

## PILOT AGREEMENT

THIS PILOT AGREEMENT (the “**PILOT Agreement**”) is made and entered into as of the \_\_\_\_ day of October, 2021, by and between the METROPOLITAN DEVELOPMENT AND HOUSING AGENCY (“**MDHA**”) and Richland Hills Housing Partners, LP (the “**Owner**”).

### WITNESSETH:

WHEREAS, MDHA is a public body and a body corporate and politic organized under the Tennessee Housing Authorities Law, Tenn. Code Ann. §13-20-101, et seq., (the “**Act**”);

WHEREAS, §13-20-104(f) of the Act provides that a metropolitan government may delegate to a housing authority the authority to negotiate and accept in lieu of ad valorem taxes (“**In Lieu of Tax Payments**”) from a party that operates a low income housing tax credit (“**LIHTC**”) property, as such term is defined in the Act (a “**LIHTC Property**”) on property leased by such party from a housing authority;

WHEREAS, MDHA is the housing authority, as defined in the Act, for the Metropolitan Government of Nashville and Davidson County, Tennessee (the “**Metropolitan Government**”);

WHEREAS, by Ordinance No. BL2015-1281 as amended by Ordinance No. BL2016-334 (collectively, the “**PILOT Ordinance**”), the Metropolitan Government (i) authorized MDHA to negotiate and accept In Lieu of Tax Payments from lessees of LIHTC Property owned by MDHA, and (ii) approved MDHA’s program for determining qualifications and eligibility for such In Lieu of Tax Payments (the “**PILOT Program**”);

WHEREAS, Owner plans to acquire land located at 5800 Maudina Avenue, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Project Site**”);

WHEREAS, Owner intends to rehabilitate a 201 unit apartment project, known as Richland Hills Apartments, on the Project Site and operate it as a LIHTC Property (the “**Project**”);

WHEREAS, MDHA is authorized by law and has deemed it necessary and desirable to acquire the Project Site for the purpose of facilitating the Project in accordance with the PILOT Program, the PILOT Ordinance and the Act;

WHEREAS, the Board of Commissioners of MDHA approved MDHA’s purchase of the Project Site and authorized the Executive Director of MDHA to take all actions on behalf of MDHA to undertake the following:

- (A) acquire the Project Site;
- (B) enter into a lease with Owner pursuant to which Owner will (i) lease the Project Site and the Project from MDHA with MDHA having the right to cause Owner to purchase the Project Site and the Project from MDHA upon expiration of the tenth (10<sup>th</sup>) Tax Year, (ii) rehabilitate the Project on the Project Site, and (iii) by recorded agreement, commit to operate the Project as a LIHTC Property in accordance with the requirements of the Internal Revenue Code and the Tennessee Housing Development Agency (“THDA”) for a minimum period of fifteen (15) years after the Project is complete (the “**Project Lease**”);
- (C) enter into this PILOT Agreement;
- (D) submit this PILOT Agreement to the Metropolitan Planning Commission to obtain a recommendation of approval or disapproval, as envisioned by the PILOT Ordinance;
- (E) submit this PILOT Agreement to the Metropolitan Council of the Metropolitan Government (the “**Metropolitan Council**”) for approval as required by the PILOT Ordinance; and
- (F) take such other action and execute such other documents as the Executive Director deems necessary or desirable to facilitate rehabilitation of the Project and the transactions described above consistent with this PILOT Agreement, the Act, the Project Lease, the Metropolitan Ordinance and the PILOT Program (including MDHA’s application and policies and procedures related thereto).

WHEREAS, MDHA intends to acquire the Project Site from Owner and will concurrently enter into the Project Lease; and

WHEREAS, Owner has agreed to make In Lieu of Tax Payments with respect to the Project as described herein.

NOW, THEREFORE, for and in consideration of the foregoing, and other good and valuable consideration, the receipt and sufficiency of which is acknowledged by the parties hereto, and as an inducement to Owner to rehabilitate the Project and operate the Project as LIHTC Property, MDHA and Owner agree as follows:

1. With respect to Project Site and the real property component of the Project, Owner shall make In Lieu of Tax payments to MDHA who will then remit the payment to the Metropolitan Government, as follows:

(a) The In Lieu of Tax Payments shall be equal to the Applicable Ad Valorem Taxes, as defined below, through and including the calendar year in which the rehabilitation of the Project is completed.

(b) Commencing on January 1<sup>st</sup> of the calendar year following the year in which the Project is placed into service (“**Tax Year 1**”) and each tax year subsequent to the Tax Year 1 (Tax Year 1 and each subsequent tax year being referred to herein as a “**Tax Year**”) through the tenth (10<sup>th</sup>) Tax Year, in Lieu of Tax Payments shall be as follows:

Tax Year	In-Lieu of Tax Payment
1	\$182,975
2	\$188,464
3	\$194,118
4	\$199,941
5	\$205,940
6	\$212,118
7	\$218,481
8	\$225,036
9	\$231,787
10	\$238,740

Subject to Section 1(e) below, the In Lieu of Tax Payments shall be fixed and shall not fluctuate with the amount of the assessment for the Project Site or the Project or the tax rate in effect for any Tax Year. The amount of the In Lieu of Tax Payments is approximately equal to \$910 per unit within the Project, with a three percent (3%) annual increase. In Lieu of Tax Payments for each Tax Year shall be paid when due but in any event not later than the date on which the Applicable Ad Valorem Taxes would become delinquent.

(c) After the tenth Tax Year, this Agreement shall expire and Owner shall pay 100% of the Applicable Ad Valorem Taxes.

(d) The term “**Applicable Ad Valorem Taxes**” shall mean any real property ad valorem taxes that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project.

(e) Notwithstanding anything contained herein to the contrary, if THDA or the IRS determines that the Project is not in compliance with LIHTC requirements and is therefore not operated as a LIHTC Property at any time during a Tax Year, and Owner has failed to cure such default within any specified cure period, Owner shall pay 100% of the Applicable Ad Valorem Taxes with

respect to such Tax Year.

(f) Notwithstanding anything contained herein to the contrary, Owner shall pay 100% of the Applicable Ad Valorem Taxes for the periods before Tax Year 1 and after Tax Year 10, if the Project Lease is in effect during such periods.

2. Commencing in Tax Year 1 and in each Tax Year subsequent through the (10<sup>th</sup>) Tax Year, Owner shall provide to MDHA an annual report not later than September 1<sup>st</sup> of each Tax Year containing the following information:

(a) The value of the Project, as estimated by the Owner;

(b) The date and remaining term of the Project Lease;

(c) The amount of In Lieu of Tax Payments payable in such Tax Year;

(d) The date in which the Project is scheduled to return to the regular tax rolls and be eligible to pay 100% of the Applicable Ad Valorem Taxes following the tenth (10<sup>th</sup>) Tax Year;

(e) A calculation of the Applicable Ad Valorem Taxes for such Tax Year that, but for ownership of the Project Site and the Project by MDHA, would have been due and payable to the Metropolitan Government pursuant to Tenn. Code Ann. § 67-5-102 with respect to the Project Site and the Project;

(f) A copy of the Owner's most recent Annual Certification as submitted to THDA, certifying compliance with LIHTC requirements; and

(g) A copy of any monitoring or compliance reports provided by THDA to the Owner during such Tax Year.

3. Commencing with Tax Year 1 and each Tax Year thereafter, Owner shall pay to MDHA a monitoring and reporting fee to be set by MDHA but not to exceed five percent (5%) of the amount In Lieu of Tax Payment due with respect to such Tax Year (the "Annual MDHA Fee"). The Annual MDHA Fee shall be paid not later than fifteenth (15) day of such Tax Year. Unpaid amounts shall bear interest at the rate of four percent (4%) in excess of the average prime rate of interest published from time to time by the Federal Reserve or similar commonly accepted reporting organization if the Federal Reserve ceased to publish such information. Owner's failure to pay the Annual MDHA Fee within thirty (30) days after written notice from MDHA shall constitute a default under this PILOT Agreement in which event Owner shall pay 100% of the Applicable Tax Rate for such Tax Year instead of the In Lieu of Tax Payment set forth above.

4. Owner's payment of the In Lieu of Tax Payments shall satisfy the requirement in Tenn. Code Ann. § 67-5-206(a) that MDHA pay the Metropolitan Government for services, improvements or facilities furnished by the Metropolitan Government for the

benefit of the Project.

5. This PILOT Agreement may not be assigned to any party other than the assignee of the lessee's interest under the PILOT Lease pursuant to an assignment that is made in accordance with the PILOT Lease, including MDHA consent requirements, if any, specified therein. Each permitted assignee shall assume Owner's obligations under this PILOT Agreement concurrent with the assignment of the PILOT Lease.

6. This PILOT Agreement shall be construed in accordance with the laws of the State of Tennessee, and if any one or more of the provisions of this PILOT Agreement shall be held invalid, illegal or unenforceable in any respect, by final decree of any court of lawful jurisdiction, such invalidity, legality or unenforceability shall not affect any other provision hereof, but this PILOT Agreement shall be construed the same as if such invalid, illegal or unenforceable provision had never been contained herein. This PILOT Agreement may be executed in multiple counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same instrument.

7. This PILOT Agreement is subject to and conditioned upon (i) approval of this PILOT Agreement by the Metropolitan Council as required by the PILOT Ordinance, (ii) Owner's satisfaction of all conditions and requirements imposed by MDHA in connection this PILOT Agreement or the transaction contemplated herein, (iii) MDHA taking title to the Property and entering into a mutually acceptable Project Lease, and (iv) THDA's approval of the Project and allocation of low income housing tax credits, to the extent such approval or allocation has not been received as of the date of this PILOT Agreement.

8. MDHA shall remit all In Lieu of Tax Payments received in connection with the Project and/or the Project Lease to the Metropolitan Government within fifteen (15) days of receipt.



## EXHIBIT A

Land in Davidson County, Tennessee, being described as follows:

Land in Davidson County, Tennessee, being more particularly described according to a survey by Dale and Associates. Steven D. Delee, Registered Land Surveyor No. 1710, dated October 20, 1999, Job 99017, and revised by Ernest Medlin, Registered Land Surveyor No. 283, dated May 6, 2010, Job No. 10029, as follows:

Beginning an iron rod situated in the northerly margin of Maudina Avenue, and the Westerly margin of Demoss Road;

Thence, along the westerly margin of Demoss Road, S 6°35'15" W, a distance of 5.60 Feet to an iron rod situated in the northerly margin of Maudina Avenue;

Thence, along the northerly margin of Maudina Avenue, S 68°30'00" W, a distance of 801.45 feet to an iron rod situated in the easterly line of West End Community Church of Nashville, property of record in Document 20010629-0069142, said Register's Office;

Thence, along easterly property line, N 5°43'27" W, a distance of 743.35 feet to an iron rod situated in the southeast corner of the Hill Circle Townhomes, LLC property of record in Document #20140707-0059681, said Register's Office;

Thence, along the easterly property line, N 7°00'09" W, a distance of 155.08 feet to an iron rod situated in the southwest corner of the Erol Baycora property of record in Document #20100119-0004238, said Register's Office;

Thence, N 78°23'51" E, a distance of 200.00 feet to an iron rod situated in the southwest corner of the SK Food Corporation property of record in Document #20080708-0070158, said Register's Office;

Thence, N 75°45'31" E, a distance of 738.46 feet to an iron rod situated in the southeast corner of the West Nashville Heights Church of Christ property of record in Document #20090831-0081466, said Register's Office;

Thence, N 75°41'38" E, a distance of 148.78 feet to a concrete monument situated in the westerly margin of Bellmore Avenue;

Thence, along said road, S 5°08'45" E, a distance of 281.93 feet to a concrete monument situated in the northeast corner of the High Definition Homes LLC property of record in Document #20141008-0093270, said Register's Office;

Thence, leaving said road, S 74°08'13" W, a distance of 200.00 feet to an iron rod situated in the northwest corner of the High Definition Homes LLC property of record in Document #20141008-0093270, said Register's Office;

Thence, S 7°09'28" E, a distance of 98.81 feet to an iron rod situated in the southwest corner of the High Definition Homes LLC property of record in Document #20141008-0093270, said Register's Office;

**EXHIBIT A (Continued)**

Thence, S 74°08'13" W, a distance of 285.69 feet to an iron rod situated in the northwest corner of the Bellmore Place of record in Plat Book 6200, Page 542, said Register's Office;

Thence, S 20°07'47" E, a distance of 203.08 feet to an iron rod situated in the southwest corner of the Bellmore Place of record in Plat Book 6200, Page 542, said Register's Office;

Thence, N 70°59'33" E, a distance of 196.18 feet to an iron rod situated in the northwest corner of Melina Ann Outhay property of record in Document #20120606-0049465, said Register's Office;

Thence, S 13°56'03" E, a distance of 180.02 Feet to an iron rod situated in the northerly margin of Maudina Avenue;

Thence, along said road, S 66°28'17", a distance of 94.34 Feet to the POINT OF BEGINNING.

Being the same property conveyed to Richland Hills Investors LLC, a Delaware limited liability company by Limited Warranty Deed of record in Instrument No. 20150202-0009306 and by Quitclaim Deed of record in Instrument No. 20150202-0009307, Register's Office for Davidson County, Tennessee.

Being the same property conveyed to Richland Hills Housing Partners, LP, a Tennessee limited partnership, by Warranty Deed of record in Instrument No. \_\_\_\_\_, Register's Office for Davidson County, Tennessee.



METROPOLITAN GOVERNMENT OF NASHVILLE AND DAVIDSON COUNTY  
Planning Department  
Metro Office Building  
800 Second Avenue South  
Nashville, Tennessee 37201  
615.862.7150  
615.862.7209

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# Memo

**To:** MDHA  
**From:** Metropolitan Nashville Planning Department  
**Date:** January 21, 2021  
**Re:** Planning Commission Recommendation for PILOT Agreement

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This memo fulfills the Planning Commission obligations as outlined in the MDHA Housing Tax Credit PILOT Program General Program Description which was attached as Exhibit A to BL2016-435. The memo consists of two parts.

## **PART I: RECOMMENDATION ON GENERAL PLAN CONSISTENCY**

**Project:** **Richland Hills (Parcel 10302000400)**  
201 multi-family residential units  
138 units under Housing Assistance Payments (HAP) Contracts

**Zoning:** Multi-family Residential (RM9) is intended for single-family, duplex, and multi-family dwellings at a density of nine dwelling units per acre. *The site is located within the Urban Zoning Overlay (UZO).*

**T3 Suburban Neighborhood Evolving (T3 NE):** is intended to create and enhance suburban residential neighborhoods with more housing choices, improved pedestrian, bicycle and vehicular connectivity, and moderate density development patterns with moderate setbacks and spacing between buildings. T3 NE policy may be applied either to undeveloped or substantially under-developed “greenfield” areas or to developed areas where redevelopment and infill produce a different character that includes increased housing diversity and connectivity. Successful infill and redevelopment in existing neighborhoods needs to take into account considerations such as timing and some elements of the existing developed character, such as the street network, block structure, and proximity to centers and corridors. T3 NE areas are developed with creative thinking in environmentally sensitive building and site development techniques to balance the increased growth and density with its impact on area streams and rivers.

**Conservation (CO):** is intended to preserve environmentally sensitive land features through protection and remediation. CO policy applies in all Transect Categories except T1 Natural, T5 Center, and T6 Downtown. CO policy identifies land with sensitive environmental features including, but not limited to, steep slopes, floodway/floodplains, rare or special plant or animal habitats, wetlands, and unstable or problem soils. The guidance for preserving or enhancing these features varies with what Transect they are in and whether or not they have already been disturbed.

### **Project Details:**

The 16.64 acre project site is located at the northwest corner of the intersection of Maudina Avenue and Bellmore Avenue. There are two vehicular entrances to the site, one located on each street. The site is

comprised of 26 two-story buildings constructed in 1970. There are 40 one-bedroom units, 128 two-bedroom units, and 33 three-bedroom units for a total of 201 units on the site.

This proposal involves the rehabilitation of the existing units, structures, and improvements to the site. No new construction is proposed. Of the 201 units, 138 of the units are covered by a Housing Assistance Payments (HAP) contract. According to submitted material, at closing the HAP contract will be renewed for a 20-year term, subject to federal appropriations.

**Planning Department Analysis:** The site has been developed with multi-family residential structures, which is a permitted use within the existing RM9 zoning district.

There are two policies on the site. The primary policy on the site is Suburban Neighborhood Evolving (T3 NE). The intent of the policy is to create suburban neighborhoods with additional housing choices. The proposed renovation of the units and site improvements will enhance the existing residential structures. The second policy on the site is located at the northwest portion of the site within the Conservation (CO) Policy is undeveloped, open space. No construction is proposed on the site, including the area of CO Policy. This is in line with the intent of the policy to preserve environmentally sensitive land features.

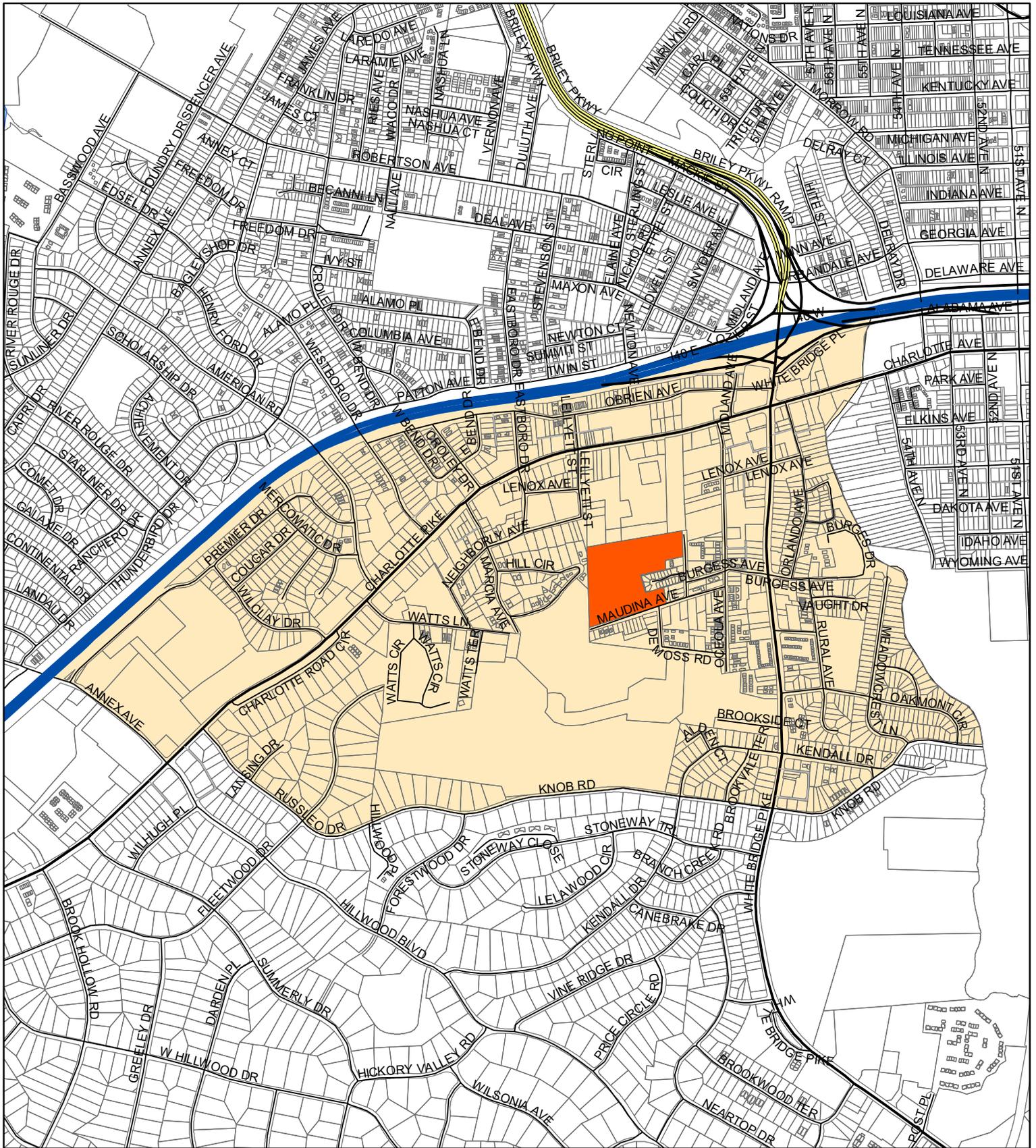
The proposed changes on the site are to renovate the existing structures and units on the site. There are no proposed changes to the site that would create inconsistency with the existing policies on the site.

**Planning Determination:** The existing development on the site is consistent with the policies on the site. As the proposed plan does not modify the layout or uses on the site, the proposal to rehabilitate the existing structures enhances an existing residential development. This project is consistent with the NashvilleNext adopted general plan and the Community Character Policies.

## **PART II: LIST OF FEDERALLY SUBSIDIZED MULTI-FAMILY PROPERTIES WITHIN THE CENSUS TRACT**

See attached map.

# Federally Subsidized Multi-Family Projects within Census Tract 047037018101



- Low Income Tax Credit Project
- Parcel 10302000400



0.25 0.125 0 0.25 Miles

# Certification of Consistency with the Consolidated Plan

U.S. Department of Housing  
and Urban Development

I certify that the proposed activities/projects in the application are consistent with the jurisdiction's current, approved Consolidated Plan.  
(Type or clearly print the following information:)

Applicant Name: Richland Hills Housing Partners, LP

Project Name: Richland Hills Apartments

Location of the Project: 5800 Maudina Ave.  
Nashville, Tennessee

Name of the Federal Program to which the applicant is applying: 4% LIHTC

Name of Certifying Jurisdiction: MDHA

Certifying Official of the Jurisdiction Name: Emel Alexander

Title: Director of Community Development

Signature: 

Date: 2/4/2021