Economic Development Policy Update: Community Engagement Summary Report

Economic Development Policy Real Estate Meetings Summary

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Real Estate Meetings Summary

Presentation Goal:

The final phase of stakeholder engagement in response to Resolution No. 20170302-034 invited Real Estate companies, developers, brokers and real estate industry groups who may have knowledge or direct experience working with the current Chapter 380 policy. City staff sought to share the spirit of the policy revision with these subject matter experts and receive input on their experience negotiating and implementing the contracts where applicable, creative ideas, and their experiences in other cities.

Economic Development Policy Update: Community Engagement Report
Conversation with CBRE, August 28, 2017
Company Representative: Chris Schastok, CBRE
Chamber Attendees: Tina Cannon, Chamber of Commerce
City of Austin Attendees: David Colligan & Julia Campbell, Economic Development Department

Executive Summary:
The conversation with CBRE resulted in the following take-aways:

- Recruitment and local business participation requirements alongside City regulations were perceived as too burdensome and one-sided in favor of the City. Despite trying in earnest to comply, LegalZoom opted out of $1M.
    a. Regarding local business hiring: LegalZoom, despite best efforts, couldn't find the right fit for their painting work. Just because Apple can afford to do it, doesn't mean others can. LegalZoom struggled to find companies that meet the letter of the law that were also qualified. Business operations and the speed of business were ultimately more important.
- Austin is perceived as a very difficult place to get a deal done, and even companies that seemingly reflect Austin's values find it hard to seriously consider Austin.
- Incentive structure may read well on paper and could get the votes locally, but in practice it's a disaster.
- Consider ombudsman to help with the state and Council processes for new projects.
- Consider up-front payments with clear and concise agreements which is friendly enough and commercially viable but isn't difficult.
- Provide clarity and achievable performance metrics (what makes them achievable is flexible)
- Consider asking how do companies measure their own success: P&L? Capital? Revenue? And use that to track performance.
- Perhaps offering pro-rated performance metric for those that miss the mark. Perhaps offer one-time-per-contract during its life cycle for the opportunity to amend to change the goals. If capital expenditures are sliding around, how would Austin continue to incentivize that – focus on the jobs portion.
- Perhaps work through negotiation the term sheet – providing values but negotiable and flows into the contract to protect creativity.
- 1x1s Council meetings before dais would be helpful – this is an education process.

Meeting Notes:

2. *Please share you experience with the negotiation and implementation of the Chapter 380 agreement.*
    a. Chris worked during that time with Adriana Cruz and Dave Porter at the Chamber – with LegalZoom. Pre-change in the city's policy for MBE/WBE [2009-2010]. LegalZoom tore the agreement up since. Recruitment and local business participation and compliance with city regulations, there was so much red tape and was perceived as a one-sided agreement. With M/WBE, they tried in earnest to comply. No other city in the country has an extensive ordinance like Austin's. They ultimately couldn't find the work, so they opted out of $1M.
    b. Since then, Austin is a seen as a tough place to get a deal done. Austin around the late 2000s even around the recession, was seen as the natural alternative to California for businesses, but that city has changed. Austin has since grown exponentially, the real estate market has changed (top 10 most expensive, vacancy all time low, in-migration is massive, average Travis County wages around $65K, costs increased, traffic is a challenge, air access not great). All that together paints a picture of a once-cool city that is now a big city with big city issues, but we keep hanging on to the "Keep Austin weird thing" and

makes it hard to do business (liken to Chicago). LegalZoom fit all the Austin weird and diversity profile, but even they still struggled with compliance components. Mike Wilson, COO of LegalZoom, agrees.

   c. City could benefit from taking a half step back, to see how Austin fits into the North American mold, with particular respect to tech centers. Ask yourselves, "what do we really want?" Keep the moral fibers and threads intact, but figure out a way we do that and protect ourselves with performance mechanism but without painting broad strokes regarding unachievable compliance. PE and VC slowing indicates different lenses of perception as well. Incentive structure may read well on paper and could get the votes locally, but in practice it's a disaster.

3. *What types of resources it takes to do the M/WBE work?*
   a. LegalZoom, despite best efforts, couldn't find the right fit for their painting work. Just because Apple can afford to do it, doesn't mean others can. LegalZoom struggled to find companies that meet the letter of the law that were also qualified. Business operations and the speed of business were ultimately more important.
4. *Were you asked to provide best-faith effort or specific goals?*
   a. Don't remember. General Counsels for companies still see risk in the current contracts.
   b. Should offer other pain relievers: Permitting efficiency, mechanics, and deal-closing elements.
5. *What other help could we offer?*
   a. Ombudsman offering to help with the state and council process for net new projects. Pay-Go, or up-front payments with clear and concise agreements which is friendly enough and commercially viable but isn't difficult. Provide clarity and achievable performance metrics.
6. *How can we make goals achievable?*
   a. Be flexible. Isolating jobs and investment in two different buckets is an issue. Perhaps offering pro-rated performance metric for those that miss the mark. Perhaps offer one-time-per-contract during its life cycle for the opportunity to amend to change the goals. If capital expenditures are sliding around, how would Austin incentivize that? Focus on the jobs portion – make jobs and maintain them at 80 percent minimum threshold. Providing maintenance on jobs is different from terms of contract. Ask how do companies measure their own success: P&L? Capital? Revenue? P&L is very different and doesn't care about $1M.
7. *What's the impact of economic conditions on the agreements?*
   a. MN, LA, OH, ID, IL [provide more flexibility].
8. *How do you carry VALUES through the DEAL?*
   a. No answer there, but all projects are different. Perhaps work through negotiation of the term sheet – providing values but negotiable and flows into the contract to protect creativity.
9. *Anything else you would like to add?*
   a. 1x1s Council meetings before dais would be helpful – this is an education process.
   b. Would be willing to send us a list of recommendations for meetings - site selection community is better for feedback on this topic than tenant representatives.

Economic Development Policy Update: Community Engagement Report
Conversation with Central Austin Management Group
Attendees: Daryl Kunik and Kim Chapman
City of Austin Attendees: David Colligan, Julia Campbell & Christine Maguire, Economic Development Department

Executive Summary:
The conversation with Central Austin Management Group resulted in the following take-aways:

- Short-term investment projects don't work due to priorities of "exit-focused" developers. Patient Capital needs to be infused into the deal.
- The City is responsible for layering in cost from the developer's perspective, such as account for transportation solutions for the future and the tenant is always the one to absorb the cost.
- Developers put in capital, and if the City put in capital as well, it's the tenant that would feel the softening of the rates.
- Pass-through taxes would drop to alleviate the cost of space.
- Get inside deals early to diversify developer portfolio for multi-use space type (2 acres of long-term hold for an interesting/creative use and work with the city on that portion)
- Set performance based requirements on public application. Consider an abatement based on those performance measures. Expedited permitting for developers to get through the process, versus providing money that may have a smaller impact.

Meeting Notes:

- Can we use Springdale General as an example for Patient Capital?
    - Short –term projects don't work because of the "exit-focused" developers.
    - If we want long term affordability, patient capital infusion needs to be in the deal
    - Brownfield baggage created opportunity in this project.
    - Affordable, under-market rates @ 100% leased.
    - How is this possible? Because there are no investors.
    - City layers in the cost, like accounting for transportation solutions for the future, and the tenant always absorbs those costs, not the developer.
- Developers put in capital, and if the City put in capital as well, it's the tenant that would feel the softening of the rates.
- Pass-through taxes would drop to alleviate the cost
- Developer portfolio to include space type (2 acres of long-term hold for a cool use and can work with the city on that portion)
- Set performance-based requirements on public application, you get X award.
- An abatement based on those performance measures. Expedited permitting for developers to get through the process, versus providing money that may have a smaller impact.
- We are currently at risk for a homogenized city – without public/private partnerships.
- Specific projects for creatives, versus credit tenants – that's got the potential to be a high quality project for a grant, not a loan.
- Loan structuring – the lien position more important than the loan terms, because of the collateralized requirements.
- Stay away from the SBA because of small loan size and paperwork involved. The lien position, part of the title/deed so when sold, waterfall COA cut.

Economic Development Policy Update: Community Engagement Report
Conversation with Cushman Wakefield, August 31, 2017
Company Representative: Alex Frei, Cushman Wakefield
City of Austin Attendees: Julia Campbell, Economic Development Department

Executive Summary:
The conversation with Cushman Wakefield resulted in the following take-aways:

- Austin's process is involved and taxing relative to the benefit that the city offers.
- Living wage, prevailing wage, MBE/WBE, and sustainability requirements negate the benefit that comes from the City of Austin. They did what they had to do to get the state money in Austin, however.
- Living Wage, Prevailing Wage and MBE/WBE requirements are considered onerous, and "all or nothing." These requirements are more absolute than in other cities, and generally they are more flexible elsewhere – for example Chicago: 10% of project costs. NJ has one which is democratic, union controlled. Companies are typically surprised to see it required in Texas.
- Consider pro-rated deduction of benefits.
- Prevailing wage requirement "sets peoples hair on fire".
- Regarding living wage: the market should dictate the cost of talent and a portion of project that have jobs within wage qualifications.
- It is extremely unusual to have to meet with individual council members prior to the approval council meeting. This provides another timing issue and meeting travel requirement that you typically don't see in other cities. Austin interrogates them, other cities thank them on dais.
- Dallas incentives process is straightforward, application process is easier and thorough, turnaround is quick, 2 weeks typically, subcommittee for review for questions, if approves then put on council agenda, then majority not super majority like Austin. They never take anything to council that won't get the votes.
- Consider clawbacks or flexible compliance so that if the company performs within X% it is acceptable and they won't lose their money.
- Austin makes the long list for companies because of capability of labor, but removed because of competitive environment for labor, tight market and the cost of labor. Most companies just want to be there because and want to be in the mix, not because of labor or cost advantage.

Meeting Notes:

10. *Please share your experience with the negotiation and implementation of the Chapter 380 agreement.*
    a. Compared Austin experience with other locations in Texas and other cities in Texas.
    b. Austin's process is involved and taxing relative to the benefit that the city offers.
    c. Living wage, prevailing wage, MBE/WBE, sustainability requirements, negates the benefit that comes from the City of Austin. They did what they had to do to get the state money in Austin, however.
11. *What about living wage, prevailing wage, and MBE/WBE requirements?*
    a. Onerous requirements, and are all or nothing. Moving from good faith to claw backs.
    b. Not as absolute in other cities, and generally they are more flexible.
    c. Chicago: 10% of project costs. NJ has one which is democratic, union controlled. Companies are typically surprised to see it required in Texas.
    d. Over $5,000 have to go through authority.
12. *How can we make goals achievable?*
    a. It's a challenging process to remove the requirements. If you're asking companies to do something that costs them money, but benefit doesn't add up to it, policy is faulty. The benefit provided would be

negated so it's pointless to engage. Having a social program instead with no financial incentive for company may be a better route. Is what we are proposing competitive: grant amounts, fiscal impact, type of assistance provided? Other places have 100% good faith, with no claw backs, but still have to report what they did to get to 10% of project costs.

b. Might consider pro-rated deduction of the benefits.
c. Do any companies stick with their contracts? [EDD response: Yes, some do, some don't. SMBR consulting has helped shepherd them through the process.]
d. Knowing the parties involved and long-term compliance familiarity definitely helps the front end.
e. Make requirements more flexible, administrative compliance is more flexible.
f. Prevailing wage requirement: "sets peoples hair on fire", NJ, Chicago, Philadelphia, all big cities with strong union hold where that occurs. Philosophical issue.
g. Living wage: more acceptable because wage relative to county, city or region. Average wage of operation is at least living wage. The market should dictate the cost of talent and a portion of project that have jobs within wage qualifies.

13. *Talk about your experience with the Council process:*
    a. It is extremely unusual to have to meet with individual council members prior to the approval council meeting. This provides another timing issue and meeting travel requirement that you typically don't see in other cities.
    b. Other cities do have pre-meeting with economic development committee, typically 1-2 weeks before CM meeting (for example the finance committee in Dallas) for select folks on city council and they review the deal, then have an open session where project presented, and then share with council to vote on it.
    c. It is a unique and time-consuming experience. They would prefer that wouldn't have to be the case.
    d. Austin interrogates them, other cities thank them on dais.
14. *What about other Texas cities?*
    a. Dallas: bigger deals there. Process there is straightforward, application process is easier and thorough, turnaround quickly, 2 weeks typically, subcommittee for review for questions, if approved then put on council agenda, then majority not super majority like Austin. They never take anything to council that won't get the votes.
    b. Clawbacks and requirements are pretty normal, no MBE/WBE ordinance, no requirements like health insurance (health insurance is required elsewhere in the country as well), no clawback requirements, compliance of the jobs is also very flexible, within X% is fine and won't lose your money. The most anyone would pay back is half no matter what. 500 per job or 3-4K per job depending on the wages.
15. ADDITIONAL COMMENT:
    a. Austin make the long list because of capability of labor, but removed because of competitive environment for labor, tight market and the cost of labor. Most companies just want to be there because and want to be in the mix, not because of labor or cost advantage.

Economic Development Policy Update: Community Engagement Report
Conversation with Ross Wilson, PSW Real Estate, October 3, 2017
City of Austin Attendees: David Colligan & Julia Campbell, Economic Development Department

Executive Summary:

The conversation with PSW resulted in the following take-aways:

- If commercial affordability for creative sector is a priority, then consider half market-rate rents.
- Find developers willing to work with the community values in order to ensure successful community integration of their projects.
- Reduce hard costs and make developers finance less to create affordable rates for a period of time. City Council is going in a different direction than that right now though, as evidenced by the Rough Proportionality fee.

Meeting Notes:

- 1600 S First Street: affordable units project.
- Need to use zoning and land use regulations, because we don't have Chapter 380 incentives to catalyze these types of projects.
- Economic growth outside of large corporations that are bringing employment, that's important but interesting to start that conversation outside that definition.
- Business plan for residential development that will stabilize the portfolio. Moving for detached and density diversity. Owning real estate long-term, one potential support avenue is property tax incentives over a period of time because their timeframe is on a longer horizon.
- Options for commercial space, condoing out and owning portion to pass on savings to the end user. We need to half the market rate if we want to get the creatives that have been operating in east Austin in those same places that right now typical retail gallery space is running $2/sf, need to be in the $1 range.
- Willing participants because they have a very passionate about community and being a positive force in community development, which they spend a lot of time thinking about for homes and condos that integrate and how to create a community within the development. How to integrate affordable space within the development and weave it in successfully.
- *How can that commercial space (rental multi-family asset), how analogous is commercial affordability with residential affordability?*
- Affordable housing is built into the pro forma from day 1 and looking at the overall revenue and cost to build for the entire project. A 501c3 long term ownership nonprofit entity that would form a tax portion of that entire project is taxable differently – "land bank".
- If you have a prop tax incentive, and you didn't have the 50% of market rate, this could be another way to close the gap, some of the developer will swallow that cost because of the net benefit to the community. Retail, commercial, attached living, detached living combination to maximize the development.
- *When you run the analysis do you look at all the different types of uses on the site?* Yes. But all are considered together on the bottom line. Subsidies help with gap created by rents at sub market rent. Or some other revenue stream that helps to offset that loss of revenue for sub market rent. Consider only the for-rent portion of the project.
- *What about servicing that gap with a grant or a loan? How would that affect your debt and equity?*
- Follow-up on finance side of the deal – maybe invite the PSW finance representative to the CDFI Chapter 380 forum.

- *How do you define the types of projects you like doing?* Location – based. Urban in-fill development focused. Multiple product types onto one site creates diversity of uses, neighborhood commercial, parking at different times of the day, that's the future of development.
- *Why arts and music?* Because we are in Austin and there is a need there, and of benefit to the community at large and the community in the project. It wouldn't be that focus in Dallas or San Antonio. East Austin is a viable option for this.
- *Artist housing, or workspace?* Both types for support.
- *When does the developer engage with a potential new real estate program?*
- Reduce hard costs and make developers finance less to create affordable rates for period of time. City Council is going in a different direction than that right now though, as evidenced by the Rough Proportionality fee.

Economic Development Policy Update: Community Engagement Report
Conversation with Real Estate Council of Austin (RECA), October 5, 2017
Organization Representatives: Dianne Bangle, President & Geoffrey Tahuahua, VP of Policy
City of Austin Attendees: David Colligan & Julia Campbell, Economic Development Department

Executive Summary:
The conversation with RECA resulted in the following take-aways:

- Permitting process and regulations are very cumbersome – this is the number one hang up within the City of Austin.
- Inter-departmental disagreements and inconsistencies are also contributing factors to delays in project delivery.
- One suggestion is allowing sites that participate in 380 to allow for expedited permitting. (One community offered a 380 that was competitive, plus a team of permit people and support staff that would guarantee the process would take 10 days.)
- If Economic Development is the priority, all tasks go towards that goal. Be flexible on regulations based on the overall design and goal.
- In other communities site planning meetings just happen with department participation and sometimes trump other department requirements. Identify a Development Ombudsman, assistant city manager and force department heads to the table to trump these requirements for economic development priorities.

Meeting Notes:

- Council members asking for retail development that is not currently included in the current Chapter 380 purview, so what tools do we have?
- Needed rooftops and the availability of land and potential for space in redevelopment, and viability of project from cost and timeline perspective.
- Permitting process and regulations are very cumbersome – this is the number one hang up within the City of Austin. (East Austin pipes are always too small and the city requires a replacement which is a tremendous job and cost.)
- Also departments that disagree with one another such as water and fire – and then you are tied up for months.
- Leander has similar regulations but their 30-60 days processing is predictable. City of Austin is currently 10-18 months.
- Redevelopment requires unique regulatory hurdles and doesn't remove any barrier for entry.
- One suggestion is allowing sites that participate in 380 to allow for expedited permitting. (One community offered a 380 that was competitive, plus a team of permit people and support staff that would guarantee the process would take 10 days.)
- Permitting fees are still flowing into the city – but other departments are allowed to say no to permits.
- How do you hold the other departments accountable? A really good city manager. And good leadership and management at the top as well as a commitment from directors for the goals and priorities. If Economic Development is the priority, all tasks go towards that goal. Be flexible on regulations based on the overall design and goal.
- In other communities – site planning meetings just happen with department participation. When do you trump other department requirements – you need someone who will be the trump card. Development Ombudsman, assistant city manager and force department heads to the table to trump these requirements for economic development priorities.
- Top down leadership that push for priorities and understands how to prioritize.

- Part of the issue is that watershed, environment, Austin energy all have separate requirements, no willing cooperation.
- Austin Independence Business Alliance – permitting issues. Small Business requesting a patio are not getting done because of cost of city compliance.
- Business recruitment is polarizing. Community Benefits – worker safety and protections (RE industry ensures fair and living wage)
- Executive meeting and board meeting in 2 weeks – we can get feedback and examples from members.
- EDD needs cases of goodwill that already exists where government policy is hindering that goodwill. Such as Springdale General facing permitting issues.
- Real Estate tool may be like working to offset the fees, putting in place a high-ranking ombudsman (Round Rock model), and finding other ways to clear the path.
- Strong leadership is needed to push new priorities, push the right departments into the room.
- Many deals are hindered by this struggle.
- Trader Joes w/ Seaholm (permitting process)
- Allowing for incentives for mixed-use – CodeNext many are mixed-use. Zoning allows for it while chapter 380 doesn't.
- Property tax protests – requiring waiver of ability to protest property tax. – It would depend on the total package, if the increase exceeded a certain percentage, maybe they could appeal a % of the increase.

Economic Development Policy Update: Community Engagement Report
Conversation with Skout Real Estate, Roland Galang, Founder and President, October 18, 2017
City of Austin Attendees: David Colligan, Christine Maguire & Julia Campbell, Economic Development Department

Executive Summary:
The conversation with Skout Real Estate resulted in the following take-aways:

- Could be interest from developers in affordable creative space. Vision of developers and land owners on the East side is to include like-minded tenants (creative spaces, studio spaces, maker spaces) and curate that group. Struggle there is making the numbers work at market rate because hard and soft costs make whole pro forma go up.
- Consider offering reduced parking requirements, and other tradeoffs. Funding the difference they feel for offering sub-market rents for creative space or affordable commercial space, such as density bonuses, land development regulations. With Ch. 380 find a way to do property taxes by remitting them back as a later form of revenue.
- Private sector doesn't connect with the long timeline of things like "ThinkEast" – daunting and confusing and maybe lack of knowledge and effort to get to their goal for the East side, too cumbersome to achieve.
- Dictating the place where this type of development occurs (nodal where everything within half-mile overlay, COA is willing to play a role in investment.)
- Look at clustering models – historical hubs, medical, tech, arts hub. Geographic sub-market strategy for places that could be developed in themes. Synergy of the tenant mix.

Meeting Notes:

- Skout work: Some development and investment, majority 80-90% is on brokerage sales and leasing side, urban core and east-side work.
- So much information out there - don't know where to go as a land-owner.
- 14th and Chicon project - PPP, COA kicked in $1M equity affordable housing element of the sales of residential and commercial. 1st floor retail, and residential (portion is affordable.) *How do you come up with the % of residential affordable SF and the COA $1M support?*
    - 28 residential condos (16-18 are affordable) and the rest are market.
    - Affordable spaces are in community land trust and remain affordable in perpetuity.
    - Targeted area median income 80% = affordable
    - Commercial space affordable? Having more affordable creative venues, or local businesses, do you think that's something that's palatable? Could be interest there, developers and land owners in the East side vision is to include like-minded tenants (creative spaces, studio spaces, maker spaces, and curate that group.) Struggle there is making the numbers work at market rate because hard and soft costs whole pro forma went up. That kind of project may be a good case study for city to be involved – is it too late to come in now? And if they did how many units would need to be affordable? And what's affordable? (50% below market is still $18/sf in some areas.)
    - $15/sf is the average for affordable commercial.
    - *What does a developer get?* Reduced parking constraints, trade off that help them in other areas. Funding the difference they feel for offering sub-market rents for creative space or affordable commercial space, such as density bonuses, land development regulations. With Ch. 380 find a way to do property taxes by remitting them back as a later form of revenue.
- Private sector doesn't connect with the long timeline of things like "ThinkEast" – daunting and confusing and maybe lack of knowledge and effort to get to their goal for the East side, too cumbersome to achieve.

- Supporting creative sector, being a collaborator but that's really the only way to be involved. Not enough since everything else is so confusing.
- What are the go-to programs to engage in land-assembly projects?
- What kind of creative use is allowed or defined? (Springdale General's website lists out these target creative uses.)
- How does land-use relate to place-making? What if the neighborhood doesn't want the same things?
- Dictating the place where this type of development occurs (here is the node and everything within half-mile overlay, COA is willing to play a role in investment.)
- Look at clustering models – historical hubs, medical, tech, arts hub. Geographic sub-market strategy for places that could be developed in themes. Synergy of the tenant mix.
- The opportunity for leasing to creative spaces is appealing but the money doesn't always work out.
- What lease rate sweet spot? $15-$24= (modified gross to include operating).