
MEMORANDUM TO: Planning Commission
FROM: Kirk Eby, Planner III
DATE: November 27, 2024
SUBJECT: Staff Analysis: Application ASK-9892-2024; Spectrum Sketch Plan Amendment

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:

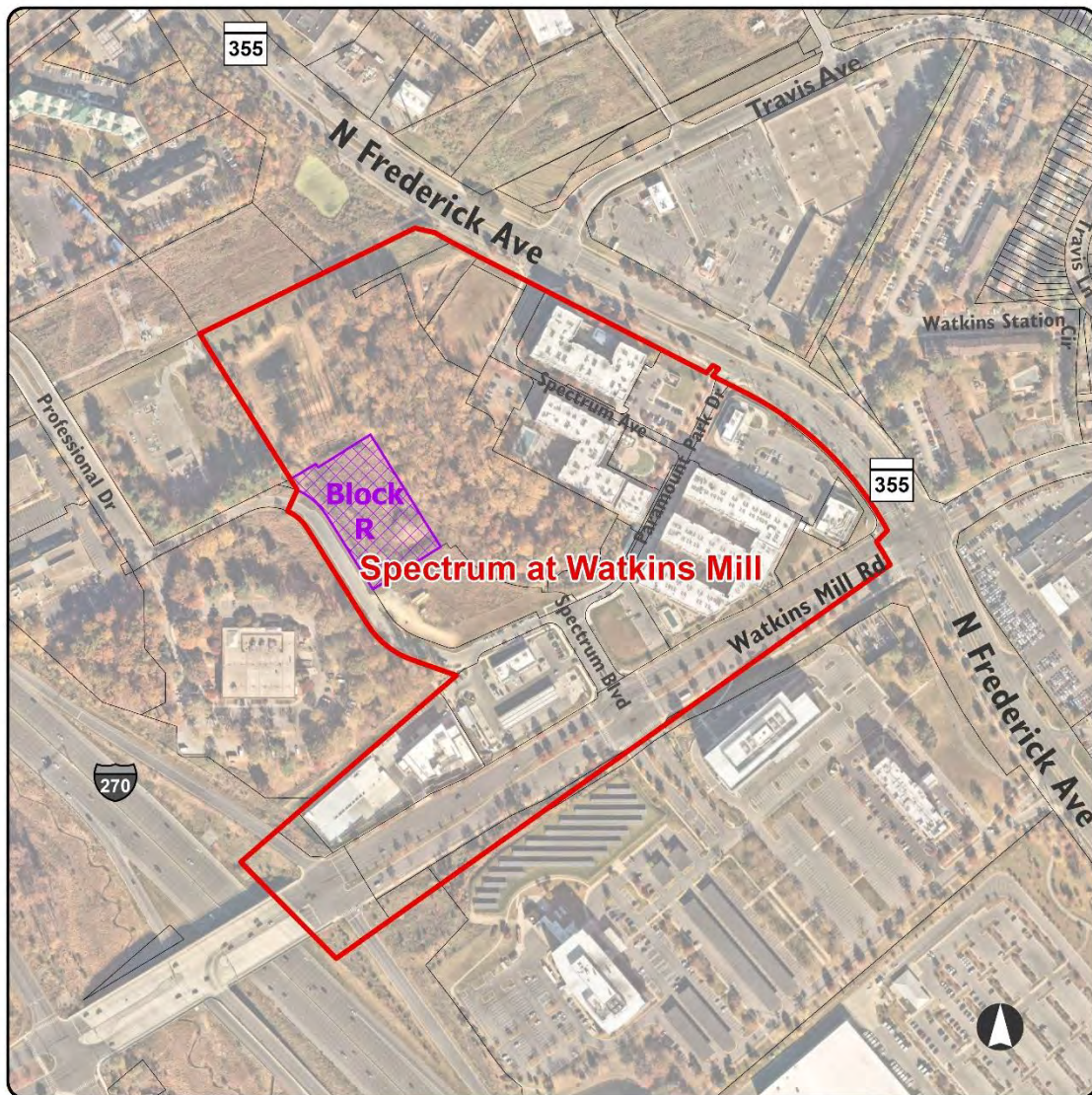
ID # 09-03691031 (Lot 5, Block C a.k.a. Building R)

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-9892-2024¹, 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

¹ 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.

ASK-9892-2024 SKETCH PLAN PROPOSAL:

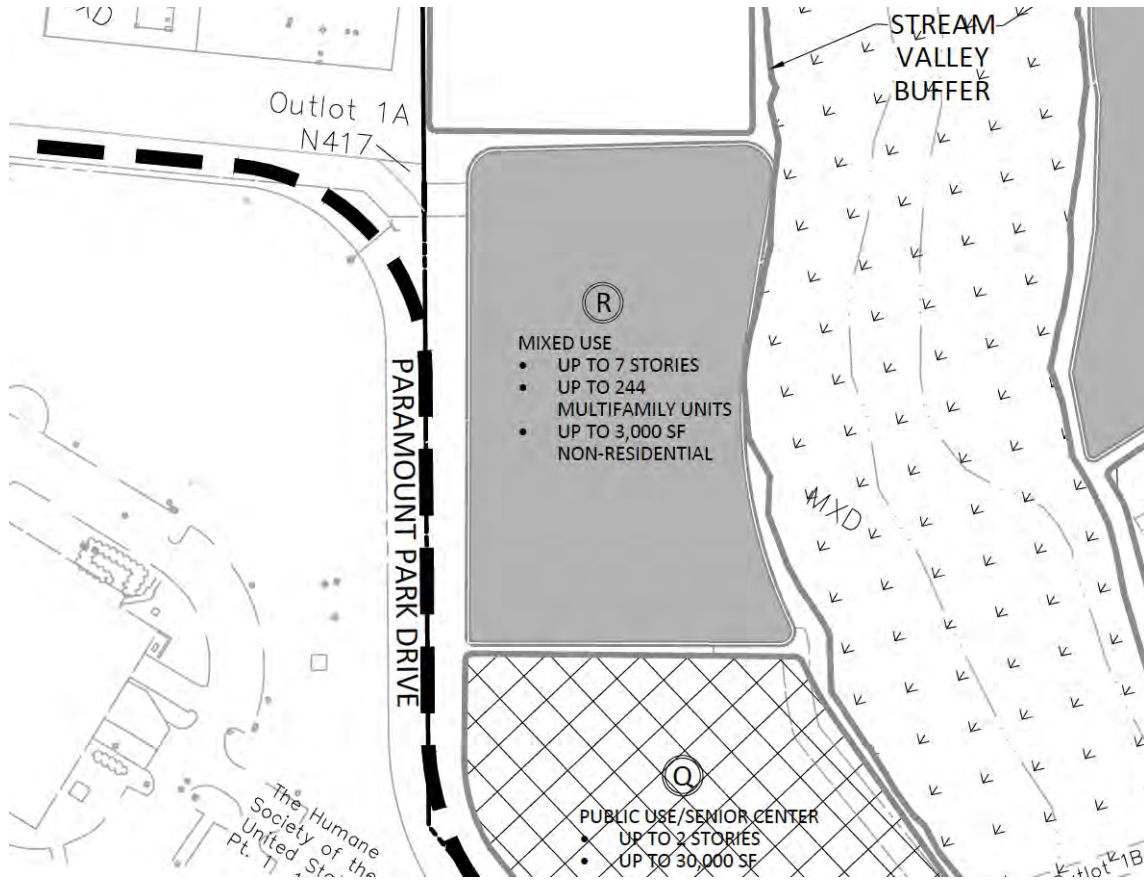
The Applicant, as stated, has submitted an application prior to the effective date of the new zoning ordinance (Re-tool), seeking to amend the previous sketch plan in accordance with § 24-198(c) of the prior zoning ordinance, “Amendments to concept plans, sketch plans, and schematic development plans.”² This sketch plan amendment revises the current sketch plan of record for the Property, ASK-8940-2021, approved on November 4, 2021, which was an amendment to sketch plan application Z-301(A), approved on March 19, 2012.

A joint public hearing before the Mayor and City Council and Planning Commission was held on October 21, 2024 and there was one speaker from the public, who expressed support for the amendment. During the course of the hearing, the Applicant presented the aspects of the amendment that differ from the previously-approved sketch plan. Key revisions include:

- Increasing the number of dwelling units from 158 to 244 (86 additional units);
- Increasing the height of the building from six to seven stories, to accommodate the increased number of units and take advantage of the sloping site characteristics; and
- Removing the age restriction for the building.

The other elements of the plan remain unchanged from the previously approved ASK-8940-2021 sketch plan amendment, including the proposed location of buildings, streets, and amenity spaces. This sketch plan amendment (ASK-9892-2024) seeks to build upon the existing mixed use community by providing additional multifamily residential units near the existing and proposed buildings in the Spectrum development and by removing the age restriction.

² For a complete review of topics such as site plan history, zoning, environmental context, and overview of application refer to Exhibit #44: Preliminary Background Report



Proposed multifamily building (Block R)³

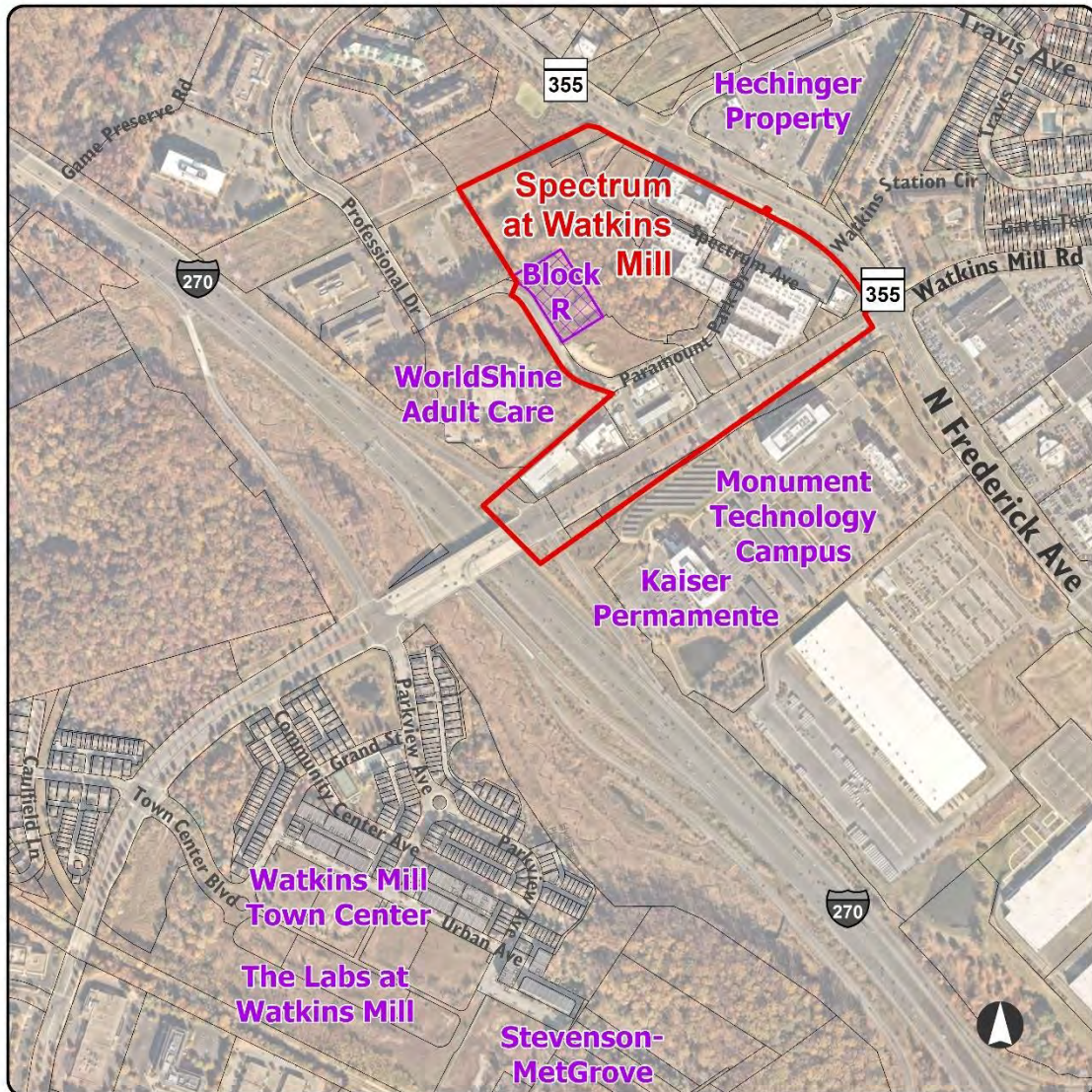
Increase in Density and Height

The requested higher density is partly in response to topography and partly in response to the anticipated continued market demand for additional housing near existing and planned life science and technology jobs, as explained in the Applicant’s Revised Statement⁴ and Response to questions posed at the joint public hearing.⁵ The Statement and Response note that the additional units and floor height allow the Applicant to create a more efficient floorplan and building design within the same footprint by utilizing the sloping topography next to the stream valley and creating a bridge element with units above the pool deck.⁶ The Applicant plans to include a mix of studios, one-bedroom, one-bedroom with den, and two-bedroom units in the Block R building, but will not include any two-bedroom with den or three bedroom units because the Applicant believes those larger units are difficult to rent.⁷

While Staff generally supports additional housing units being constructed, Staff has several concerns with the proposed additional units in Block R. First, staff is concerned about general market absorption and vacancy rates for rental multifamily units within the City. Staff notes that

³ Exhibit #04 (Sketch Plan Amendment Drawings)
⁴ Exhibit #03 (Applicant’s Revised Statement)
⁵ Exhibit #47 (Applicant Response to Joint Public Hearing Questions)
⁶ Exhibits #03 (Applicant’s Revised Statement) and #47 (Applicant Response to Joint Public Hearing Questions)
⁷ Exhibit #03 (Applicant’s Revised Statement)

551 other near-term multifamily units have been approved near this location but not yet built, which may indicate that market demand has softened and Block R may remain unbuilt or not fully occupied if built. Of those nearby units, 234 are within the Spectrum development (Building S/T), which, when combined with this Application, will bring the total approved but unbuilt number of multifamily units in Spectrum to 478.



Map of Spectrum and Surrounding Area

The Watkins Mill Town Center development, located directly to the south of I-270 along Watkins Mill Road, has 317 multifamily units approved but unbuilt. Just to the southeast of Watkins Mill Town Center is the Stevenson-MetGrove project, which has 269 for-sale units approved but unbuilt. Right across MD 355, the Kimco-owned Hechinger Property has been approved for 580 multifamily units as part of a long-term future redevelopment. Taken together, these 820 other short-term multifamily and for-sale units, plus the previously-approved 158 units for Block R, plus the long-term 580 multifamily units at Kimco provide 1,558 units for the potential 2,200 jobs at

Watkins Mill Town Center cited by the Applicant,⁸ or an average of 1.41 jobs per dwelling unit. When the 86 additional units for Block R are included, the average number of jobs per dwelling unit drops to 1.34. Both averages are below the City-wide average of 1.64 jobs per dwelling unit (1.74 jobs per household) shown in the latest Dwelling Units and Population Report,⁹ implying that fewer dwelling units (1,264) are needed to meet the potential jobs in this area mentioned by the Applicant. Further, the adopted Housing Element of the 2018 Master Plan recommends “establish[ing] a 2035 jobs to housing ratio goal of 2:1,”¹⁰ which is higher than the City’s existing ratio of 1.64 and much higher than the calculated ratio here of 1.34 with the additional units in Block R. Lastly, staff notes that the 2,200 biotech jobs cited by the Applicant have not come to fruition, with the Watkins Mill Town Center buildings (Labs at Watkins Mill) remaining unbuilt since their approval in 2022 and the Monument building (735 Watkins Mill Rd) being finished in August 2023 but remaining vacant since its completion.

Looking beyond the immediate area around Spectrum, the entire multifamily pipeline has 1,694 near-term units other than Block R.¹¹ Adding in Block R results in 1,852 units with the existing approval of 158 units and 1,938 units with this Application’s proposed increase to 244 units. Assuming a 6% average vacancy rate for all multifamily rental units (both low rise and high rise), these 1,938 near-term pipeline units are equal to 1,822 households, or approximately 29,003 households when combined with the existing households as of July 2024. Adding in the 1,052 for-sale near-term pipeline units with an assumed 3% vacancy rate results in an additional 1,020 households, for a total of 30,023 households, which is just under the adopted Round 10.0 forecast of 30,300 households for the year 2035. Staff is concerned that if all of the near-term projects get underway at the same time in the next 2-3 years, the market may become oversaturated, particularly for the multifamily rental units that comprise about two-thirds of the near-term pipeline. If the market does become saturated, higher vacancy rates, stalled construction, or other undesirable effects may occur. Also, since the near-term pipeline will meet the Round 10.0 forecast through the year 2035, any new projects that happen in the next 11 years will likely be competing for the same residents, potentially reducing absorption rates, increasing vacancy rates, delaying some projects, or discouraging the pursuit of some development and redevelopment altogether.¹²

Second, staff is concerned about the ultimate bedroom unit mix for Building R. While the actual mix is not discussed in the Statement, the Applicant does mention that no 2 bedroom with den and no 3 bedroom units will be included in Block R. Looking at the other multifamily buildings in the Spectrum, the three existing buildings¹³ have a total of 467 units, with 76 studios (16.3%), 257 one bedrooms (55.0%), 113 two bedrooms (24.2%), and 21 three bedrooms (4.5%); while the proposed Building S/T with 234 units has 80 studios (34.2%), 126 one bedrooms (53.8%), 28 two bedrooms (12.0%), and no three bedrooms. At Lakeforest, the City required the

⁸ Exhibit #03 (Applicant’s Revised Statement)

⁹ Exhibit #52 (*July 2024 Dwelling Units and Estimated Population*), page 37

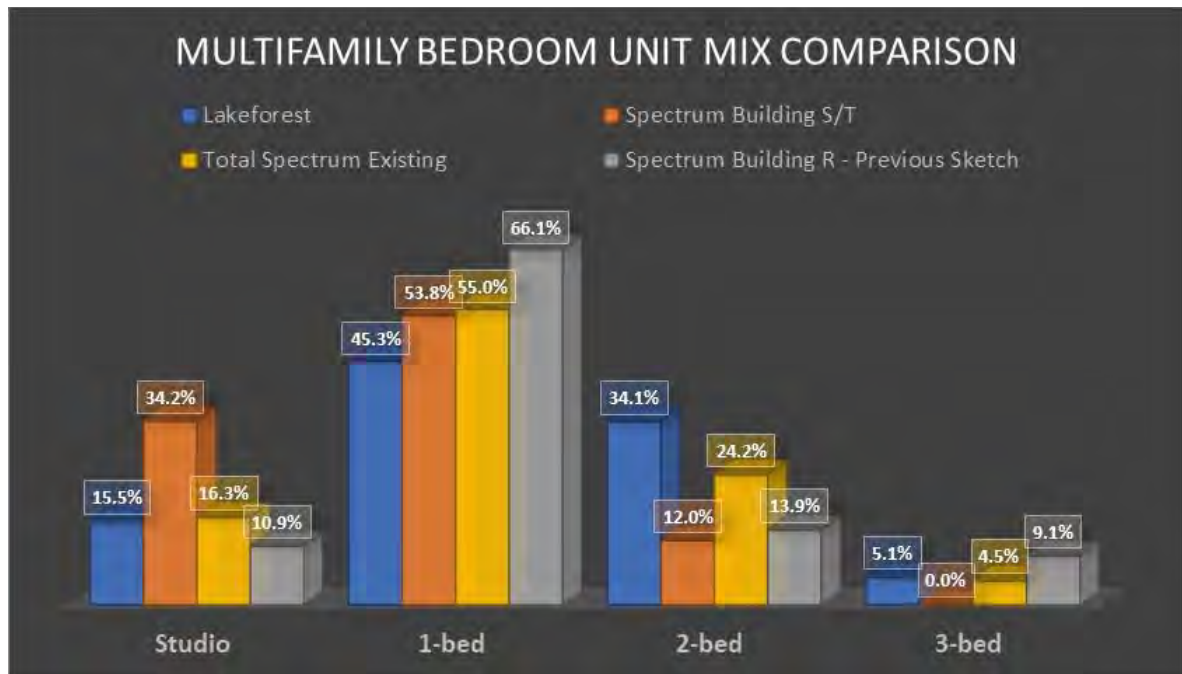
¹⁰ Exhibit #48 (Housing Element of the 2018 Mater Plan), Goal 2 of Planning and Zoning Recommendations

¹¹ Exhibit #53 (*July 2024 Pipeline Development Report*)

¹² The long-term pipeline (Exhibit #53) appears to make things worse, as there are an additional 1,091 rental multifamily units in the long-term pipeline, equating to 1,025 households. This long-term pipeline is just under the number of new households (1,400) expected between 2035 and 2040 in the Round 10 forecast. In summary, the existing approved short-term and long-term pipelines can meet the Round 10.0 forecast to nearly the year 2040, which may lead to no or little residential development and redevelopment activity from now until 2040.

¹³ Building/Block A (Paramount East), Building/Block C (Paramount West), and Building/Block H (The Majestic)

multifamily buildings to include a higher percentage of units with two or more bedrooms, resulting in the 994 units having 128 studios (12.9%), 391 one bedrooms or one bedroom with dens (39.3%), 430 two bedrooms or two bedroom with dens (43.3%), and 45 three bedrooms or three bedroom with dens (4.5%). The previously-approved schematic development plan for Building/Block R has a bedroom unit mix of 10.9% studios, 66.1% one bedrooms, 13.9% two bedrooms, and 9.1% three bedrooms.¹⁴ Staff is concerned that the Applicant is increasing the number of units just to allow more studio and one-bedroom units, rather than to include additional two-bedroom and larger units or even to keep the same proportion of two-bedroom and larger units (23.0%) that was previously approved for Block R.



Third, The Housing Element of the 2018 Master Plan includes a recommendation that “the City’s approval of multi-family rental projects should reflect unit sizes that are consistent with data-supported renters’ household size needs.¹⁵ According to the 5-year 2022 American Community Survey,¹⁶ the average renter household size in Gaithersburg is 2.51 and the average number of persons in renter multifamily housing with 2 or more dwelling units is 2.34, both of which imply that two-bedroom and larger units are needed more than one-bedroom and studios,¹⁷ since there must be a substantial number of renter households with 3 or more persons in order for the averages to be so much higher than 2.0. Even a two-person family household may include one parent and one child, who would likely prefer two separate bedrooms rather than one bedroom or a studio arrangement. Two and three bedroom units also allow sharing among young

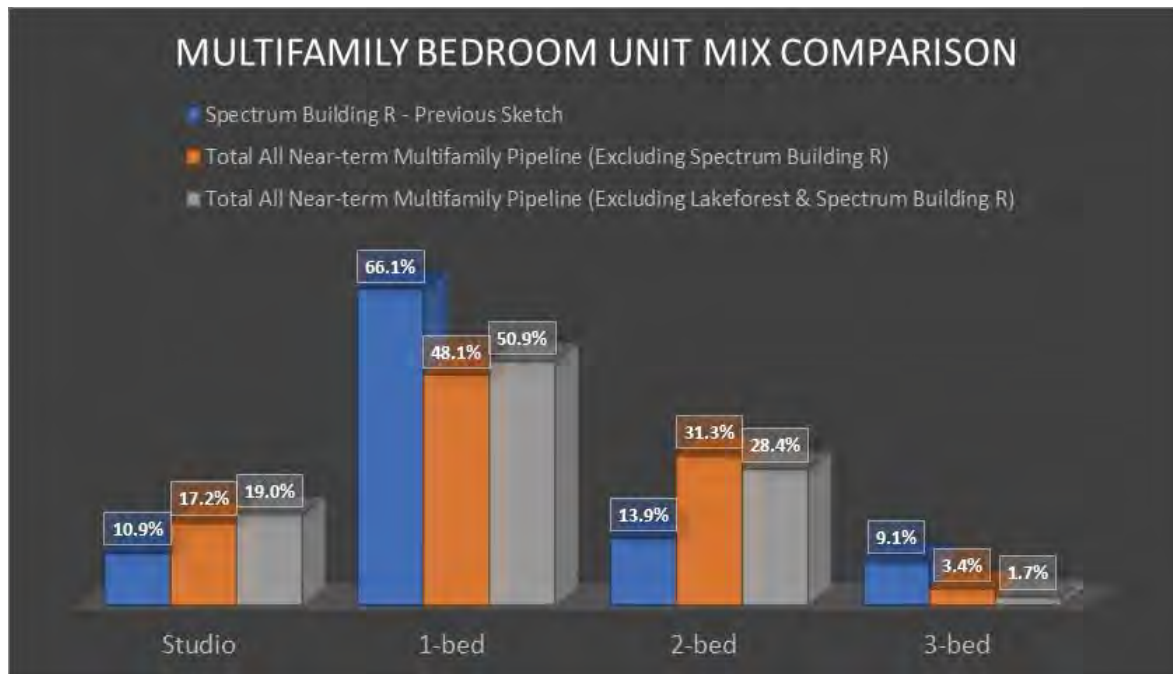
¹⁴ Exhibit #14 (Excerpt of SDP 8198-2019)

¹⁵ Exhibit #48 (*Housing Element* of the 2018 Mater Plan), Goal 1 of Planning and Zoning Recommendations

¹⁶ 2022 5-year American Community Survey, Table DP04 (average renter household size) and Tables B25032 and B25033 (average multifamily renter household size)

¹⁷ Staff notes that the overall average renter household size is higher than the multifamily-only average renter household size because there are several townhouses and detached houses that are used as rental housing, and those units tend to have larger average household sizes.

professionals, college students, and others, which reduces the per-person cost of housing, helping provide additional affordably-priced housing options.



Staff does not have concerns with the proposed additional height, as the additional floor is being added below the previously-approved building elevation rather than on top, and will not be visible from the front of the building along Paramount Park Drive.

Removal of the Age Restriction

Beginning with the initial sketch plan approval, the Spectrum development has included an age-restricted multifamily building, as noted in the Preliminary Background Report. Based upon the last approved schematic development plan for Spectrum that included Building/Block R (SDP-8198-2019),¹⁸ the age restriction is intended to be for persons 55 years old and older, since the required parking shown in the parking chart uses the same ratios as the parking requirement for the non-age-restricted units.¹⁹

The City’s Housing Element of the 2018 Master Plan, adopted September 18, 2023, recommends “preserve[ing] existing and approved age- and ability-restricted housing projects,”²⁰ such as Building R at The Spectrum.²¹ This recommendation is part of the broader

¹⁸ Exhibit #14 (Excerpt of SDP-8198-2019)

¹⁹ In both the old Zoning Ordinance and the new Zoning Ordinance (Retool), the parking requirement for “housing for the elderly” (defined as housing for persons 62 years and older) is reduced to one parking space per two dwelling units (0.5 per dwelling unit) in the old Zoning Ordinance and one parking space per dwelling unit in the new Zoning Ordinance, rather than a range of one to two parking spaces per dwelling unit, depending on the number of bedrooms. Had the intended age requirement been persons 62 years old and older, the parking chart for SDP-8198-2019 would instead show a reduced parking requirement ratio for Building/Block R.

²⁰ Exhibit #48 (*Housing Element* of the 2018 Master Plan), Goal 4 of Equity and Social Justice

²¹ This recommendation applied to *all* existing and proposed senior housing projects in the City, including Hillside Senior Living, which had approached the City about removing the age restriction. Besides the Spectrum, other age-restricted

Equity and Social Justice Goals of the Element and specifically supports Goal 4, which seeks to “ensure the availability and consideration of needs for senior housing and housing for individuals with disabilities.” This goal reflects the expected continued growth in the population aged 55 and over and population aged 65 and over.²²

During the public hearing, the Mayor and City Council asked whether a mix of age-restricted and non-age-restricted housing could be included in the project. The Applicant responded that Fair Housing may not allow such a mix, but further research by staff²³ shows that a mix of up to 80% age-restricted and 20% non-age-restricted is allowed under Fair Housing.²⁴ Staff notes that the proposed 86 new units are 35.2% of the total 244 units, so some of those would need to be age restricted in order to meet the 80%/20% Fair Housing Requirement (resulting in 196 age-restricted units and 48 units open to the general market).

The Applicant, in their Statement and during their presentation to the Mayor and City Council and Planning Commission, focused on the continuum of care community (CCC) model for senior housing, which includes age-restricted “independent living” units for healthy active seniors, “assisted living” units for those seniors who need additional care, and “memory care” or “nursing” units for those seniors requiring full-time medical supervision. The Applicant claims that this CCC model of senior housing is the preferred model being constructed today and that there is no demand for stand-alone “independent living” units, but the Lakeforest Mall Market Analysis shows that there is demand for stand-alone senior housing, particularly in vibrant, mixed-use communities like Spectrum.²⁵

Staff notes that the proposed age-restricted units at Spectrum have always been intended to be “independent living” units and none of the previous approvals discussed nor required any other level of care to be provided at this location. The age-restricted units at Spectrum have always been viewed as a complementary use to the other uses in the mixed-use community, providing a guaranteed opportunity for persons aged 55 and over to live within the Spectrum, adding to the diversity and multigenerational aspect of the community. While the Applicant suggested that some seniors are choosing to live in the other market-rate apartments in the Spectrum, there is no requirement that those units be reserved for seniors and it is possible that none of the existing market-rate units could be rented by seniors, which would reduce the desired age diversity of the community and negate any sense of a multigenerational community, as discussed by the Applicant in its Statement.

projects that were approved but unbuilt at the time of the Housing Element’s adoption included The Carnegie at Washingtonian North and the Manor Homes at Asbury Methodist Village.

²² See Exhibit #54 (Gaithersburg Population Projections by Age)

²³ Exhibit #55 (City Attorney email regarding Fair Housing and Age Restrictions)

²⁴ While age discrimination is not generally prohibited by the United States Constitution (such as laws restricting by age firearms possession, alcohol consumption, driver’s licenses, tobacco consumption, enlistment in the military, eligibility for Social Security benefits, etc.), the Fair Housing Act does include a 1996 provision that prohibits discrimination based upon “familial status” to ensure that families with children cannot be denied housing. Because a senior age restriction could deny housing for families with children, the Act has carved out an exception to the familial status requirement that allows senior (age-restricted) housing if certain additional requirements are met, including reserving a minimum of 80% of the units for the age-restricted population.

²⁵ Exhibit #60 (RCLCO Market Analysis for Lakeforest Mall Redevelopment, January 17, 2024), *Rental Market Analysis*

The Applicant also noted in their Statement and joint public hearing presentation that they intend to include accessible units that are desirable for seniors, but the five percent (5%) of units mentioned is the amount required by building code. Further, there is no requirement that the accessible units be rented to seniors or even persons with physical disabilities, unlike the age restriction, which does require the units be rented to seniors.

Lastly, Staff notes that no market-rate age-restricted housing for persons age 55 and older exists within the City, so retaining the age restriction here provides a new housing option for those who wish to stay in the City of Gaithersburg as they age. As noted in the Applicant's Statement, the "active" senior years usually last until 65 or 70 at the very least, which means these age-restricted units will be a viable option for older residents for ten to fifteen years or longer. As part of the larger Spectrum community, the residents in Block R would be able to use the amenities spread throughout the community, similar to the 62-and-older Kentlands Manor residents being able to use the Kentlands Citizen's Assembly amenities to foster a multigenerational connection, as the Applicant points out in their Statement.²⁶ This particular location has additional features in the surrounding area that older adults would likely find desirable, including the WorldShine adult day care facility at the end of Professional Drive (former Humane Society Building) and the Kaiser Permanente medical building and Hampton Inn hotel (for visitors) across Watkins Mill Road.

Economic Considerations

The applicant asserts that the current demand for senior housing in the local market is met; that the high cost to seniors of conventional senior housing is not affordable for Gaithersburg's aging population; that senior residents prefer living in "multigenerational" settings; that senior households desire the same apartment unit characteristics as the broader population; that investors have moved away from age-restricted "Active Adult" development; and that an increase in market rate units attractive to life sciences and technology workers is a priority for employers considering locations and expansions within the City.

Staff is of the opinion that the information provided by the applicant does not justify the requested removal of the age restriction. The following review is based on age-restricted "Active Adult" (age 55 and over) multifamily housing, which is the existing limitation on the site.

1. Demand: Unmet demand remains in the market.

Staff has determined that demand for age-restricted rental apartments exists and will grow with an aging population. A relevant market analysis²⁷ quantified the demand for new senior housing in the primary market area (northern suburbs of Montgomery County, including Rockville, Gaithersburg, Germantown, and Clarksburg, equal to the primary market area of the Spectrum location): 110 units per year (ages 55-64) and 72 units per year (ages 65+), above the area's existing inventory.

²⁶ Exhibit #03 (Applicant's Revised Statement)

²⁷ Exhibit #60 (RCLCO Market Analysis for Lakeforest Mall Redevelopment, January 17, 2024)

- 2. Cost:** Age-restricted “Active Adult” rental units offer a more affordable alternative to conventional senior housing, with rents 30-50% less than comparable “Independent Living” units.

“Active Adult” rental units require no up-front payments from residents, nor are high monthly fees charged. Nationwide, average household income for residents is \$50,000 per year.²⁸

- 3. Customer Preferences:** Age-restricted “Active Adult” rental properties have slight - but distinct - differences from conventional market rate multifamily units.

Slightly larger apartments for households that are downsizing, and amenities that encourage socialization among the resident population, are characteristic of age-restricted buildings. Residents want to “live exclusively among their peers, although opportunities for intergenerational engagement are often desirable.”²⁹

As previously mentioned, The Fair Housing Act does accommodate younger residents in age-restricted properties, requiring that at least one (1) member of the household meet the qualifying age, imposes no time limit on residency by younger household members, and allows for up to 20% of the units to be occupied by households with no members who meet the age requirement.

- 4. Investor Outlook:** Interest in seniors housing investments remains strong as investors seek higher yields from alternative asset classes.³⁰

“...an additional 2.2 million adults age 65+ will enter the rental market over the next decade, offering a prime opportunity for Active Adult properties, a sub-segment within senior living that offers significant opportunity to fill the demand gap and, potentially, affordability challenges faced by the more traditional senior living and care operating model.”³¹

- 5. Business attraction and rental housing:** The availability of multifamily market rate rental apartments does not drive location decisions for employers in the life sciences and technology sectors.

Staff points to content in its memo of October 10, 2024.³² The availability of housing is not among the top 30 site location criteria identified in the well-respected *Area Development* “38th Annual Corporate Survey - Site Selection Factors.”³³ Employers seek locations that have an existing workforce compatible with their needs.

²⁸ Exhibit #58 (*Active Adult Rental Properties: Defining the Emerging Property Type*, National Investment Center for Seniors Housing & Care, 2022)

²⁹ Exhibit #58 (*Active Adult Rental Properties: Defining the Emerging Property Type*)

³⁰ Exhibit #59 (*Senior Housing and Care: Investor Survey and Trends Outlook*, JLL, Spring 2024)

³¹ Exhibit #57 (*Market Trends & Investor Survey: Senior Living & Care*, Cushman & Wakefield, 2024)

³² Exhibit #42 (City Economic Development Comments on SK-9892-2024)

³³ Exhibit #56

STAFF FINDINGS, ANALYSIS, AND RECOMMENDATIONS

ASK-9892-2024

FINDINGS:

As previously mentioned, approval of sketch plan amendment ASK-9892-2024 and its subject parcel (Property) must be reviewed against the standards of the previous Zoning Ordinance, since the Application was submitted prior to the effective date of the new City Zoning Ordinance (Retool). As such, approval of amendment ASK-9892-2024 is governed under § 24-160D.11 of the previous City Zoning Ordinance, which references the optional method procedure under § 24-198(c) of the previous Ordinance. This sketch plan amendment is required by § 24-198(c)(1)(i) of the previous Zoning Ordinance because there is a proposed change of use (by eliminating the previously-approved age restriction); § 24-198(c)(1)(ii)b. of the previous Ordinance because there is a proposed material change to the orientation or siting of buildings (by increasing the height from six to seven stories); and § 24-198(c)(1)(ii)d. of the Previous Ordinance because there is a proposed increase in the number of dwelling units by more than ten percent (45.2% increase).³⁴ Under the previous Zoning Ordinance, sketch plan amendments have been held to the same standards as new sketch plan applications processed under § 24-160D.9(a)(1), and must satisfy the findings required under § 24-160D.10 of the Previous Ordinance.

Staff is of the opinion that sketch plan amendment application ASK-9892-2024 partially satisfies the required findings for approval and partially does not satisfy the findings for approval of the Application. Specifically, staff believes that the proposed increase in density and building height satisfy the findings required for approval, subject to the condition regarding an appropriate bedroom unit mix provided in the Staff Recommendation section. Conversely, staff is of the opinion that removing the age restriction does not satisfy the findings needed for approval and should therefore not be approved as part of this Application. The following detailed explanation outlines the findings and justifications under § 24-160D.10 of the Previous Zoning Ordinance that should be considered to partially approve sketch plan amendment application ASK-9892-2024, as noted above:

Section 24-160D.10. – Findings Required

(a) The City Council shall approve MXD zoning and the accompanying sketch plan only upon finding that:

(1) The application meets or accomplishes the purposes, objectives, and minimum standards and requirements of the zone; and

³⁴ 86 net new units in this sketch plan > 15.8 units [10% of the 158 units previously approved by sketch plan amendments Z-301(A) and ASK-8940-2021 for Block R]. Even if looking at the entire Spectrum development, 86 net new units in this sketch plan > 85.9 units [10% of the 859 units previously approved by sketch plan amendment ASK-8940-2021].

- Application ASK-9892-2024 proposes to build upon an existing multi-use development that includes a complementary mix of residential, commercial, employment, open space, and amenity uses, as well as future public uses.
- The proposed additional residential units are in response to continuing demand for housing to support growth in the age 55 and older population of the City, as well as the likely continued housing demand associated with job growth in the surrounding area and City as a whole.
- The inclusion of age-restricted housing in the Spectrum Development ensures the age diversity of the population that lives in the area and creates a more well-rounded mixed-use development that accommodates working and retired persons.
- The additional dwelling units proposed by ASK-9892-2024 will expand the customer base for the commercial uses within and surrounding the development, strengthening their success.
- The applicant is committed to using the approved architectural styles and streetscapes included in the Design Guidelines for Spectrum, which will continue to be harmonious within the Property and with the surrounding residential, employment, and commercial uses.
- Application ASK-9892-2024 proposes to retain the internal and external pedestrian, bicycle, and vehicular connections and the development's shared amenities and open spaces.
- While no phasing plan is included as part of Application ASK-9892-2024, the majority of the development is built out and the applicant expects to continue moving forward with the proposed multifamily building until it is constructed, with the remainder of the unbuilt areas of the Spectrum being completed in an orderly fashion consistent with market demand and public budgetary policy.
- Application ASK-9892-2024 encourages the efficient use of land by:
 - Siting a new multifamily building in close proximity to the established residential buildings, commercial and employment uses, and open space and amenity areas. The Project will be connected to these existing uses and the surrounding uses via multiple transportation options, including vehicular roadways, bus transit, and pedestrian and bicycle facilities along MD 355 (North Frederick Avenue), Watkins Mill Road, Spectrum Avenue, Spectrum Boulevard, Paramount Park Drive, and Professional Drive. This creation of housing close to jobs and commercial uses will enhance the existing horizontal mix of uses in the area and help reduce overall vehicle miles traveled.
 - Continuing to provide open space that serves as an amenity for employees, customers, residents, visitors, and the surrounding areas.
- Application ASK-9892-2024 is part of a development that contains a minimum of ten (10) acres and is located adjacent to and readily accessible from both North Frederick Avenue (MD 355) and Watkins Mill Road. This access is adequate to service the proposed development. It is intended that access will be available both within and to the site so that traffic does not have an adverse impact on the surrounding area or cause internal circulation or safety problems.
- The siting and mix of uses proposed by Application ASK-9892-2024 promotes compatibility among the uses and creates a compact, walkable, live/work/play community.
- The Application proposes approximately 45% retail commercial uses, 46% employment/office uses, and 9% other commercial/institutional uses within the larger

Spectrum Development, all of which are lower than the MXD Zone's maximums of 60%, 65%, and 15%, respectively.

- The overall commercial/employment/industrial density for the Spectrum Development is 212,100 square feet over 40.10 acres, or 0.12 FAR, well below the 0.75 FAR allowed in the MXD Zone.
- No buildings proposed by Application ASK-9892-2024 will exceed seven stories and none will be within 100 feet of an adjoining property not zoned MXD.
- All utilities proposed by Application ASK-9892-2024 will be placed underground, other than the pre-existing overhead utility lines along Frederick Avenue (MD 355).

(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

Under Section 20-18(a), the Commission may determine that events since the adoption of the Master Plan make the land use recommendation in that Plan “no longer relevant.” As part of its approval of the previous sketch plan amendment, ASK-8940-2021, the Planning Commission found that the Master Plan’s land use recommendation of commercial/industrial-research-office for the Spectrum subdivision was no longer relevant. Staff recommends the Planning Commission re-affirm their previous finding, which was based upon the following:

- The existing and proposed residential uses shown in the ASK-9892-2024 application are not included in the adopted “commercial/industrial-research-office” land use designation of the Master Plan.
 - The Property was first included in the 1997 Master Plan, Neighborhood Six Land Use Plan as part of Study Area 3, Map Designation 6, which designated the land use as “commercial/industrial-research-office” and retained the I-3 (industrial and office park) zoning.³⁵
 - The 2003³⁶ and 2009³⁷ Master Plans did not change the land use designation for this property, so it remains “commercial/industrial-research-office.”
- The initial Z-301 sketch plan and MXD rezoning application approved in 2006 introduced residential uses to this property,³⁸ and Sketch Plan Amendment Z-301(A), approved in 2012, allowed additional residential dwelling units on the property.³⁹ Subsequent sketch plan amendments allowed additional residential dwelling units within the Spectrum.
- Based on the records and resolutions of approval, the residential uses included in both previous sketch plans were supported by the Mayor and City Council and the Planning Commission and were deemed compatible with the surrounding land uses.⁴⁰

³⁵ See Exhibit #29 (Excerpt of 1997 Master Plan Neighborhood 6 Land Use Plan)

³⁶ See Exhibit #27 (Excerpt of the 2003 Master Plan Land Use Element)

³⁷ See Exhibit #26 (Excerpt of the 2009 Master Plan Land Use Element)

³⁸ Exhibit #24 (Excerpt of Z-301)

³⁹ Exhibit #16 (Excerpt of Z-301(A))

⁴⁰ While it is inferred that the Planning Commission complied with Section 20-18(a) in all of the previous approvals, staff recommends including a more direct and explicit finding in the Commission’s formal recommendation to the Mayor and City Council and as part of any resolution of approval citing the referenced section.

- The approved residential uses have actually been constructed on the property and are contributing to the mixed-use nature and success of the development and surrounding area, and, given the change in land use with the residential construction, the Planning Commission finds that events have occurred to render the master plan land use recommendation no longer relevant.
- Application ASK-9892-2024 is in accord with other elements of the Master Plan:
 - Process and Overview Element of the 2009 Master Plan:
 - State Vision 3, Growth Areas: Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers
 - State Vision 4, Community Design: Compact, mixed-use, walkable design consistent with existing community character, located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.
 - State Vision 5, Infrastructure: Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner.
 - State Vision 7, Housing: A range of housing densities, types, and sizes provides residential options for citizens of all ages and incomes.
 - State Vision 10, Resource Conservation: waterways, forests, agricultural areas, open space, natural systems, and scenic areas are conserved.
 - State Vision 11, Stewardship: Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.
 - City Guiding Strategy: Support compact building design and a mix of land uses that promotes sustainable development, creates more secure communities, provides a variety of land use options, and improves environmental outcomes.
 - Transportation Element of the 2009 Master Plan:
 - Objective 3: Encourage and promote the City of Gaithersburg as a multi-modal community and reduce the dependence upon single occupancy vehicles (SOV)
 - Objective 4: Ensure that land use and transportation decisions, strategies, and investments are in step and consistent with the health, safety, and welfare goals of the City of Gaithersburg, its neighborhoods, and its citizens
 - Encourage developers to improve environmental quality and promote energy-efficient transportation by providing for a range of transportation alternatives to the automobile, including public transit amenities and projects conducive to bicycling and walking.

- Housing Element of the 2018 Master Plan:
 - Equity and Social Justice, Goal 4: Ensure the availability and consideration of needs for senior housing and housing for individuals with disabilities.
 - Preserve existing and approved age- and ability-restricted housing projects.
 - Planning and Zoning, 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.
 - The City’s approval of multi-family rental projects should reflect unit sizes that are consistent with data-supported renters’ household size needs.
 - Establish targets for housing unit type mix in future residential projects where appropriate to maintain a balanced housing stock. Applicability of these requirements should take into account development size, surrounding context, and site constraints. Possible requirements may include limits on single-family detached construction and a minimum percentage of Gap Housing units, such as was done in the Lakeforest Mall Master Plan. *(Although not mentioned in this Master Plan recommendation, staff considers age-restricted housing a “housing unit type” for purposes of implementing this recommendation.)*
- The current sketch plan amendment ASK-9892-2024 is in accord with and fulfills recommendations from the City’s Strategic Plan:⁴¹
 - Key Strategies for Economic Development and Redevelopment include:
 - Gaithersburg facilitates development and redevelopment opportunities that support and enhance the stability of the local economic base and provide residents with a wide array of employment and housing options.
 - Improve access and integration among employment nodes, residential areas, and amenities.
 - Key Strategies for Viable Transportation Options include:
 - Gaithersburg creates neighborhood cohesion through bicycle and pedestrian connectivity and advocates for transportation and public transit options that increase efficient and convenient access.
 - Improve connectivity of people to services, activities, employment, and points of interest.
 - Key Strategies for Safe and Welcoming Community include:
 - Gaithersburg is comprised of a variety of distinct, inclusive communities, where people feel safe, welcomed and are engaged in activities that promote economic, social and environmental well-being.
 - Engage and empower diverse groups to enhance participation in City government, programming, and opportunities that enhance quality of life.

⁴¹ See Exhibit #51 (Gaithersburg 5-year 2022 Strategic Plan)

(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.

Application ASK-9892-2024 is compatible and harmonious with the land uses in the adjacent area. The established and proposed mix of residential and non-residential uses and amenities included in the sketch plan complement nearby multifamily, commercial, and employment areas, contributing to a greater mix of uses and housing unit types that offer the opportunity to live, work, play, and shop within a short distance. The Property's mix of uses is consistent with the character of this section of Frederick Avenue, which includes a mix of multifamily, commercial, office, utility, and research and development uses. Retaining the 55 years old and older age restriction, increasing the number of residential units to 244, and increasing the building height to seven stories will not adversely impact existing development and adjacent properties.

STAFF RECOMMENDATION

Staff is supportive of the additional number of units and increased building height for Block R proposed by sketch plan amendment ASK-9892-2024, but is not supportive of removing the 55 years old and older age restriction. Subject to the conditions below, the sketch plan amendment meets and accomplishes the purposes, objectives, and minimal standards and requirements of the MXD Zone. The development will not adversely affect the character of the surrounding area.

Prior to a motion of recommendation, the Planning Commission should formally re-affirm its finding that, under Section 20-18(a) of the City Code, events since the adoption of the 2009 Master Plan make the land use recommendation in that Plan "no longer relevant." The Commission first made this determination as part of the approval of the previous sketch plan amendment ASK-8940-2021.

Staff recommends THAT THE PLANNING COMMISSION, BASED UPON THE FINDINGS PRESENTED HEREIN, THE APPLICANT'S TESTIMONY, AND THE EVIDENCE IN THE RECORD, GRANT APPROVAL OF SKETCH PLAN AMENDMENT ASK-9892-2024 WITH THE FOLLOWING CONDITIONS.

- 1) Block R must include an age restriction that requires eighty percent (80%) or more of the units to be leased to households with at least one person who is age 55 or older, consistent with Fair Housing standards.
- 2) For any subsequent schematic development plan and final site plan approvals, the overall bedroom unit mix must consist of the following: a maximum of ten percent (10%) studio units; a minimum of thirty percent (30%) two bedroom units; and a minimum of ten percent (10%) three bedroom units. For purposes of satisfying this condition, any units that include a den will not be allowed to count the den as a bedroom.