

## **PILOT AGREEMENT**

THIS PILOT AGREEMENT (the “**PILOT Agreement**”) is made and entered into as of the 3 day of October, 2023, by and between the METROPOLITAN DEVELOPMENT AND HOUSING AGENCY (“**MDHA**”) and EC Nashville Christian Towers, LLC (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 has acquired land located at 101 Foothill Court, and more particularly described on Exhibit A attached hereto and incorporated herein by this reference (the “**Project Site**”);

WHEREAS, Owner intends to rehabilitate a 175 unit apartment project, known as Nashville Christian Towers, 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:

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1	\$43,006
2	\$44,296
3	\$45,625
4	\$46,994
5	\$48,404
6	\$49,856
7	\$51,352
8	\$52,892
9	\$54,479
10	\$56,113

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Subject to Section 1(c) 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 \$246 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.

IN WITNESS WHEREOF, the parties hereto have executed this PILOT Agreement as of the day and date first above written.

METROPOLITAN DEVELOPMENT AND  
HOUSING AGENCY

By:

**Title:**

EC Nashville Christian Towers, LLC

By:

**Title:** CEO/Chairman Engage Communities, LLC

FILED WITH THE METROPOLITAN CLERK

Austin Kyle

Date \_\_\_\_\_

## **EXHIBIT A**

### **TRACT 1**

Land in Davidson County, Tennessee, being Lot No. 1 on the Consolidation Plat of Nashville Christian Towers, Inc., as of record in Instrument No. 20090624-0058753, in the Register's Office for Davidson County, Tennessee, to which plat reference is hereby made for a more complete and accurate legal description.

Being the same property conveyed to Nashville Christian Towers, Inc., a Tennessee Not-for-Profit Corporation by Quitclaim Deed from Perry Burch and Carl McKelvey, Trustees of the Vultee Church of Christ, filed for record as Instrument No. 20130726-0077839, in the Register's Office for Davidson County, Tennessee.

### **TRACT 2**

Land in Davidson County, Tennessee, being Lot No. 1 on the Plan of Vultee Church of Christ Subdivision, of record in Plat Book 8250, page 848 and revised of record in Book 11190, page 25, Register's Office of Davidson County, Tennessee, to which plan reference is hereby made for a more complete description.

Being the same property conveyed to Nashville Christian Towers, Inc., a Tennessee not-for-profit Corporation by Warranty Deed from Perry Burch, James E. Howell, Neil Lawrence, Carl McKelvey, Gene Lewis and Steve Davidson, Trustees of Vultee Church of Christ, filed for record in Book 11389, page 230, in the Register's Office for Davidson County, Tennessee.

Together with the Ingress and Egress Easement and Maintenance Agreement by and between Olive Branch Missionary Baptist Church, Inc., a Tennessee nonprofit corporation and Nashville Christian Towers, Inc., a Tennessee nonprofit corporation, and filed for record as Instrument No. 20150112-0002765, in the Register's Office for Davidson County, Tennessee.

Together with the 10-foot Private Water Service Line Easement and the 10-foot Private Sewer Service Line Easement for the benefit of Lot 1 on the First Revision of Vultee Church of Christ Subdivision as lie across Lot 2, as shown on the plan of the First Revision of Vultee Church of Christ Subdivision of record in Plat Book 11190, page 25, in the Register's Office for Davidson County, Tennessee.

Together with an Ingress/Egress Easement and Utility Easement containing a Water Service Line of record in Instrument No. 20010212-0013440, in said Register's Office.

Also together with the Encroachment Agreement by and between Olive Branch Missionary Baptist Church, Inc., a Tennessee nonprofit corporation and Nashville Christian Towers, Inc., a Tennessee nonprofit corporation, and filed for record as Instrument No. 20150112-0002766, in the Register's Office for Davidson County, Tennessee.

Said Tracts 1 and 2 being described together as:

Being a tract of land lying in Nashville, Davidson County, Tennessee, also being Lot 1 of Nashville Christian Towers, Inc., as of record in Instrument Number: 20090624-0058753, at the Register's Office for Davidson County, Tennessee, and Lot 1 of the First Revision, Vultee Church of Christ Subdivision, as of record in Plat Book 11190, Page 25, at the Register's Office for Davidson

County, Tennessee, and being more particularly described hereon;

Beginning at an existing iron rod in the southerly right-of-way line of Murfreesboro Pike, at a corner common with the property of Yodit Tewelde, as of record in Instrument Number: 20191101-0112430, at the Register's Office for Davidson County, Tennessee;

Thence with the southerly right-of-way line of Murfreesboro Pike, South 65 deg 06 min 40 sec East, 286.57 feet to a point on bluff;

Thence with a curve to the right, along an arc length of 455.71 feet, the central angle of which is 13 deg 53 min 21 sec, the radius of which is 1879.90 feet, the chord of which is South 57 deg 17 min 02 sec East, 454.59 feet to an existing iron rod, at a corner common with Lot 2 of the First Revision, Vultee Church of Christ Subdivision, also being the property of Olive Branch Missionary Baptist Church, as of record in Instrument Number: 20141223-0117321, at the Register's Office for Davidson County, Tennessee;

Thence leaving the southerly right-of-way line of Murfreesboro Pike, with the westerly property line of said Lot 2, South 39 deg 04 min 09 sec West, 177.75 feet to an existing iron rod, in the easterly right-of-way line of Foothill Court (private right-of-way), in the easterly property line of Olive Branch Missionary Baptist Church, as of record in Instrument Number: 20141223-0117322, at the Register's Office for Davidson County, Tennessee;

Thence with the easterly right-of-way line of Foothill Court (private right-of-way), with a curve to the left, along an arc length of 28.66, central 11 deg 43 min 45 sec, the radius of which is 140.00 feet, the chord of which is North 21 deg 56 min 01 sec West, 28.61 feet to an iron rod set;

Thence North 27 deg 47 min 53 sec West, 172.39 feet to an iron rod set;

Thence with a curve to the left, along an arc length of 142.08 feet, the central angle of which is 25 deg 21 min 38 sec, the radius of which is 321.00 feet, the chord of which is North 40 deg 28 min 42 sec West, 140.93 feet to an existing iron rod;

Thence North 53 deg 09 min 31 sec West, 90.07 feet to an existing iron rod;

Thence with the westerly property line of Olive Branch Missionary Baptist Church, South 25 deg 12 min 55 sec West, 134.55 feet to an existing iron rod;

Thence South 60 deg 12 min 25 sec West, 115.47 feet to an existing iron rod;

Thence North 63 deg 25 min 22 sec West, 78.78 feet to an "X" on wall;

Thence South 30 deg 33 min 22 sec West, 135.90 feet to an existing iron rod, in the northerly property line of Lot 1 of Section 2, Vultee Church of Christ Subdivision, as of record in Instrument Number: 20010212-0013440, of the Register's Office for Davidson County, Tennessee, also being the property of Olive Branch Missionary Baptist Church, Inc., as of record in Instrument Number: 20150408-0030803, at the Register's Office for Davidson County, Tennessee;

Thence with the northerly property line of said Lot 1 of Section 2, Vultee Church of Christ Subdivision, North 65 deg 21 min 51 sec West, 309.56 feet to an existing iron rod, in the northerly property line of said Lot 54 of Hill-N-Dale Acres, as of record in Plot Book 2900, Page 33 & 34, to the Register's Office for Davidson County, Tennessee, and at a corner common with the property of Jayantilal V. Patel &



Husumati J. Patel, as of record in Deed Book 10804, Page 544, at the Register's Office for Davidson County, Tennessee;

Thence with the easterly property line of Jayantilal V. Patel & Husumati J. Patel, North 31 deg 59 min 56 sec East, 250.40 feet to an existing iron rod, at a corner common with the property of Yodit Tewelde;

Thence with the southerly property line of Yodit Tewelde, South 65 deg 29 min 59 sec East, 100.00 feet to an "X" on rock ;

Thence with the easterly property line of Yodit Tewelde, North 32 deg 17 min 37 sec East, 147.92 feet to the POINT OF BEGINNING. Containing 174,041 square feet or 3.995 acres more or less.

Being the same property conveyed by Nashville Christian Towers, Inc., a Tennessee nonprofit corporation to NHC Nashville Towers Nonprofit LLC, a Tennessee nonprofit limited liability company by Special Warranty Deed of record as Instrument Number 20221228-0133207, at the 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:** September 15, 2023  
**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:** **Nashville Christian Towers Apartments** (10600011300), 100 Foothill Court  
175 multi-family units  
Units 100% HAP Elderly designation

**Zoning:** **Residential Multi Family RM40** is intended for single-family, duplex, and multi-family dwellings at a density of 40 dwelling units per acre.

Planned Unit Development Overlay District (PUD) is an alternative zoning process that allows for the development of land in a well-planned and coordinated manner, providing opportunities for more efficient utilization of land than would otherwise be permitted by the conventional zoning provisions of Title 17. The PUD district may permit a greater mixing of land uses not easily accomplished by the application of conventional zoning district boundaries, or a framework for coordinating the development of land with the provision of an adequate roadway system or essential utilities and services. In return, the PUD district provisions require a high standard for the protection and preservation of environmentally sensitive lands, well-planned living, working and shopping environments, and an assurance of adequate and timely provision of essential utilities and streets.

**Policy:**

T4 Urban Mixed Use Corridor (T4 CM) is intended to enhance urban mixed use corridors by encouraging a greater mix of higher density residential and mixed use development along the corridor, placing commercial uses at intersections with residential uses between intersections; creating buildings that are compatible with the general character of urban neighborhoods; and a street design that moves vehicular traffic efficiently while accommodating sidewalks, bikeways, and mass transit.

**Project Details:**

Nashville Christian Towers is a 175 unit multifamily apartment community located in the South Nashville area. The property immediately to the east is zoned RM40, property to the west is zoned CS, to the north both parcels facing the towers are zoned IR and to the south the development abuts RS10. The existing buildings were built in 1978 and the non residential first and second floors were renovated in 1993. In 2013 a parking deck and enclosed third floor connection to existing rehabilitation facility were added. It is serviced by a transit route with a stop directly outside the property.

This project does not include additional units. It is a rehabilitation of units that exists.

This project has applied for and received an allocation of low income housing tax credits (LIHTCs) from THDA. The restriction for the LIHTC program is that all units must be affordable to households earning 60% of the area median income (AMI) based on income averaging. The project is also pursuing a payment in lieu of taxes through MDHA and Metro Council.

**Planning Department Analysis:**

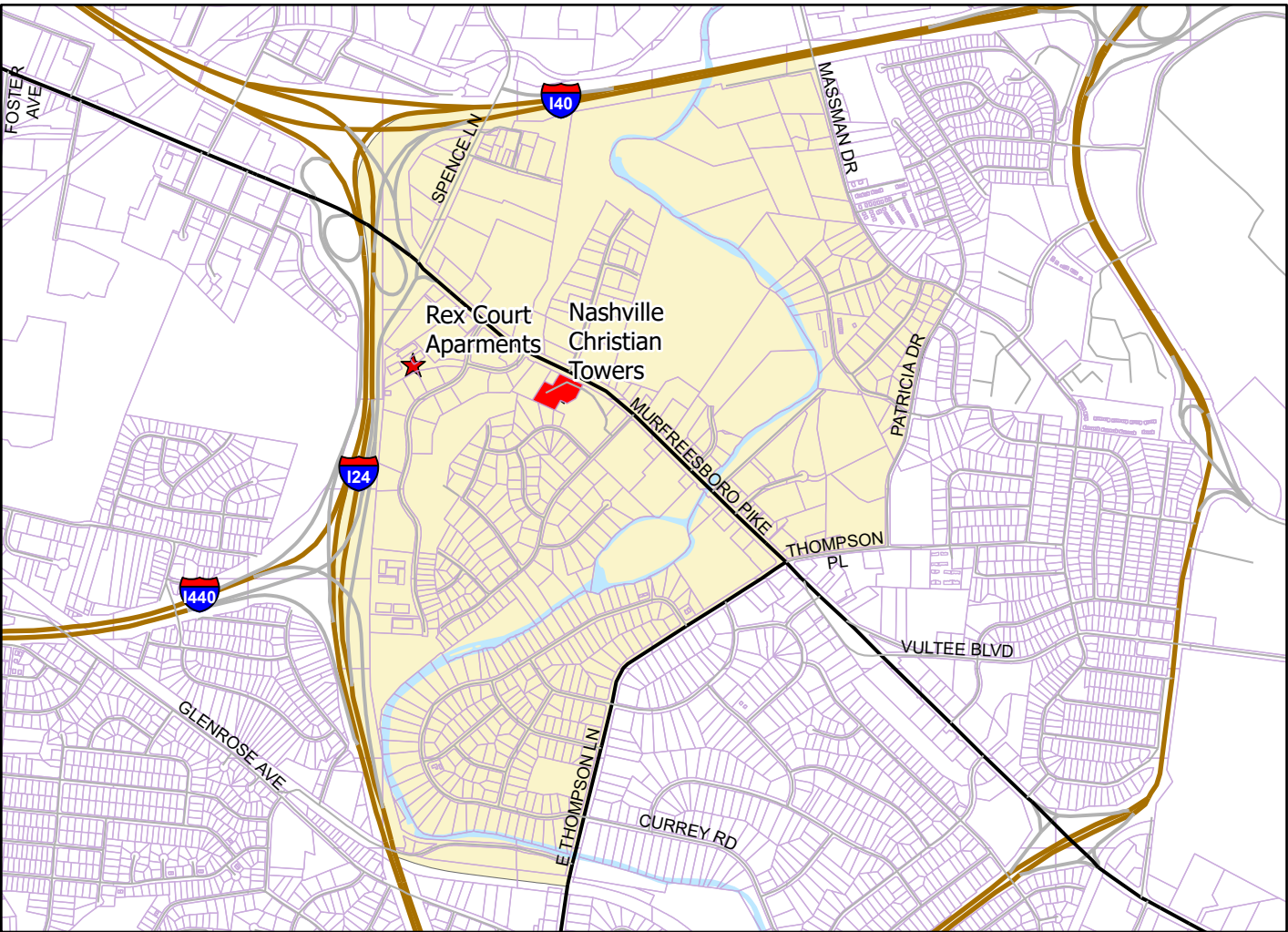
The T4 CMM policy, encourages a greater mix of higher density residential and the proposal continues to support that goal. The project is interior renovations and therefore it continues to support the policy.

**Planning Determination:** The proposed development 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 47037015806






Development Name	Units
Nashville Christian Towers	175
Rex Court Aparments	96

Source: U.S Census Bureau | Metro Nashville Planning  
| July 2023

0.25  
Miles



-  Federally funded housing
-  Nashville Christian Towers
-  Tract 47037015806

# 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: \_\_\_\_\_

Project Name: \_\_\_\_\_

Location of the Project: \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

Name of the Federal  
Program to which the  
applicant is applying: \_\_\_\_\_

Name of  
Certifying Jurisdiction: \_\_\_\_\_

Certifying Official  
of the Jurisdiction  
Name: \_\_\_\_\_

Title: \_\_\_\_\_

Signature:  \_\_\_\_\_

Date: \_\_\_\_\_