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**MEMORANDUM TO: Mayor and City Council and Planning Commission**

**FROM:** Kirk Eby, Planner III

**DATE:** October 4, 2021

**SUBJECT:** Preliminary Background Report: Application ASK-9892-2024

**APPLICANT/OWNERS**

Henry Investment Partners (HIP) Projects, LLC (applicant)  
BPTC Thirteen, LLC (owner)  
226 Spectrum Avenue  
Gaithersburg, MD 20879

**TAX MAP REFERENCE:**

Tax Assessment Map # FT23, Parcel N415  
(Lot 5, Block C, Plat 24332)  
(301 Paramount Park Drive)

**TAX ACCOUNT NUMBERS:**

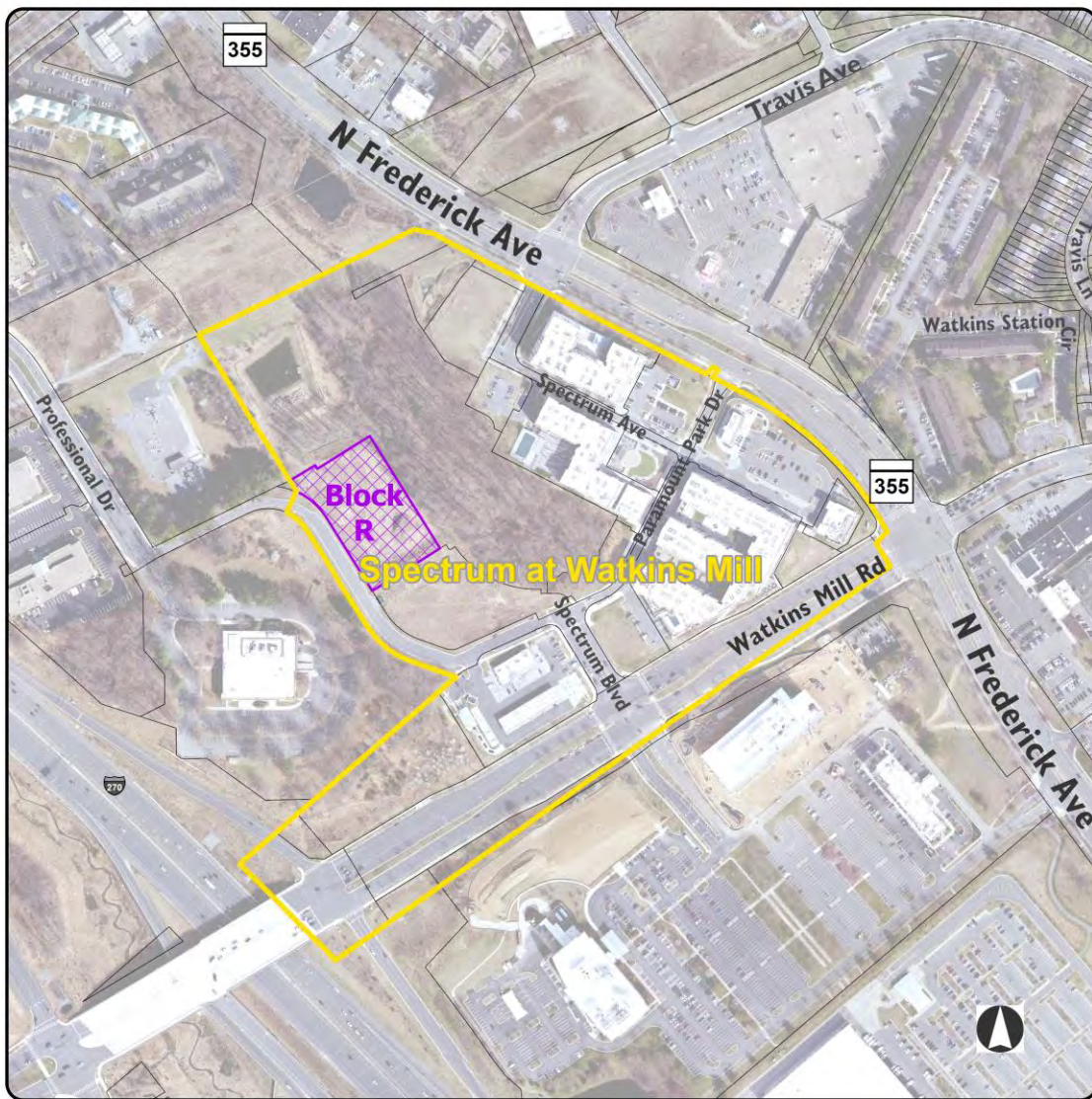
ID # 09-03691031 (Lot 5, Block C a.k.a. Building R)

**Remainder of the Spectrum development:**

ID # 09-03663294	ID # 09-03690936
ID # 09-03664950	ID # 09-03690947
ID # 09-03664961	ID # 09-03690958
ID # 09-03664972	ID # 09-03690960
ID # 09-03664983	ID # 09-03690971
ID # 09-03664994	ID # 09-03690993
ID # 09-03665010	ID # 09-03691007
ID # 09-03665008	ID # 09-03691018
ID # 09-03690878	ID # 09-03691020
ID # 09-03690880	ID # 09-03789946
ID # 09-03690891	ID # 09-03789957
ID # 09-03690903	ID # 09-03789968
ID # 09-03690914	ID # 09-03740438
ID # 09-03690925	ID # 09-03740440

## REQUEST

The applicant, Henry Investment Partners/ HIP Projects, LLC (“Applicant”), has submitted Sketch Plan Amendment application ASK-9892-2024<sup>1</sup>, to amend the sketch plan for the Spectrum at Watkins Mill subdivision. Because the application was submitted prior to the effective date of the new Zoning Ordinance (ReTool/Ordinance O-5-24) of the City Code, this application is subject to the previous zoning ordinance procedures of § 24-198(c) “Amendments to concept plans, sketch plans, and schematic development plans.” The Application proposes changes to Block/Building R only, including an increase in the number of units from 158 to 244, an increase of building height from 6 stories to 7 stories, and removal of the age restriction. No changes are proposed to the remainder of the Spectrum development.



Location

<sup>1</sup> Exhibit #01, Application

## **GENERAL INFORMATION**

### **LOCATION**

The subject area of the application (“Site” or “Property”) is currently an unimproved lot (Lot 5, Block C, Plat 24332), designated as Block (or Building) R on the plan and addressed as 301 Paramount Park Drive. The overall Spectrum development is improved with three mixed-use buildings with structured parking and commercial uses on the lower floors and multifamily apartments above (Blocks A, C, and H); four stand-alone commercial buildings (Blocks C, D, and F); a private park (Performer’s Park) with outdoor seating, a performance stage, artificial turf area, and a water feature; surface parking facilities; forest conservation along a stream valley; two stormwater management ponds; and open grass areas. In addition, the site includes one public use (police station) under construction (Block P), one unbuilt multifamily residential building (Block S/T), three unbuilt commercial sites (Blocks B, K, and L), and the unbuilt City senior center (Block Q). The Property is located at 301 Paramount Park Drive and the Spectrum development is bounded by Interstate 270 and Paramount Park Drive to the southwest, Watkins Mill Road to the southeast, North Frederick Avenue (MD 355) to the northeast, and the Pepco power line corridor to the northwest. Primary access points to the Site are from North Frederick Avenue, Watkins Mill Road, and Paramount Park Drive/Professional Drive.

### **ADEQUATE PUBLIC FACILITIES ORDINANCE (APFO)**

While compliance with 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.

#### **Water and Sewer Services and Public Utilities**

The Property is currently developed with both public water and sewer service and is identified as Category W-1 for water and Category S-1 for sewer in the 2022 Montgomery County Comprehensive Water and Sewer Plan,<sup>2</sup> meaning that public service exists.

#### **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)
- Station 29 (Germantown)
- Station 34 (Germantown/Milestone)

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<sup>2</sup> <https://www.montgomerycountymd.gov/DEP/water/water-supply-wastewater/comprehensive-water-sewer-plan-2022.html>

## **Schools**

The proposed multifamily residential building within the Spectrum at Watkins Mill subdivision is located in the Watkins Mill cluster of the Montgomery County Public Schools (MCPS) system. The schools within the cluster that currently serve the development are Watkins Mill Elementary School, Montgomery Village Middle School, and Watkins Mill High 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, 2024, all schools within the Watkins Mill cluster serving this subdivision have adequate capacity to support new residential development. Staff further notes that the Watkins Mill Cluster is included in the boundary study for the new high school at Crown, so the schools serving The Spectrum development may change in the future.

## **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.

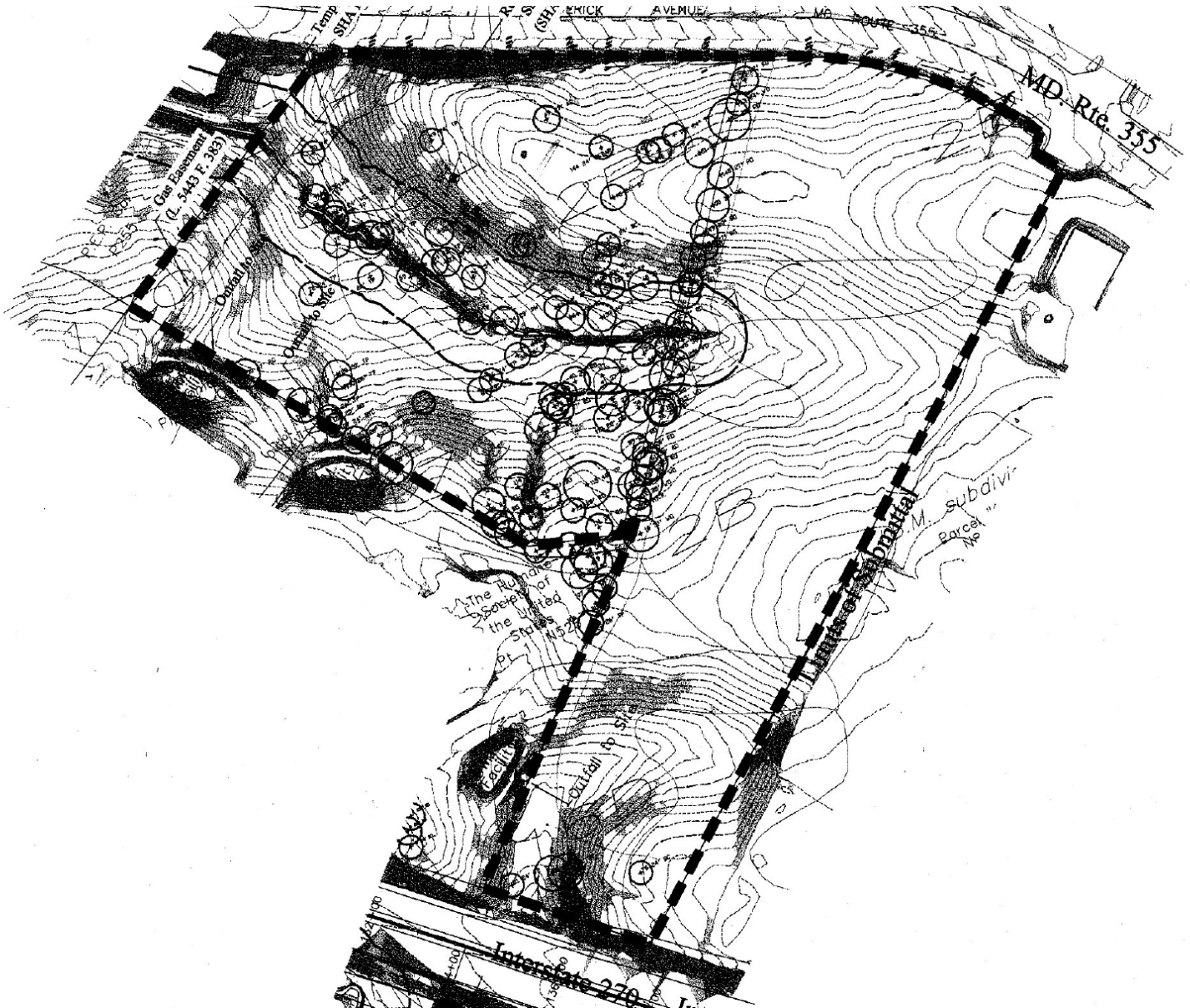
## **EXISTING LAND USE/PHYSICAL CHARACTERISTICS**

A Natural Resources Inventory/Forest Stand Delineation (NRI/FSD) was approved December 2, 2004<sup>3</sup> as PI-V040039, and later revised on March 10, 2005. As previously noted, the Property is currently an unimproved lot with no improvements and is located within the larger Spectrum development, which has three mixed-use buildings, four stand-alone commercial buildings, a private park, surface parking facilities, forest conservation along a stream valley, two stormwater management ponds, and open grass areas. Additionally, there is one lot with the County police station under construction and five unbuilt lots that are approved for residential, commercial, or public uses. The Property is within the Great Seneca Creek watershed. A perennial stream and associated 100-year floodplain runs through the Spectrum development in the rear of this parcel, between MD 355 and Paramount Park Drive, most of which is protected by a conservation easement. No rare, threatened, or endangered species were located on site, and the Property is not identified as a historic or cultural site in the Maryland Inventory of Historic Properties, the National Register of Historic Places, or the City's Historic Preservation Element of the Master Plan.

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<sup>3</sup> Exhibit #06, Approved NRI/FSD

An excerpt from the approved NRI/FSD is included below. Stream valley and wetland buffers, based on City standards, are demarcated on the plans, along with the location of the 100-year floodplain. Staff notes that the NRI/FSD was created and approved before any development had occurred on the land and remains valid for this Application.



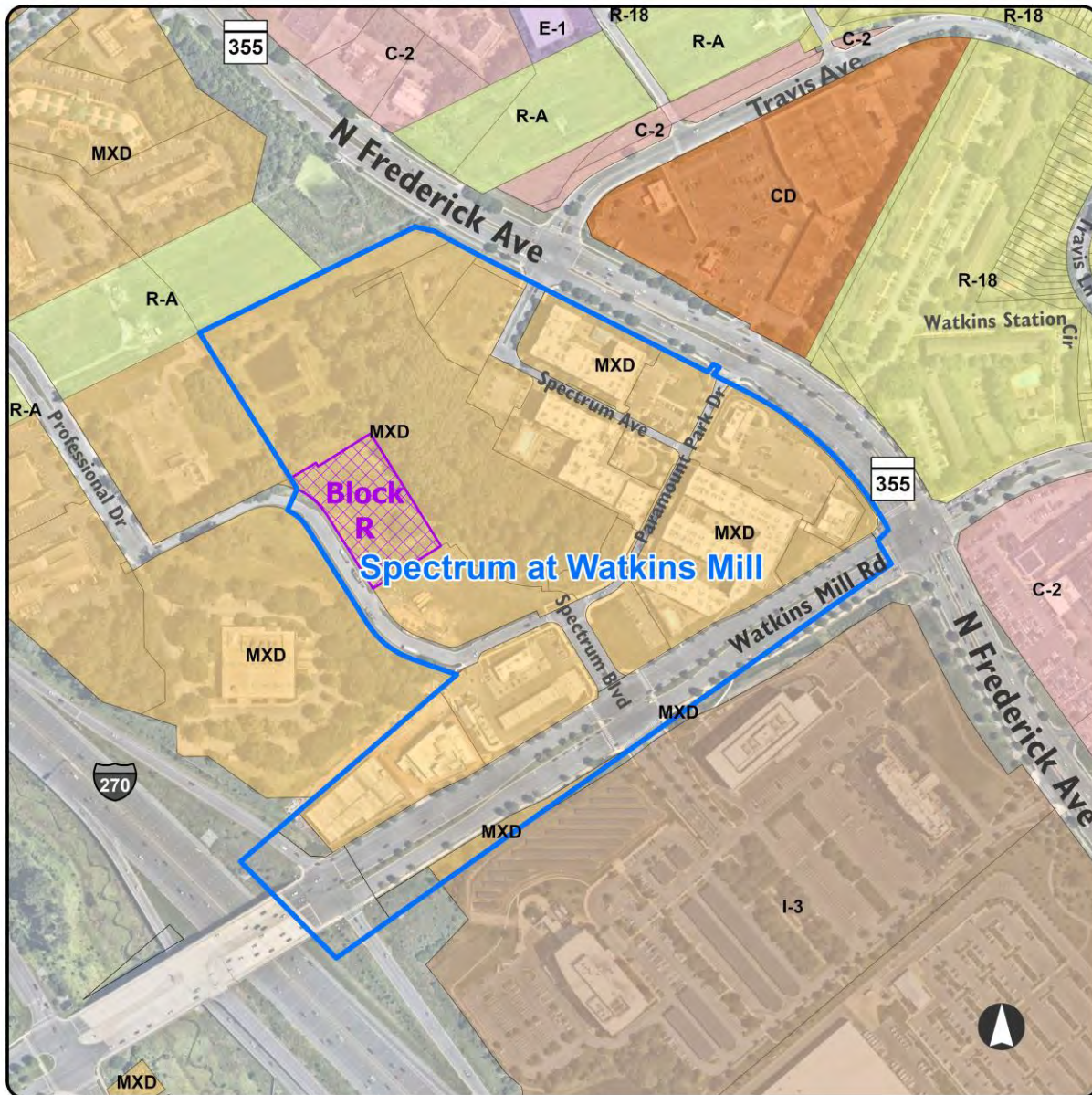
**NRI/FSD, Spectrum at Watkins Mill (a.k.a. Casey East)**

Because there are no changes proposed for the building footprint and associated impervious areas of Block R, stormwater management approval for this Application is included in the approved previous sketch plan application Z-301(A).<sup>4</sup> Stormwater management for this Application and the Spectrum development are also included in the approved stormwater management administrative waiver SWM ADW W-11-3.<sup>5</sup>

<sup>4</sup> Exhibit #09, Approved Stormwater Plan from Z-301(A)

<sup>5</sup> Exhibit #08, SWM Waiver

## NEIGHBORHOOD LAND USE AND ZONING



### Zoning

The Property is zoned Mixed Use Development (MXD) and is currently a vacant lot within the developed mixed use community of The Spectrum at Watkins Mill. The adjacent lot is owned by the City and is vacant, the parcel to the southwest is zoned MXD and is being used as an adult day care facility, the parcel to the northeast contains a stream valley that is under a conservation easement, and the parcels to the northwest are zoned R-A and serve as a corridor for Pepco's high-voltage electric lines, various telecommunication facilities, and other utilities. Across Watkins Mill Road, to the southeast, lies the Monument Technology Campus, which is zoned I-3 and improved with two office buildings and a hotel, and includes an unbuilt office building site. Properties to the

northeast across MD 355 include a multifamily apartment complex zoned R-18, a shopping center zoned CD, and several narrow vacant parcels zoned C-2. Properties to the northwest across the Pepco corridor are zoned MXD and include office, research and development, and a hotel. Properties to the southwest are zoned MXD and improved with office and research and development, along with a Colonial Pipeline facility. The mixed use community of Watkins Mill Town Center (a.k.a. Parklands at Watkins Mill or Casey West) is located farther to the south and west, across Interstate 270.

## **MASTER PLAN, ZONING AND SITE PLAN HISTORY**

### **Annexation and Zoning**

Most of the Property was annexed into the City of Gaithersburg by resolution R-8-68 on April 15, 1968 as part of Annexation X-095 and zoned I-3, Industrial and Office Park. A narrow 17.5-foot wide strip of land connecting to the Humane Society property was annexed by resolution R-15-71 on June 17, 1971 as part of X-101 and also zoned I-3, Industrial and Office Park. There were no annexation agreements associated with those two annexations.

On June 20, 2006, the Mayor and City Council by ordinance O-05-06<sup>6</sup> approved Zoning Map Amendment application Z-301<sup>7</sup>, which rezoned the entire property from the I-3 (Industrial and Office Park) Zone to the MXD (Mixed Use Development) Zone.

### **Master Plan**

The Spectrum Development was included in the Neighborhood 6 Land Use Plan of the 1997 Master Plan, as part of Study Area 3, Map Designation 6.<sup>8</sup> The land use recommendation of that Plan states:

*Designate the 73-acres of I.B.M and N417, owned by the Casey Trust, as commercial/industrial-research-office (Map Designation 6) which equates to the Mixed Use development (MXD) Zone. Development of this site for commercial retail facilities could possibly include a hotel: expansion of office and research and development uses would be permitted. The City is currently evaluating the feasibility of constructing a new interchange at Watkins Mill Road Extended over Interstate 270 to link Neighborhoods Five and Six and provide alternative transportation options to the interchange of North Frederick Avenue and Montgomery Village Avenue. The location of any development on the vacant 33-acre parcel on the northern portion of the I.B.M property should take into consideration the placement of a new interchange. The main emphasis of the siting of new buildings will be towards Watkins Mill Road Extended. Watkins Mill Road Extended should be designed so that is compatible with surrounding uses and the design of*

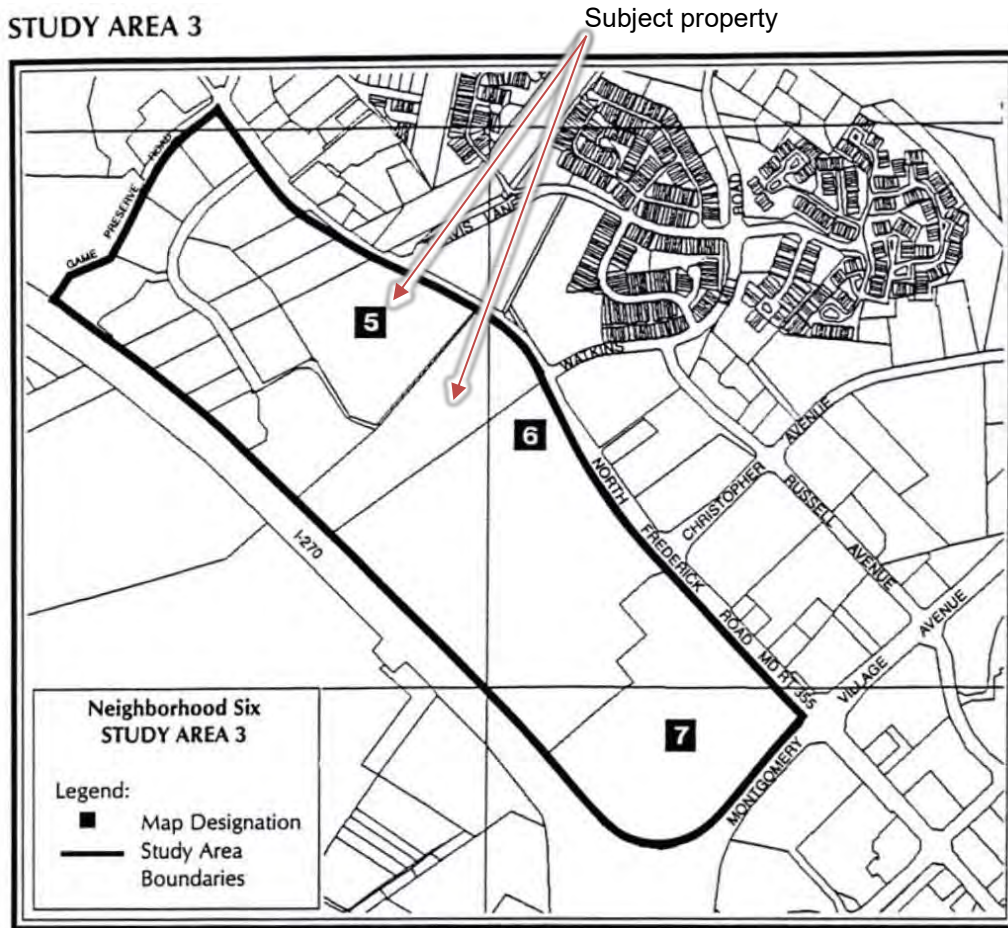
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<sup>6</sup> Exhibit #25, Ordinance O-05-06

<sup>7</sup> Exhibit #24, Excerpt of Sketch Plan Z-301

<sup>8</sup> Exhibit #29, Excerpt of the 1997 Master Plan Neighborhood 6 Land Use Plan

*the interchange incorporating, where feasible, appropriate traffic calming measures more in keeping with the City's design standards emphasizing pedestrian access. Access to the vacant 33 acres will be from Watkins Mill Road Extended and an additional access point from North Frederick Avenue.*



Total Area	104
Estimated Population	0
Housing Units	0
Predominant Land Use	Industrial-Research-Office
Vacant Land	108 acres

**1997 Neighborhood Six Land Use Plan**

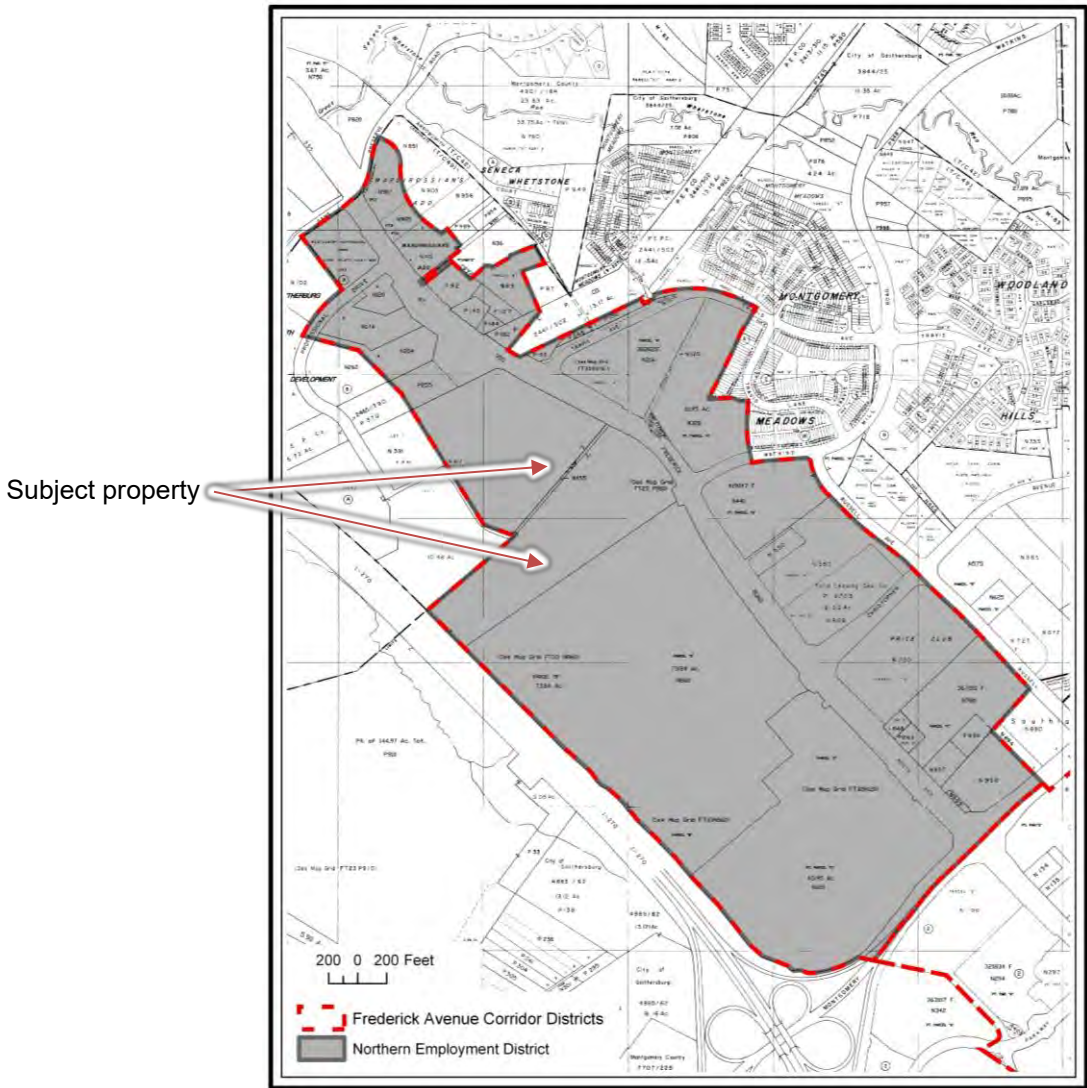
The properties are also located within the Northern Employment District of the 2001 Frederick Avenue Corridor Land Use Master Plan.<sup>9</sup> While the Frederick Avenue Corridor Land Use Master Plan does not have a specific recommendation for the subject property, it does include the following broad recommendation for the entire district:

*The Northern Employment District extends from Montgomery Village Avenue (Maryland Route 124) on the south, to Game Preserve Road on the*

<sup>9</sup> Exhibit #28, Excerpt of the 2001 Frederick Avenue Corridor Land Use Plan

north. This district is dominated by several larger, vacant tracts of land on the west side of North Frederick Avenue as well as car dealerships, and other large scale retail, hotel and large office complexes. All land use designations and zoning recommendation made in the 1997 Neighborhood Six Land Use Plan are reconfirmed. However, all parcels are required to adhere to the Frederick Avenue Corridor Plan development requirements.

The future roads shown on the map above reflect the intent of the City's Transportation Element and the 1997 Neighborhood Six Land Use Plan. The extension of Travis Avenue and the Connector to Watkins Mill Road-Extended provide an important outlet to Interstate 270 for those businesses on Professional Drive. The Watkins Mill Road interchange at Interstate 270 is also very important in relieving traffic congestion on Maryland Route 355 and access to properties in both Neighborhood Five and Six.



**2001 Frederick Avenue Corridor Land Use Plan – Northern Employment District**

The Land Use Element of both the 2003<sup>10</sup> and 2009<sup>11</sup> Master Plans re-confirmed the commercial/industrial-research-office land use established by the 1997 Master Plan

Staff notes that the Spectrum development has been constructed and used as a mixed use community with a residential component since its initial approval almost 20 years ago. As part of its review and approval of the most recent sketch plan amendment, ASK-8940-2021,<sup>12</sup> the Planning Commission found that events since the adoption of the Land Use Element of the Master Plan make the land use recommendation in that Plan no longer relevant and found that the application was in accord with other elements of the Master Plan, including the Process and Overview Element and Transportation Element.

### **Sketch and Site Plans**

The Mayor and City Council approved Zoning Map Amendment application Z-301<sup>13</sup> on June 19, 2006 by ordinance O-05-06,<sup>14</sup> which included a sketch plan that allowed development of a mixed-use community in two major phases and several sub-phases. The associated schematic development plan SDP-05-003<sup>15</sup> was approved at the same time by resolution R-65-06,<sup>16</sup> which allowed development of a mixed-use community with 181,000 square feet of mixed-use commercial uses, 39,200 square feet of public uses, 242 market-rate multifamily condominium dwelling units in two buildings (A and R), and 140 “age-restricted” (senior)<sup>17</sup> multifamily condominium dwelling units in one 7-story vertical mixed-use building (C) that would be constructed as part of the initial Phase 1. The public uses included a 29,200 square foot County police station and a 10,000 square foot City senior center.

On August 20, 2007, the Mayor and City Council approved schematic development plan amendment SDP-07-001<sup>18</sup> by resolution R-92-07,<sup>19</sup> which increased the mixed-use commercial area to 186,300 square feet, reduced the number of market-rate multifamily condo dwelling units to 225 in two buildings (A and C), increased the number of age-restricted multifamily condo units to 158 and moved them to Building R (next to the senior center), reduced the height of Building R from nine stories to six, placed the age-restricted building in the later Phase 2 rather than the initial Phase 1, reduced the height of Building C (Paramount West apartments/commercial) from seven stories to five, and increased the size of the senior center to 30,000 square feet and sited it on a larger parcel. The development was still planned to occur in two major phases with several sub-phases.

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<sup>10</sup> Exhibit #27, 2003 Master Plan Land Use Categories and Map

<sup>11</sup> Exhibit #26, 2009 Master Plan Land Use Categories and Map

<sup>12</sup> Exhibit #13, Resolution PCR-ASK-8490-2021

<sup>13</sup> Exhibit #24, Excerpt of Sketch Plan Z-301

<sup>14</sup> Exhibit #25, Ordinance O-05-06

<sup>15</sup> Exhibit #22, Excerpt of SDP-05-003

<sup>16</sup> Exhibit #23, Resolution R-65-06

<sup>17</sup> The term “age restricted” is used in Ordinance O-5-06, but is not defined. The associated SDP-05-03 plans show that the parking provided for this building is the same ratio as the non-age-restricted units, implying that age 55 and over is allowed. This is true of the subsequent sketch plan and schematic development plan approvals.

<sup>18</sup> Exhibit #20, Excerpt of SDP-07-001

<sup>19</sup> Exhibit #21, Resolution R-92-07

The Planning Commission approved final site plan SP-07-0017 on July 15, 2009 for Phase 1A of the development, and approved final site plan SP-09-004 on June 2010 for Phase 1B of the development. Those two final site plans included infrastructure (roads, stormwater, and utilities) and buildings A (Paramount East apartments/commercial), C (Paramount West apartments/ commercial), and C-1 (stand-alone commercial building adjacent to Performers Park).

Applications Z-301(A)<sup>20</sup> and SDP-11-002<sup>21</sup> were later filed concurrently to amend the approved sketch plan and schematic development plan. Sketch Plan application Z-301(A) reduced the mixed-use commercial to 155,610 square feet, increased the number of market-rate multifamily dwelling units to 511 in three buildings (A, C, and H), retained the 158 age-restricted multifamily units in Building R, allowed the dwelling units to be either condos or rental apartments, and retained a two-phase development plan as summarized below. The phasing plan was tied to the construction of the Watkins Mill Road Interchange, and since the interchange has been completed, the Applicant has constructed portions of both phases of the development.

Phase 1: Commencement at Approval of the Final Site Plan

61,710 sf	Mixed Use (retail/restaurant) – Buildings A (retail), B, C (retail and restaurant), D, F, H (retail), M, and T
8,000 sf	Mixed Use (office/bank) – Buildings L and S
29,200 sf	Montgomery County Police Station – Building P
30,000 sf	City Senior Center – Building Q
511 DUs	Multi-family units – Building A, C and H

Phase 2: Commencement at commencement of Watkins Mill Road Interchange

15,500 sf	Mixed Use (retail/restaurant) – Building K
1,500 sf	Mixed Use (retail) – Building R
64,100 sf	Mixed Use (office/bank) – Buildings K and O
4,800 sf	Mixed Use (service station) – Building N
158 DUs	Age-Restricted Multifamily units– Building R

The Mayor and City Council by ordinance O-2-12<sup>22</sup> granted approval of sketch plan Z-301(A) on March 19, 2012. Subsequently, the Mayor and City Council by Resolution R-19-12<sup>23</sup> approved Schematic Development Plan SDP-11-002 on March 19, 2012. The Planning Commission approved final site plan SP-12-0002 on April 3, 2013 for buildings F (Firebirds restaurant), H (Magnolia apartments/commercial), L (unbuilt bank) and M (unbuilt commercial).

On January 6, 2020, the Mayor and Council approved schematic development plan SDP-8198-2019,<sup>24</sup> which made changes to Blocks B (unbuilt pad site), D (Starbucks),

<sup>20</sup> Exhibit #16, Excerpt of Sketch Plan Amendment Z-301(A)

<sup>21</sup> Exhibit #18, Excerpt of SDP-11-002

<sup>22</sup> Exhibit #17, Ordinance O-02-12

<sup>23</sup> Exhibit #19, Resolution R-19-12

<sup>24</sup> Exhibits #14, Excerpt of SDP-8198-2019; and #15, Resolution R-04-20

and N (Royal Farms), decreasing the overall mixed commercial to 148,510 square feet. No changes were made to the residential areas of the development. Final site plan SP-8401-2020 was approved by the Planning Commission on August 5, 2020, for buildings B, D (Starbucks), and N (Royal Farms).

The Mayor and Council approved ASK-8940-2021<sup>25</sup> on November 4, 2021, which converted two unbuilt commercial pad sites (Blocks S and T) into a 225-unit market-rate multifamily residential building and changed all of the “mixed commercial” uses to “nonresidential” uses to clarify and expand the types of uses allowed. The sketch plan amendment increased the maximum number of market-rate multifamily units to 692<sup>26</sup> in four buildings, retained the 158 age-restricted multifamily units on Block R, retained the 29,200 square foot County police station and 30,000 square foot city senior center, and reduced the nonresidential uses to 152,900 square feet. The new residential units in Block S/T were included in Phase 1, while the age-restricted units in Block R remained in Phase 2. On November 14, 2022, schematic development plan SDP-9269-2022<sup>27</sup> was approved by the Mayor and Council, reflecting the changes in sketch plan amendment ASK-8940-2021.

The development has also received a number of minor amendments approved by both the Planning Commission and Planning Staff.

## **REQUIRED ACTIONS**

### **Sketch Plan ASK-9892-2024**

Sketch Plan ASK-9892-2024 is an amendment (revision) to the previously approved Sketch Plan Amendment ASK-8940-2021. Because this application was submitted prior to the effective date of the new City Zoning Ordinance (Chapter 24 / “ReTool”), the amendment follows the procedures outlined in the previous zoning ordinance.<sup>28</sup> Under the old zoning ordinance, sketch plans could be amended in one of two ways under City Code section 24-198(c). Applicants could either (1) submit a new sketch plan or (2) resubmit the previously-approved sketch plan to the Mayor and City Council for a courtesy review. During the courtesy review, the Mayor and City Council would either direct the Planning Commission to conduct a public hearing and make a final decision on the application, or direct the Planning Commission to hold a public hearing and make a recommendation to the Mayor and City Council, followed by final action being taken by the Mayor and City Council. The applicant chose to submit the Amendment for a courtesy review by the Mayor and City Council, which was conducted at their September 15, 2024 meeting.<sup>29</sup>

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<sup>25</sup> Exhibits #12, Excerpt of Sketch Plan Amendment ASK-8490-2021; and #13, Resolution PCR-ASK-8490-2021

<sup>26</sup> Building H (The Majestic) was approved for 287 units, but only 243 were constructed, so the new 225-unit building only increased the overall number of approved market-rate units by 181, for a total of 692 rather than 736.

<sup>27</sup> Exhibits #10, Excerpt of SDP-9269-2022; and #11, Resolution R-58-22

<sup>28</sup> Exhibit #30, Excerpt of the Previous Zoning Ordinance

<sup>29</sup> Exhibit #32, Excerpt of the Minutes of the September 16, 2024 Mayor and City Council Meeting

During the Courtesy Review meeting, staff discussed the proposed changes and stated their opinion that the proposed removal of the age restriction was not minor in nature. Staff also presented an overview of the review process under the old zoning ordinance. The Mayor and Council discussed the proposed changes, particularly the removal of the age restriction, and found that the application did not have a minor effect. The Council then inquired whether the public hearing could be a joint public hearing rather than just the Planning Commission. The City Attorney responded that a joint public hearing would be allowed and the Council directed staff to schedule a joint public hearing with the Planning Commission, followed by a recommendation from the Commission and policy discussion and final action by the Mayor and City Council.

Section 24-160D.10(a) of the previous zoning ordinance states that the Mayor and City Council may approve a sketch plan amendment 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.*

### **ASK-9892-2024 SKETCH PLAN AMENDMENT ELEMENTS**

The Applicant has submitted an application under the old zoning ordinance seeking to amend the existing sketch plan, in accordance with § 24-160.D.11. "Procedures for amendment." Sketch Plan Amendment ASK-9892-2024 retains the majority of the elements from the previous ASK-8940-2021 sketch plan amendment, with three or four proposed revisions to Block R. The Applicant, as part of the application, has submitted a new statement of support and justification<sup>30</sup> (Statement) outlining the purpose of the current request, including findings in accordance with § 24-160D.10.(a) of the previous zoning ordinance. The following discussion is based on the testimony provided in the Applicant's Statement.

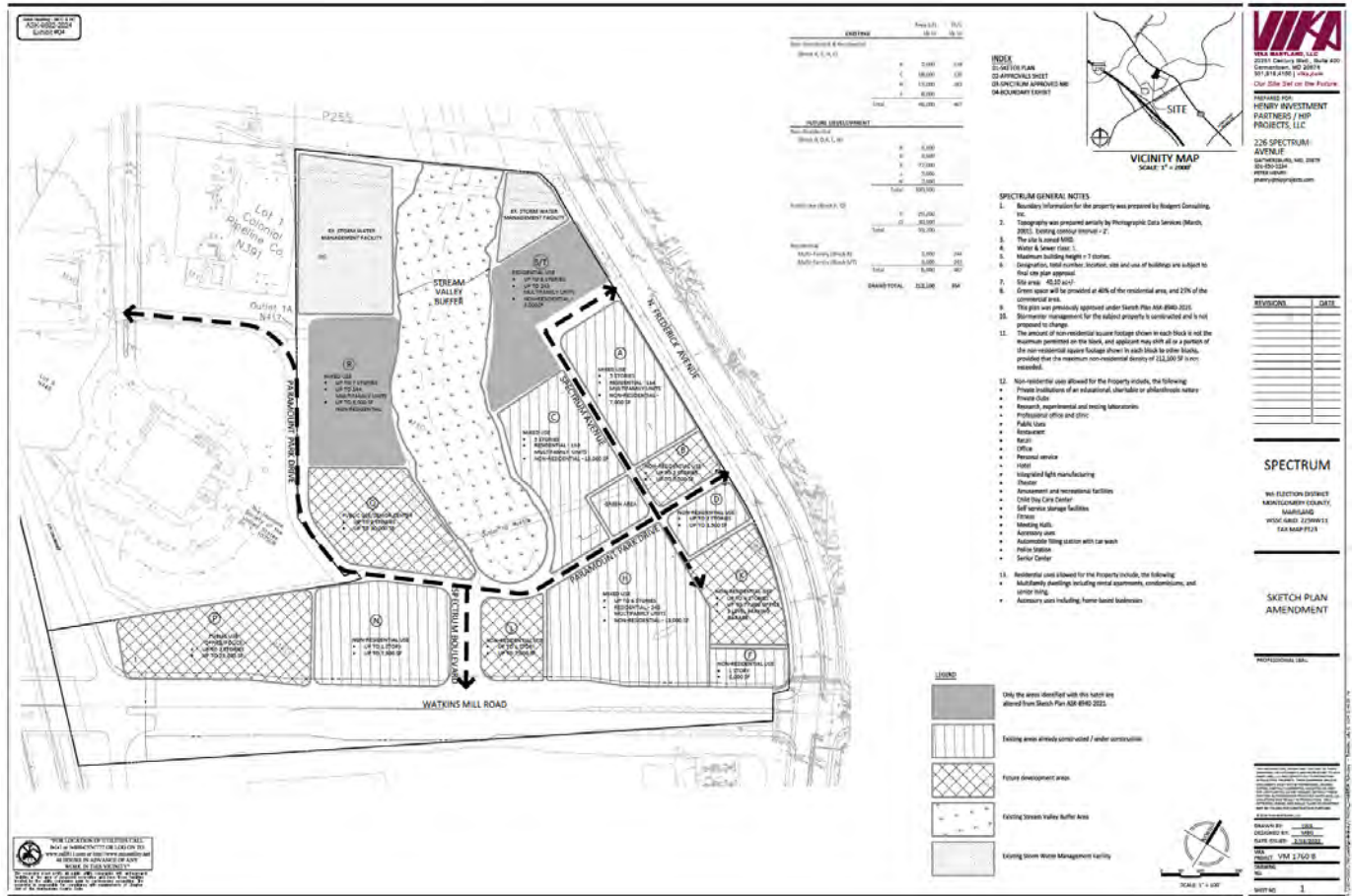
#### **Overview of Amendment**

According to the Statement, the main purpose of the sketch plan amendment is to revise the building for Block R (The Magnolia) by removing the age restriction, increasing the number of dwelling units from 128 to 244, and increasing the height of the building from six to seven stories. The Applicant may also be removing non-residential use on Building

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<sup>30</sup> Exhibit #03, Applicant's Revised Statement

R, since it is shown on the plan but not mentioned nor addressed in the Statement. There are no other proposed changes to uses, amenities, roads, buildings, or open spaces in the remainder of the Spectrum development.



**Proposed Sketch Plan Amendment<sup>31</sup>**

**Removal of Age Restriction**

The most significant change in this Application is the proposed removal of the age restriction for Block R. In its Statement, the Applicant discusses the different types of senior housing in the market and notes that Building R falls within the “age-restricted” category, which is a stand-alone building restricted to persons 55 years old and older with a few onsite senior-specific amenities. Other types of senior housing are independent living, assisted living, memory care, and skilled nursing. The Applicant asserts that the age restriction is not needed for Building R because seniors are voluntarily choosing to live in the Spectrum community as part of a larger trend of older persons wanting to live in a “multigenerational” community rather than living in an isolated age-restricted community. Seniors who do choose to live in an age-restricted setting are choosing instead to live in a facility that offers all levels of assistance and care: the continuing care

<sup>31</sup> Exhibit #04, Sketch Plan Drawing

retirement community, which is also the fastest growing segment of new senior housing. The Applicant further asserts that financing a stand-alone age-restricted building is challenging and notes that the market study conducted by their consultant showed there was no market interest in constructing senior housing at this location.

Staff notes that age-restricted housing was included in the initial Z-301 rezoning application and sketch plan and has been included in every subsequent approval. The inclusion of age-restricted units in the initial application created a unique diversity of housing and population for the proposed mixed-use Spectrum community, and was a factor in its approval by the Mayor and City Council.

In its Statement, the Applicant discusses at length the current trend of creating “multigenerational” communities rather than age-restricted communities as justification for removing the age restriction. Staff notes that this amendment is concerned with just one building within a larger community, and designating the one building within the community as age-restricted *ensures* that the community *does* become more of a “multigenerational” community. If all of the buildings in the community are open to all ages, there is no guarantee that older persons will choose to live there and help create a “multigenerational” community. In fact, as discussed in the demographics section below, this area of the City has a lower proportion of both persons aged 55 and older (14.3%) and persons aged 62 and older (6.9%) than the City as a whole (25.0% and 16.3% respectively),<sup>32</sup> so requiring age-restricted units here will likely increase the overall senior population in this area. Lastly, there are other areas of the Spectrum that remain unbuilt and could be used to create additional market-rate housing, even if the age restriction remains in place for Block R.

### **Increased Number of Housing Units and Building Height**

The other proposed changes to Block R include increasing the number of dwelling units from 158 to 244 and increasing the height of the building by one story, from six to seven floors. The additional units are being added to the lower floors of the parking garage, which will not be visible from the street, and within a bridge structure over the swimming pool, which creates a more unique building structure. To explain the need for additional units on Block R, the Applicant’s Statement discusses the growth in the life sciences and other job sectors as the main driver for additional housing demand in the area. The Statement also notes that both employers and new employees prefer rental apartments and for-sale units that are located within a walkable community, and The Spectrum satisfies both of those requirements.

Staff considers the increase in units and height as being consistent with the surrounding development and supporting the City’s and Metro Region’s goals of creating more housing and locating new housing adjacent to existing infrastructure and jobs. Staff does have some concerns about the number of approved but unbuilt multifamily units in this area, including the 234 units on Block S/T in the Spectrum and the 580 units across the

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<sup>32</sup> Table B01001, 2022 5-year American Community Survey, using Tract 7007.33 Block Group 3 and City of Gaithersburg place geographies.

street at the Kimco Property. Staff also has concerns about the potential bedroom mix discussed in the Statement, which describes the Applicant’s difficulty of leasing 2 bedroom with den and 3 bedroom units as the reason that none are proposed here at Building R. While bedroom mix is a schematic development plan issue, staff has additional concerns that the other Building S/T approval in Spectrum has only 36% two-bedroom units, with the majority (53%) of units being one-bedroom and the remainder (11%) studios.

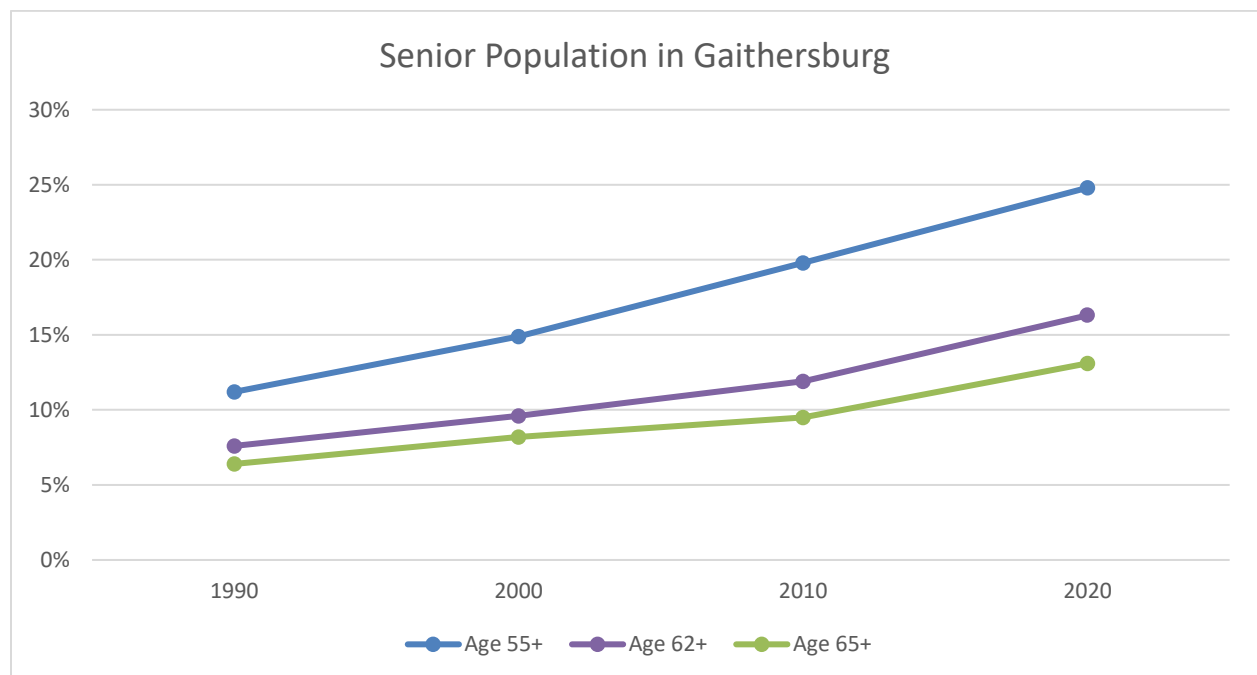
**DEMOGRAPHIC INFORMATION OF NOTE**

During the Courtesy Review, staff suggested that removal of the senior age restriction is not a minor change to the sketch plan, but rather a policy issue that should be reviewed by the Mayor and City Council. One of the factors leading staff to believe that removal of the age restriction is a policy issue are the demographic trends discussed below.

Staff first notes that the senior population of the City as a whole has continued to grow over the last 30 years, more than doubling in that time frame, as shown in the table and chart below. That growth is expected to continue for the foreseeable future as the “baby boomer” generation continues to age.

	1990	2000	2010	2020	2022
Age 55 & Older	11.2%	14.9%	19.8%	24.8%	25.0%
Age 62 & Older	7.6%	9.6%	11.9%	16.3%	16.3%
Age 65 & Older	6.5%	8.2%	9.5%	13.1%	13.3%

Source: Decennial Census, except 2022: 5-year American Community Survey



Source: Decennial Census

Staff further notes that this area of the City, located within Block Group 3 of Census Tract 7007.33, has a much lower proportion of seniors than the City overall, while its diversity is similar to the City, with no one group having a majority, as shown in the table below.

	Block Group 3, Tract 7007.33	Overall City
Age 55 and Older	14.3%	25.0%
Age 62 and Older	6.9%	16.3%
Age 65 and Older	4.4%	13.3%
White, non-Hispanic	21.4%	32.5%
Black, non-Hispanic	26.0%	15.5%
Asian, non-Hispanic	14.9%	20.9%
Hispanic	33.5%	26.0%

Source: 2022 5-year American Community Survey, Tables B01001 and B03002

Looking further into Block Group 3, staff notes that the average household size for renters living in a building with 5 or more units is similar to that of the overall City, with nearly two people in each unit. The same is true of the average household size for all renters, which is higher than 2 both within the Block Group and for the City as a whole. More than a third of renter households in the City have children under 18 and would likely prefer a two bedroom or larger unit.

	Block Group 3, Tract 7007.33	Overall City
Average Household Size, Renters in Buildings with 5+ units	1.97 (1,132 persons / 575 units)	2.32 (23,305 / 10,045)
Average Household Size, All Renters	2.26	2.51
Renter Households with Children under 18 years old	N/A	34.0%

Source: 2022 5-year American Community Survey, Tables B19049, B25010, and B25012

Looking at median income, staff notes that Block Group 3 has a much higher income for persons 65 years old and older than the City as a whole and that the income of persons 65 and older in the Block Group is also much higher than the median income for all ages in both the Block Group and the City as a whole.

	Block Group 3, Tract 7007.33	Overall City
Median Income, All Households	\$88,607	\$104,544
Median Income, Age 65+	\$186,500	\$92,250

Source: 2022 5-year American Community Survey, Tables B19049 and B25032/B25033

## **HOUSING ELEMENT OF THE MASTER PLAN**

Another factor leading staff to believe that removal of the age restriction is a policy issue is the Housing Element of the 2018 Master Plan, adopted September 18, 2023. The Housing Element includes the following goal and recommendations in the Equity and Social Justice chapter of the Element.

*Goal 4: Ensure the availability and consideration of needs for senior housing and housing for individuals with disabilities*

*Recommendation 5: Preserve existing and approved age- and ability-restricted housing projects.*

*Recommendation 6: Track changes in the City's senior population to assess the need for age-restricted units.*

Recommendation 5 is the most relevant to this Application, as it seeks to preserve age-restricted units that have been previously approved as part of a development project, such as those in Building R.

In addition, the Planning and Zoning chapter of the Master Plan includes the following goal and recommendation.

*Goal 1: Promote or create opportunities for a variety of housing types for current and future City residents of all income levels with costs that reflect the range of incomes.*

*Recommendation 5: The City's approval of multi-family rental projects should reflect unit sizes that are consistent with data-supported renters' household size needs.*

As mentioned in the demographic section above, the average household size of renters in buildings with five or more units is 2.32 for the City as a whole and 1.97 for the Block Group in which The Spectrum is located. This household size indicates a need for multifamily units with two or more bedrooms, particularly for those households with children and those that require a separate work-from-home space.

## **SUMMARY**

The Applicant has submitted for consideration a sketch plan amendment application ASK-9892-2024 that revises the previously approved ASK-8940-2021 sketch plan amendment. The changes proposed by the sketch plan amendment are limited to Block R and consist of removing the age restriction, increasing the number of dwelling units from 158 to 244, and increasing the height of the building from 6 stories to 7 stories.

Outside of Block R, all of the elements from the previously-approved ASK-8940-2021 remain unchanged.

Staff has several concerns with the proposed sketch plan, beginning with the removal of the age restriction. As staff has noted in this Report, the senior population of the City continues to grow and this area of the City has a lower proportion of seniors than the City as a whole, indicating that a need for age-restricted housing exists. Preserving existing approved age-restricted housing is a goal of the City's Housing Element of the Master Plan.

Another staff concern is the proposed unit bedroom mix mentioned in the Applicant's statement. Although this is a schematic development plan issue, the Applicant has indicated that it does not intend to provide 2 bedroom units with dens nor 3 bedroom units, yet has asked for additional units (density) to be approved.

Because this is the initial public hearing and Staff continues to complete their analysis of the Application, no formal recommendation is provided at this time. A recommendation will be provided by Staff prior to the Planning Commission's recommendation discussion, as part of the formal Staff Analysis document.

For the purpose of concluding the public hearing, Staff recommends:

1. The Planning Commission make a motion to hold their record open until 5:00 P.M. on Wednesday, November 20, 2024 (30 days) with a recommendation to the Mayor and City Council tentatively scheduled for Wednesday, December 4, 2024.
2. The Mayor and City Council make a motion to hold their record open until 5:00 P.M. on Friday, December 13, 2024 (53 days) with policy discussion tentatively scheduled for Monday, January 6, 2025.