

## **Potential Growth Management Tools to Address Community Concerns Regarding Certain Businesses along the East Cesar Chavez Street Corridor**

### **BACKGROUND**

At their December 9<sup>th</sup>, 2015 meeting, the Small Area Planning Joint Committee (SAPJC) of the Planning Commission and the Zoning and Planning Commission directed staff to identify growth management tools that could address community concerns over the proliferation of specific businesses along the East Cesar Chavez Street Corridor. The uses were identified by a group of concerned residents who assert that the growing number of these businesses is diminishing the quality of life for nearby residents. The uses are:

- Bars
- Restaurants
- Breweries
- Businesses with outside amplified music
- Types 2 and 3 short term rentals
- Large, incompatible developments such as hotels
- Late-night businesses open until 2:00 AM.

As identified by the group, the approximately 2.5 mile corridor extends along East Cesar Chavez Street from I-35 on the west to US 183 to the east. The northern boundary is the alley between East Cesar Chavez and East 2<sup>nd</sup> Street or in areas without an alley, the rear property line of lots fronting onto East Cesar Chavez. The southern boundary is identified as the alley between East Cesar Chavez and Willow Street or in areas without an alley, the rear property line of lots fronting onto East Cesar Chavez.

Between I-35 and Linden Street (located two blocks east of Pleasant Valley Road) these boundaries are clear; however, east of Linden Street the gridded street pattern, characteristic of much of central East Austin, breaks down. Consequently, the boundary is no longer applicable. If some form of geographically defined growth management tool is implemented, this eastern boundary will need to be delineated.

## **POSSIBLE GROWTH MANAGEMENT TOOLS FOR THE EAST CESAR CHAVES STREET CORRIDOR**

To address the request by the SAPJC, staff has compiled the following growth management tools.

### **Zoning Overlay**

A zoning overlay would be an amendment to Land Development Code. An overlay district is used to establish alternative land development requirements within a specific area because of particular circumstances, such as environmentally sensitive lands, areas where redevelopment is encouraged, or where there is an increase or large number of preexisting, undesirable uses. An overlay may impose additional regulations, incentives, or both depending on its purpose.

The overlay is usually superimposed over existing, conventional zoning. It consists of a geographic area with mapped boundaries and written text spelling out requirements that are either added to, or in place of, those of the underlying regulations.

The perceived equity of this tool is highly dependent upon the manner in which it is applied:

- Did the affected parties have a meaningful opportunity to engage in the discussions regarding its development?
- Does it target a specific class or group of uses/businesses or are all groups treated equally and fairly?
- Is there is consensus that the need for the tool is justified?

### **Interim Development Regulations**

Interim development regulations are those put in place for a specific time. They are intended as a stopgap measure while long-term regulatory solutions are being developed. These regulations are usually in place for months rather than years; although, they often contain provision for their if the need persists.

The final regulations could be established through a public involvement process to engage a broader cross-section of stakeholders than the public hearing

process. This type of process would be dependent upon the availability of staff resources or funds to obtain consultant services (which would be subject to staff direction and review.)

A recent, local example of this tool is regulations in effect for the South Lamar neighborhood. It was initiated and adopted by the Council on an emergency basis in December 2014 for one year and was renewed for an additional year.

### **Prohibiting the Identified Uses**

Placement of prohibitions on presently allowed uses would also be a tool to eliminate the undesired uses from locating along the corridor in the future. All but one Neighborhood Plan Combining District (NP) ordinance (a zoning tool to implement a plans land use recommendations) prohibited or made conditional uses allowed under existing the base zoning districts. To address the concerns voiced by residents living near East Cesar Chavez Street, the Planning Commission or the City Council could initiate mass zone changes along the corridor. This may require that the affected neighborhood plans also be amended. Property owners objecting to the additional regulations being proposed on their property would have petition rights which would require a supermajority vote of Council members to approve the zoning change.

### **Moratorium**

The Texas Local Government Code, Section 212, Subchapter E (<http://www.statutes.legis.state.tx.us/Docs/LG/htm/LG.212.htm>) proscribes the statutory requirements for a moratorium. It sets a high bar for a city to institute a moratorium on development and provides conditions for different types. However, Chapter 212, Sections 212.1351(b)(1) and 212.1352(a) state that before a moratorium is put in place due to inadequate public facilities or on commercial properties, a city must demonstrate that existing ordinances, regulations, and other applicable laws are inadequate to prevent new development from being detrimental to the public health, safety, or welfare.

### **Planning Process to Determine the Proper Tool to Achieve the Goals**

All of the above-mentioned tools can achieve the goals described by the East Cesar Chavez community group. However, if the tool is implemented with only

the public hearing process as the sole opportunity for concerned citizens to engage, the legitimacy of the tool and process by which it was developed may be brought into question. This particularly could be the case with possibly controversial regulations. Although a planning process may not generate results that satisfy all positions, it could provide a common ground approach for resolving the community group's issues while addressing the needs of existing businesses and commercial property owners.

A planning process could take two approaches. The first could identify and develop the proper tool to address community, business owner, and property owner interests. The second could create a long-term vision for the corridor as well as the regulatory recommendations to address the needs of all corridor stakeholders.

Presently, the Planning and Zoning Department's long-range planning staff is dedicated to other projects for the foreseeable.