

BILL NO. BL2018-1139 (SYRACUSE) – This ordinance, as amended, would establish a “transit-oriented redevelopment plan” in Donelson and, if adopted, would be the first implementation of a transit-oriented development district as authorized under recent state legislation.

In May 2017, the Tennessee General Assembly enacted legislation (Tenn. Code Ann. § 13-20-701, et seq.) authorizing transit-oriented redevelopment plans in areas where the absence of facilities for high capacity transit options are detrimental to public welfare. Under the state legislation, the local housing authority – in this instance, the Metropolitan Development & Housing Agency or MDHA – is authorized to implement transit-oriented redevelopment projects. In so doing, MDHA would be authorized to:

- Acquire transit-deficient areas and other properties necessary to reduce blight or to allow proper development of the property pursuant to a redevelopment plan;
- Clear acquired areas acquired, including the relocation of utilities, demolition of existing structures, and removal of environmental contaminants;
- Install or construct utilities, public infrastructure, and site improvements, including parks, open spaces, and playgrounds;
- Install or construct privately-owned affordable and workforce housing;
- Pay expenses for relocation, administrative costs, planning and engineering costs, energy efficiency costs, and legal expenses associated with carrying out a plan;
- Pay costs associated with meeting requirements of Leadership in Energy and Environmental Design (LEED), Green Globes, or other similar programs;
- Sell or lease acquired land for uses in accordance with the plan; and
- Borrow money upon its bonds or notes to finance and to carry out a plan.

Historically, MDHA has served to (1) implement the development and operation of low-income housing and (2) implement economic redevelopment districts. The establishment of transit-oriented development districts would establish a third “hybrid” role for MDHA wherein it implements both economic development and housing within transit corridors.

The plan proposed under the current ordinance is expressly intended to implement the concepts from Let’s Move Nashville: Metro’s Transportation Solution, initially released in October of 2017, which was rejected at a county-wide referendum election on May 1, 2018.

Under the new state enabling legislation, MDHA cannot initiate a transit-oriented redevelopment project until the governing body (Metro Council) or MDHA has approved a transit-oriented redevelopment plan. These proposed plans must provide a variety of details, including:

- local objectives regarding land use, improved traffic, public transportation, utilities, recreational facilities and other improvements;

- proposed land uses and building requirements; and
- proposed methods for temporarily relocating those living in such areas, and the means by which safe and sanitary dwellings will be provided to replace substandard dwellings to be cleared.

The ordinance under consideration proposes approval of the "Donelson Transit-Oriented Redevelopment Plan" (the "Plan") which encompasses an area located within 1,320 feet on either side of Lebanon Pike between Park Drive and Stewarts Ferry Pike. MDHA has examined the area and concluded that it lacks facilities for high capacity transit options, to the detriment of public health, safety, morals, and welfare. Facilities for high capacity transit are necessary, according to MDHA, to address traffic hazards and congestion and to improve traffic facilities. In addition to approving the Plan, the ordinance would formally establish that the area is "transit-deficient" as defined under state law; that this condition is detrimental to public safety, health, morals and welfare; and that that the area, or portions thereof, should be acquired by MDHA. Additionally, the use of TIF financing would be approved for activities specified under the Plan.

The Plan, attached as an exhibit to the ordinance, provides a description of the area and its boundaries, and describes the objectives of the Plan – namely: (a) to create a transit-oriented, mixed-use district surrounding the Donelson train station; (b) to enhance the pedestrian environment; and (c) to provide housing for a range of incomes, including affordable and workforce housing. The Plan adopts the development standards in the Downtown Donelson UDO first adopted in 2009. To achieve its objectives, the Plan describes the "main redevelopment actions" proposed for the project area which consist of a variety of goals addressing building design and orientation, construction materials, utility design, water quality techniques, multi-modal travel, pedestrian connections, and other design feature goals.

The state enabling legislation enables MDHA to extend tax increment financing (TIF) for properties within the boundaries of the proposed development plan each year. The proposed Plan specifically calls for use of TIF financing, backed by \$30,000,000 dollars of tax increment debt. Under state law, plans proposing use of TIF must disclose estimates of the cost of the project, sources of revenue to finance the project, the estimated tax increment, estimates of the amount and final maturity date of the bonded indebtedness, and an estimate of the impact of TIF financing on local taxing agencies. The proposed Plan includes the following measures:

- \$33,000,000 - The cumulative assessed value of all real estate within the Redevelopment District.
- \$300,000,000 - The projected future increase in the value of property developed under the Plan.
- \$30,000,000 - The tax increment backed debt provided for by the Plan. Thirty percent (30%) of the projected net new property tax revenues generated by the project area will be required to generate this amount of tax increment backed debt.

- \$10,000,000 – The portion of TIF financing committed by MDHA toward development of affordable and workforce housing units. (The remainder of the \$30,000,000 of tax increment backed debt would be used for infrastructure and economic development.)

The Plan states that the amount of bonds or other indebtedness backed by the tax increment will not exceed \$30,000,000; and the final maturity date on any bonded indebtedness backed by the tax increment would occur on or before December 31, 2048. Upon retirement of all bonds or other indebtedness, all property taxes resulting from the incremental development of the Project would be retained by the Metropolitan Government.

MDHA would be further authorized under state law to borrow money or accept contributions from the federal government to assist in undertaking redevelopment projects.

Under the proposed Plan, land use restrictions and design requirements would be implemented through a Design Review Committee, appointed by the mayor and approved by the council, that must approve all improvements affecting property exteriors that otherwise require building permits. Permitted uses would include residential, institutional, educational, office, medical, commercial, transportation, recreation and entertainment. Certain identified uses would be prohibited (e.g., adult entertainment, etc.) while several others would be made conditional uses subject to Design Review Committee approval.

The Plan further proposes a review process administered by MDHA for any new development, redevelopment, or improvement otherwise requiring a building permit. Applicants are likewise required to abide by the existing UDO Final Site Plan and building permit processes through the Metro Planning Department.

Although state law assigns broad powers to housing authorities, MDHA would be specifically prohibited under the state legislation from using eminent domain to eliminate transit-deficient areas (though it may use eminent domain to acquire land for public facilities and infrastructure.) The Plan provides for the acquisition of properties necessary to install infrastructure and improvements essential to the implementation of the redevelopment plan. However, under certain conditions, property designated for acquisition can be exempted – essentially if the exemption will not adversely affect implementation of the redevelopment project.

Under the state enabling legislation, once property is acquired, MDHA would be authorized to make land within the project available to private enterprise and public agencies at “use value” in furtherance of the underlying redevelopment plan. To assure appropriate property use, MDHA would be obliged – upon sale or lease of land – to require its use to be for purposes designated within the plan, or to impose other conditions necessary to effectuate the plan. The proposed Plan provides that MDHA contracts, deeds and other conveyances would include conditions to ensure redevelopment of the area in accordance with the Plan.

As required under state law, the Plan provides for relocation assistance for individuals and businesses displaced by project actions or land acquisition, although the Plan aspires generally to “minimize the need for displacement or relocation of businesses or residents.”

In the event changes in the approved Plan become necessary or desired, the proposed Plan specifies that it may be modified, changed or amended “by MDHA”, with subsequent approval of the Metropolitan Council. In other words, the Metro Council could not initiate Plan amendments. Although this is typical of MDHA redevelopment districts, the state legislation enabling transit-oriented redevelopment plans does not prohibit the initiation of plan amendments by Council.

State law requires a public hearing on any redevelopment plan prior to final approval, preceded by a specific schedule for public notice. A public hearing was held on May 15, 2018.

Council members, including the lead sponsor, held extensive discussions with MDHA, the Mayor’s office, and other departments and agencies. As a result of those discussions, a substitute ordinance was adopted at the April 17 Council meeting, and an amendment was added at the June 5 meeting, to add provisions to the ordinance and/or underlying Plan as follows:

- Clarification that a minimum of \$10 million, but not exceeding \$15 million, of TIF financing will be dedicated to affordable housing, defined as 0%-60% AMI;
- Projects with residential components that apply for TIF financing will be required to allocate 10% of residential units to affordable housing;
- The appropriate balance between affordable and workforce housing will be reassessed periodically (e.g., every 5 years) and submitted to Council for approval;
- The minimum period of affordability for residential units will co-extensive with the life of the TIF financing loan;
- Amendments to the Plan could be initiated by either MDHA or the Metro Council, subject to the other’s approval;
- Recently revised requirements within Metro Code of Laws §§ 5.06.020, 5.06.050 and 5.06.060 regarding economic development districts will be incorporated into the ordinance;
- Prior to approval of the next transit-oriented district, a unified process providing for a one-stop design review and zoning approval process would be implemented by and between MDHA and the Metro Planning Department; and
- Explicit reference would be made to the state legislation’s incentives for LEED design and similar programs, as well as its authorization for the installation of energy use capture and transmittal infrastructure, alternative power systems or alternate power projects that incorporate principles of urban sustainability, eco-efficiency, and global sustainable development;
- Require that MDHA establish annual goals for the development and preservation of fixed affordable housing units, as well as an annual scorecard listing all fixed affordable housing units within the Project Area;

- Require that MDHA and Planning Department determine a best practice service to the public for design review and processing of applications for development. The Council would be authorized to establish such process if none is approved after one year.

The Planning Commission approved this ordinance and Plan (dated April 10, 2018), as amended by Council, at the June 28, 2018 meeting by a vote of 7-2. MDHA did not consider the Plan as amended by Council at its July 10, 2018 board meeting. However, an amendment is anticipated by the sponsor reinstating the May 11, 2018 version of the Plan, previously considered and approved by the MDHA board. The substantive changes within the May 11, 2018 version of the Plan are as follows:

- Reinstatement of a previous provision whereby the Design Review Committee would be designated by the Executive Director of MDHA. This would replace a previously amended provision establishing the Committee through mayoral appointment;
- Revising previous provisions which allowed for replacement of the “review process” provisions by resolution of the Council. As amended, this section would allow such replacement through implementation of recommendations issued by MDHA and the Planning Department per the terms of a Memorandum of Understanding;
- Application by MDHA of tax increment financing for workforce housing (in addition to affordable housing), with the committed \$10-\$15 million limited to affordable housing; and
- Clarification that owner-occupied STRPs are a conditional use and non-owner occupied STRPs are a prohibited use.

A joint committee meeting of the Planning, Zoning & Historical Committee and the Ad Hoc Affordable Housing Committee is scheduled for Monday, August 20, 2018 for further discussion of this ordinance. The ordinance is amendable on third reading.

Fiscal Note: “Tax Increment Financing” (TIF) is a financing mechanism authorized by state law for redevelopment districts whereby the increased property tax revenue generated by a development is used to pay the debt service on loans for the construction of improvements related to the project.

The cumulative assessed value of all real estate within the proposed Donelson Transit-Oriented Redevelopment District is approximately \$33,000,000 (thirty-three million dollars). If this plan is approved, the projected value of the property developed in conjunction with the plan is estimated to be approximately \$300,000,000 (three hundred million dollars).

The activities of MDHA would be intended to make the area conducive to new private development, resulting in increased tax revenues for Metro. Per the anticipated amendment, MDHA now plans to commit \$10,000,000 (ten million dollars) of tax increment financing for the development of affordable housing units, capped at \$15,000,000 (fifteen million dollars.) The remainder of the \$30,000,000 (thirty million dollars) of tax increment backed debt provided by this plan would be used to support infrastructure and economic development activities.

MDHA has projected that the \$30,000,000 (thirty million dollars) provided for by the plan would only require approximately 30% (thirty percent) of the projected new property tax revenues generated within the project area. These projections are based on the assumption that property tax revenues for all existing properties would increase each year at a rate of 6% for the first 10 years and then 5% for the 20 years after that. No basis has yet been provided for this assumption.

The TODT would capture all new property tax revenue in the district, not just from properties with TIF loans. If the assumed growth rates cannot be achieved, the balance of the new property tax revenues from all properties within the TODT available to support other operating expenses of Metro would be reduced. It would be speculative to predict by how much.

The final maturity date on any bonded or other indebtedness backed by the tax increment from eligible properties shall be on or before December 31, 2048. Upon retirement of all bonds, loans, or other indebtedness incurred and payable from tax increment funds or at such time as moneys on deposit in the tax increment fund or funds are sufficient for this purpose, all property taxes resulting from the incremental development of the project shall be retained by Metro.