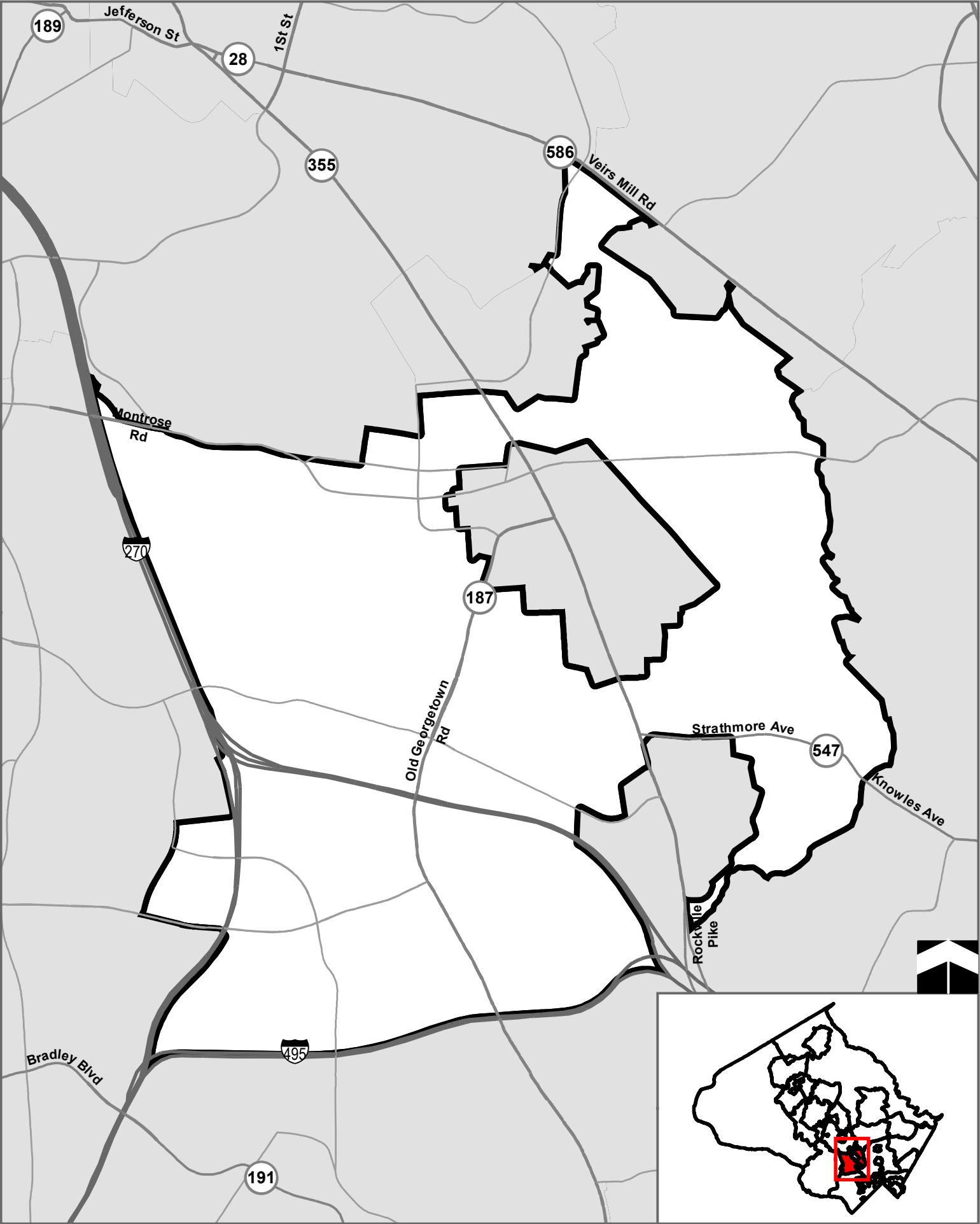


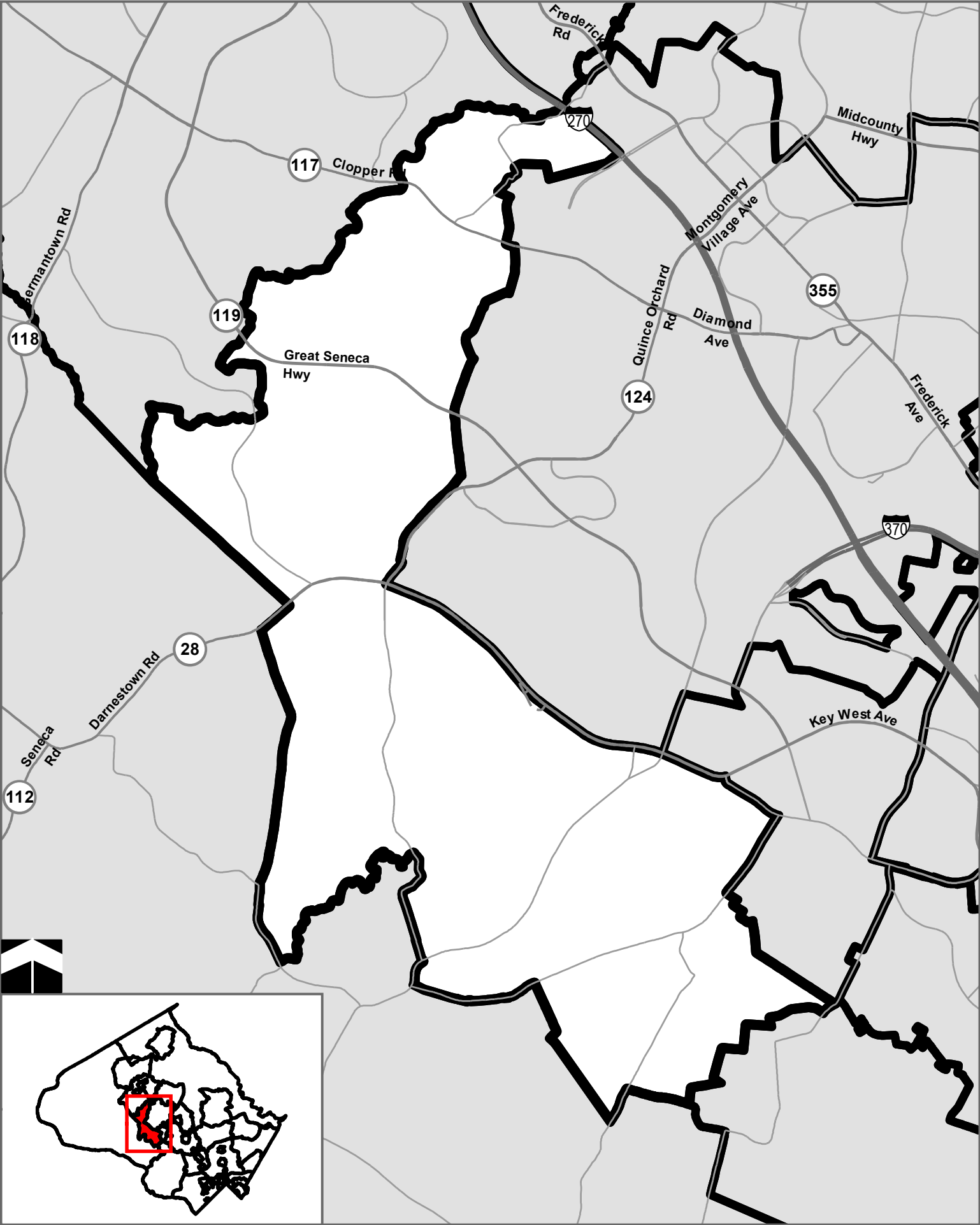


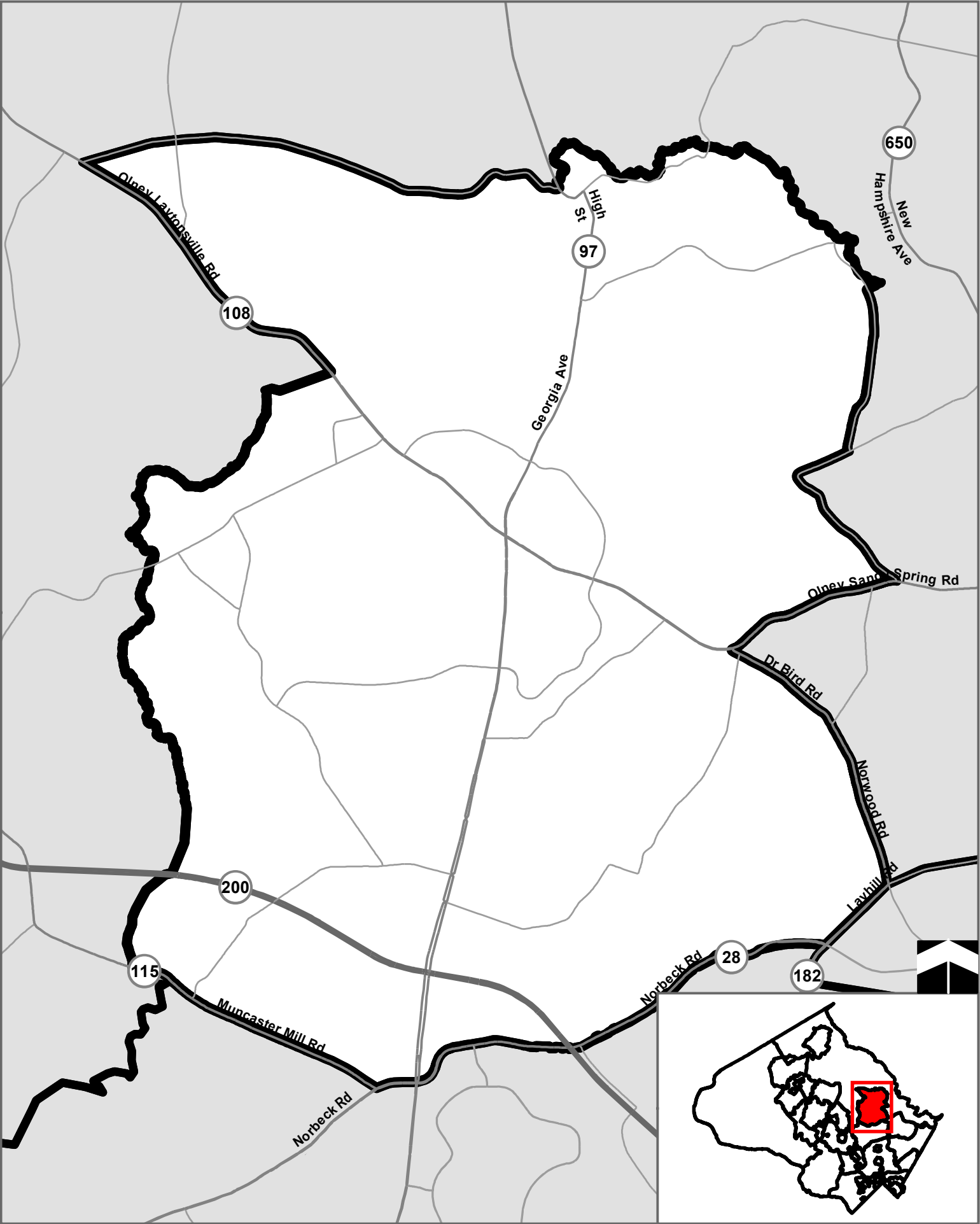


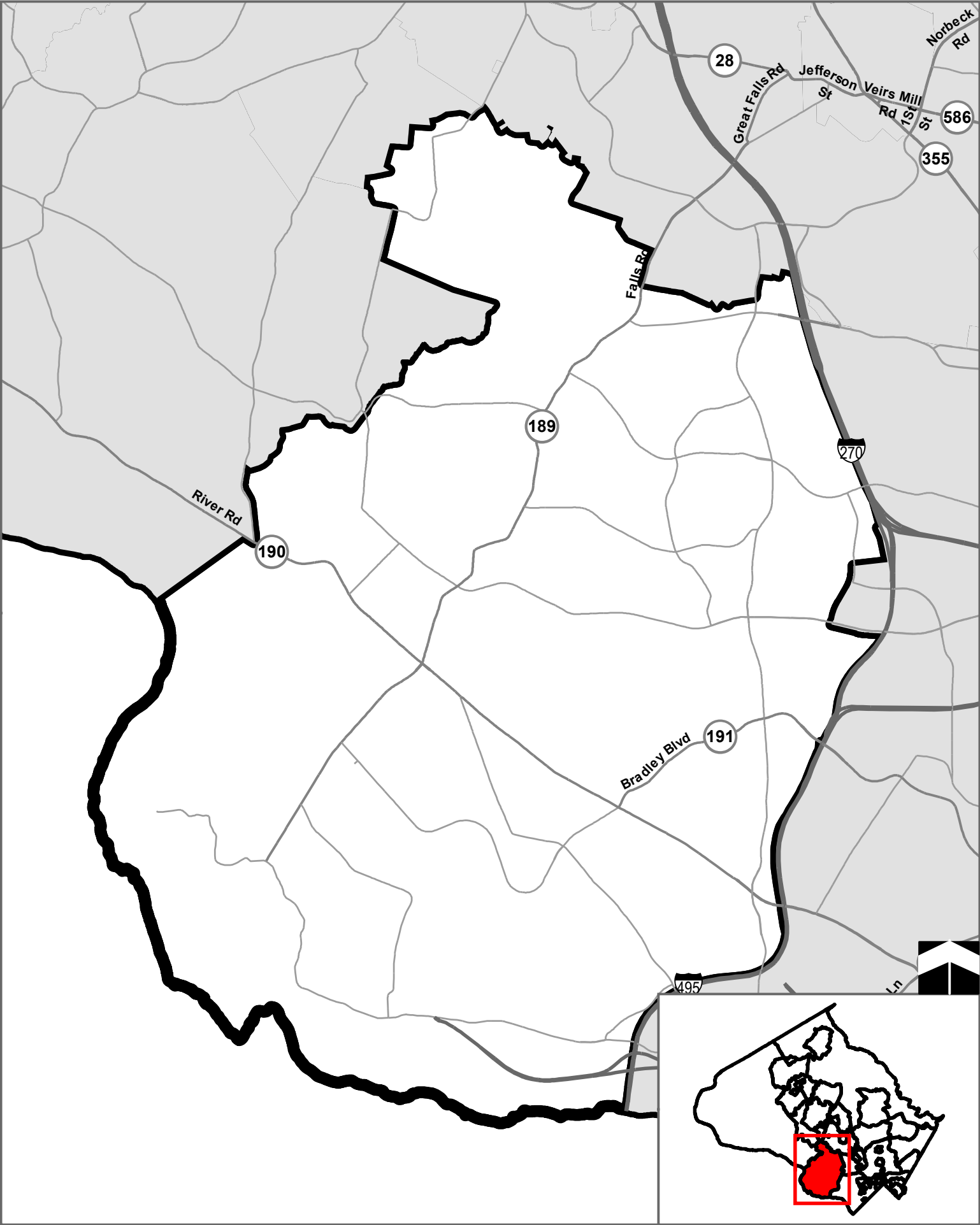




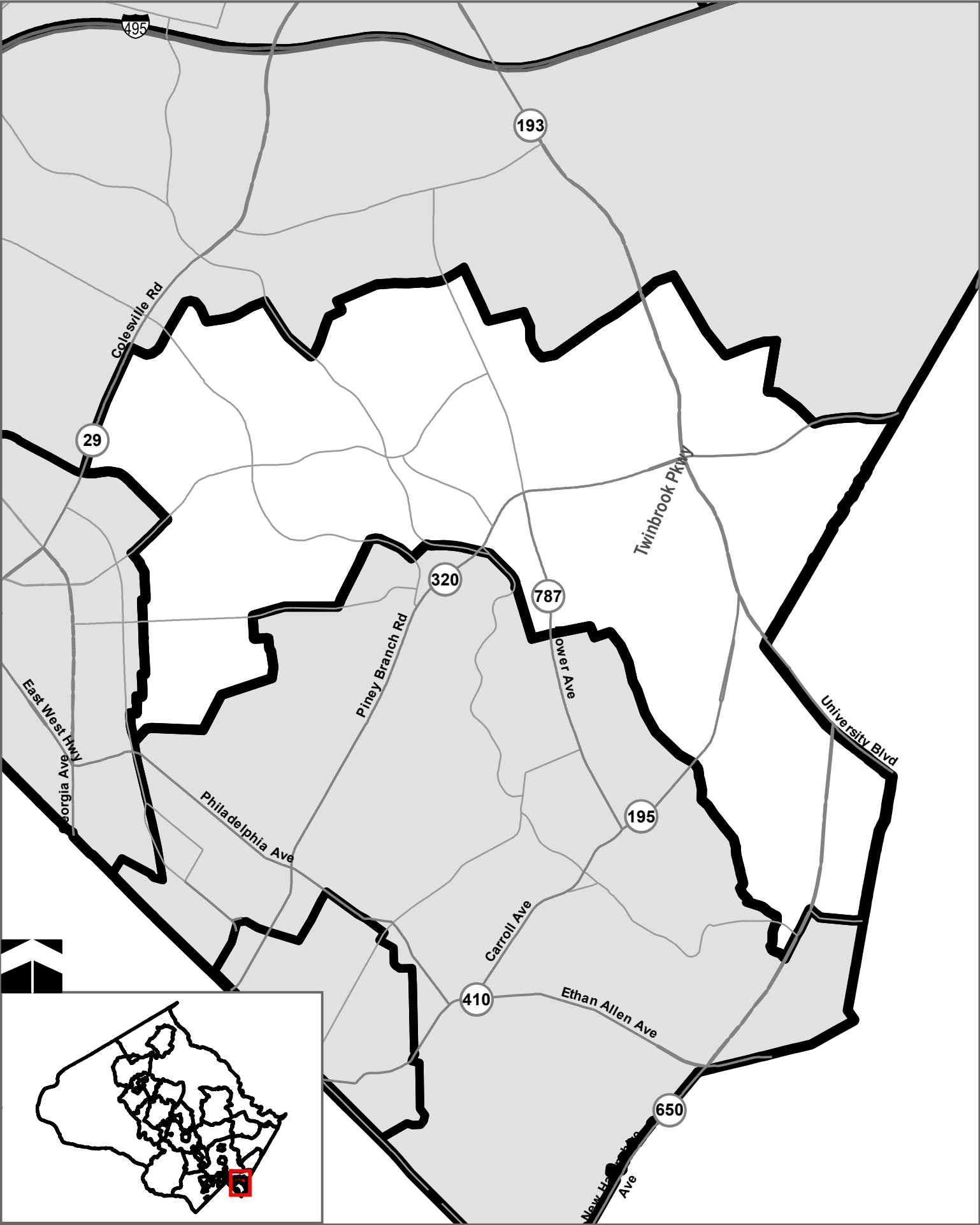


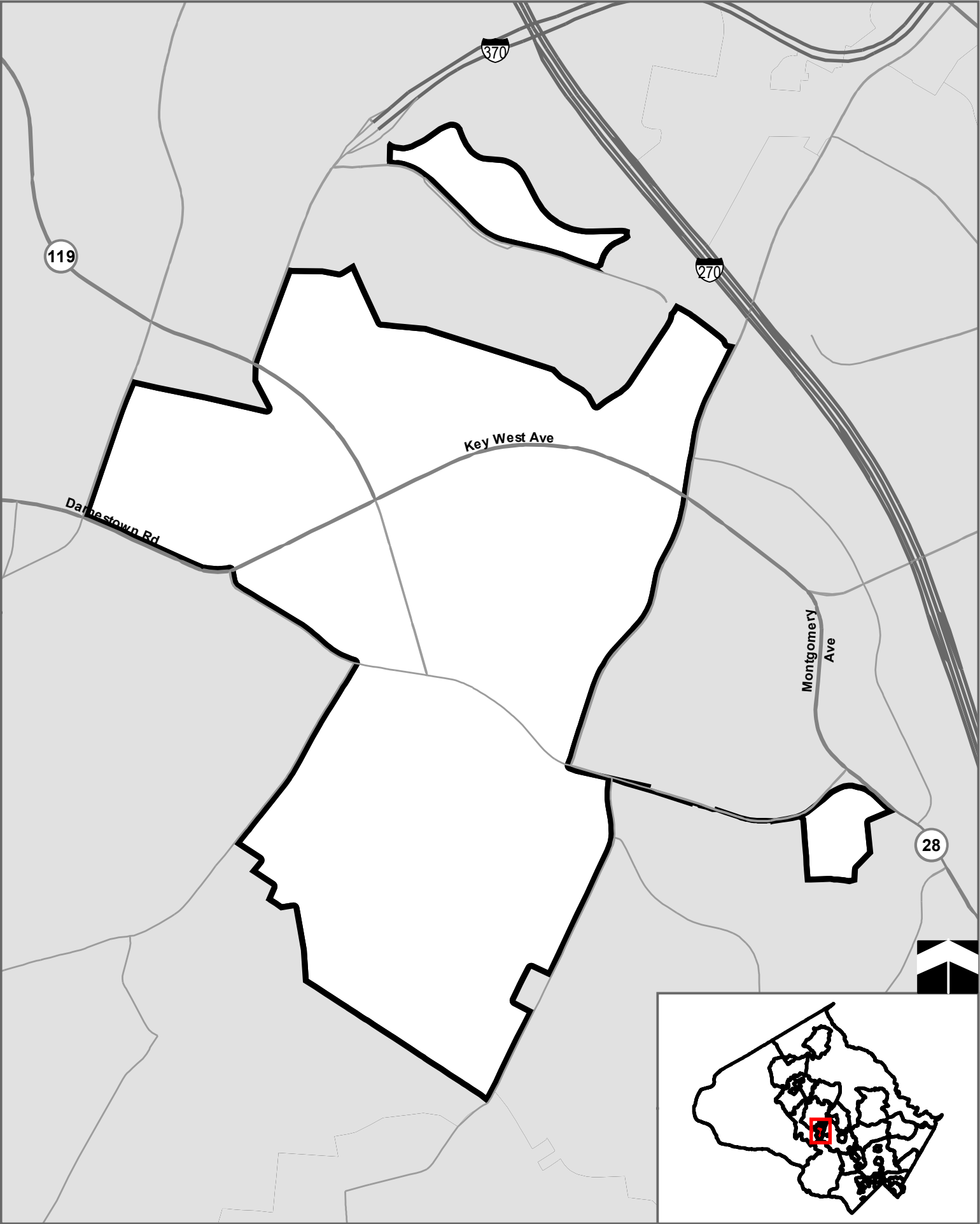


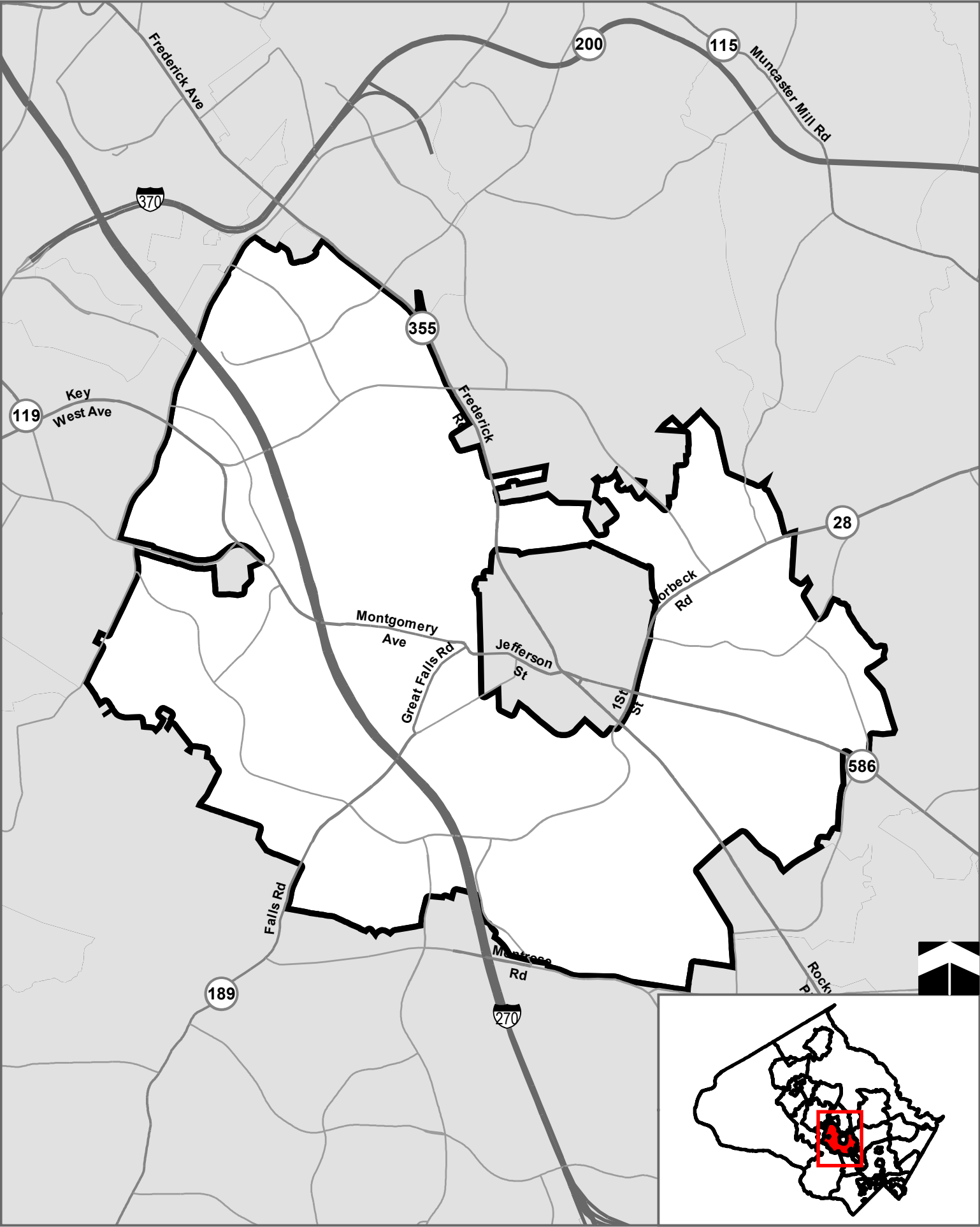


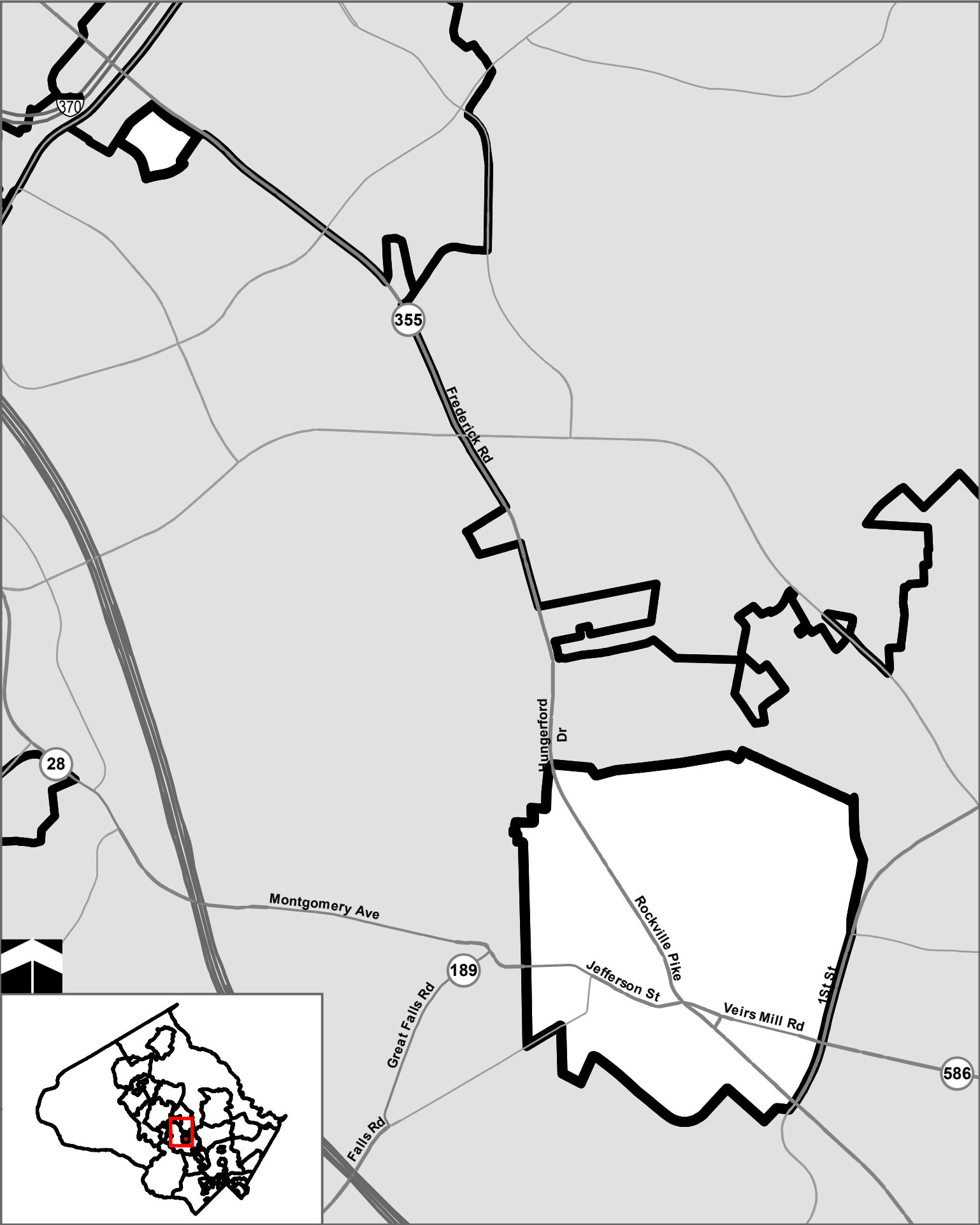


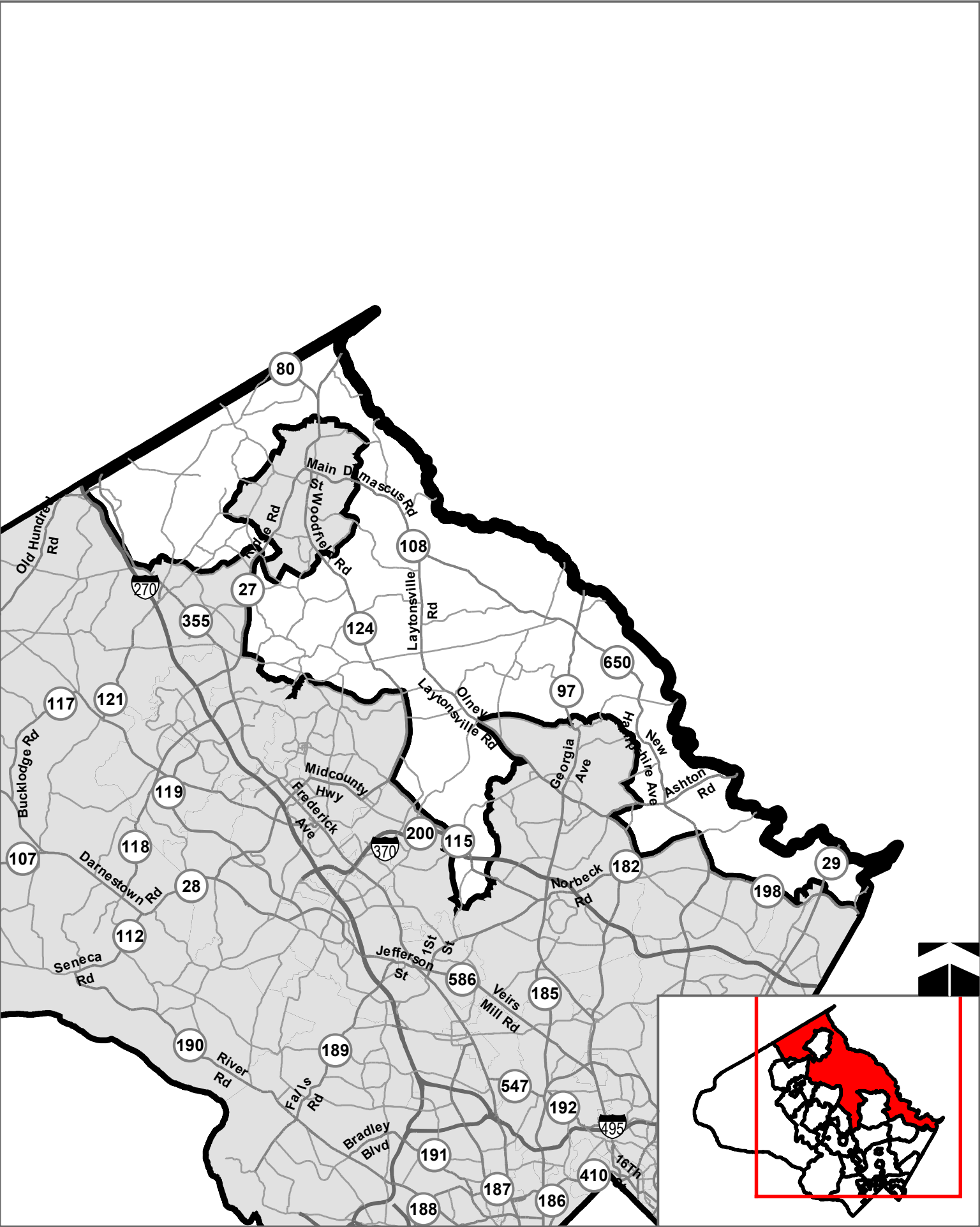


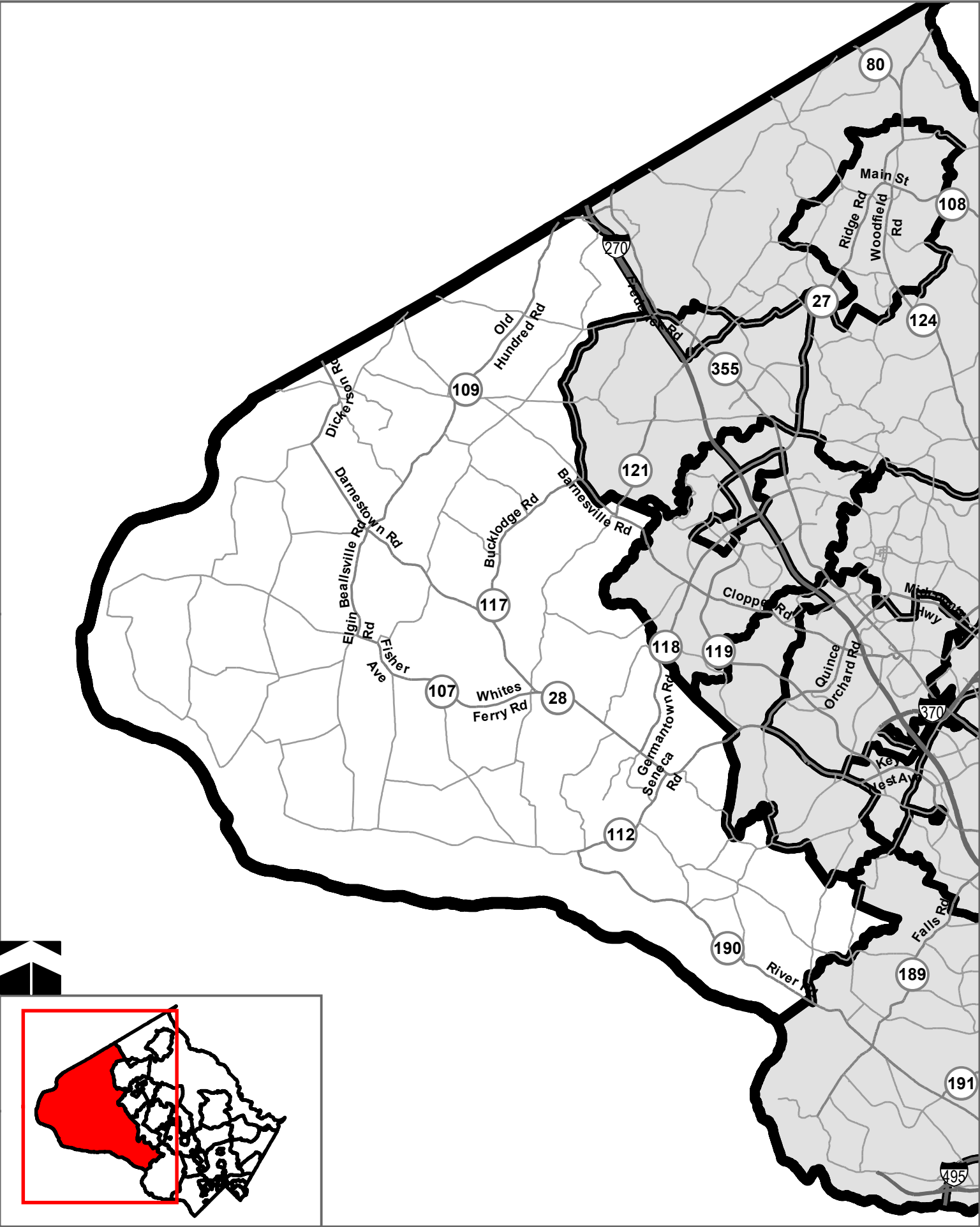


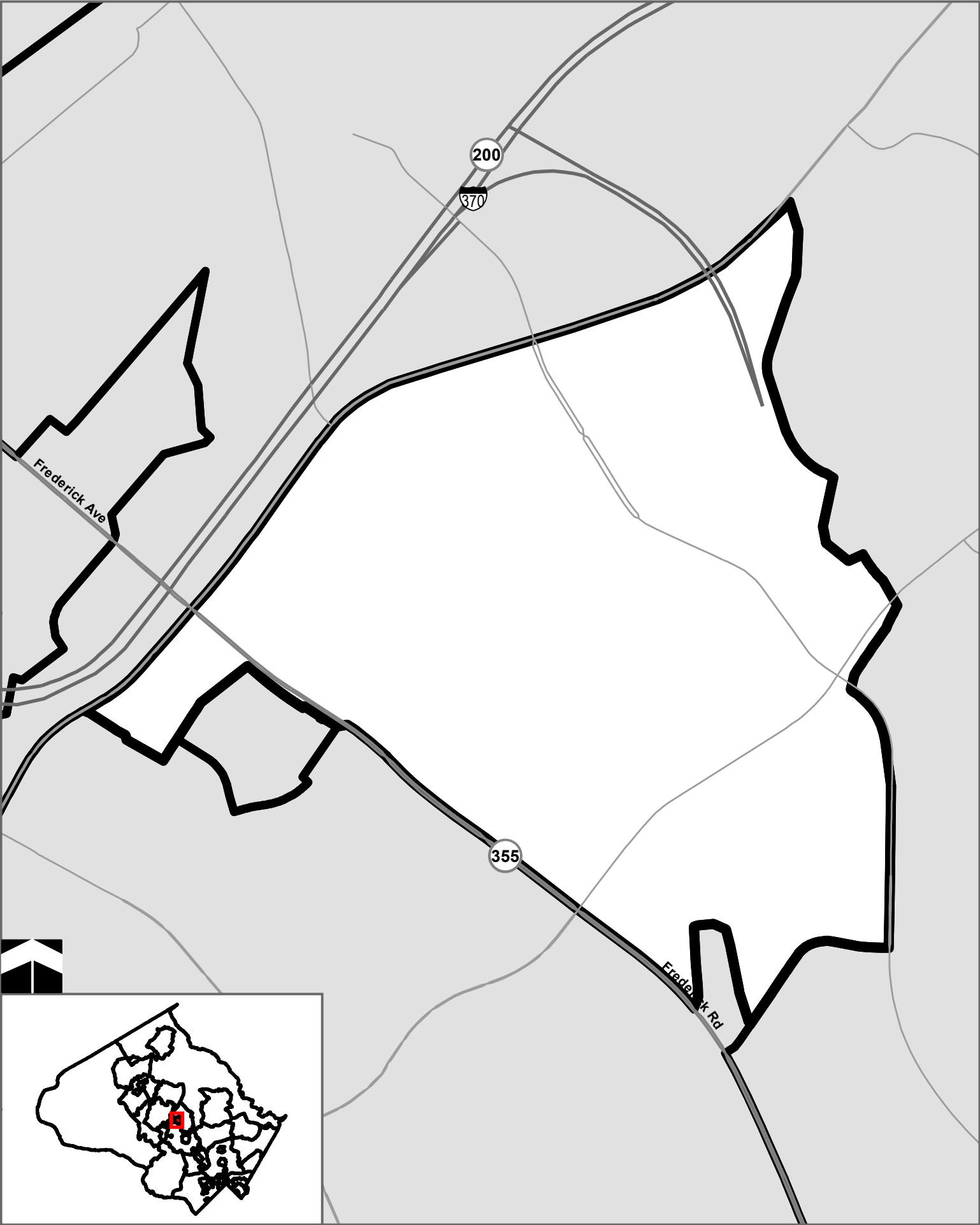


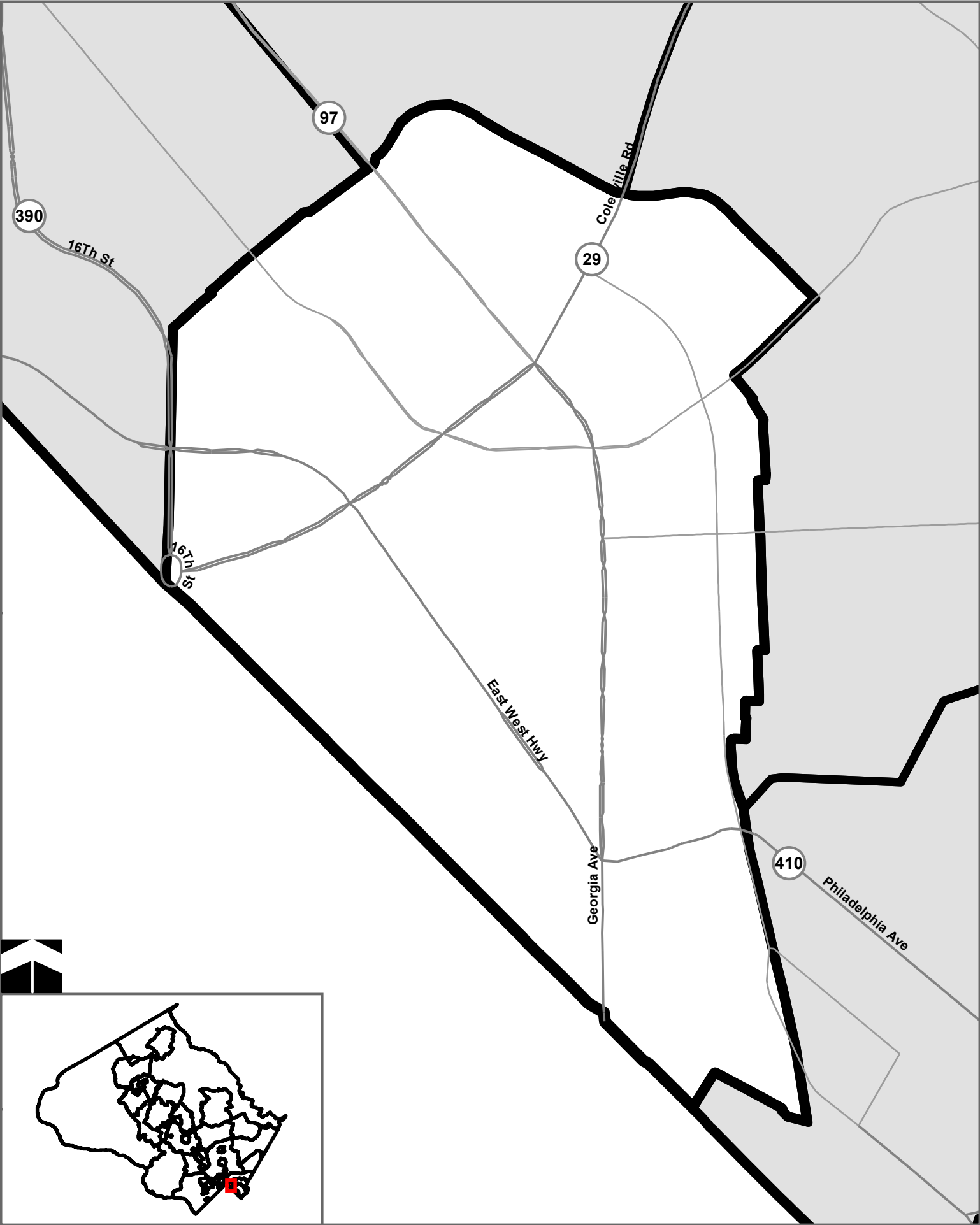




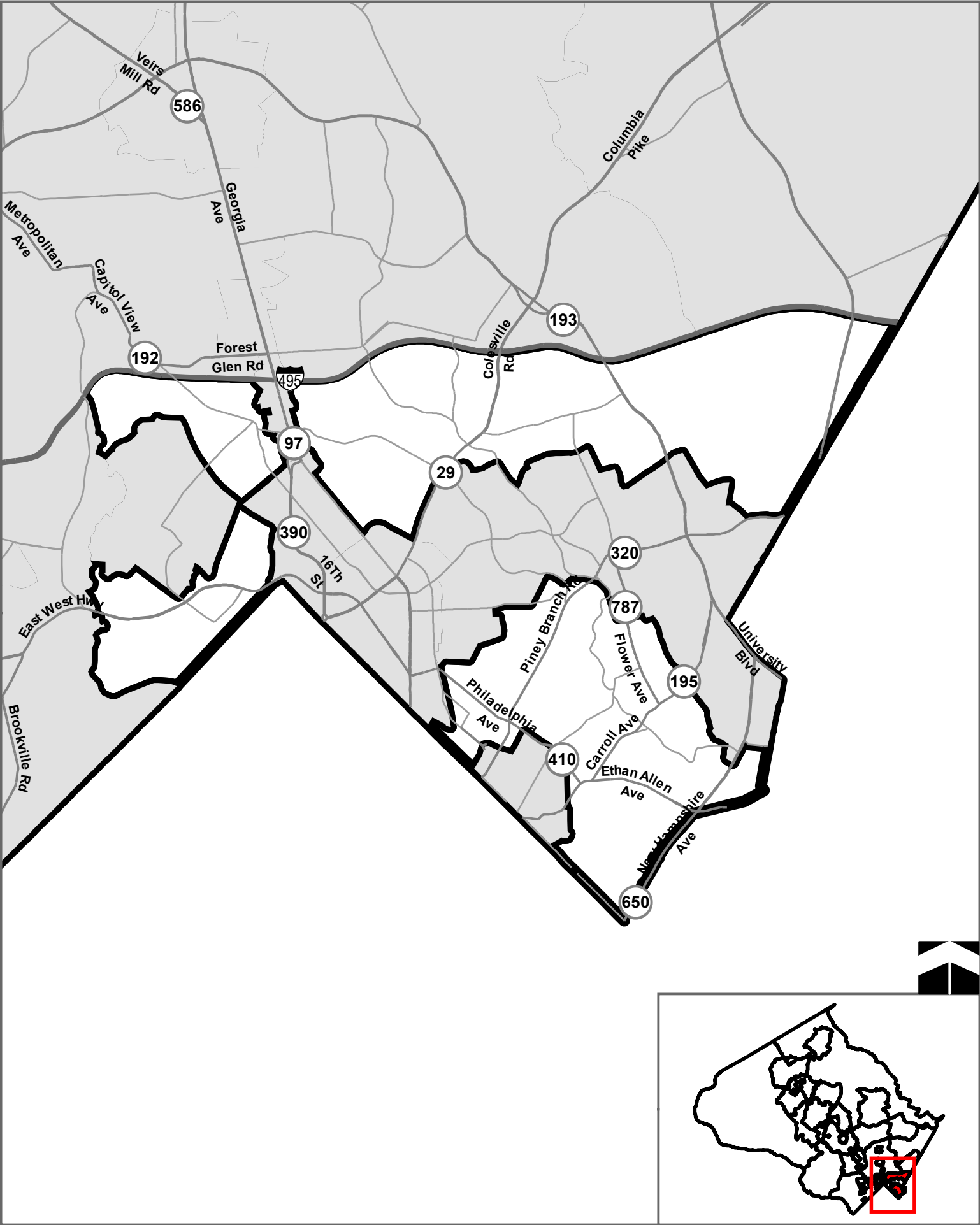


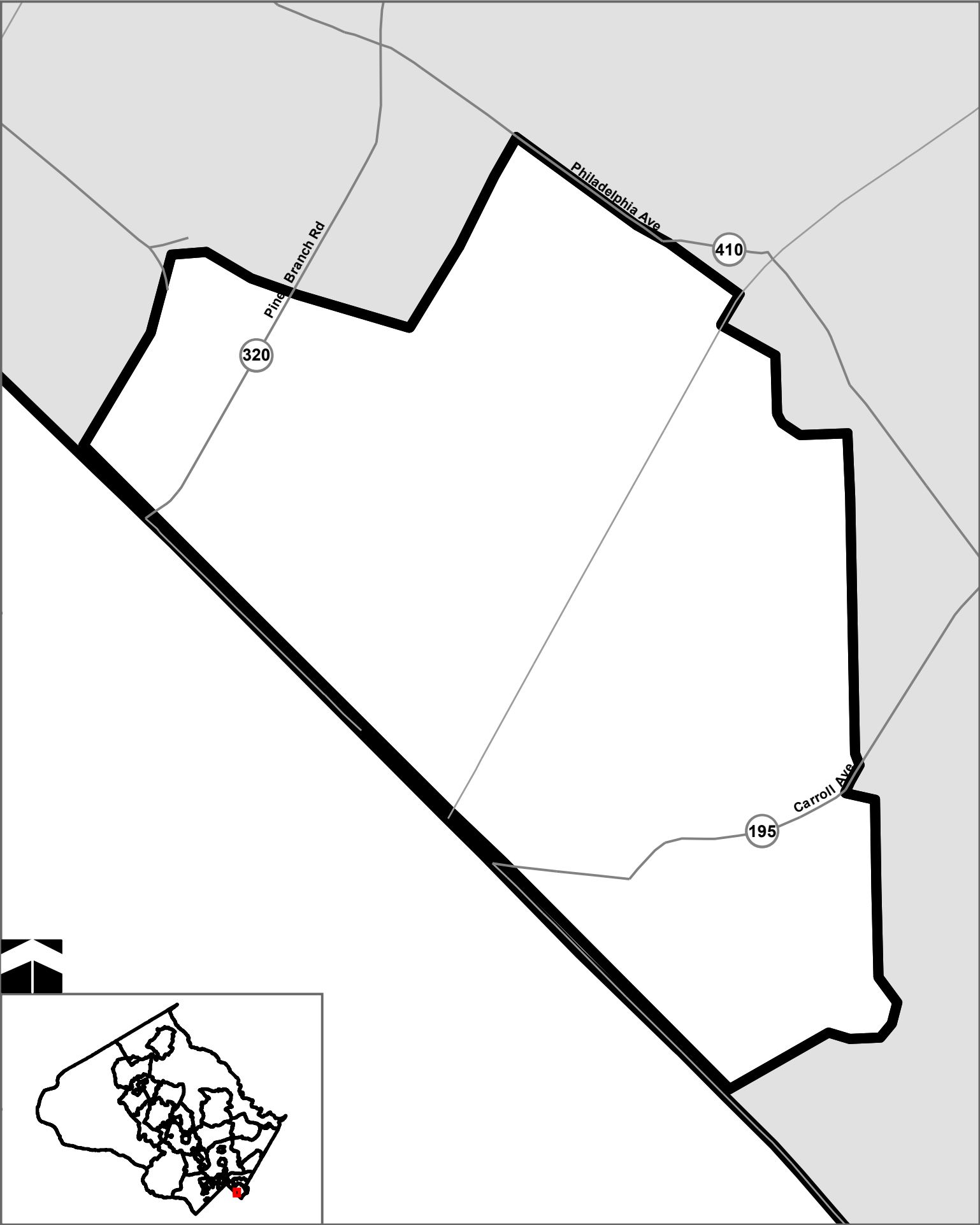


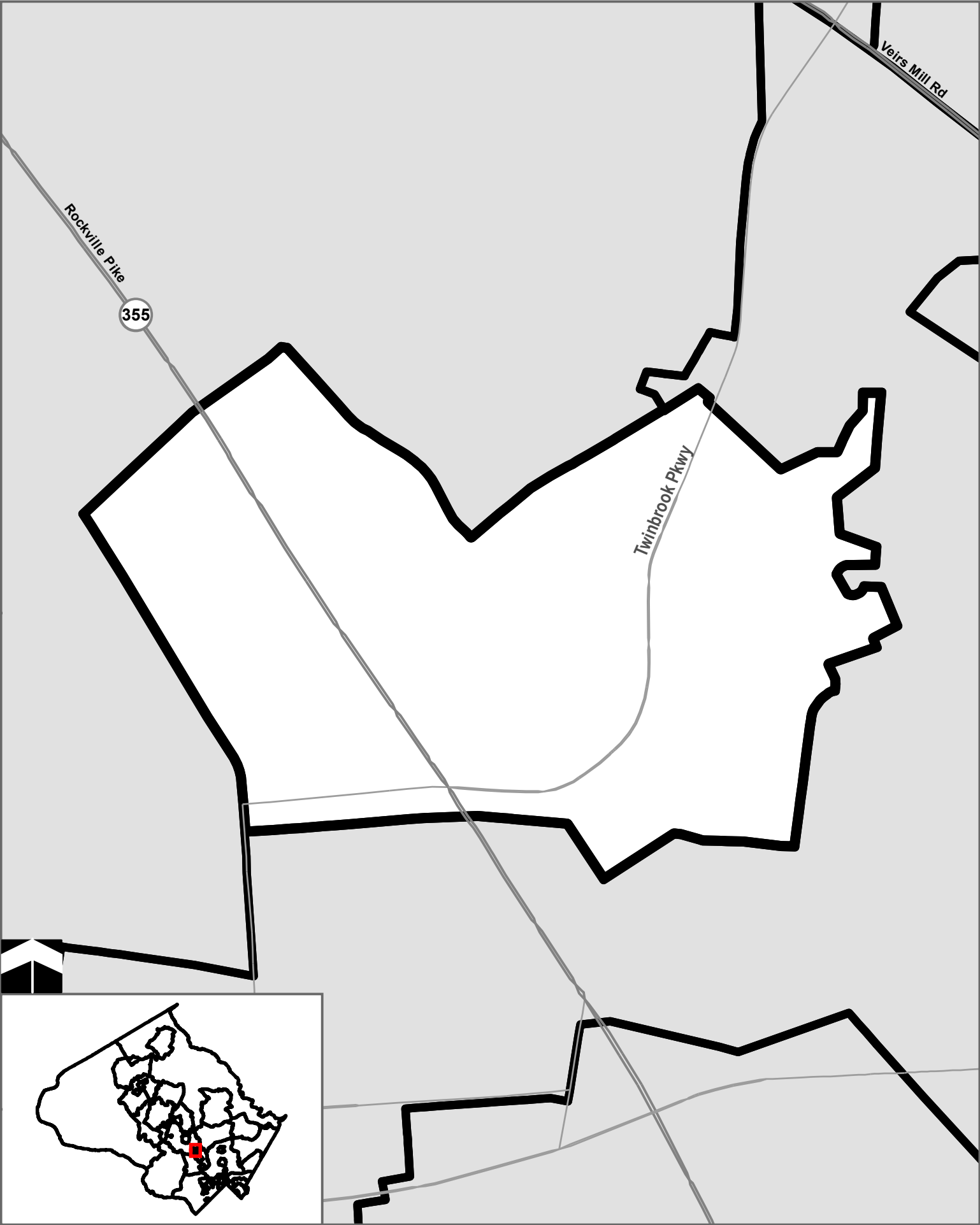


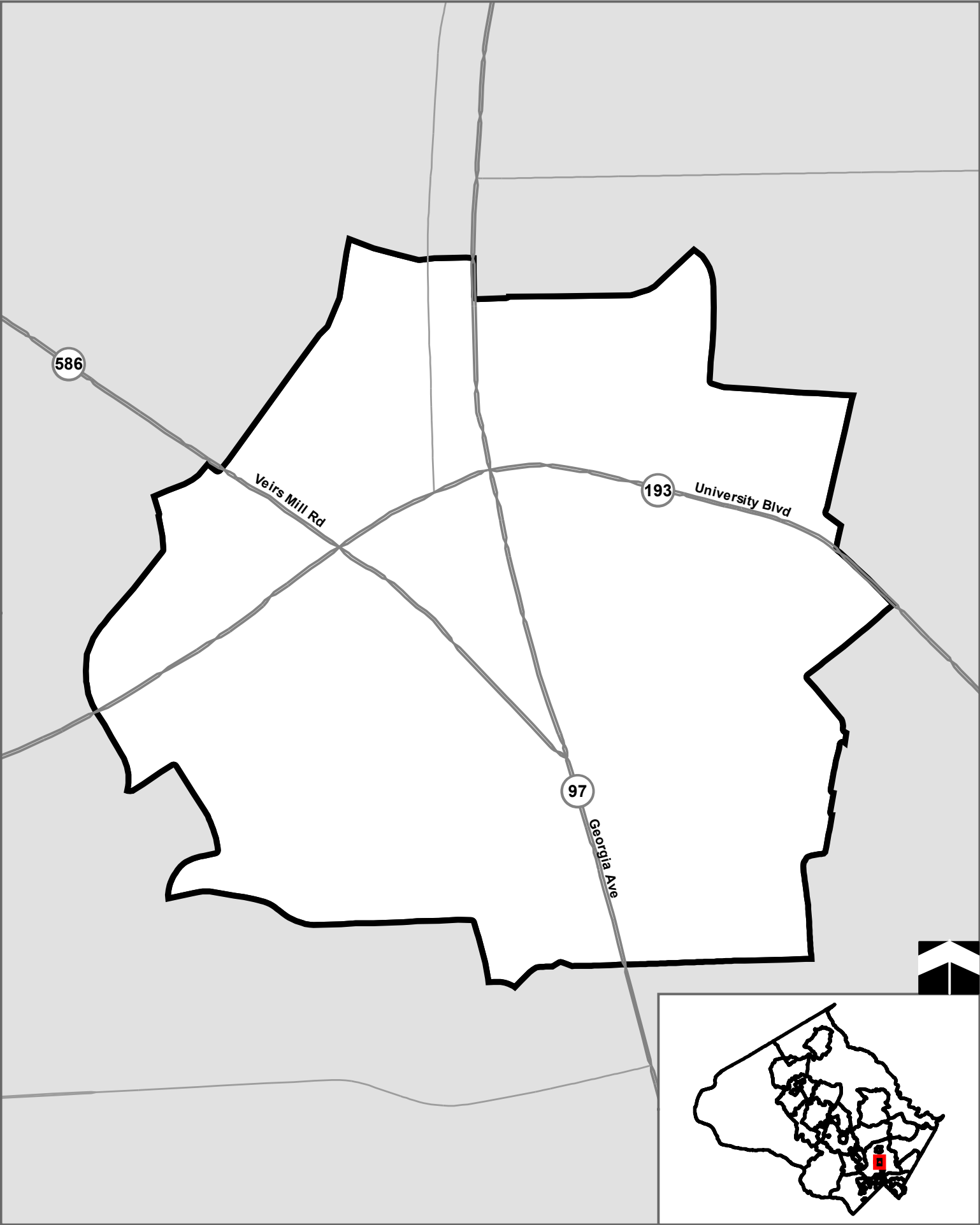


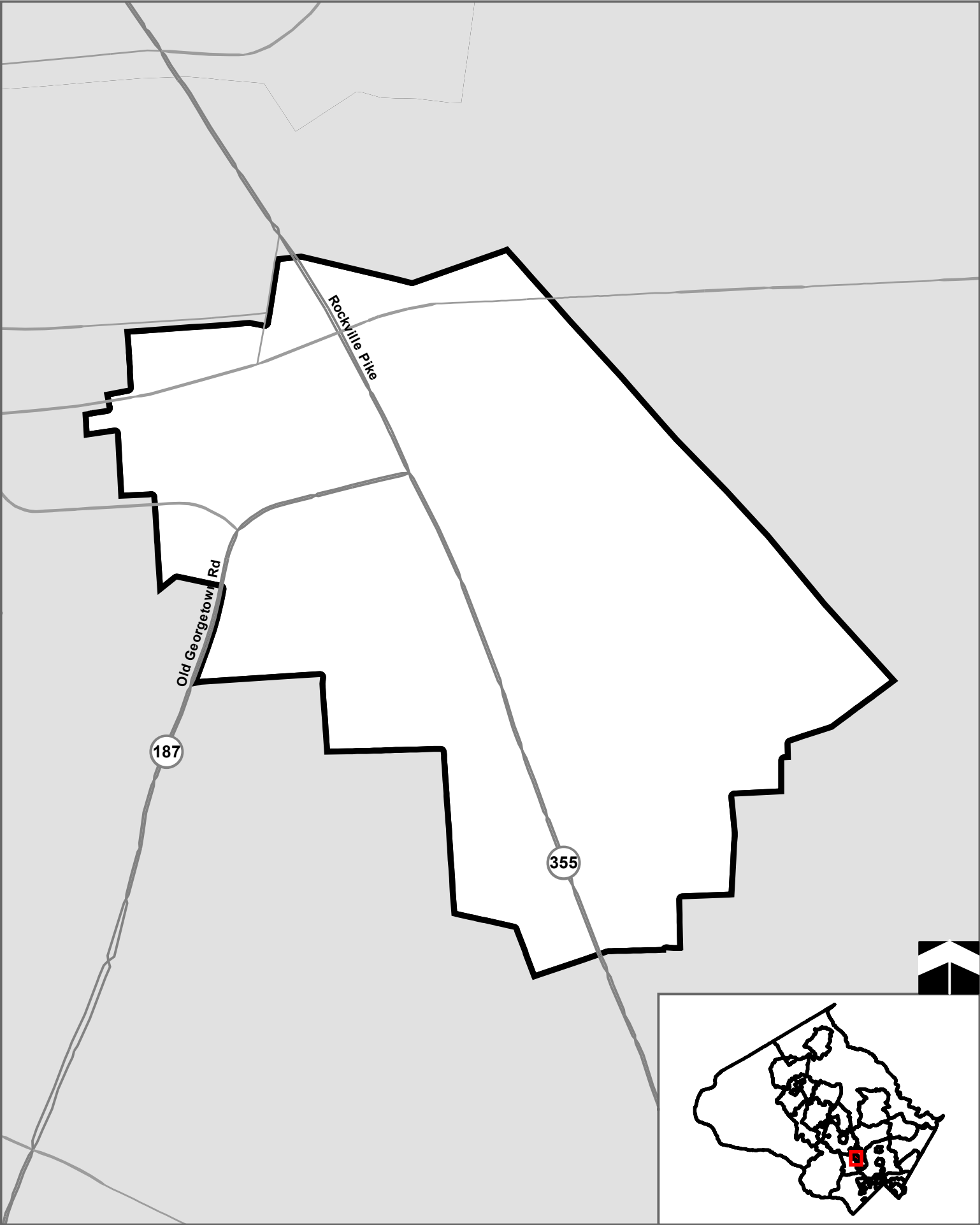


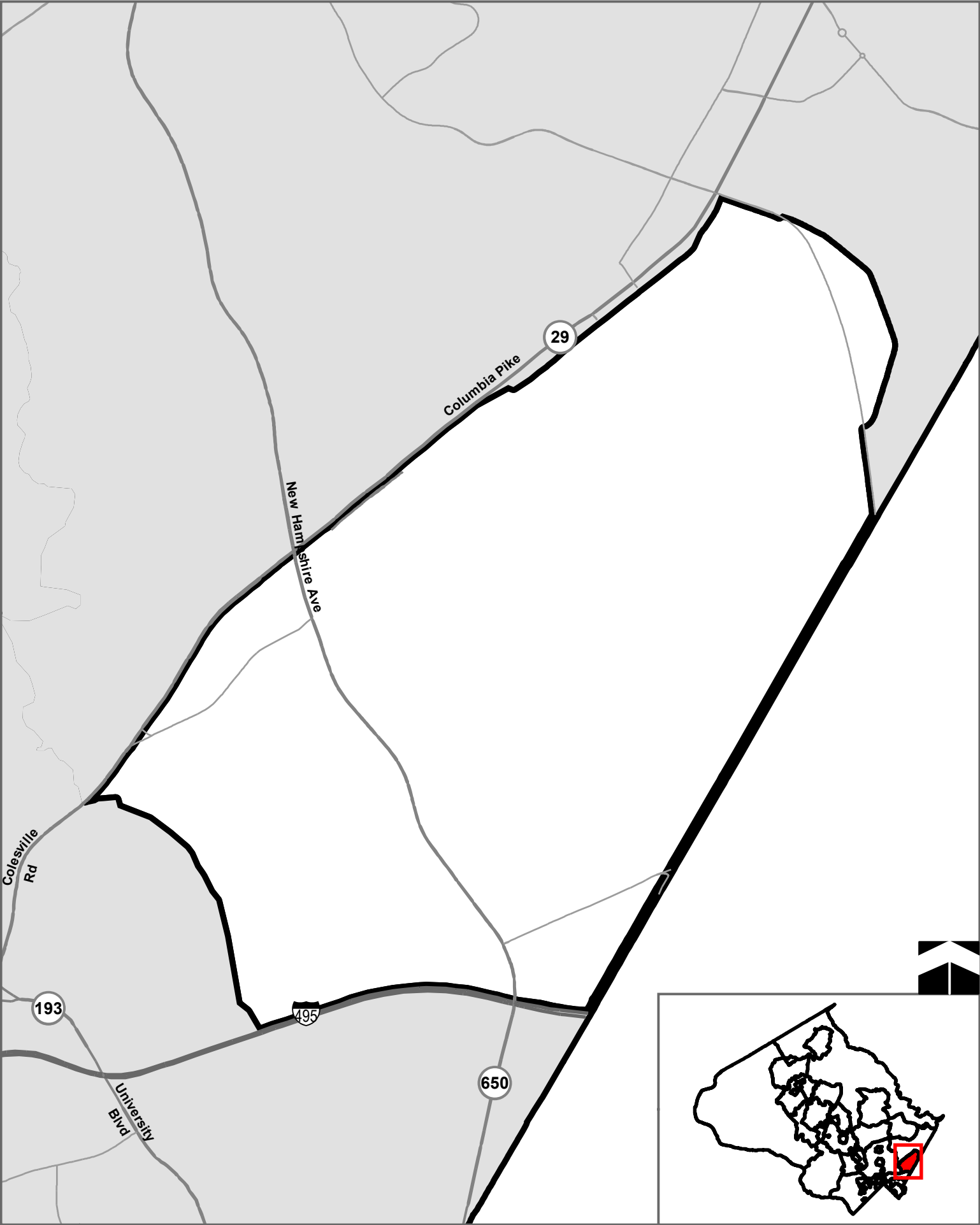


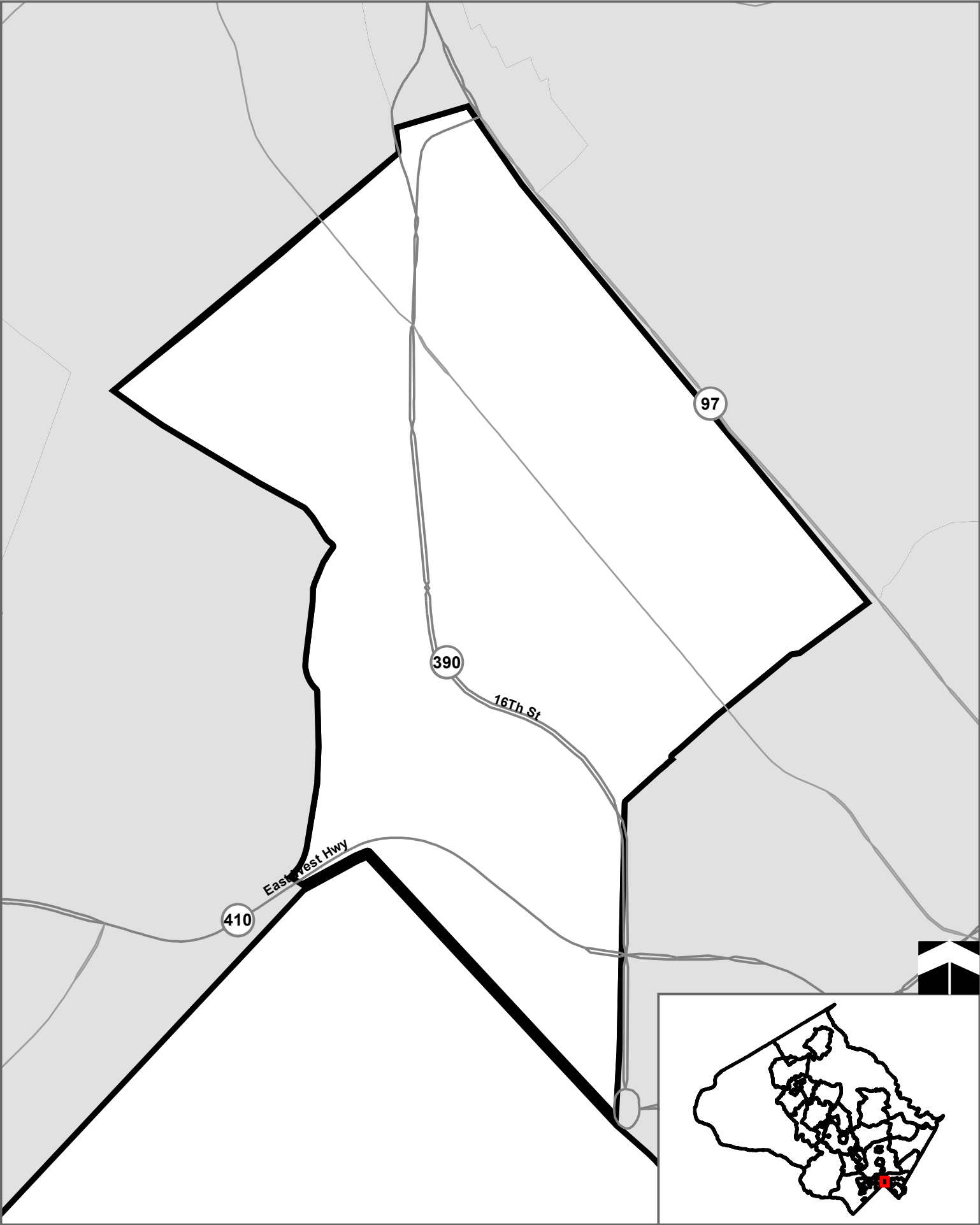






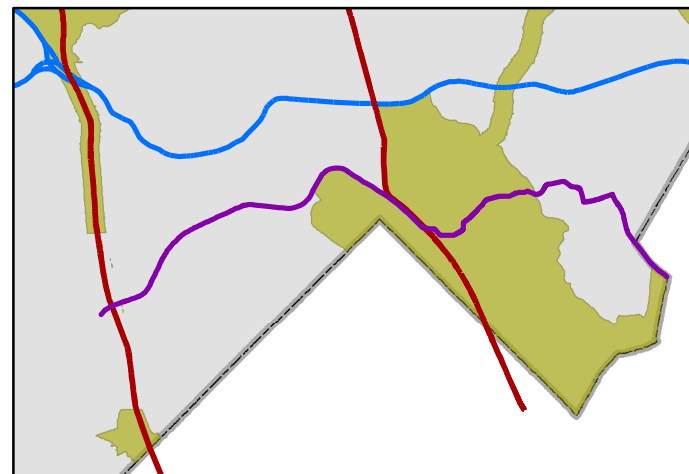






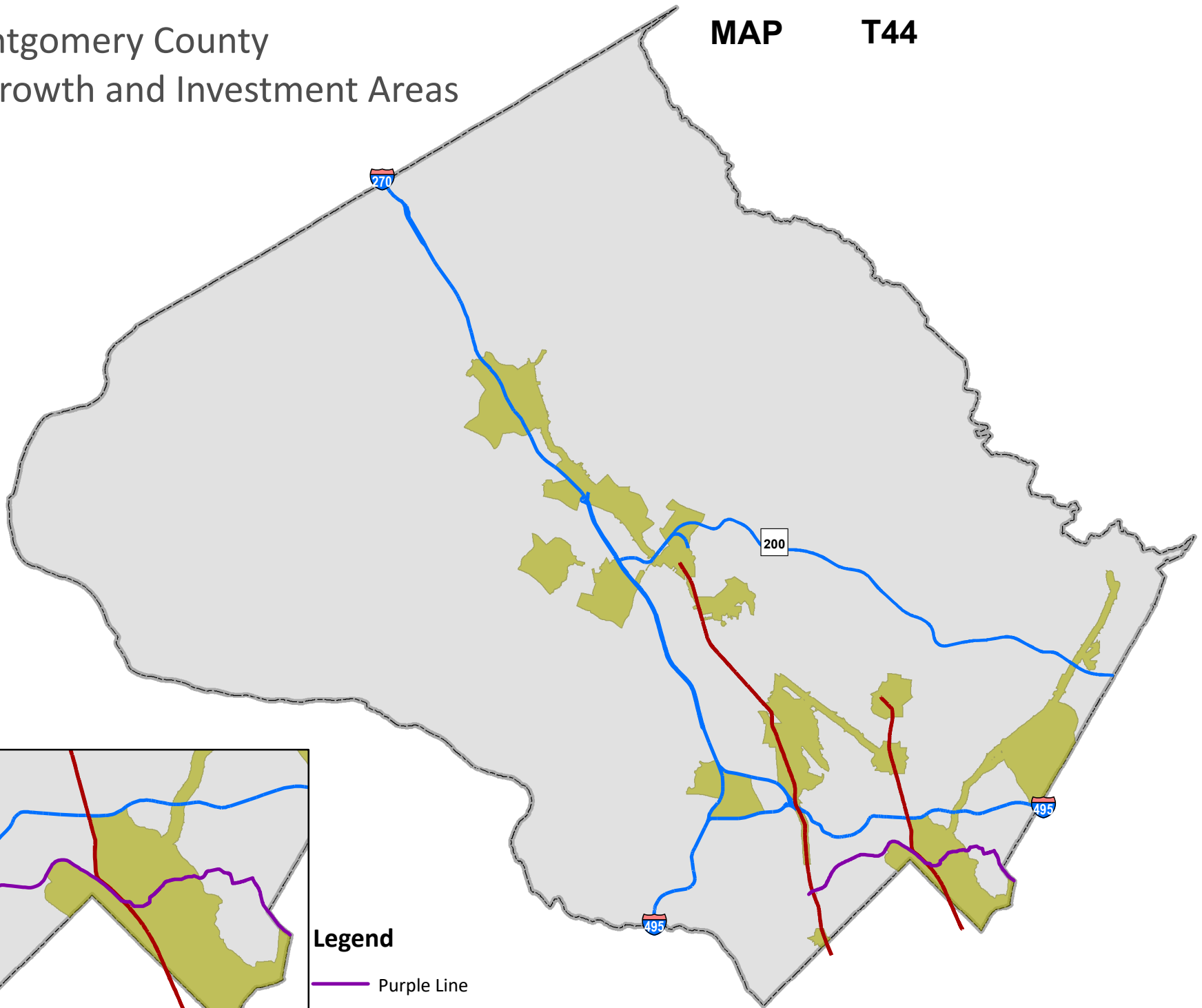
# 2020 Montgomery County Desired Growth and Investment Areas

**MAP T44**



## Legend

- Purple Line
- Metro Red Line
- Freeway



Map Produced by the Montgomery County Planning Department  
Countywide Planning and Policy Division (CPP) November 12, 2020



Expedited Bill No. 37-20  
Concerning: Subdivision – Preliminary  
Plan – Adequate Public Facilities –  
Amendments  
Revised: 11/13/2020 Draft No. 4  
Introduced: July 29, 2020  
Enacted: November 16, 2020  
Executive: \_\_\_\_\_  
Effective: January 1, 2021  
Sunset Date: None  
Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

**COUNTY COUNCIL  
FOR MONTGOMERY COUNTY, MARYLAND**

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Lead Sponsor: Council President at the request of the Planning Board

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**AN EXPEDITED ACT** to:

- (1) [[require an applicant]] authorize the Planning Board, when reviewing an application for an extension of the validity period of an adequate public facilities determination, to [[provide]] require an updated determination of school adequacy for the remaining unbuilt units; and
- (2) generally amend the law governing a determination of adequate public facilities.

By amending  
Montgomery County Code  
Chapter 50, Subdivision of Land  
Division 50.4, Section 4.3

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

*The County Council for Montgomery County, Maryland approves the following Act:*

**Sec. 1. Division 50.4, Section 4.3 is amended as follows:**

### 4.3. Technical Review

\* \* \*

J. *Adequate Public Facilities Ordinance (APFO).*

\* \* \*

## 7. Extensions.

- a. *Application.* Only the Board may extend the validity period for a determination of adequate public facilities; however, a request to amend any validity period phasing schedule may be approved by the Director if the length of the total validity period is not extended.

\* \* \*

iii. For each extension of an adequate public facilities determination:

(a) the applicant must not propose any additional development above the amount approved in the original determination;

(b) the Board must not require any additional public improvements or other conditions beyond those required for the original preliminary plan;

(c) the Board may require the applicant to submit a traffic study to demonstrate how the extension would not be adverse to the public interest;[and]

(d) an application may be made to extend an adequate public facilities period for a lot

28 within a subdivision covered by a previous  
 29 adequate public facilities determination if the  
 30 applicant provides sufficient evidence for the  
 31 Board to determine the amount of previously  
 32 approved development attributed to the lot[.];  
 33 and  
 34 (e) if the remaining unbuilt units would generate  
 35 more than 10 students at any school serving  
 36 the development, the [[applicant]] Board  
 37 must [[provide]] make a new adequate public  
 38 facilities determination for school adequacy  
 39 for the remaining unbuilt units under the  
 40 school test in effect at the time of Board  
 41 review.

42 \* \* \*

43 g. If a new adequate public facilities determination is  
 44 required under this Subsection, the procedures in Chapter  
 45 8, Section 8-32 apply.

46 **Sec. 2. Expedited Effective Date, Transition.**

47 The Council declares that this legislation is necessary for the immediate  
 48 protection of the public interest. This Act takes effect on January 1, 2021. The  
 49 amendments made in Section 1 must apply to any requests to extend the validity  
 50 period for a determination of adequate public facilities received by the Planning  
 51 Board on or after January 1, 2021.

*Approved:*

 11/17/2020  
\_\_\_\_\_  
Sidney Katz, President, County Council Date

*Approved:*

\_\_\_\_\_  
Marc Elrich, County Executive Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Selena Mendy Singleton, Esq., Clerk of the Council Date

Bill No. 38-20  
 Concerning: Taxation - Development  
Impact Taxes for Transportation and  
Public School Improvements -  
Amendments  
 Revised: 11/13/2020 Draft No. 12  
 Introduced: July 29, 2020  
 Enacted: November 16, 2020  
 Executive: \_\_\_\_\_  
 Effective: February 26, 2021  
 Sunset Date: None  
 Ch. \_\_\_\_\_, Laws of Mont. Co. \_\_\_\_\_

## COUNTY COUNCIL FOR MONTGOMERY COUNTY, MARYLAND

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Lead Sponsor: Council President at the request of the Planning Board

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**AN ACT** to:

- (1) update transportation and school impact tax districts;
- (2) establish impact tax rates by school impact tax districts;
- (3) eliminate the school impact tax premium on certain types of dwelling units;
- (4) modify the applicability of development impact tax exemptions for certain uses and in certain locations; [[and]]
- (5) establish a Utilization Premium Payment for certain developments to reduce school overcapacity; [[and]]
- (6) define an agricultural facility;
- (7) provide a discount on certain impact tax rates for certain types of developments and for developments in certain areas; and
- (8) generally amend the law governing transportation and school development impact taxes.

By amending

Montgomery County Code

Chapter 52, Taxation

Sections 52-39, 52-41, 52-49, 52-50, 52-52, 52-54, 52-55, [[and]] 52-58, and 52-59

**Boldface**

Underlining

**[Single boldface brackets]**

Double underlining

**[[Double boldface brackets]]**

\* \* \*

*Heading or defined term.*

*Added to existing law by original bill.*

*Deleted from existing law by original bill.*

*Added by amendment.*

*Deleted from existing law or the bill by amendment.*

*Existing law unaffected by bill.*

*The County Council for Montgomery County, Maryland approves the following Act:*

1           **Sec. 1. Sections 52-39, 52-41, 52-49, 52-50, 52-52, 52-54, 52-55, [[and]] 52-**  
 2 **58, and 52-59 are amended as follows:**

3 **52-39. Definitions.**

4           In this Article the following terms have the following meanings:

5           *Additional capacity* means a new road, [[widening an existing road,]] adding  
 6           an additional lane or turn lane to an existing road, or another transportation  
 7           improvement that:

8                   (1)   increases the maximum theoretical volume of traffic that a road  
 9                           or intersection can accommodate, or implements or improves  
 10                          transit, pedestrian and bike facilities or access to non-auto modes  
 11                          of travel; and

12                   (2)   is classified as a minor arterial, arterial, parkway, major highway,  
 13                           controlled major highway, or freeway in the County's Master  
 14                          Plan of Highways, or is similarly classified by a municipality.  
 15                          The Director of Transportation may find that a specified business  
 16                          district street or industrial street also provides additional capacity  
 17                          as defined in this provision.

18           *Adequate Public Facilities Ordinance policy area transportation adequacy*  
 19           *standards* means standards by which the area-wide adequacy of transportation  
 20           facilities serving a proposed development are judged. APFO policy area  
 21           transportation adequacy standards do not include requirements for other on-  
 22           site or off-site transportation improvements that may be separately required  
 23           or standards relating to local area review which may be independently  
 24           required.

25           *Agricultural facility* means a building or structure, or portion of a building or  
 26           structure that is used exclusively for the storage or processing of an

agricultural product to prepare the product for market and is located in the  
Agricultural Reserve, Rural Residential, RE-1 or RE-2 Zones.

*Applicant* means the property owner, or duly designated agent of the property owner, of land on which a building permit has been requested for development.

\* \* \*

## **52-41. Imposition and applicability of development impact taxes.**

\* \* \*

(c) The following impact tax districts are established:

- (1) *White Flint*: The part of the White Flint Metro Station Policy Area included in the White Flint Special Taxing District in Section 68C-2;
- (2) *Red Policy Areas*: Bethesda CBD, Chevy Chase Lake, [[Dale Drive/Manchester Place,]] Forest Glen, Friendship Heights, Grosvenor, Glenmont, [[Long Branch, Lyttonsville/Woodside]], Lyttonsville, Medical Center, Purple Line East, Rockville Town Center, Shady Grove [[Metro Station]], Silver Spring CBD, [[Takoma/Langley]] Takoma, Twinbrook, [[and]] Wheaton CBD and Woodside;
- (3) *Orange Policy Areas*: Bethesda/Chevy Chase, Burtonsville Crossroads, [Chevy Chase Lake,] Clarksburg Town Center, Derwood, Gaithersburg City, Germantown Town Center, Kensington/Wheaton, [Long Branch,] North Bethesda, R&D Village, Rockville City, Silver Spring/Takoma Park, [Takoma/Langley,] White Flint, except the portion that is included in the White Flint Special Taxing District in Section 68C-2, and White Oak Policy Areas;

- (4) *Yellow Policy Areas:* Aspen Hill, Clarksburg, Cloverly, Fairland/Colesville, Germantown East, Germantown West, Montgomery Village/Airpark, North Potomac, Olney, and Potomac Policy Areas; and
- (5) *Green Policy Areas:* Damascus, Rural East, and Rural West Policy Areas.

\* \* \*

- (g) A development impact tax must not be imposed on:
  - (1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville[.];
  - (2) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning less than 60% of the area median income, adjusted for family size;
  - (3) any Personal Living Quarters unit built under [Sec. 59-A-6.15] Section 59-3.3.2.D, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (4) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (5) [any non-exempt dwelling unit in a development in which at least 25% of the dwelling units are exempt under paragraph (1), (2), (3), or (4), or any combination of them;



- 6] any development located in an enterprise zone designated by the State [or in an area previously designated as an enterprise zone];
- (6) except for a development located in the City of Rockville, any development located in a Qualified Opportunity Zone certified by the United States Treasury Department;
- (7) a house built by high school students under a program operated by the Montgomery County Board of Education; [and] or
- (8) a farm tenant dwelling.

(h) The development impact tax does not apply to:

- (1) any reconstruction or alteration of an existing building or part of a building that does not increase the gross floor area of the building;
- (2) any ancillary building in a residential development that:
  - (A) does not increase the number of dwelling units in that development; and
  - (B) is used only by residents of that development and their guests, and is not open to the public; and
- (3) any building that replaces an existing building on the same site or in the same project (as approved by the Planning Board or the equivalent body in Rockville or Gaithersburg) to the extent of the gross floor area of the previous building, if:
  - (A) [[construction begins]] an application for a building permit is filed within four years [[one year]] after demolition or destruction of the previous building was substantially completed; [[or]]
  - (B) the Director of the Department of Permitting Services or the Director's designee finds that the applicant was unable

to apply for a building permit or commence construction within four years after demolition or destruction of the previous building was substantially completed due to circumstances beyond the control of the applicant or the applicant's agents; or

(C) the previous building is demolished or destroyed, after the replacement building is built, by a date specified in a phasing plan approved by the Planning Board or equivalent body.

However, if in ~~[[either]]~~ any case the development impact tax that would be due on the new, reconstructed, or altered building is greater than the tax that would have been due on the previous building if it were taxed at the same time, the applicant must pay the difference between those amounts.

## **52-49. Tax rates.**

\* \* \*

(g) Any non-exempt dwelling unit in a development in which at least 25% of the dwelling units are exempt under Section 52-41(g)(1) must pay the tax discounted by an amount equal to the ~~[[lowest standard]]~~ impact tax rate applicable in the ~~[[County]]~~ Red Policy Area for that unit type.

(h) Except for a development located in the City of Rockville, any development located in a Desired Growth and Investment Area, as defined in the 2020-2024 Growth and Infrastructure Policy (Subdivision Staging Policy), must pay the tax at:

(1) ~~[[40%]]~~ 60% of the otherwise applicable rate if located in an Orange Policy Area; or

(2) [[32%]] 68% of the otherwise applicable rate if located in a Yellow Policy Area.

**52-50. Use of impact tax funds.**

Impact tax funds may be used for any:

- (a) new road[[, widening of an existing road,]] or total reconstruction of all or part of an existing road [[required as part of widening of an existing road,]] that adds an additional lane or turn lane [[highway or intersection capacity]] or improves transit service or bicycle commuting, such as bus lanes or bike lanes;

\* \* \*

**52-52. Definitions.**

In this Article all terms defined in Section 52-39 have the same meanings, and the following terms have the following meanings:

\* \* \*

*Public school improvement* means any capital project of the Montgomery County Public Schools that adds to the number of teaching stations in a public school.

School service area means the geographically defined attendance area for an individual school.

**52-54. Imposition and applicability of tax.**

\* \* \*

- (c) The following public school impact tax districts are established, as identified in the County Growth Policy:

- (1) Infill Impact Areas; and
- (2) Turnover Impact Areas [[; and
- (3) Greenfield Impact Areas]].

- (d) The tax under this Article must not be imposed on:

- (1) any Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville[.];
  - (2) any other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning equal to or less than 60% of the area median income, adjusted for family size;
  - (3) any Personal Living Quarters unit built under Section 59-3.3.2.D, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (4) any dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A;
  - (5) [any non-exempt dwelling unit in a development in which at least 25% of the dwelling units are exempt under paragraph (1), (2), (3), or (4), or any combination of them;
  - (6)] any development located in an enterprise zone designated by the State; [or in an area previously designated as an enterprise zone; or]
  - (6) except for a development located in the City of Rockville, any development located in a Qualified Opportunity Zone certified by the United States Treasury Department; or
  - (7) a house built by high school students under a program operated by the Montgomery County Board of Education.
- [[d)] (e) The tax under this Article does not apply to:

- 188 (1) any reconstruction or alteration of an existing building or part of  
 189 a building that does not increase the number of dwelling units of  
 190 the building;
- 191 (2) any ancillary building in a residential development that:
- 192 (A) does not increase the number of dwelling units in that  
 193 development; and
- 194 (B) is used only by residents of that development and their  
 195 guests, and is not open to the public; and
- 196 (3) any building that replaces an existing building on the same site  
 197 or in the same project (as approved by the Planning Board or the  
 198 equivalent body in Rockville or Gaithersburg) to the extent of the  
 199 number of dwelling units of the previous building, if:
- 200 (A) [[construction begins]] an application for a building permit  
 201 is filed within four years [[one year]] after demolition or  
 202 destruction of the previous building was substantially  
 203 completed; [[or]]
- 204 (B) the Director of the Department of Permitting Services or  
 205 the Director's designee finds that the applicant was unable  
 206 to apply for a building permit or commence construction  
 207 within four years after demolition or destruction of the  
 208 previous building was substantially completed due to  
 209 circumstances beyond the control of the applicant or the  
 210 applicant's agents; or
- 211 (C) the previous building is demolished or destroyed, after the  
 212 replacement building is built, by a date specified in a  
 213 phasing plan approved by the Planning Board or  
 214 equivalent body.

However, if in ~~[[either]]~~ any case the tax that would be due on the new, reconstructed, or altered building is greater than the tax that would have been due on the previous building if it were taxed at the same time, the applicant must pay the difference between those amounts.

~~[[e)]]~~ (f) If the type of proposed development cannot be categorized under the residential definitions in Section 52-39 and 52-52, the Department must use the rate assigned to the type of residential development which generates the most similar school enrollment characteristics.

~~[[f)]]~~ (g) A Clergy House must pay the impact tax rate that applies to a place of worship under Section 52-41(d) if the house:

- (1) is on the same lot or parcel, adjacent to, or confronting the property on which the place of worship is located; and
- (2) is incidental and subordinate to the principal building used by the religious organization as its place of worship.

The place of worship tax rate does not apply to any portion of a Clergy House that is nonresidential development.

## **52-55. Tax rates.**

(a) The Council must establish the [Countywide] rates for each school impact tax district [the tax under this Article] by resolution after a public hearing advertised at least 15 days in advance.

(b) [The tax on any single-family detached or attached dwelling unit must be increased by \$2 for each square foot of gross floor area that exceeds 3,500 square feet, to a maximum of 8,500 square feet.]

[[Any non-exempt single-family attached or multifamily unit located in a Desired Growth and Investment Area, as defined in the County Growth Policy, must pay the tax at 60% of the otherwise applicable rate.

(c)] Any Productivity Housing unit, as defined in Section 25B-17(j), must pay the tax at 50% of the otherwise applicable rate.

[(d)] (c) The County Council by resolution, after a public hearing advertised at least 15 days in advance, may increase or decrease the rates established under this Section.

[(e)] (d) The Director of Finance, after advertising and holding a public hearing as required by Section 52-17(c), must adjust the tax rates set in or under this Section effective on July 1 of each odd-numbered year in accordance with the update to the Subdivision Staging Policy using the latest student generation rates and school construction cost data. The Director must calculate the adjustment to the nearest multiple of one dollar. The Director must publish the amount of this adjustment not later than May 1 of each odd-numbered year.

[(f)] (e) Any non-exempt dwelling unit in a development in which at least 25% of the dwelling units are exempt under Section [[52-41(g)(1)]] 52-54(d)(1) must pay the tax discounted by an amount equal to the [[lowest standard]] impact tax rate applicable in the [[County]] Infill School Impact Area for that unit type up to the amount of the impact tax otherwise applicable.

(f) A three-bedroom multi-family dwelling unit located in an Infill Impact Area must pay the tax at 40% of the otherwise applicable rate.

## **52-58. Credits.**

(a) Section 52-47 does not apply to the tax under this Article.

(b) A property owner must receive a credit for constructing or contributing to an improvement of the type listed in Section 52-56(d), including costs of site preparation.

(c) [[A property owner may receive credit for constructing or contributing to other physical school facility improvements not listed in Section 52-56(d) if the Montgomery County School Board agrees to the improvement.

(d)] A property owner may receive credit for land dedicated for a school site, if:

- (1) the density calculated for the dedication area is excluded from the density calculation for the development site; and
- (2) the Montgomery County School Board agrees to the site dedication.

[(b)] [[e)] (d) If the property owner elects to make a qualified improvement or dedication, the owner must enter into an agreement with the Director of Permitting Services, or receive a development approval based on making the improvement, before any building permit is issued. The agreement or development approval must contain:

- (1) the estimated cost of the improvement or the fair market value of the dedicated land, if known then[,];
- (2) the dates or triggering actions to start and, if known then, finish the improvement or land transfer;
- (3) a requirement that the property owner complete the improvement according to Montgomery County Public Schools standards; and
- (4) such other terms and conditions as MCPS finds necessary.

[(c)] [[f)] (e) MCPS must:

- (1) review the improvement plan or dedication;
- (2) verify costs or land value and time schedules;
- (3) determine whether the improvement is a public school improvement of the type listed in Section 52-56(d)[[, meets the



requirements of subsection (c),]] or meets the dedication requirements in subsection [(a)] ~~[(d)]~~ (c);

- (4) determine the amount of the credit for the improvement or dedication; and
- (5) certify the amount of the credit to the Department of Permitting Services before that Department or a municipality issues any building permit.

~~[(d)]~~ ~~[(g)]~~ (f) An applicant for subdivision, site plan, or other development approval from the County, Gaithersburg, or Rockville, or the owner of property subject to an approved subdivision plan, development plan, floating zone plan, or similar development approval, may seek a declaration of allowable credits from MCPS. MCPS must decide, within 30 days after receiving all necessary materials from the applicant, whether any public school improvement which the applicant has constructed, contributed to, or intends to construct or contribute to, will receive a credit under this subsection. If during the initial 30-day period after receiving all necessary materials, MCPS notifies the applicant that it needs more time to review the proposed improvement, MCPS may defer its decision an additional 15 days. If MCPS indicates under this paragraph that a specific improvement is eligible to receive a credit, the Director of Permitting Services must allow a credit for that improvement. If MCPS cannot or chooses not to perform any function under this subsection or subsection (c), the Department of Permitting Services must perform that function.

~~[(e)]~~ ~~[(h)]~~ (g) (1) A property owner must receive a credit for constructing or contributing to the cost of building a new single

family residence that meets Level I Accessibility Standards, as defined in Section 52-107(a).

(2) The credit allowed under this Section must be as follows:

(A) If at least 5% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of \$250 per residence.

(B) If at least 10% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of \$500 per residence.

(C) If at least 25% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of \$750 per residence.

(D) If at least 30% of the single family residences built in the project meet Level I Accessibility Standards, then the owner must receive a credit of \$1,000 per residence.

(3) Application for the credit and administration of the credit must be in accordance with Subsections 52-107(e) and (f).

(4) A person must not receive a tax credit under this Section if the person receives any public benefit points for constructing units with accessibility features under Chapter 59.

[(f)] ~~[(i)]~~ (h) The Director of Finance must not provide a refund for a credit which is greater than the applicable tax.

[(g)] ~~[(j)]~~ (i) Any credit issued under this Section before December 31, 2015 expires 6 years after the Director certifies the credit. Any credit issued under this Section on or after January 1, 2016 expires 12 years after the Director certifies the credit.

~~[(h)]~~ ~~[[k)]~~ (j) After a credit has been certified under this Section, the property owner or contract purchaser to whom the credit was certified may transfer all or part of the credit to any successor in interest of the same property. However, any credit transferred under this subsection must only be applied to the tax due under this Article with respect to the property for which the credit was originally certified.

**52-59. [[Reserved]] Utilization Premium Payment.**

- (a) In addition to the tax due under this Article, an applicant for a building permit must pay to the Department of Finance a Utilization Premium Payment if such payment was required under the Annual School Test in effect at the time the building was approved.
- (b) The Council by resolution, after a public hearing advertised at least 15 days in advance, must establish the rates for the Utilization Premium Payment.
- (c) The Director of Finance, after advertising and holding a public hearing, must adjust the rates set in or under this Section effective on July 1 of each odd-numbered year in accordance with the update to the Subdivision Staging Policy using the latest student generation rates and school construction cost data. The Director must calculate the adjustment to the nearest multiple of one dollar. The Director must publish the amount of this adjustment not later than May 1 of each odd-numbered year.
- (d) The Payment must be paid at the same time and in the same manner as the tax under this Article.
- (e) The Department of Finance must retain funds collected under this Section in an account to be appropriated for any public school

improvement that adds capacity designed to alleviate overutilization in the school service area from which the funds were collected.

(f) The Utilization Premium Payment must not be imposed on any:

(1) Moderately Priced Dwelling Unit built under Chapter 25A or any similar program enacted by either Gaithersburg or Rockville;

(2) other dwelling unit built under a government regulation or binding agreement that limits for at least 15 years the price or rent charged for the unit in order to make the unit affordable to households earning equal to or less than 60% of the area median income, adjusted for family size;

(3) Personal Living Quarters unit built under Section 59-3.3.2.D, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A; or

(4) dwelling unit in an Opportunity Housing Project built under Sections 56-28 through 56-32, which meets the price or rent eligibility standards for a moderately priced dwelling unit under Chapter 25A.

## **Sec. 2. Effective date -Transition.**

This Act takes effect on February 26, 2021. The amendments in Section 1

[[take effect on March 1, 2021 and]] must apply to:

(1) any application for a building permit filed on or after [[March 1]] February 26, 2021; except for

(2) [[that the amendments related to discounts or exemptions for projects with 25% MPDUs must only apply to]] any dwelling unit in a development for which a preliminary plan application is filed [[and accepted on or after]] prior to [[March 1]] February 26, 2021 that

399                   includes 25% affordable units as defined in Sections 52-41(g)(1)  
400                   through 52-41(g)(4) or 52-54(d)(1) through 52-54(d)(4); or  
401           (3)   any development in a former Enterprise Zone for which a preliminary  
402                   plan application is filed and accepted before January 1, 2021.

Approved:

 11/17/2020  
\_\_\_\_\_  
Sidney Katz, President, County Council Date

Approved:

\_\_\_\_\_  
Marc Elrich, County Executive Date

*This is a correct copy of Council action.*

\_\_\_\_\_  
Selena Mendy Singleton, Esq., Clerk of the Council Date