



April 8, 2010

**MEMORANDUM**

**TO:** Montgomery County Planning Board

**VIA:** Glenn Kreger, Acting Chief, Vision Division *GK*  
Bill Barron, Team Leader, South Central Transit Corridor Team  
Vision Division

**FROM:** Kathleen A. Reilly, AICP, Planner Coordinator (301/495-4614) *KAR*  
South Central Transit Corridor Team, Vision Division

**SUBJECT:** Modification of Long Branch Sector Plan Boundary (Consent Item)

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**RECOMMENDATION:** Modify the boundary for the Long Branch Sector Plan by adding Parcel 500.

**BACKGROUND**

On January 7, 2010, the staff discussed the proposed Scope of Work and boundary for the Long Branch Sector Plan with the Planning Board. The Board approved both the Scope of Work and the boundary recommended for the Sector Plan.

**SUMMARY**

The Long Branch area is located in eastern Silver Spring along Piney Branch Road between Flower Avenue and University Boulevard and encompasses portions of the City of Takoma Park. The approved boundary of the Long Branch Sector Plan is shown as Attachment 1.

At the January 7, 2010 meeting, the Board heard testimony from an attorney for the property owner of 831 University Boulevard. The property consists of three recorded lots (Lots 1, 2, 3, Block L) zoned R-60 (Residential – One Family) abutting Forston Street, and one unrecorded parcel, (Parcel 500) zoned C-O (Commercial –Office Building) fronting on University Boulevard and Carroll Avenue. The total size of these properties comprises approximately 2.2 acres. Existing improvements consist of a commercial office building on the C-O zoned parcel, with a small portion of the building extending into the three R-60 zoned lots. Surface parking is constructed on the remaining portions of Lots 1, 2 and 3. The applicant's attorney requested that the Board include Parcel 500 in the Long Branch Sector Plan boundaries as the proposed boundaries bisected this property. He also requested that a corrective map amendment for Lots 1, 2, and 3 be filed by the Board. The Board directed legal staff to resolve these issues.

Subsequent to the January 7, 2010 meeting, the applicant's attorney sent a letter to the Planning Board Chairman and the Planning Director seeking clarification of the two previously raised issues. A copy of this letter and the Planning Director's response is included as Attachments 2 and 3.

The approved boundary of the Long Branch Sector Plan only includes the three R-60 lots. By amending the Sector Plan boundary to include Parcel 500, the C-O zoned parcel, zoning and non-conforming use issues can be addressed comprehensively through the sector planning process.

Staff recommends that the boundary for the Long Branch Sector Plan be amended to include Parcel 500. Attachments 4 and 5 show the revised boundary for the Long Branch Sector Plan.

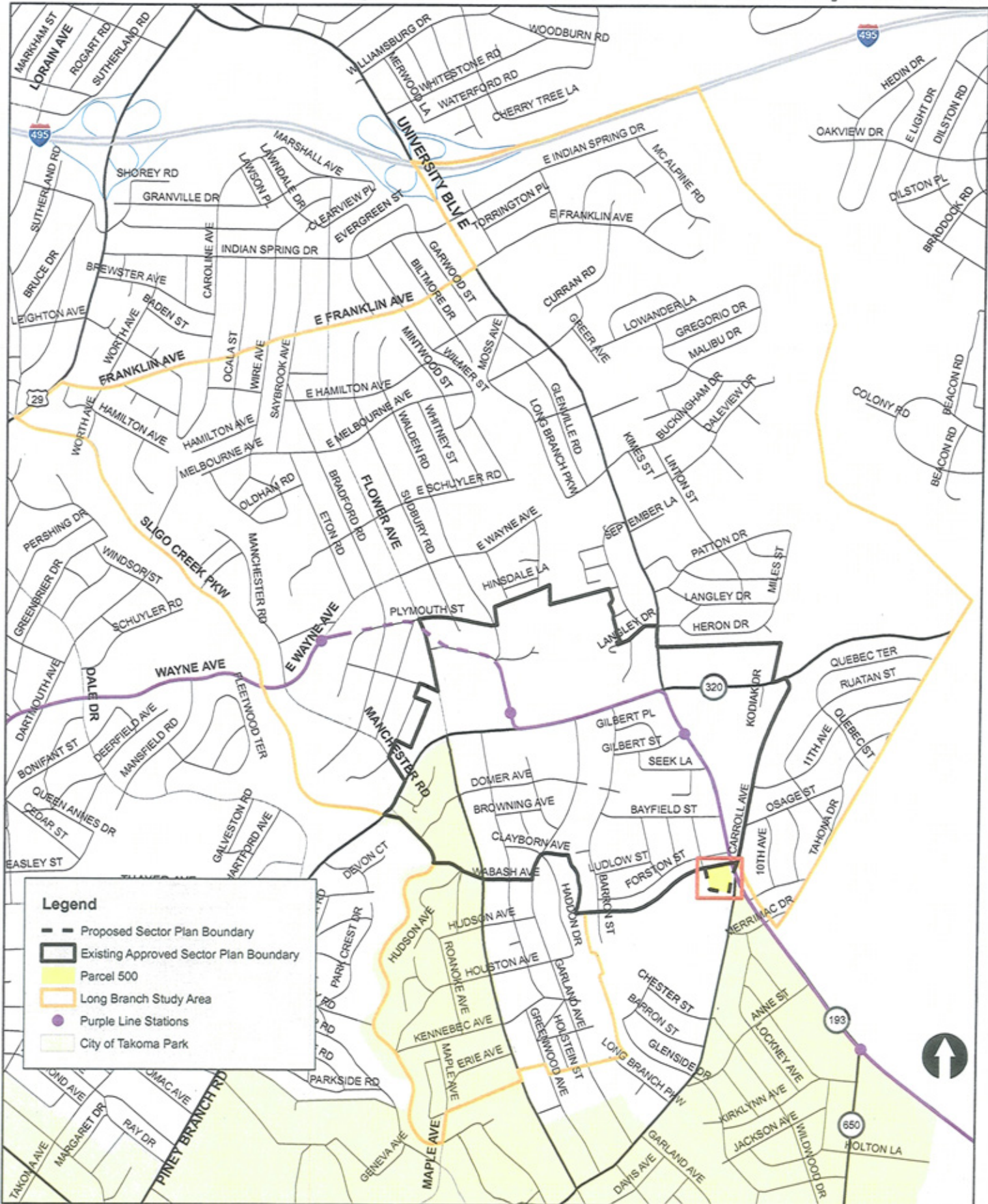
KAR:ha: M:\Long Branch\Long Branch Planning Board Items\4 7 10 report 831 university blvd.doc

#### Attachments

1. Proposed Revised Long Branch Sector Plan Boundary
2. Letter dated February 26, 2010, from applicant's attorney
3. Reply letter dated April 1, 2010, from Chairman Hanson
4. Proposed Revised Long Branch Sector Plan Boundary (site specific)
5. Proposed Revised Long Branch Sector Plan Boundary (aerial)

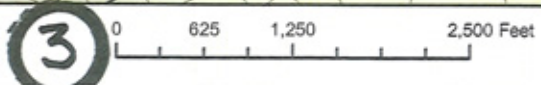


# Proposed Revised Long Branch Sector Plan Boundary



**Legend**

- - - Proposed Sector Plan Boundary
- ▭ Existing Approved Sector Plan Boundary
- ▭ Parcel 500
- ▭ Long Branch Study Area
- Purple Line Stations
- ▭ City of Takoma Park



ATTACHMENT 2

**LINOWES**  
**AND BLOCHER LLP**  
ATTORNEYS AT LAW

RECEIVED  
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MAR 02 2010

OFFICE OF THE CHAIRMAN  
THE MARYLAND NATIONAL CAPITAL  
PARK AND PLANNING COMMISSION

February 26, 2010

**C. Robert Dalrymple**  
301.961.5208  
[bdalrymple@linowes-law.com](mailto:bdalrymple@linowes-law.com)  
**Justin P. Hayes**  
301.961.5237  
[JHayes@linowes-law.com](mailto:JHayes@linowes-law.com)

The Honorable Royce Hanson, Chairman  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Mr. Rollin Stanley  
Director of Planning  
Montgomery County Planning Board  
8787 Georgia Avenue  
Silver Spring, Maryland 20910

Re: Long Branch Sector Plan/ 831 University Boulevard (the "Property").

Gentlemen:

Our law firm represents Dr. Inder Chawla, who is the owner representative of the above-referenced Property. The Property is located in Silver Spring, on the west side of the intersection between University Boulevard (Md. Route 193) and Carroll Avenue (Md. Route 195). As shown on the tax map excerpt attached hereto as Exhibit "A", the Property consists of three recorded lots abutting Forston Street (P.B. 28, Plat 1728) currently classified in the R-60 Zone (the "R-60 zoned Property"), and an unrecorded parcel (Parcel 500) to the south that fronts University Boulevard and is currently classified in the C-O Zone (the "C-O zoned Property"). The entire area of the Property consists of approximately two acres, and the Property is improved with a commercial office building (built in or around 1965) located largely on the C-O zoned Property (a small portion of the building crosses into the R-60 zoned Property and surface parking is located on both the C-O zoned Property and the R-60 zoned Property)(the "Existing Improvements"). The purpose of this letter is to request that the entire Property be included in the study area for the Long Branch Sector Plan. As recently approved by the Planning Board, the proposed Sector Plan boundary bisects the Property, placing the R-

The Honorable Royce Hanson, Chairman  
February 26, 2010  
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60 zoned Property within the Sector Plan area and excluding the C-O zoned Property. (See Sector Plan Boundary attached hereto as Exhibit "B").

The Existing Improvements were constructed at a time when the entire Property was classified in the C-O Zone (this zoning being in existence until at least 1982). Sometime between 1982 and 1998, a clerical mapping error was made to the official zoning map resulting in the R-60 zoned Property being reclassified from the C-O Zone to the R-60 Zone. We contend that a corrective map amendment should be initiated by the Planning Board (per Section 59-H-10 of the Zoning Ordinance) to revert the R-60 zoned Property to the C-O Zone (also curing zoning nonconformities that resulted from the clerical error as further discussed below). Planning Staff, however, is of the opinion that while the reclassification to R-60 sometime between 1982 and 1998 was a clerical error, the 2000 comprehensive rezoning of the area for East Silver Spring, while not specifically or explicitly attending to the Property, cured the clerical error by comprehensively confirming the R-60 mapping of the Property.

When the Long Branch Sector Plan was presented to the Planning Board for approval of the planning boundary and scope on January 7, 2010, we appeared on behalf of Dr. Chawla to request that the Planning Board direct Staff to initiate a corrective map amendment to restore the C-O zoning to the R-60 zoned Property, outside of the scope of the Long Branch Sector Plan. We also brought up to the Board our concern that the planning boundary for the Sector Plan did not include the entire Property, to which Staff responded that the Property was included in the study area. Having listened again to the recording from that exchange, it is clear that there was confusion when Staff was referring only to the R-60 zoned Property being included in the study area, and that as a result, the Board was not aware that the study area boundary split the Property. Thus, the Board did not address the issue directly to decide whether to adjust the boundary to include the Property or purposefully leave the boundary as is, splitting the Property between the R-60 zoned Property and the C-O zoned Property.

As a result of the mapping error creating the R-60 zoned Property, the Existing Improvements were rendered nonconforming in that the commercial office building is now partially located on the R-60 zoned Property and the surface parking on the R-60 zoned Property, constructed and established as a permitted use in the C-O Zone, is only permissible now by special exception. Dr. Chawla desires to construct a second office building on the C-O zoned Property utilizing the surplus parking lawfully established on the Property.

We are continuing to work with Staff to determine a viable process for allowing Dr. Chawla to proceed with new construction, notwithstanding the R-60 zoned Property remaining as status quo and notwithstanding the nonconforming uses discussed above. However, we request that the initiation of a corrective map amendment by the Planning Board be given new

**LINOWES**  
AND **BLOCHER LLP**  
ATTORNEYS AT LAW

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consideration to remedy the unintended consequences initiated by a clerical mapping error. We also request that the Long Branch Sector Plan study area be amended to include the entire Property, thereby allowing the Property to be uniformly considered for comprehensive planning and zoning, (and we will request C-O zoning for the entire Property, or other comparable uniform zoning of the Property, that will allow the Existing Improvements and new construction in the C-O zoned Property to be considered lawfully conforming).

Thank you for your consideration of this request, and please contact our office if we can provide you with any information you may need.

Very truly yours,

LINOWES AND BLOCHER LLP

*C. Robert Dalrymple* / P J  
H

C. Robert Dalrymple

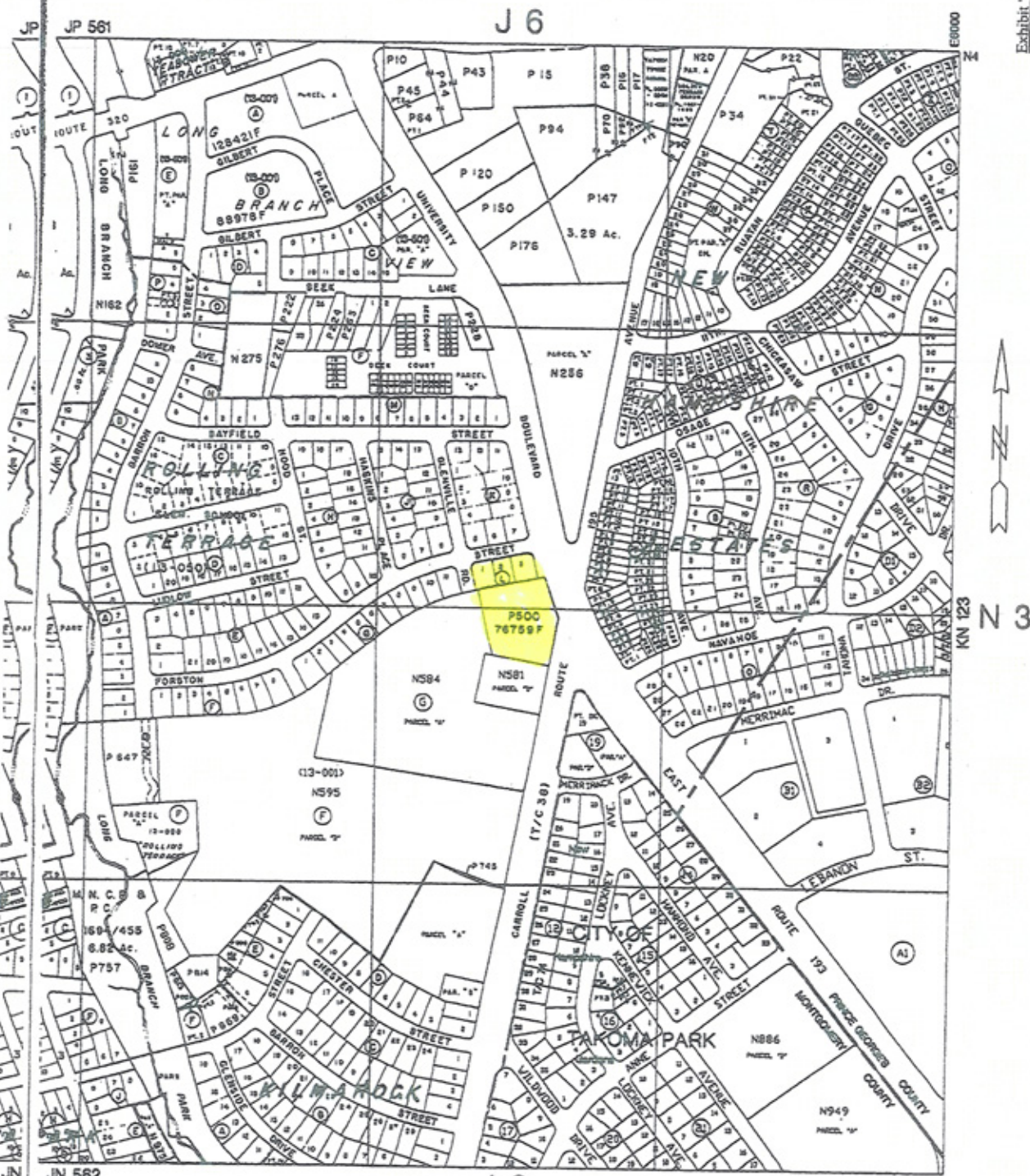
*Justin P. Hayes*  
Justin P. Hayes

cc: Mr. Bill Barron  
Ms. Cathy Conlon  
Christina Sorrento, Esq.  
Ms. Kathy Reilly

Enclosures

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MDP  
 Maryland  
 Department of Planning

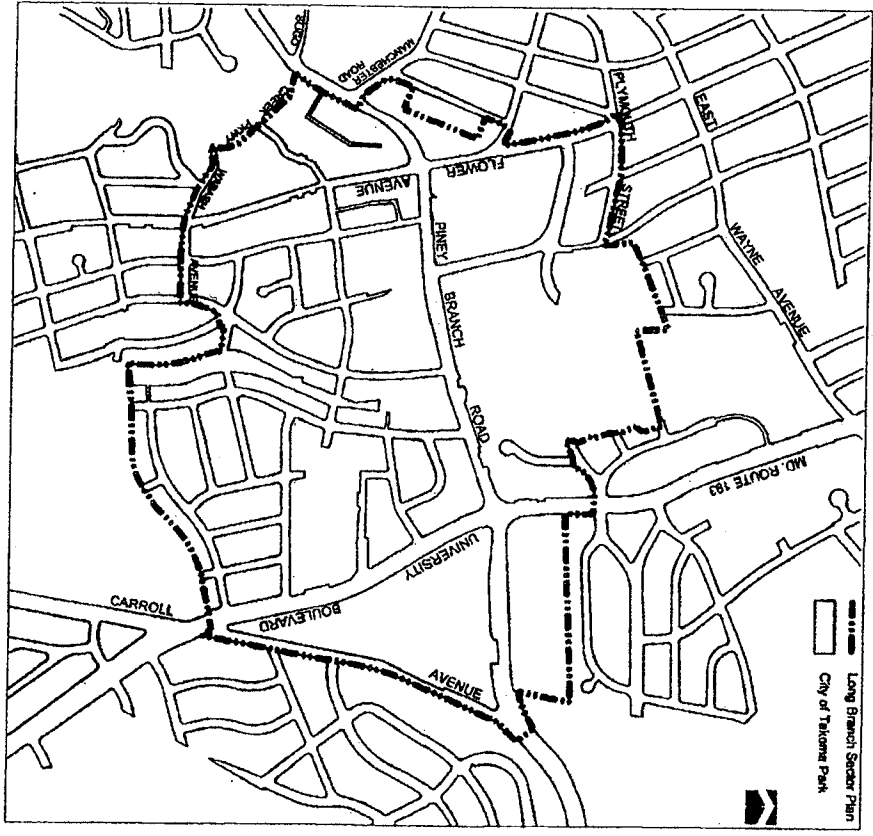
J 6  
 MONTGOMERY CO.,  
 MARYLAND

MAP JN 563  
 W.S.S.C. 210 NE 01  
 Location: TAKOMA PARK

Location

The Long Branch Sector Plan area is located in eastern Silver Spring along Piney Branch Road between Flower Avenue and University Boulevard and encompasses portions of the City of Takoma Park. The proposed Sector Plan boundary is Plymouth Street to the north, Carroll Avenue to the east, Long Branch Creek and Wabash Avenue to the south, Sligo Creek Parkway and Manchester Road to the west. The following area in the City of Takoma Park is included in the Sector Plan: property bounded by Piney Branch Road on the north, Flower Avenue on the east, Wabash Avenue on the south and Sligo Creek Parkway on the west.

Sector Plan Boundary





## ATTACHMENT 3



### MONTGOMERY COUNTY PLANNING DEPARTMENT THE MARYLAND-NATIONAL CAPITAL PARK AND PLANNING COMMISSION

April 1, 2010

Mr. C. Robert Dalrymple  
Linowes & Blocker, LLP  
7200 Wisconsin Avenue  
Suite 800  
Bethesda Maryland 20814-4842

SUBJECT: 831 University Boulevard, Long Branch Sector Plan

Dear Mr. Dalrymple:

We are in receipt of your letter dated February 26, 2010 concerning your client's property located at 831 University Boulevard. The property consists of three recorded lots (Lots 1, 2, 3, Block L) zoned R-60 (Residential – One Family) abutting Forston Street, and one unrecorded parcel, (Parcel 500) zoned C-O (Commercial – Office Building) fronting on University Boulevard and Carroll Avenue. Existing improvements consist of a commercial office building on the C-O zoned parcel with a small portion of the building extending into the three R-60 zoned lots, which creates a nonconforming use.

Your letter states that the Long Branch Sector Plan bisects your client's property by placing Lots 1, 2, and 3 within the Sector Plan boundaries while omitting Parcel 500 from these boundaries. You are seeking a twofold request to this situation: 1) that a Corrective Map Amendment is initiated by the Planning Board to remedy what you perceive as a mapping error and 2) that the Long Branch Sector Plan boundaries are amended to include Parcel 500.

In your letter you state that part of the property was reclassified from the C-O Zone to the R-60 Zone sometime between 1982 and 1998. After that reclassification occurred, the R-60 Zone was reconfirmed for that portion of the property in a comprehensive rezoning that was undertaken by the East Silver Spring Master Plan in 2000. It is because of this zoning reconfirmation in 2000 that the property does not qualify for a Corrective Map Amendment since the rezoning can no longer be treated as a technical error.

At the February 12, 2010 meeting with Planning Department staff, you were informed that the Planning Department would not sponsor a Corrective Map Amendment on their behalf and that you should move forward with a Pre-Preliminary Plan to address any issues surrounding the proposed improvements to the property. Staff is of the opinion that this is the proper process at this time.



With respect to your second request, staff will recommend to the Planning Board that the Long Branch Sector Plan boundaries be extended to include Parcel 500. This will allow the Planning Board to make zoning and planning recommendations for the entire property at the same time.

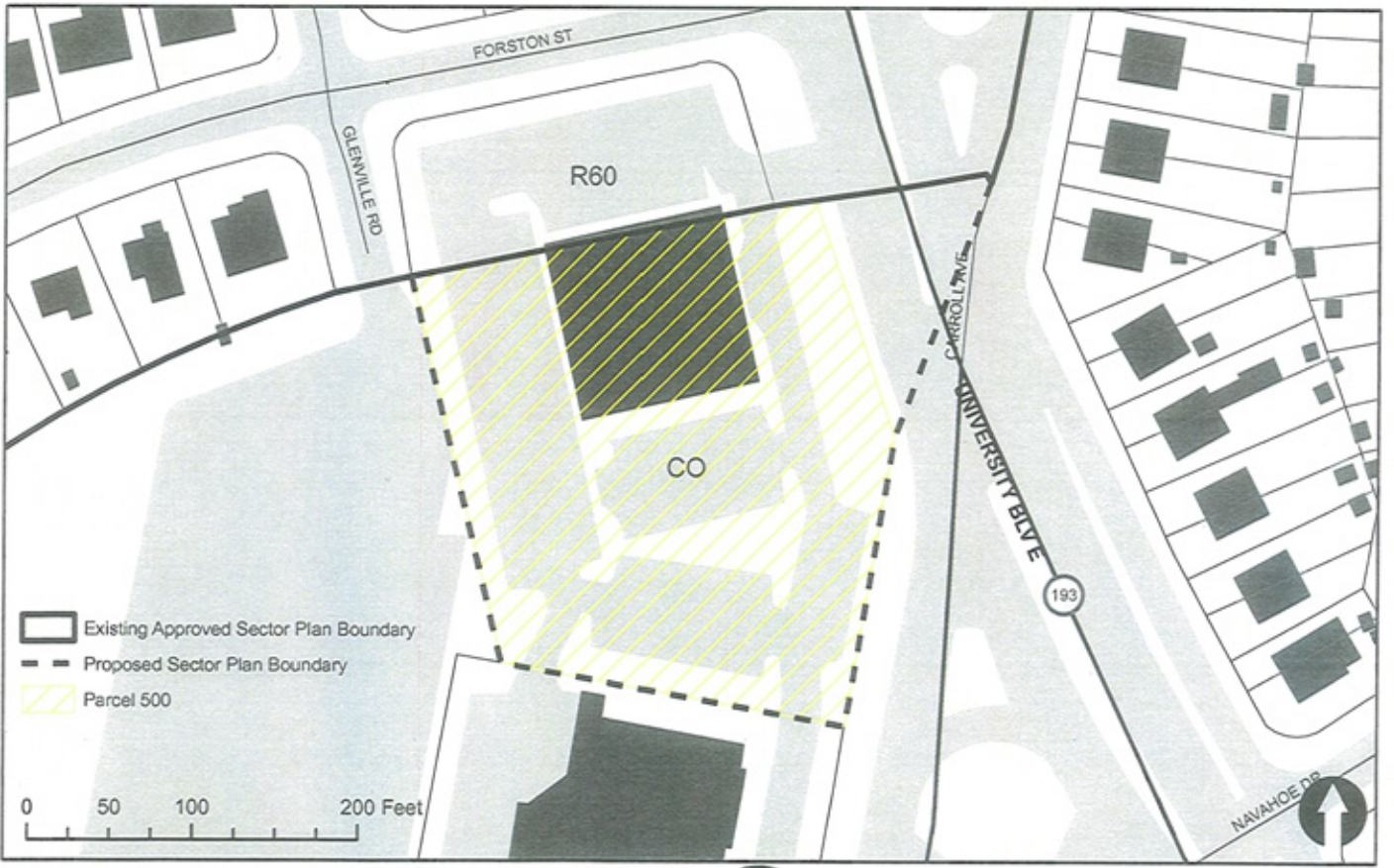
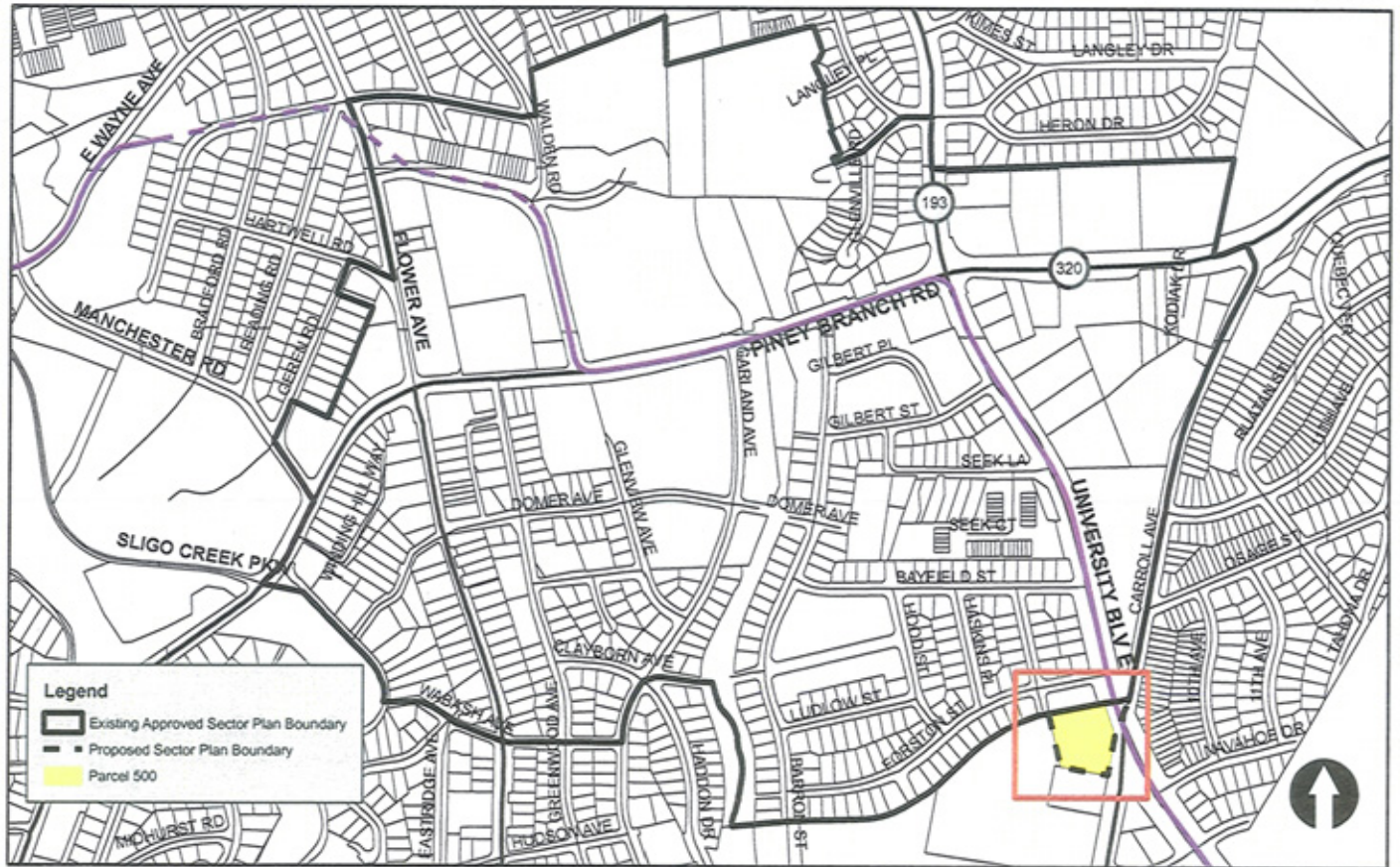
Sincerely,

A handwritten signature in black ink, appearing to be 'RS', written in a cursive, looped style.

Rollin Stanley  
Director

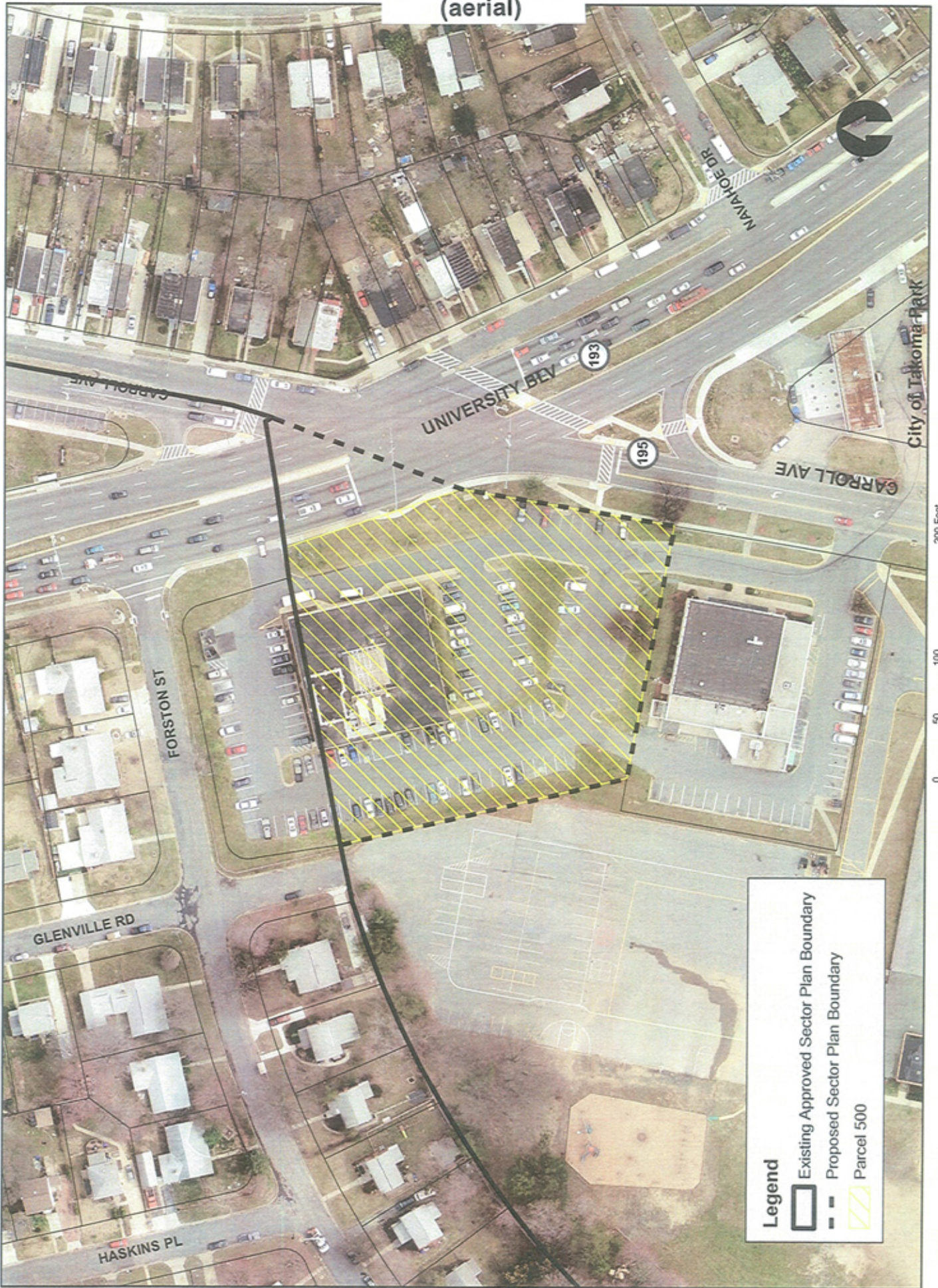
RS:kr:tv

# Proposed Revised Long Branch Sector Plan Boundary








Proposed Revised Long Branch Sector Plan Boundary



**Legend**

-  Existing Approved Sector Plan Boundary
-  Proposed Sector Plan Boundary
-  Parcel 500

0 50 100 200 Feet