



City of Grand Island

Tuesday, March 30, 2021

Study Session

Item -1

2020 Legislative Changes that Impact Housing and Community Redevelopment in Grand Island

Staff Contact: Chad Nabity

Council Agenda Memo

From: Chad Nabity, AICP, Regional Planning Director

Meeting: March 30, 2021

Subject: Legislative Bills Approved and Signed During the 2020 Session That Could Impact City of Grand Island Housing and Community Redevelopment

Presenter(s): Chad Nabity, AICP, Regional Planning Director

Background

This study session will cover 3 bills that were enacted into law in 2020:

- **LB 866 Municipal Density and Missing Middle Housing Act**
- **LB 1021 Changes to Community Redevelopment Act to Allow MicroTIF**
- **LB 424 Changes to Municipal Land Bank Act**

The changes to Nebraska Law enacted by each of the above-mentioned bills has the potential to impact housing and community development within the City of Grand Island. In the case of LB 866 (Municipal Density and Missing Middle Housing Act) new requirements have been imposed on the City and staff will, at the very least, need to prepare the appropriate reports to submit to the legislature by July 1, 2021. Council may be asked to approve changes to the Grand Island Zoning ordinance (Chapter 36 of City Code) to work toward achieving the stated goals of this law. The authority granted to the City in both LB 1021 (MicroTIF) and LB 424 (Land Bank) is permissive; meaning that Council is not required to take any action or implement any changes to current policies but may choose to do so if they feel it is in the best interest of the City and its residents.

Discussion

LB 866 Municipal Density and Missing Middle Housing Act

The Nebraska Unicameral found the following statements to be true and declared with the passage of this act that:

- Residential Density is beneficial and a more cost effective use of municipal resources and services;

- There is a need for affordable housing in Nebraska municipalities;
- Affordable housing contributes to economic growth;
- After WWII municipal zoning codes in Nebraska prioritized detached single family homes and mid-rise to high rise apartments over other forms of housing stock;
- The historic practice of redlining in Nebraska communities has contributed to the lack of affordable housing stock; and
- Housing stock known as middle housing has been largely missing in the construction of new housing in the United States since the mid-1940's.

The Unicameral, based on the above facts, is directing cities in Nebraska to examine and update their zoning regulations to permit various types of housing prioritizing “missing middle housing”. Their hope is that this action will lead to greater availability of affordable housing, increase residential density, promote more efficient and effective land use, and create conditions for successful mass transit, bikeability, walkability and affordability in residential neighborhoods.

The law defines “missing middle housing” as Duplexes, Triplexes, Quadplexes, Cottage Cluster and Townhouses.

It is believed that these missing middle housing types will provide “workforce housing”. Workforce housing is defined as:

- Housing that meets the needs of working families;
- Owner occupied and has an after construction appraised value of \$125,000 to \$275,000;
- Owner occupied housing units for which the cost to substantially rehabilitate exceeds 50% of the unit's assessed value;
- Upper story housing for occupation by the homeowner; and
- Housing that does not receive any federal or state low-income housing tax credits, community development block grants, HOME funds or funds from the Affordable Housing Trust Fund.

On or before the July 1, 2021 and every two years thereafter the City is required to submit a report to the Unicameral's Urban Affairs committee detailing its efforts to address the availability of and incentives for affordable housing through its zoning regulations. On or before January 1, 2023 the City will be required to adopt an affordable housing action plan as specified by the law. Cities that fail to adopt an affordable housing action plan by the required date shall be required to allow the development of:

- Middle housing in all areas of the city zoned for residential use that allow for the development of single-family dwellings;
- A duplex on each lot or parcel zoned for residential use that allow for the development of single-family dwellings; and

- Shall amend any building or zoning ordinances as needed to comply with this law.

Cities of the First Class, such as Grand Island, are specifically required to comply with the Municipal Density and Missing Middle Housing Act. In addition, because Grand Island has a population of more than 50,000, we are required to adopt an affordable housing action plan by January 1, 2023. Other cities of the First Class are required to have the plan in place by January 1, 2024.

It is the intent of this study session to inform Council of the ways staff intends to bring the City into compliance with this new law by the dates identified therein. As part of this discussion, we will be presenting information about how the various residential zoning districts work in Grand Island and ways in which we believe that we are already largely compliant with the law. We will also be presenting examples of missing middle housing and discussing which of those identified in LB866 are allowed in Grand Island and under what conditions.

Next Steps

Staff will prepare the report due July 1, 2021. Staff will also prepare the Affordable Housing Action Plan for adoption by the City Council in December 2022.

LB 1021 Changes to the Community Redevelopment Act to allow MicroTIF

MicroTIF as allowed by current Nebraska Law is designed to lower the barriers to using tax increment financing (TIF) for certain properties within areas of the City that have been declared blighted and substandard. Communities that choose to use MicroTIF must adopt a resolution permitting its use.

What is MicroTIF?

MicroTIF is an expedited TIF application and approval process that can only be used in certain circumstances:

- City is in a county with a population of less than 100,000;
- City has passed a resolution permitting the use of MicroTIF;
- Structure on impacted property is at least 60 years old;
- If single family residential project the completed value is less than \$250,000;
- If multi-family residential or commercial project the completed value is less than \$1,000,000; and
- If project is for revitalization of a structure on the National Register of Historic Places the completed value is less than \$10,000,000.

MicroTIF Process:

1. Redeveloper prepares a redevelopment plan using a standard [form](#) provided by the Nebraska Department of Economic Development.
2. Redeveloper submits the plan to the governing body along with the building permit or other permits necessary to complete the redevelopment project along with an application fee as set by the governing body not to exceed \$50. (Fees for building or other permits are to be paid separately.)
3. Governing body reviews the plan as submitted and determine if the plan is meets the requirements. Governing body has 30 days from submission to approve or deny.
4. Each city may select the appropriate employee or department to conduct the expedited review.
5. Community Redevelopment Authority shall incur indebtedness in the form of a promissory note issued to the owner of record of the property for an amount not to exceed the total value of 10 years of the increment created by the project. (eg. Owner of a house with a \$100,000 value is paying \$2,200 in taxes today. Owner applies for MicroTIF and makes \$50,000 worth of taxable improvements Value increases to \$150,000 taxes paid go up by \$1,100 annually. The CRA issues a promissory note for \$11,000 (\$1,100x10) and sends the TIF funds to the holder of the promissory note when the real estate taxes, including the tax increment, are received from the County Treasurer.
6. Redeveloper is responsible for notifying the County Assessor that the work is complete and the Assessor determines if the project is complete. This needs to be done within 2 years of approval of the redevelopment plan.
7. After the Assessor certifies the completion of the project the CRA can repay the Redeveloper from TIF funds received by the CRA from the Treasurer.
8. The CRA/City may use a single fund to track payments for all MicroTIF projects.
9. The CRA will need to file a report of all MicroTIF projects approved with the Nebraska Department of Revenue in October of the year the divisions of taxes will begin. A single report can include all MicroTIF projects.
10. The CRA needs to include all MicroTIF Projects in the report due to Council on May 1 of each year.

MicroTIF allows the City, if it chooses, to utilize an expedited review process to approve a shorter term (10 year maximum), lower cost (total cost to applicant cannot exceed \$50) TIF project. The minimum fees for a typical TIF application in Grand Island are \$5,700 (\$1,100 application fee, \$1,000 fee for accounting services set within the contract and \$3,600 attorney's fees for the TIF contract). MicroTIF makes TIF more accessible to the general public and property owners in older parts of the City. The law as passed does not specify what the minimum improvements need to be or place a minimum valuation that needs to be created in order to use MicroTIF. All activities paid for with TIF still need to be eligible expenditures per the Community Redevelopment Act. Qualified applications must be approved within a maximum of 30 days from submission without additional specific approval by the City Council or CRA.

Next Steps

If the City Council wishes to implement the use of MicroTIF, staff will need to prepare and present a resolution authorizing the use of MicroTIF within the City of Grand Island.

LB 424 Nebraska Municipal Land Bank Act

In 2020, the Nebraska Unicameral expanded the Nebraska Municipal Land Bank Act to allow the formation of Land Banks outside of Douglas and Sarpy Counties. Land Banks may now be formed by any class of municipality under certain conditions as prescribed in the Act.

Any Nebraska municipality may join an existing Land Bank. At this time, the only Land Bank in Nebraska is in Omaha. A Nebraska municipality may also form a Land Bank through an interlocal agreement with at least 1 other municipality. The intent of the legislature appears to be to allow regional Land Banks and to let the municipalities determine how those regions should be defined.

A Land Bank as defined by Nebraska law is a public corporation acting in a governmental capacity and a political subdivision of the state with permanent and perpetual duration unless terminated and dissolved in accordance with state law. Statute defines the governing board of a Land Bank, including composition, appointment, and the powers of that board. Voting members of the board must, collectively, have skills, expertise and knowledge in market-rate and affordable residential, commercial, industrial and mixed-use real estate development, financing, law, purchasing and sales, asset management, economic and community development and the acquisition of tax sale certificates. Board members must also represent specific membership/job categories including: Chamber of Commerce, banking, real estate development, realtor, affordable housing, and large scale residential or commercial rentals. The board must meet on a regular schedule as determined by the board.

A Land Bank operating in the City of Grand Island would have the ability to bid on and acquire tax certificates for property located within the City in the same manner as any other bidder. They could hold title to no more than five percent of the total number of parcels located in the city and no more than 5% of that total can be zoned commercial. There are about 20,000 parcels in the City of Grand Island so a Land Bank could own up to 1,000 parcels with no more than 50 of those being commercial properties. Commercial properties must have been vacant for at least three years before a Land Bank may acquire them. A Land Bank may also acquire property by gift, devise, transfer, exchange, foreclosure, purchase or other means as deemed proper by the board of the Land Bank. A Land Bank may accept property from any political subdivision. A Land Bank must maintain all properties in accordance with the laws and ordinances of the jurisdiction in which they are located. A Land Bank may not own property outside the municipal limits of a participant municipality. A Land Bank must hold all real property acquired by the Land Bank in its own name. An inventory of all land owned by the Land Bank must be maintained and made available to the public.

The municipalities that create the Land Bank may establish a hierarchical ranking of priorities for the use of real property owned by the Land Bank. Municipalities may require that any particular form of disposition of real property be subject to specified voting and approval requirements of the board.

A Land Bank may be funded by grants or loans from the municipalities that create the land bank, other municipalities, state or federal government and from public and private sources. A Land Bank is entitled to 50% of the total taxes collected on property conveyed by the Land Bank for redevelopment for a period of five years after the sale of the property.

The primary function of a Land Bank as defined by statute is to acquire, consolidate, and redevelop tax delinquent properties. In Omaha, the Land Bank has the ability to acquire tax delinquent properties with preferential treatment. Other Land Banks that are created in the State will not have that same preferential treatment so they will have the same ability to acquire property as any other investor in tax certificates.

According to Hall County Treasurer Alaina Verplank almost all of the tax certificates that are offered for sale each year are purchased by investors. It does not appear that there are a large number of tax certificates that would be available to a Land Bank operating in Grand Island. There are no more than 3 certificates that don't sell in any given year with a value of \$20 or less. There are usually 3 or 4 certificates annually that have been purchased that the investor does not move forward with foreclosing on.

Next Steps

The Grand Island CRA is partnering with the Grand Island Area Economic Development Corporation to bring Marty Barnhart, the former Director of the Omaha Land Bank, to Grand Island to explore how a Land Bank would work in Grand Island. The CRA and GIAEDC will be inviting concerned parties to participate in the session. The South

Central Economic Development District (SCEDD), housed in Holdrege, is interested in potentially working with communities in their region to form a Land Bank. Hall County is within SCEDD's organizational territory and Grand Island is the largest municipality in their territory.

Conclusion

These items were presented to the City Council in a Study Session to allow for any questions to be answered and to create a greater understanding of the issues at hand.

866 (Missing Middle) is the current law of the land staff will meet the reporting and prepare the necessary plans to allow the city to remain in compliance with the law. Staff may also make suggestions for changes to Chapter 36 the Grand Island Zoning Regulations that increase compliance with this law.

1021 (MicroTIF) is a an expansion of the use of TIF in the community that makes it feasible to use TIF for smaller projects that are more likely to benefit individual property owners and make incremental improvements to neighborhoods. In order to use MicroTIF Council would need to pass a resolution authorizing the use of this tool. Once the resolution is passed individuals would be able to apply for MicroTIF to be applied to their property for a period of up to 10 years. Applications for MicroTIF would be approved at the staff level and Council would receive a report of activities annually with the May 1 TIF report required by the Community Redevelopment Act. Council should determine if this is redevelopment tool that they wish to see used inside the Grand Island City Limits.

424 (Land Bank) needs additional exploration to determine if it is beneficial to the City. The CRA and EDC will be hosting a discussion with Marty Barnhart, former Director of the Omaha Land Bank, in April. It may also be possible to work with South Central Economic Development District to create a Land Bank serving their region which includes Grand Island and Hall County. The frame work of a Land Bank hosted by a development district might require statutory changes. At this time a slow approach to creating a land bank with a complete understanding of the costs and benefits is recommended.