

MEMORANDUM TO: Mayor and City Council and Planning Commission

FROM: Kirk Eby, Planner III

DATE: March 3, 2023

SUBJECT: Preliminary Background Report: Application SK-9497-2023

APPLICANT

Ross Ostrander
Pleasants Development/Muddy Branch Investments LLC
24012 Frederick Road, Suite 200
Clarksburg, MD 20871

OWNER

Muddy Branch Investments, LLC
24012 Frederick Road, Suite 200
Clarksburg, MD 20871

PROPERTY ADDRESS:

770 Muddy Branch Road

TAX MAP REFERENCE:

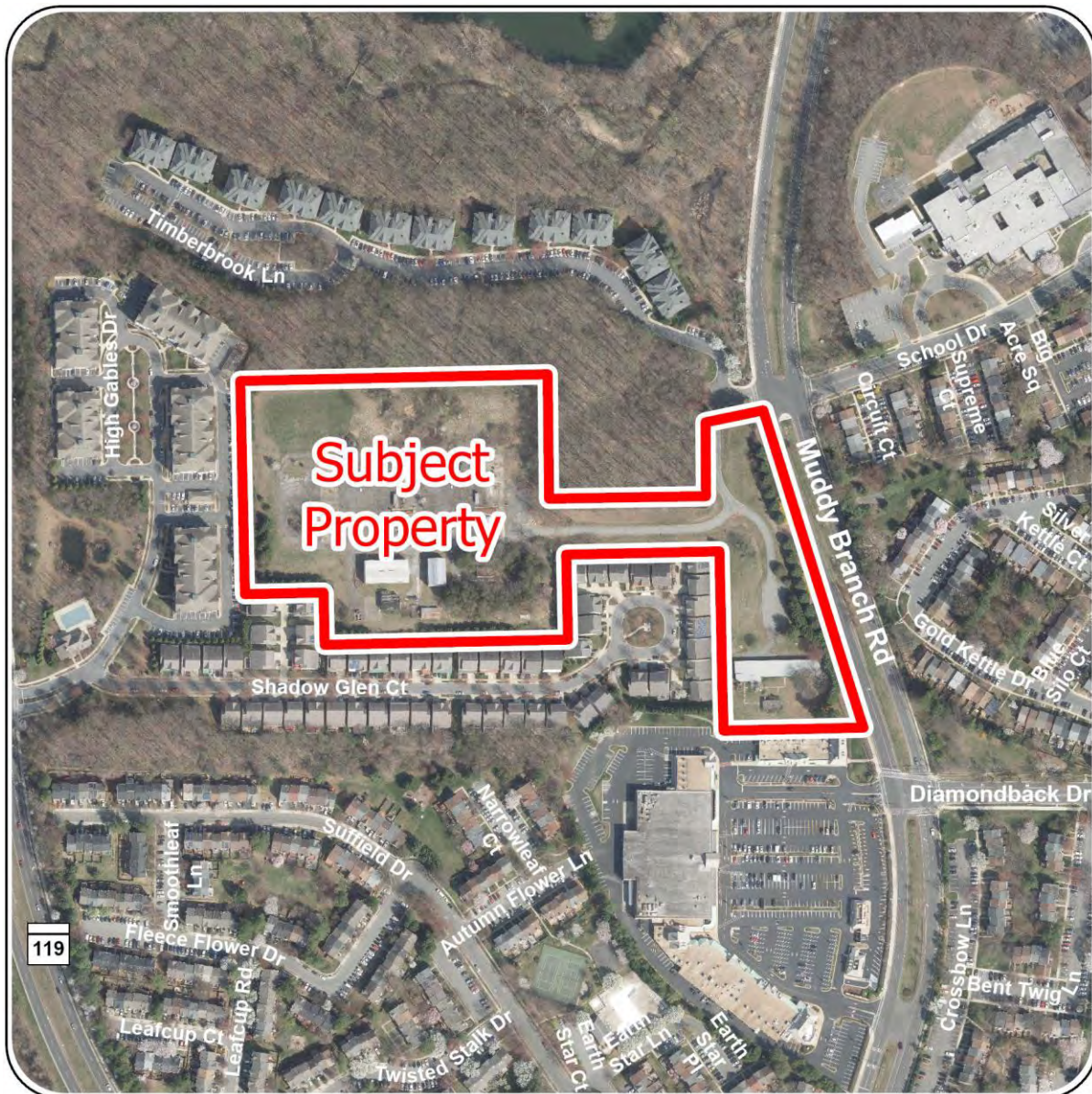
Tax Assessment Map # FS32, Parcel P322

TAX ACCOUNT NUMBERS:

ID # 09-00821711

REQUEST

The applicant, Pleasants Development/Muddy Branch Investments, LLC (“Applicant”), has submitted Sketch Plan application SK-9497-2023¹ (“Application” or “Project”), to establish a new sketch plan for approximately 13.71 acres of land at 770 Muddy Branch Road, surrounded by the Muddy Branch Shopping Center, Lakelands Ridge, City-owned park land, and Timberbrook Condominium, in accordance with § 24-160D.9(a) “Application for the MXD Zone and sketch plan approval” of the City Code. The Application proposes to create a residential community of up to 380 multifamily units.² This Application will establish the first sketch plan for this property.



Location

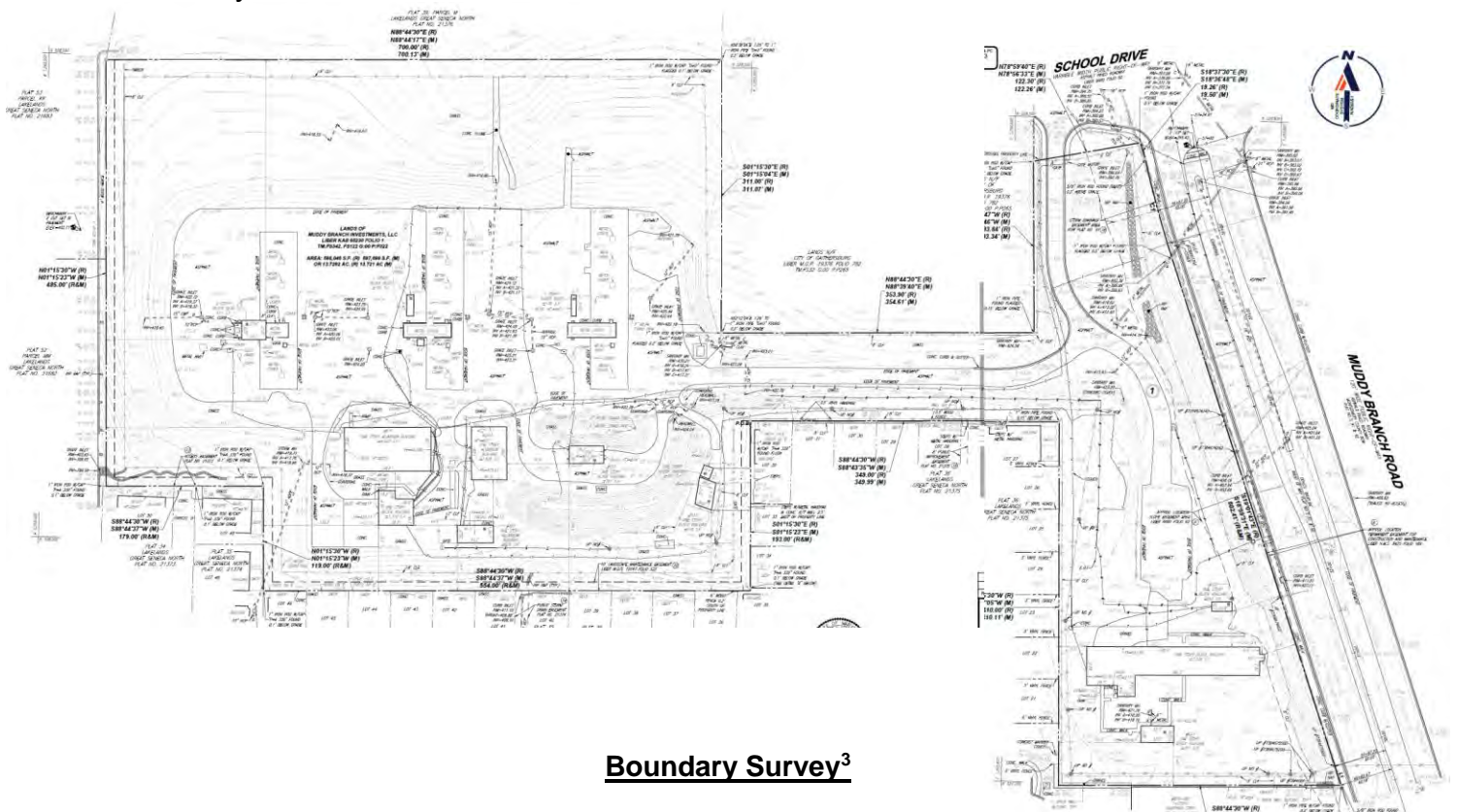
¹ Exhibit #01

² Exhibit #02, Exhibit #03

GENERAL INFORMATION

LOCATION

The subject area of the application (“Site” or “Property”) is located at 770 Muddy Branch Road and includes one unplatted parcel that was formerly used by the federal government, with a land area of approximately 13.71 acres. The Property is bounded by City- and Lakelands Ridge-owned HOA parcels and the Timberbrook multifamily condominium community to the north, Muddy Branch Road to the east, Muddy Branch Shopping Center and the Lakelands Ridge single family detached houses to the south, and the Lakelands Ridge multifamily condominiums to the west. The only access point to the Site is along a driveway that begins at the School Drive stub-out on the west side of Muddy Branch Road.



Boundary Survey³

ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO)

While compliance with Article XV of Chapter 24, the City’s Adequate Public Facilities Ordinance (APFO), is not a requirement for sketch plans, staff is providing the following information regarding the four tests included in the APFO. Staff notes that the next stage of review, a schematic development plan application, must demonstrate compliance with the City’s APFO.

³ Exhibit #04

Water and Sewer Services and Public Utilities

The Property is adjacent to, and was previously served by, both public water and public sewer service and has WSSC categories of S-1 and W-1. Because sketch plans only provide a cap or range of possible residential and nonresidential densities, this APFO test is evaluated as part of a schematic development plan application, which establishes specific dwelling unit counts and nonresidential square footage amounts that can be used by WSSC to determine whether adequate public water and sewer service can be provided.

Fire and Emergency Services

The City's Adequate Public Facilities Ordinance (APFO) requires that any development project be served by at least two fire stations within a ten-minute full response time. The Site is located within a ten-minute full response time of three fire stations, satisfying this APFO test:

- Station 8 (Gaithersburg-Washington Grove VFD)
- Station 31 (Rockville VFD)
- Station 32 (Travilah)

Schools

The site is located in the Quince Orchard cluster of the Montgomery County Public Schools (MCPS) system, which may change upon completion of the new High School at Crown. The schools within the cluster that currently serve the development are:

- Quince Orchard High School
- Ridgeview Middle School
- Fields Road Elementary School

In conformance with the City's APFO, the schools test for adequacy will be performed at the time of schematic development plan (SDP) submittal, since SDPs may propose fewer actual residential units to be constructed than the maximum number of units allowed by the sketch plan approval. Staff notes that, as of July 1, 2022, all schools within the Quince Orchard cluster serving this site have adequate capacity to support new residential development, though there is a Tier 2 Gaithersburg MCPS Utilization Payment Fee required for Quince Orchard High School.

Traffic Impacts

As previously mentioned, the City Zoning Ordinance (Chapter 24 of the City Code) does not require the submission of a Traffic Impact Study at the time of Sketch Plan application; however, a traffic study must be submitted as part of a schematic development plan application. Sketch plans only provide a cap or range of possible residential and nonresidential densities, whereas schematic development plans establish specific

dwelling unit counts and nonresidential square footage amounts that can be used to perform a traffic impact analysis. In anticipation of submitting a future schematic development plan application, the Applicant has conducted a preliminary traffic analysis, which shows that the proposed multifamily development on this Property will warrant a new traffic signal at the intersection of Muddy Branch Road and School Drive.⁴

PROPERTY HISTORY

The property was acquired by the federal government in the early 1950's and was used as part of Project Nike, which established a strategically-located set of anti-aircraft missiles that could destroy Soviet planes carrying nuclear bombs. This property was used as the "launch" site for the Rockville W-92 facility, and included three underground silos for the missiles and launch system, along with several above-ground buildings to support its mission. (The other part of the W-92 facility, the "control" site, is located at 10901 Darnestown Road. It was acquired by the City of Gaithersburg in 2014 and is currently being re-purposed as Pleasant View park.⁵) Project Nike was discontinued in 1974, and the Property was subsequently turned over to the Consumer Product Safety Commission, and later was used by the National Institute of Standards and Technology (NIST) for storage, research, and testing. NIST stopped using the property in 2012, after which time it remained unused. The federal government disposed of the property through a competitive bidding process in 2022. The Applicant offered the highest bid and was allowed to purchase the property, finalizing the sale in January 2023.

The Applicant filed demolition permit DEMO-28359-2022⁶ on May 31, 2022, to begin preparing the site for a future residential use by removing the existing Project Nike buildings, underground missile silos, accessory structures, and paving. Because several of the buildings are older than 50 years, the Historic District Commission (HDC) reviewed the demolition permit at its August 24, 2022 meeting.⁷ The HDC found that the buildings and site did not meet the criteria for historic or architectural significance, and did not direct the City Manager to withhold the issuance of the demolition permit. The demolition permit was issued on October 5, 2022. Staff notes that, while the Property is listed in the Maryland Inventory of Historic Properties, it is not eligible for inclusion on the National Register of Historic Properties.

EXISTING LAND USE/PHYSICAL CHARACTERISTICS

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) for the Property was approved on February 22, 2023 as ENV-9483-2023.⁸ The Site contains vacant unused buildings, vacant unused underground missile silos, parking areas, and other vacant

⁴ Exhibit #02, pages 3-4

⁵ <https://www.gaithersburgmd.gov/government/projects-in-the-city/former-cpsc-site>

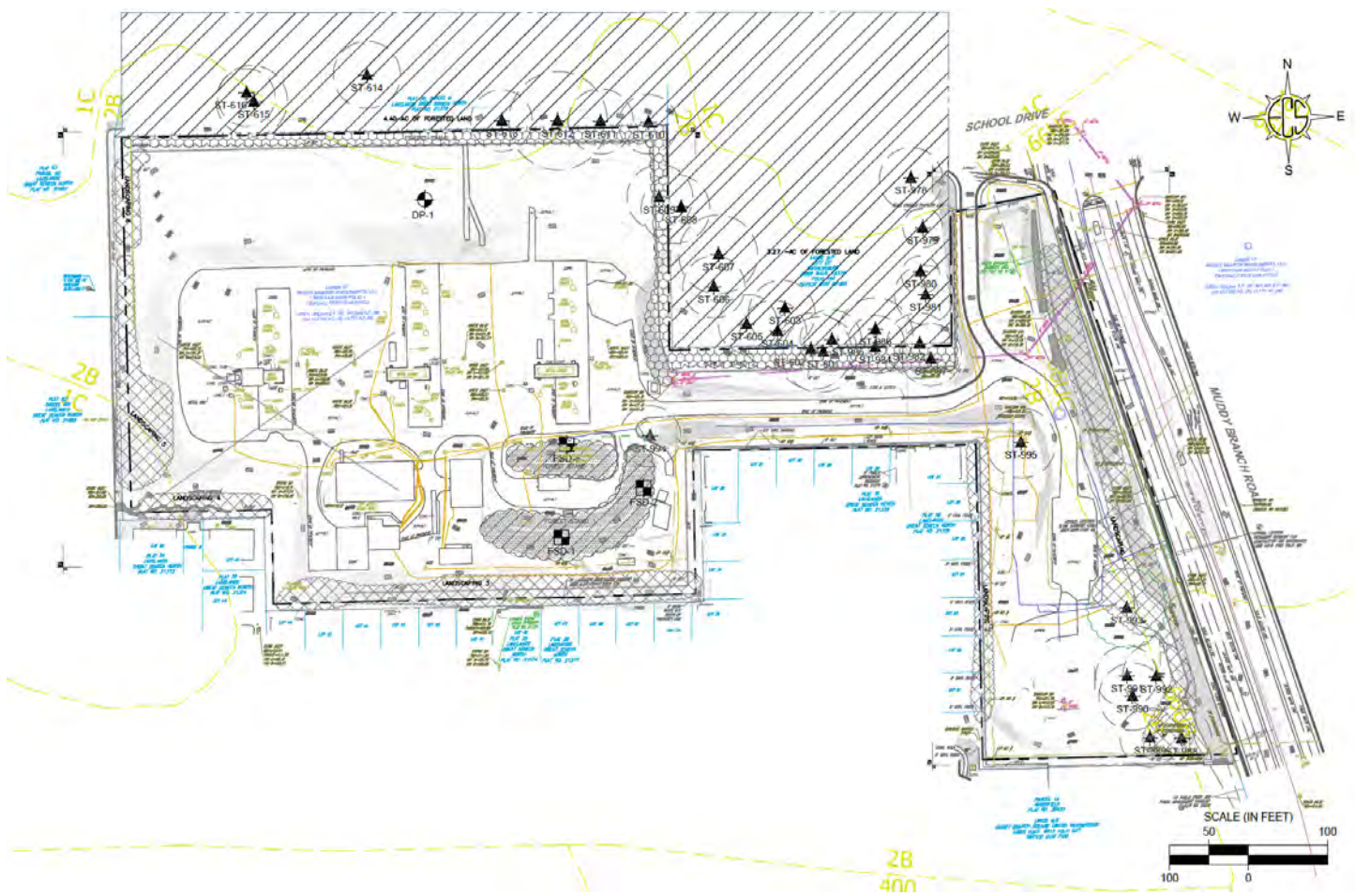
⁶ Exhibit #09

⁷ Exhibit #08

⁸ Exhibit #05

unused accessory structures, which are currently being demolished. The natural features of the Site include forest stands, individual trees, landscaped areas, grass areas, and human-created steep slopes. The entire Property lies within the Great Seneca Creek watershed. No rare, threatened, or endangered species were located on site.

An excerpt from the approved NRI/FSD plan is included below.⁹ No stream valley or wetland buffers were identified, based on City standards, and no part of the Property was found to be within a 100-year floodplain. Two forest stands are located on the Property and 11 specimen trees (24" or greater diameter) were identified on site (along with 11 additional specimen trees off-site, near the property boundary), all of which will be taken into consideration as part of a future forest conservation plan for this Property (to be submitted as part of a future schematic development plan application).

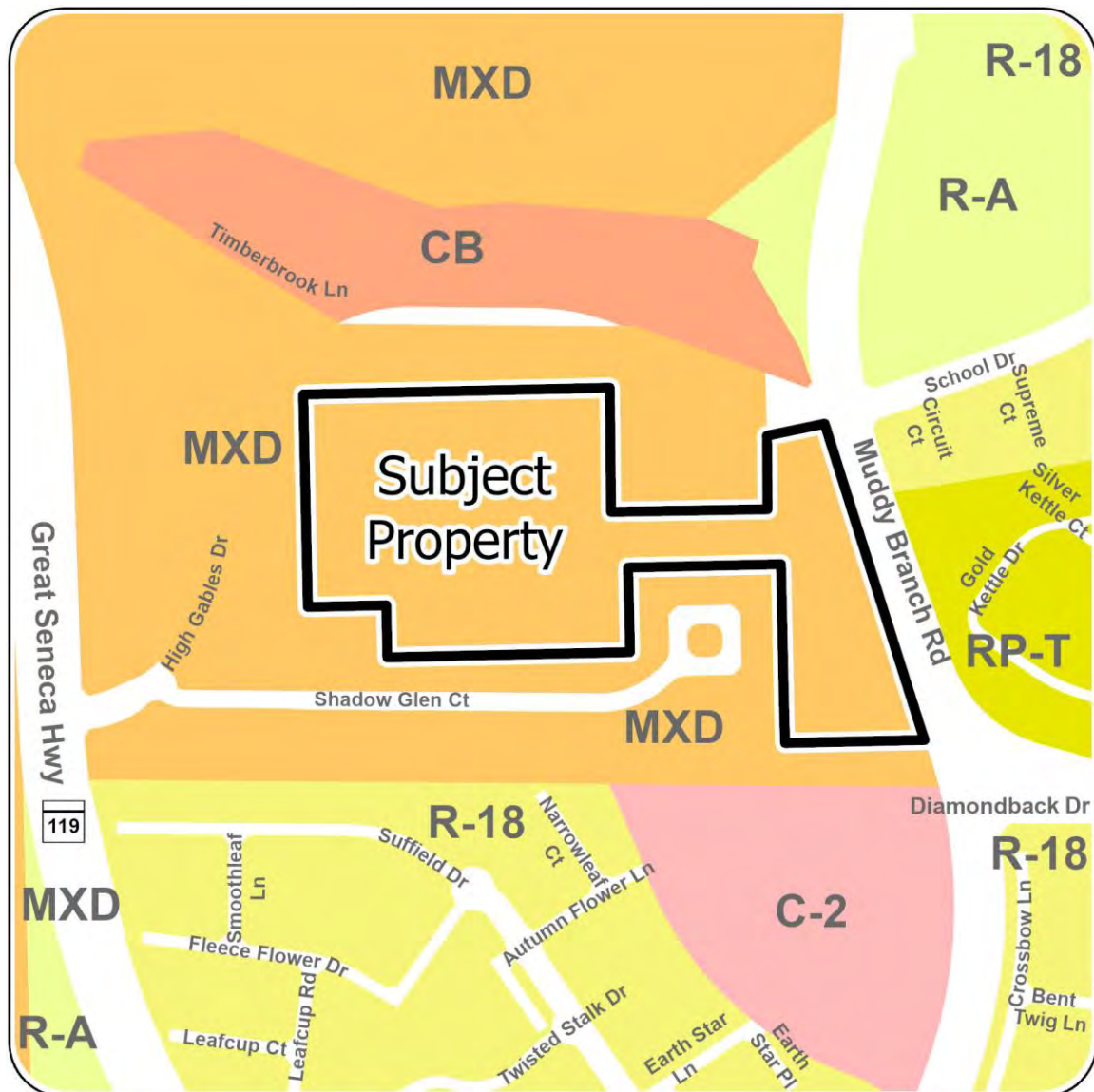


Excerpt of NRI/FSD ENV-9483-2023¹⁰

⁹ Exhibit #05

¹⁰ Exhibit #05

NEIGHBORHOOD LAND USE AND ZONING



Zoning

The Property is zoned Mixed Use Development (MXD) and currently has several unused vacant structures that are in the process of being demolished. To the south are the Muddy Branch Shopping Center and the Lakelands Ridge single family detached houses, both of which are zoned MXD.¹¹ To the west are the Lakelands Ridge low-rise multifamily condominiums, which are zoned MXD. To the north are two MXD-zoned forested parcels, one of which is owned by the Lakelands Ridge Homeowner's Association (HOA), and the other of which is owned by the City of Gaithersburg. Beyond the forested parcels to the north are the Timberbrook low-rise multifamily condominiums, zoned Commercial Buffer (CB), and a landlocked unused portion of the School Drive right of way, which is located

¹¹ A portion of the Muddy Branch Square Shopping Center that is not adjacent to the Site is zoned C-2, General Commercial.

between the Lakelands Ridge HOA parcel and Timberbrook condos. To the east are Muddy Branch Road, Fields Road Elementary School, and the Shady Grove Village townhouse community.

MASTER PLAN, ZONING AND SITE PLAN HISTORY

Annexation and Zoning

The Property was annexed into the City of Gaithersburg by resolution R-22-66¹² on January 19, 1967 as part of Annexation X-088 and zoned R-A, Low Density Residential, by resolution R-23-66.¹³ There was no annexation agreement associated with Annexation X-088.

On June 9, 1997, the Mayor and City Council by ordinance O-14-97¹⁴ approved Comprehensive Map Amendment application Z-284,¹⁵ which rezoned the entire property from the R-A (Low Density Residential) Zone to the MXD (Mixed Use Development) Zone, as recommended by the Neighborhood Four Land Use Plan of the 1997 Master Plan. As is customary with a comprehensive rezoning, no sketch plan was included in the Z-284 application.

Master Plan

1997 Master Plan

The Property was included in The Neighborhood Four Land Use Plan of the 1997 Master Plan as Map Designation 7 of Study Area 2.¹⁶ The 1997 Master Plan recommended changing the land use designation from institutional to commercial-office-residential, and envisioned the Property becoming an extension of the adjacent Muddy Branch Square Shopping Center. The 1997 master plan land use designation change was implemented as part of the Z-284 application adopted by ordinance O-14-97, but was later superseded by the 2003 and 2009 Master Plans.

2003 Master Plan

The Site was included in the 2003 Master Plan Land Use Element as Map Designation 28.¹⁷ The 2003 Master Plan recommended changing the land use designation from commercial-office-residential to open space, reflecting the assumption that the City would acquire the Property from the federal government and use it as a public park. Along with the recommended land use change, the 2003 Master Plan recommended a zoning change from the MXD (Mixed Use Development) Zone to the R-A (Low Density

¹² Exhibit # 10

¹³ Exhibit # 11

¹⁴ Exhibit # 14

¹⁵ Exhibit # 13

¹⁶ Exhibit # 12

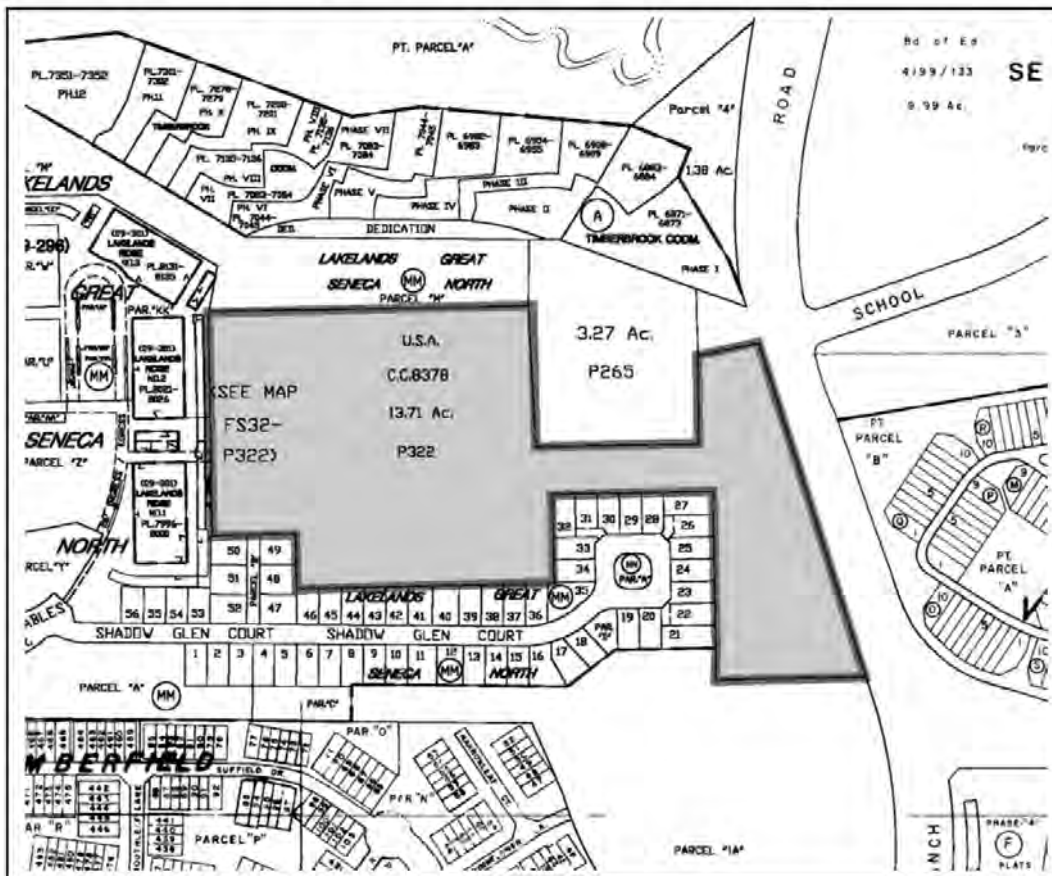
¹⁷ Exhibit # 15

Residential) Zone, which has historically been used for City-owned parks. The 2003 Master Plan states the following in regards to the Property:

This 13.71-Acre parcel consists of the former "Nike missile site". It is anticipated that the federal government will convey the land to the City of Gaithersburg for park use. Before accepting the parcel, the City should require a certification from the EPA [Environmental Protection Agency] and DOE [Department of Energy] that the site is fully remediated and stipulate that the federal government would be responsible for any future cleanup associated with its prior use. It is anticipated that these parcels will be used for recreational purposes. The City should initiate some interpretive signage concerning the history of the site and its relation to national security in the 1940s and 1950s.

A comprehensive rezoning was not implemented following the adoption of the 2003 Master Plan Land Use Element, so the zoning for the Property remained MXD, though the land use designation of open space was implemented as part of the Master Plan adoption.

28. Designate Tax Map FS32 Parcel P322 as Open Space



2003 Master Plan, Map Designation 28¹⁸

¹⁸ Exhibit #18

2009 Master Plan

The Property was not included in the 2009 Master Plan Land Use Element,¹⁹ so the land use designation and zoning reflect the adopted 2003 Master Plan Land Use Element, namely open space and MXD, respectively. As was previously mentioned, the Site was an institutional use in actuality and remained under federal ownership until January, 2023, at which time it was sold to the Applicant.

Sketch and Site Plans

As previously mentioned, the Site was developed by the federal government in the 1950s as an anti-aircraft missile defense system, prior to its annexation into the City. The Property was later used by NIST until 2012, at which time it was vacated and remained unused until sold to the Applicant in January, 2023. Because the Site was owned by the federal government, it was not subject to the City of Gaithersburg's planning authority and thus no site development plans have ever been approved for the Property. The proposed sketch plan will be the first development plan approved for the Property by the City.

REQUIRED ACTIONS

Sketch Plan SK-9497-2023

As stated, Sketch Plan SK-9497-2023 establishes an entirely new sketch plan for Property, in conformance with Section 24-160D.9(a), "Application for the MXD Zone and sketch plan approval."

Section 24-160D.10(a) states that the City Council may approve a sketch plan by resolution when they find the following:

- (1) *The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and*
- (2) *The application is in accord with recommendations in the applicable master plan for the area and is consistent with any special conditions or requirements contained in said master plan; and*
- (3) *The application and sketch plan will be internally and externally compatible and harmonious with existing and planned land uses in the MXD zoned areas and adjacent areas.*

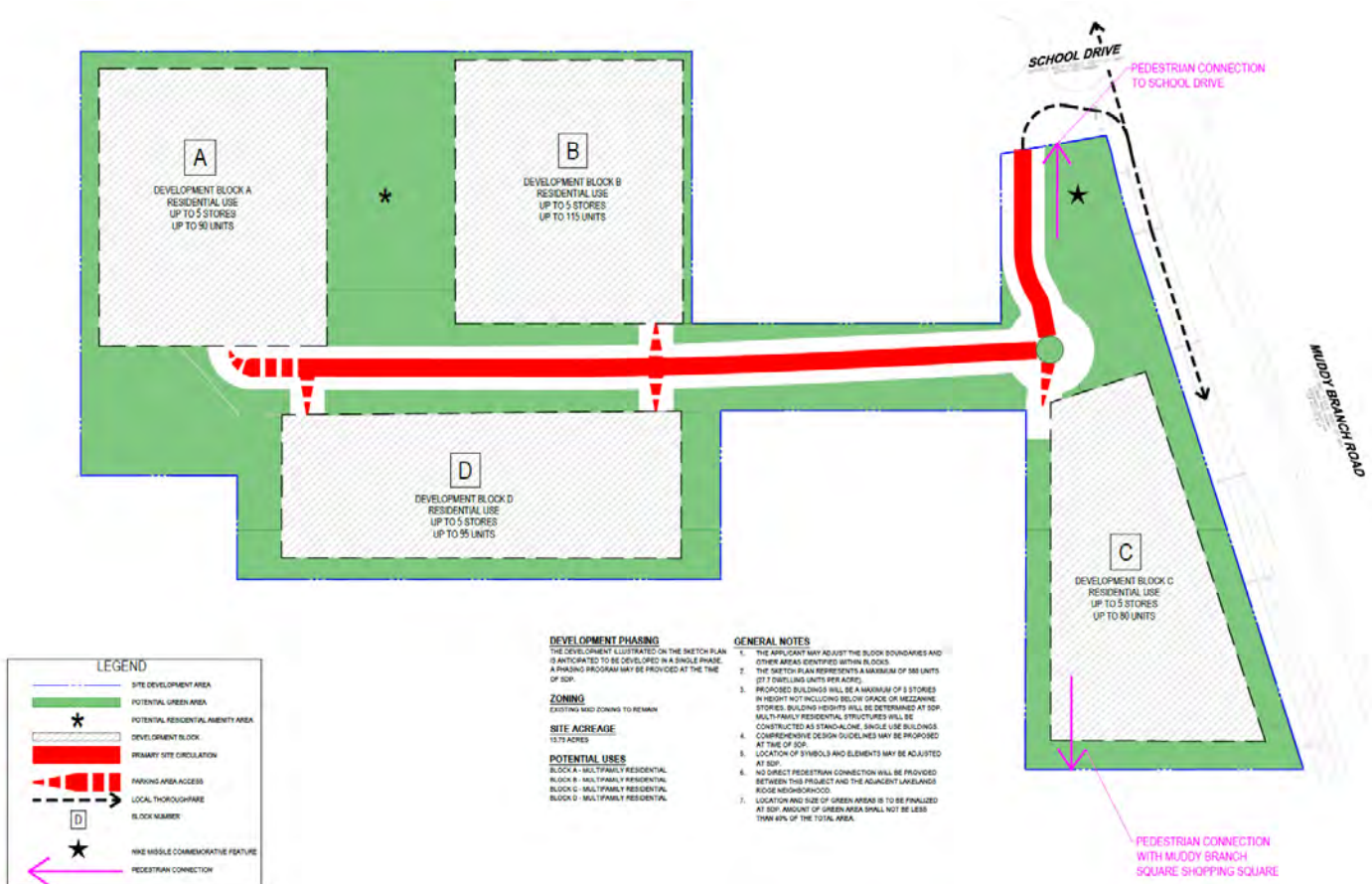
SK-9497-2023 SKETCH PLAN ELEMENTS

The Applicant has submitted an application proposing to develop a new multifamily residential community with associated open space and amenities. The development will

¹⁹ Exhibit #16

include up to 380 dwelling units. The Applicant, as part of the application, has submitted a statement of support and justification²⁰ (Statement) outlining the purpose of the current request, including findings per § 24-160D.10.(a). The following discussion is based on the testimony provided in the Applicant’s Statement.

Overview of Sketch Plan



Proposed Sketch Plan²¹

According to the Statement, the main purpose of the sketch plan is to redevelop the former Nike missile site into a multifamily residential development that will complement and be compatible with the surrounding Lakelands Ridge, Timberbrook, and Shady Grove Village communities, as well as the Muddy Branch Square Shopping Center. The Application proposes a maximum of 380 multifamily dwelling units, located within four separate development blocks. Individual blocks have been allocated a maximum number of dwelling units out of the overall 380 unit cap. Although the 380 units proposed across the entire 13.71-acre site is significantly less dense (27.7 units per acre) than other recently-approved stand-alone multifamily developments, such as the Fishman Site (109 units on 0.99 acres, or 110.0 units per acre), Kentlands Apartments (365 units on 3.1 acres, or 117.7 units per acre), and Camden at Washingtonian (365 units on 5.86 acres, or 62.3 units per acre), the proposed density is comparable to and compatible with the

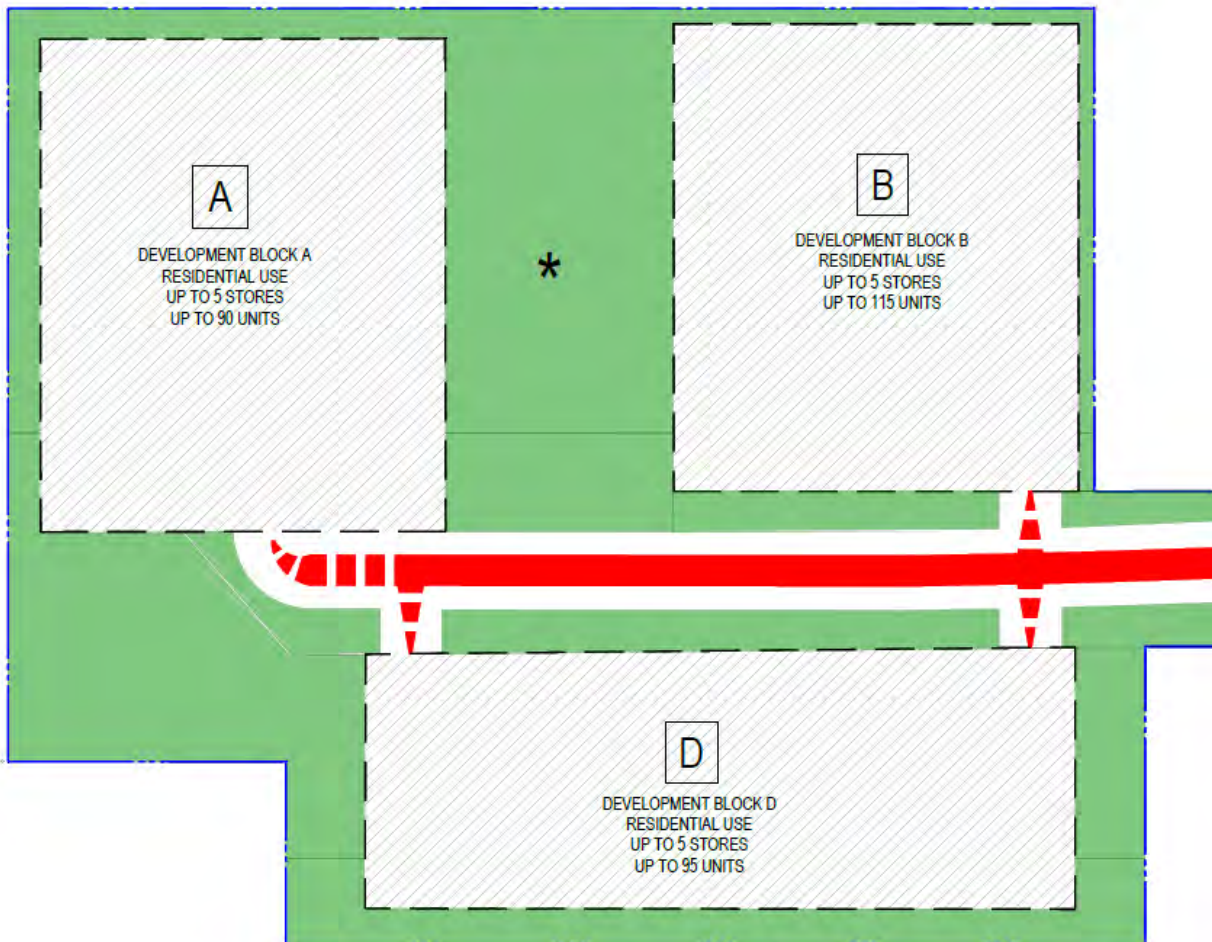
²⁰ Exhibit #02

²¹ Exhibit #03

surrounding Timberbrook Condos (168 units on 9.74 acres, or 17.2 units per acre) and Lakelands Ridge Condos (159 units on 9.39 acres, or 16.9 units per acre).

The proposed development will include open space and amenities for the residents, and a landscape buffer is proposed to surround the Property, softening the edges that back up to the existing Lakelands Ridge houses and condos. Internal vehicular and bicycle/pedestrian connectivity will be provided via an improved private road that roughly follows the existing driveway, and access to the Property will continue to utilize the existing entrance off of the School Drive stub-out next to Muddy Branch Road. No additional vehicular connections are provided, though pedestrian connections to the Muddy Branch Square Shopping Center and School Drive/Muddy Branch Road are proposed. Staff notes that there may be opportunities to provide additional bicycle/pedestrian connections to the Lakelands Ridge community.

Blocks A, B, and D

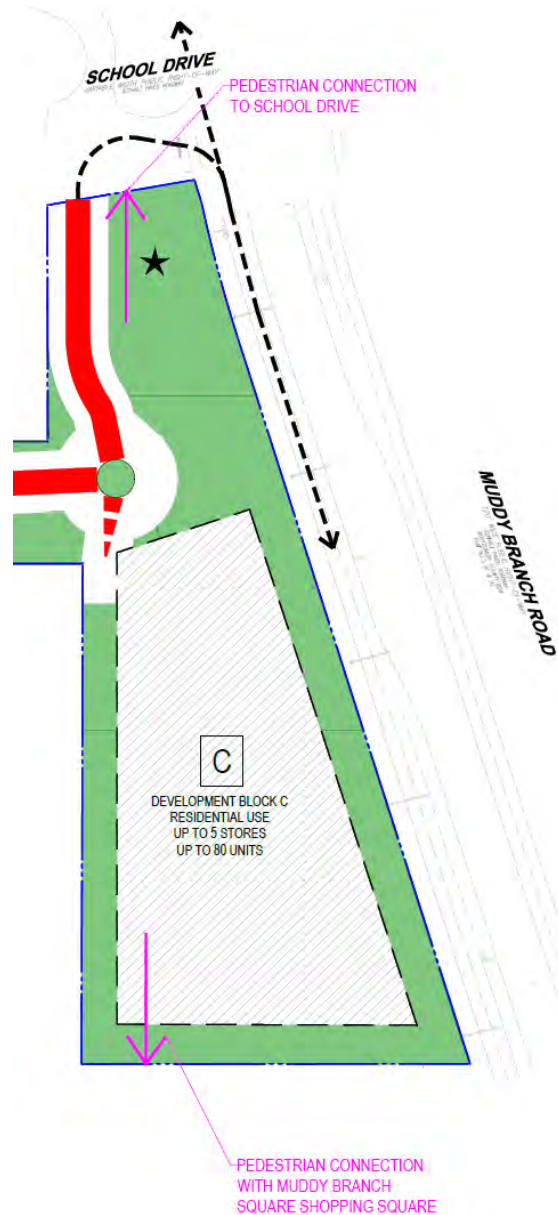


Proposed Sketch Plan, Blocks A, B, & D²²

²² Exhibit #03

Blocks A, B, and D are arranged in a “U” shape around a proposed amenity area that will include open lawn and could include a small clubhouse building and a pool. The main private road separates Block D to the south from Blocks A and B to the north, and provides both vehicular and bicycle/pedestrian access. Each block will include a multifamily building up to five stories in height, with adjacent surface parking and landscaping. Block A allows up to 90 units, Block B allows up to 115 units, and Block D allows up to 95 units, for a total of 300 units in this area, or 79% of the total unit count. In response to concerns from the Lakelands Ridge community, no bicycle/pedestrian connections are provided, though it would be beneficial to have at least one connection to Lakelands Ridge.

Block C



Proposed Sketch Plan, Block C²³

²³ Exhibit #03

Block C is located along Muddy Branch Road, a short distance from the other blocks in the development. The block is located south of the main private road, with vehicular and bicycle/pedestrian access provided by a private driveway that extends from a potential small traffic circle where the private road turns 90 degrees. This block's somewhat isolated location provides opportunities for more unique units and architectural massing that take advantage of its prominence on a small hill overlooking Muddy Branch Road and the adjacent shopping center. Similar to the other blocks, Block C will include a multifamily building up to five stories in height, with adjacent surface parking and landscaping. The maximum number of units on Block C is 80.

Bicycle/Pedestrian connections are provided to the adjacent Muddy Branch Square Shopping Center and the School Drive stub-out next to Muddy Branch Road. The Applicant is also proposing an entrance feature along the private road to the north of Block C, which could include artwork that commemorates the Property's former use as an anti-missile defense system.

SUMMARY

The Applicant has submitted for consideration a sketch plan application SK-9497-2023 that proposes a new multifamily residential community on land that was formerly used by the federal government for almost 70 years. The proposed multifamily community will provide new market-rate units in an area that has not had new multifamily buildings since the late 1990s, and will create new moderately priced dwelling units (MDPUs) in an area that does not currently have any regulated affordable housing units. The proposed development intends to be complementary to, and be compatible with, the existing adjacent residential communities of Lakelands Ridge, Timberbrook, and Shady Grove Village, as well as the Muddy Branch Square Shopping Center to the south.