



# Chatham County, NC

## Legislation Text

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**File #:** 24-5170, **Version:** 1

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Vote to award Circle Up, LLC (Retreat at Pittsboro) \$32,373.82, and After School, LLC (Siler School Square) \$28,906.50 as an Affordable Housing Support grants.

Introduction & Background: Siler School Square and the Retreat at Pittsboro are income-restricted apartments for households earning between 30-60% Area Median Income (AMI) through the 9% Low Income Housing Tax Credit (LIHTC) program, a federal program administered by the NC Housing Finance Agency. Both LIHTC developments are Third Wave Housing projects under their respective LLCs, and both developments have Land Use Restriction Agreement (LURA) which are recorded on the properties that restrict their use to housing, which can only be leased to tenants who have incomes less than 60% of AMI for 30 years.

For the Retreat at Pittsboro, which is a 48-unit development, the NC Housing Finance Agency, who controls the LURA, has also required a more constricting restriction that 25% of the units have to be leased to tenants with incomes which don't exceed their 30% of AMI.

With respect to Siler School Square, which is a 44-unit development, the North Carolina Housing Agency, has also required a more constricting restriction that 36% of the units have to be leased to tenants with incomes that do not exceed their 30% of AMI levels and an additional 13% of the units must be leased to tenants with incomes which don't exceed their 50% of AMI levels.

Siler School Square came online in the fall of 2020. Owing to construction cost overruns and additional operating expenses associated with the development, the Affordable Housing Advisory Committee (AHAC) recommended approval to the Board of Commissioners for an Affordable Housing Support grant to After School, LLC in April of 2022. The grant amount was determined by calculating the difference between the total tax liability of the improved property and subtracting out the unimproved tax liability, which was approximately \$7,000. The Board of Commissioners approved the grant as recommended.

The abstract submitted to the Board of Commissioners in consideration of this item stated the following:

As a form of continuing a healthy public-private partnership and supporting the development of affordable housing, this reimbursement grant allows for additional costs to not be passed onto the households at Siler School Square and keeps the owner - developer in compliance with NCHFA rules, which govern the majority of the project.

The abstract further noted:

It is anticipated that this affordable housing support grant will continue to be needed. Additional analysis and discussions are occurring with staff, the legal team, and any further funding considerations will be evaluated by AHAC and brought back to the board

when ready.

Coming online about one year later, the Retreat at Pittsboro also realized unanticipated capital investment as well as additional operating expenses. Since the first grant was awarded in 2022, staff has been working with Third Wave to determine the most appropriate and sustainable path forward whereby Third Wave will no longer require additional financial assistance from the county and can meet its operational expense needs and debt obligations without creating a stressed property and without passing the financial burden along to households within the developments.

Discussion & Analysis: LIHTC properties do not have the same ability as other private apartment complexes charging market rate rents to absorb sweeping costs increases, particularly over a shorter duration of time. Granting financial support for the continuation of affordable housing through these two developments will provide Third Wave time to explore and enact one or more business decisions to overcome financial shortfalls. One such option Third Wave and county staff have discussed is alternative ownership structures that will enable the two properties to become eligible for tax exemption.

Property owned by a non-profit organization and used for low- or moderate-income housing is entirely exempt from local property taxes ([G.S. 105-278.6](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-278.6) [<http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-278.6>](http://www.ncga.state.nc.us/gascripts/statutes/statutelookup.pl?statute=105-278.6)). According to caselaw explored by the UNC School of Government in its post “NC Appellate Court Defines ‘Ownership’ For Property Tax Exemption,” a non-profit can share ownership with for-profit entities without destroying the property’s exemption under this provision (see [this blog post](http://canons.sog.unc.edu/?p=7057) [<http://canons.sog.unc.edu/?p=7057>](http://canons.sog.unc.edu/?p=7057) for more details about ownership structures). Third Wave has expressed interest in a restructuring such as this as a viable option to explore.

As noted above, the intent of the recommended grant is to provide Third Wave the ability to make relevant business decisions that will support the long-term financial sustainability of the two affordable housing developments it has in Chatham County, where the properties will not be undermanaged and maintained, the households within the developments are not adversely impacted, and where Third Wave no longer requires additional financial assistance from the county.

Accordingly, the supportive grant recommendation amount follows the methodology utilized in the grant awarded Third Wave in 2022 for its 2021 tax bill for Siler School Square, but for the tax years of 2022, 2023, and 2024, and for both properties. Applying this methodology, the proposed grant amount is \$32,373.82 for the Retreat at Pittsboro (Circle Up, LLC), and \$28,906.50 for Siler School Square (After School, LLC).

How does this relate to the Comprehensive Plan: Plan Chatham speaks of access to high quality housing, options for all, and fostering a healthy community. The proposed affordable housing supportive grant seeks to advance these goals.

Budgetary Impact: No net impact on the operating budget is anticipated, as funds will be transferred into the General Fund from the Affordable Housing Trust Fund. The Affordable Housing Trust Fund will, however, be impacted by the amount of the grant recommendation, if approved.

Recommendation/Motion: Award Circle Up, LLC (Retreat at Pittsboro) \$32,373.82, and After School, LLC (Siler School Square) \$28,906.50 as an Affordable Housing Support grants.