

Solstice Partners, LLC

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July 19, 2023

VIA E-MAIL

Ms. Tara Hall
North Carolina Housing Finance Agency
3508 Bush Street
Raleigh, North Carolina 27609-7509

Re: Comments to Draft 2024 QAP

Dear Tara:

Please find attached a memo that outlines my comments regarding the current requirement of the QAP regarding the zoning letter that must be submitted with the full application. Recent changes to legislation in the State have made obtaining a zoning letter from municipalities much more arduous so I hope to see this addressed in the 2024 Qualified Allocation Plan.

As always, thank you for your consideration.

Sincerely,



Catherine F. Connors

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CONDITIONAL USE ZONING – QAP

Over the last two years, I have had issues obtaining a zoning letter for the full tax credit applications because of legislation that went into effect on July 1, 2021, when “conditional use zoning” became “conditional zoning”. N.C. Gen. Stat. Sec. 160D101 et. seq. Article 7 of this statute addresses zoning regulation which I believe has caused local governments, right or wrong, to require developers to produce engineered site plans and go through the complete rezoning process (i.e., Planning Board and Town Board hearings) before a municipality will issue a zoning letter that is required by the North Carolina Housing Finance Agency to be submitted with a full tax credit application each year. I believe this process is now flawed, for reasons stated below, and should be addressed by NCHFA.

First, the requirement of “detailed site plans” has caused the most heartburn. As you know, when the full tax credit application is submitted, typically the developer has not fully engaged surveying services for a complete boundary and topographical survey, performed subsurface testing or engaged for a Fire Flow Analysis, all of which is necessary for a civil engineer to design the site plans responsibly and completely. The costs for these scopes for each site range from \$40,000 to \$100,000. The competitiveness for awards coupled with the current point system results in a lack of certainty surrounding an award for tax credits. I am of the opinion no developer would take these financial risks before the receipt of an award under the current system of uncertainty.

Second, any conditional zoning that is approved by a municipality “runs with the land”. That means if a landowner is willing to go through the rezoning process in anticipation of a sale of their land, once the conditional use is approved by the municipality, that “condition” or “site plan” runs with the land, even if the developer is not awarded tax credits. That is not attractive for most landowners because if the tax credit developer is not successful in a bid for the tax credits, the seller is stuck with conditional zoning for multi-family apartments until they go through the same process all over again with another developer.

Third, if a conditional zoning is approved for a site, and there are any major modifications to the site plan, including any unforeseen issues, the developer must take the project back through the entire rezoning process and runs the risk of the modifications NOT being approved, even though the developer may have been awarded tax credits at that point.

Since the new legislation has been enacted, the act of obtaining a zoning letter for tax credit applications has become extremely burdensome for the developer AND the landowner. Many municipalities require fully engineered site plans and for the developer to go through the

full rezoning process of appearing before the local planning board and town board or city council before they will issue the zoning letter that is required for the submission of a full tax credit application to NCHFA. The rezoning process is expensive, tedious, and time consuming and should not be required until a site is awarded tax credits for the development.

I would propose that developers obtain a letter from a municipality that states what the actual zoning is for the subject parcel and whether multi-family is “conditional use” for that zoning. If the current zoning allows for multi-family as a conditional use, that should be all that is required to be said in the zoning letter at the time of the full tax credit application submission.