

ZONING CHANGE REVIEW SHEET

CASE: C14-2013-0138 Nightcap Dessert Lounge

P. C. DATE: December 10, 2013
January 14, 2014

ADDRESS: 1401 West 6th Street

AREA: 0.149 acres

APPLICANT: AGSA Group, L.L.C.
(Gretchen Alley)

AGENT: Christin Rowan

NEIGHBORHOOD PLAN AREA: Old West Austin

CAPITOL VIEW: Yes

T.I.A.: No

HILL COUNTRY ROADWAY: No

WATERSHED: Town Lake

DESIRED DEVELOPMENT ZONE: Yes

ZONING FROM: LO-NP

ZONING TO: GR-V-NP

SUMMARY STAFF RECOMMENDATION:

Staff recommends GR-V-NP, Community Commercial-Vertical Mixed Use-Neighborhood Plan Combining, district zoning.

PLANNING COMMISSION RECOMMENDATION:

12/10/13: Postponed on consent to January 14, 2014 at the applicant's request (5-0, R. Hatfield, A. Hernandez, B. Roark, J. Stevens-absent); J. Nortey-1st, S. Oliver-2nd.

1/14/14: Approved GR-CO-NP zoning, with conditional overlay to include 1) prohibiting the following uses as agreed to with the neighborhood: Drive-thru Services, Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing, Bail Bond Services, Business or Trade School, Building Support Services, Commercial Off-Street Parking, Consumer Convenience Services, Consumer Repair Services, Drop-Off Recycling Collection Services, Exterminating Services, Financial Services, Funeral Services, General Retail Sales (Convenience), General Retail Sales (General), Hotel-Motel, Indoor Entertainment, Indoor Sports and Recreation, Off-Site Accessory Parking, Outdoor Sports and Recreation, Pawn Shop Services, Pedicab Storage and Dispatch, Pet Services, Plant Nursery, Research Services, Service Station, Day Care Services (Commercial, General, Limited), Residential Treatment, Urban Farm; 2) limiting a Restaurant (General) use to 2,500 square feet in size; 3) and encouraging the applicant to come to an agreement to limit the hours of operation on the site through a private restrictive covenant with the neighborhood (8-0); J. Stevens-1st, M. Smith-2nd.

DEPARTMENT COMMENTS:

The applicant is proposing to convert the existing single family dwelling that was serving as a chiropractor's office to a restaurant. The applicant is requesting that the Vertical Mixed Use Combining District be applied to the property as well. The applicant is working with the Old West Austin Neighborhood Association to enter into a private restrictive covenant that would place additional

restrictions on the property. With the execution of the private restrictive covenant, the Old West Austin Neighborhood Association will not object to the requested rezoning.

ISSUES:

At the January 14, 2014 Planning Commission meeting, Commissioner Jean Stevens asked why this rezoning request included a "V" designation. Ms. Stevens stated that this property was a historic contributing structure to this area and asked that the "V" be removed from the application/recommendation in this case.

The adapted Old West Austin Neighborhood Plan states that "on the South side of 6th Street, for lots fronting on 6th, no zoning changes to a more permissive base district should be permitted. Rezoning that do not change the base district but add mixed use capability should be permitted, if the existing building and character are maintained. Preservation of existing single-house structures is strongly encouraged"

If so desired, the Council may initiate a Neighborhood Plan Amendment to alter this request for this address or for the plan as a whole. Staff is allowing this case to proceed because the plan text is advisory. The OWANA Neighborhood Plan Contact Team has been made aware of the zoning case, but has not indicated support or objection at this time.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
Site	LO-NP	Chiropractor
North	LO-NP	office
South	LO-NP	Multi-family
East	LO-CO-NP	Office
West	GO-NP	Law Office

CASE HISTORIES:

NUMBER	REQUEST	COMMISSION	CITY COUNCIL
C14-2009-0166	From LO-NP to GR-V-CO-NP	Approved staff's recommendation for GR-V-CO-NP zoning (7-0)	Approved staff's recommendation for GR-V-CO-NP zoning (7-0) on all 3 readings.
C14-99-2032	From SF-3 to LO-MU	Approved staff's recommendation for LO-MU zoning (6-0)	Approved staff's recommendation for LO-MU zoning (7-0) on all 3 readings.

BASIS FOR RECOMMENDATION:

- Zoning changes should promote compatibility with adjacent and nearby uses.*

Granting GR-V-NP zoning for the subject tract will be compatible with adjacent uses and adjacent zoning on the tracts to the north, east, west and south.

NEIGHBORHOOD ORGANIZATION:

- Austin Neighborhoods Council
- League of Bicycling Voters
- West End Austin Alliance
- Old West Austin Neigh. Assoc.

SCHOOLS:

- Matthews Elementary School
- O'Henry Middle School
- Austin High School

ENVIRONMENTAL:

1. The site is located over the Edwards Aquifer Recharge Zone. The site is located in the Town Lake Watershed of the Colorado River Basin, which is classified as an Urban Watershed by Chapter 25-8 of the City's Land Development Code. It is in the Desired Development Zone.
2. Impervious cover is not limited in this watershed class; therefore the zoning district impervious cover limits will apply.
3. This site is required to provide on-site structural water quality controls (or payment in lieu of) for all development and/or redevelopment when 5,000 sq. ft. cumulative is exceeded, and detention for the two-year storm. At this time, no information has been provided as to whether this property has any pre-existing approvals which would preempt current water quality or Code requirements.
4. According to flood plain maps, there is no flood plain within the project area.
5. Trees will likely be impacted with a proposed development associated with this rezoning case. Please be aware that an approved rezoning status does not eliminate a proposed development's requirements to meet the intent of the tree ordinances. If further explanation or specificity is needed, please contact the City Arborist at 974-1876. At this time, site specific information is unavailable regarding other vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.
6. Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

SITE PLAN:

Should any new development be proposed at this location:

- SP 1 This site is within the Mopac Bridge - SDCC Capitol View Corridor. Should the applicant propose any construction on-site, demonstration of a cross-section of the building with the base elevation and maximum height allowed within the corridor would be required. An application for a Capitol View Corridor Height Determination would also be required. For more information, contact the Development Assistance Center at 974-6370.
- SP 2 It appears the structure on site is within the West Line National Register Historic District. The applicant is responsible for requesting relocation and demolition permits once the site plan is

approved. The City Historic Preservation Officer will review all proposed building demolitions and relocations prior to site plan approval. If a building meets city historic criteria, the Historic Landmark Commission may initiate a historic zoning case on the property. Please contact the Historic Preservation Officer at 974-6454 for additional information [Chapter 25-11].

- SP 3 Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.
- SP 4 The site is subject to compatibility standards. Compatibility Standards are applicable to all property adjoining or across the street from a lot zoned or used as a SF-5 or more restrictive or within 540 feet from the lot zoned SF-5 or more restrictive. This lot has an SF-3-H-NP lot located across the street along the northern edge of the property, as well as a single-family structure to the west that may or may not be used as single-family.
- No structure may be built within 25 feet of the SF-zoned or used property line.
 - No structure in excess of two stories or 30 feet in height may be constructed within 50 feet of the property line.
 - No structure in excess of three stories or 40 feet in height may be constructed within 100 feet of the property line.
 - No parking or driveways are allowed within 25 feet of the SF-zoned or used property line.
 - A landscape area is required along the property line. In addition, a fence, berm, or dense vegetation must be provided to screen adjoining properties from views of parking, mechanical equipment, storage, and refuse collection.
 - Additional design regulations will be enforced at the time a site plan is submitted.
- SP 5 FYI - This site is located in the Old West Austin Neighborhood Plan.
- SP 6 FYI - OUTDOOR MUSIC VENUES: Any outdoor amplified sound or outdoor music venue requires a separate permit to show compliance with the sound ordinance. For additional information for permits, contact Viktor Auzenne at 974-2941.

TRANSPORTATION:

TR1: Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
West 6 th Street	70'	40'	Arterial (MAU4)	21,319 (COA, 03/11/09)

TR2: No additional right-of-way is needed at this time.

TR3: A traffic impact analysis was not required for this case because the traffic generated by the proposed zoning does not exceed the threshold of 2,000 vehicle trips per day [LDC, 25-6-113].

TR4: There are existing sidewalks along West 6th Street.

TR5: According to the Austin 2009 Bicycle Plan Update approved by Austin City Council in June, 2009, bicycle facilities are existing and/or proposed along the adjoining streets as follows:

Street Name	Existing Bicycle Facilities	Proposed Bicycle Facilities
West 6th Street	Shared Lane	Bike Lane

TR6: Capital Metro bus service (route no. 4, 21, 122, and 663 (LA)) is available along West 6th Street.

CITY COUNCIL DATE: January 23, 2013

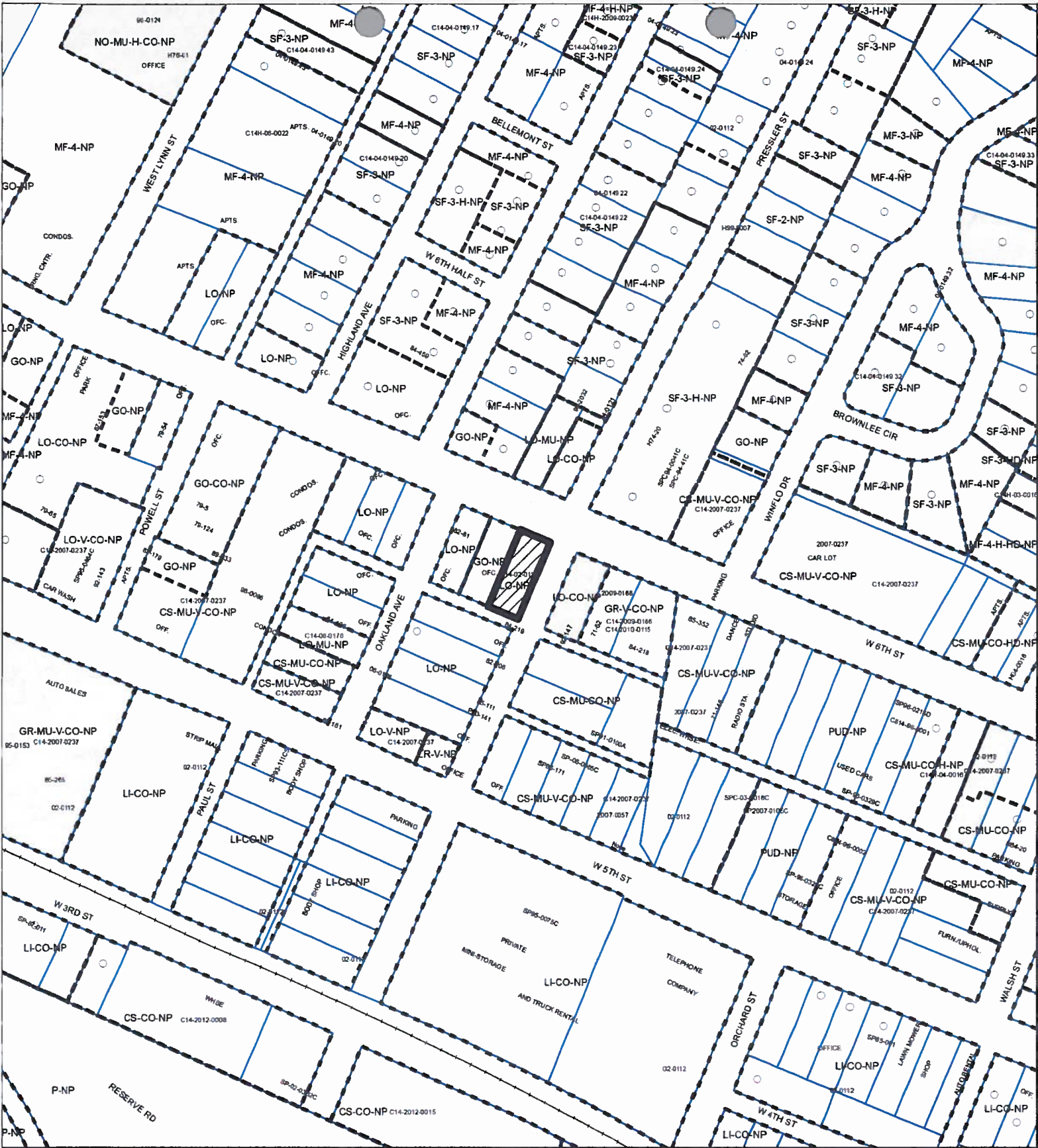
ACTION:




ORDINANCE READINGS: 1st 2nd 3rd

ORDINANCE NUMBER:

CASE MANAGER: Clark Patterson

PHONE: (512) 974-7691
clark.patterson@austintexas.gov



-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

ZONING

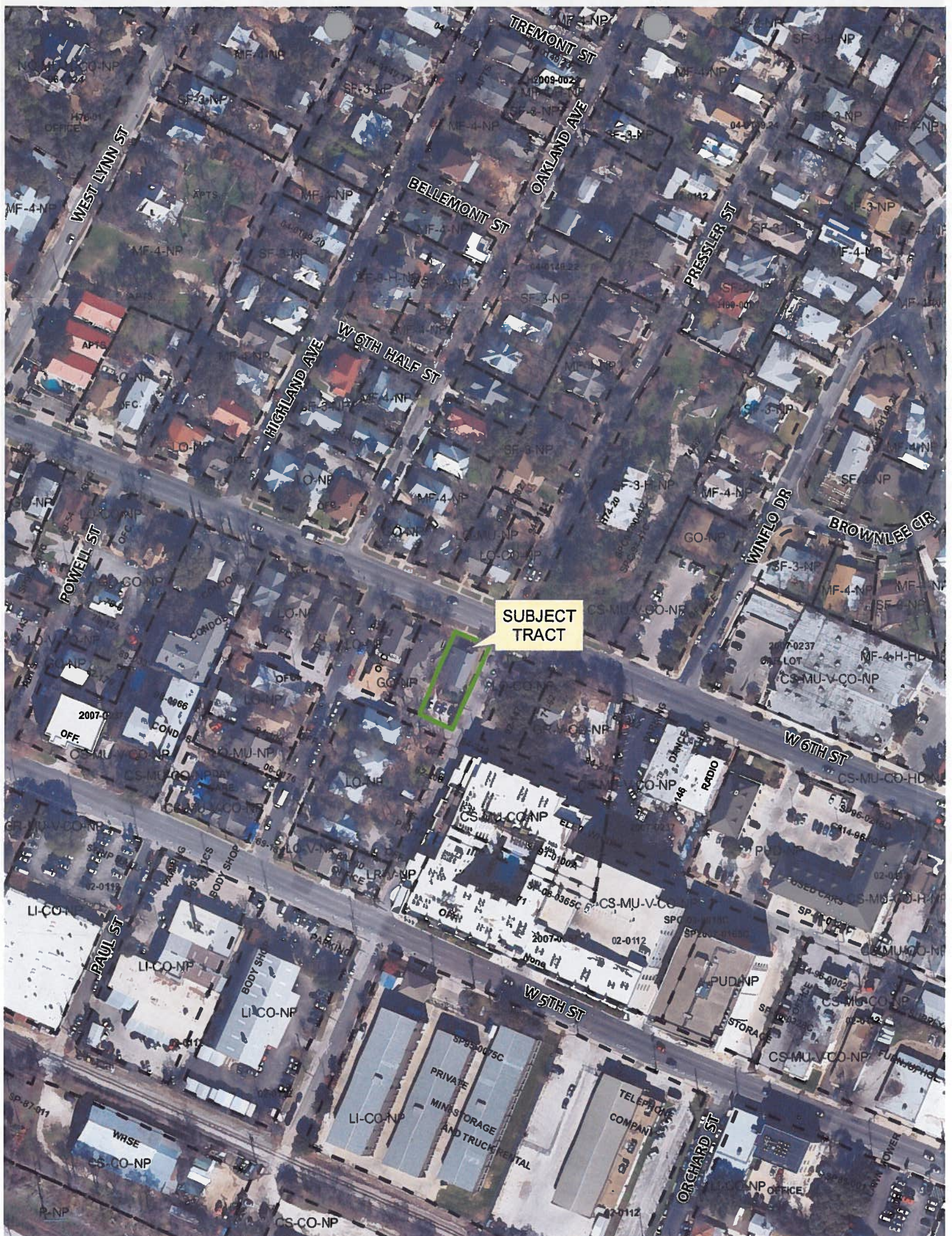
ZONING CASE#: C14-2013-0138

1" = 200'

This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.

This product has been produced by CTM for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.





CAPITOL
VIEW
CORRIDOR

SUBJECT
TRACT





Google earth





Google earth

feet 10
meters 3





Google earth



PUBLIC HEARING INFORMATION

This zoning/rezoning request will be reviewed and acted upon at two public hearings: before the Land Use Commission and the City Council. Although applicants and/or their agent(s) are expected to attend a public hearing, you are not required to attend. However, if you do attend, you have the opportunity to speak FOR or AGAINST the proposed development or change. You may also contact a neighborhood or environmental organization that has expressed an interest in an application affecting your neighborhood.

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During its public hearing, the City Council may grant or deny a zoning request, or rezone the land to a less intensive zoning than requested but in no case will it grant a more intensive zoning.

However, in order to allow for mixed use development, the Council may add the MIXED USE (MU) COMBINING DISTRICT to certain commercial districts. The MU Combining District simply allows residential uses in addition to those uses already allowed in the seven commercial zoning districts. As a result, the MU Combining District allows the combination of office, retail, commercial, and residential uses within a single development.

For additional information on the City of Austin's land development process, visit our website:

www.austintexas.gov

Written comments must be submitted to the board or commission (or the contact person listed on the notice) before or at a public hearing. Your comments should include the board or commission's name, the scheduled date of the public hearing, and the Case Number and the contact person listed on the notice.

Case Number: C14-2013-0138

Contact: Clark Patterson, 512-974-7691

Public Hearing: Dec 10, 2013, Planning Commission

Jan 23, 2014, City Council

JANE BAXTER LYNN

Your Name (please print)

616 PRESSLER ST. 78703

Your address(es) affected by this application

Clark Patterson

Signature

Daytime Telephone: 512-529-7685

11-30-2013

Date

☐ I am in favor
☒ I object

Comments: SEE ATTACHED COMMENTS

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Clark Patterson

P. O. Box 1088

Austin, TX 78767-8810

616 Pressler Street
Austin, TX 78703
512-529-7685

City of Austin
Planning & Development Review Department
Attn: Clark Patterson
PO Box 1088
Austin, TX 78767

November 30, 2013

Dear Mr. Patterson,
Case Number: C14-2013-0138 Re: 1401 W. 6th Street, 78703

My husband Frank Lynn and I oppose the proposed zoning change for 1401 W. 6th Street to enable a restaurant or other multi-use activities because of its location at 6th and Pressler and the potential for:

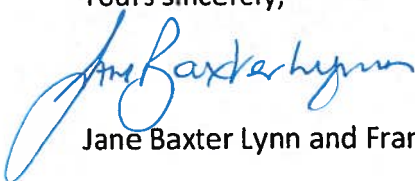

1. Traffic congestion and pedestrian safety issues at the intersection caused by customers using the proposed valet service or seeking alternative parking opportunities in the neighborhood.
2. The likely increase of non-residents parking on upper Pressler street (already happening from the existing new restaurant Winflo) due to the applicant's proposed parking solutions, which appear to be non-permanent and un-guaranteed solutions.

We recommend that the applicant be encouraged to lease a more appropriate space for this type of use, which already has correct zoning, sufficient parking and the overall infrastructure to support a restaurant business. An example space is currently available at 5th Street Commons.

Like other OWANA residents we want our area to be a walkable community with shops and restaurants but it is essential that there is the infrastructure that enables us to walk and live in a community safely; we only need to look to Rainey street to see how they went ahead with zoning changes without apparently looking at the bigger picture and now are scrambling to resolve the many issues facing that neighborhood.

Thank you for inviting our input.

Yours sincerely,

 / 
Jane Baxter Lynn and Frank Lynn

Patterson, Clark

From: ~~Younger, Denise~~
Sent: Wednesday, December 04, 2013 7:07 AM
To: dyounger@austin.rr.com; Patterson, Clark
Subject: Re: C14-2013-0138 - 1401 W.6th

Clark, I read the rezoning notice again this morning. I still am in opposition of the zoning change because I don't see how a commercial zoning intended for "unified shopping centers" fits within the Neighborhood Plan. The Neighborhood plans were developed years ago with the intent of protecting the neighborhoods from the encroachment of downtown growth.

Thanks,
Denise

----- dyounger@austin.rr.com wrote:

> Clark,

>

> I am writing in opposition to the zoning change request for the property at 1401 W. 6th. The property is directly across the street from a residential area. We are currently struggling with parking issues on our street because the businesses on W. 6th are overflowing their zoned parking spaces. The lovely houses on 6th were built as single family homes and not high traffic businesses. There is not any room for the traffic or parking required for another restaurant. As a neighborhood, we've welcomed businesses in the area, but small businesses such as CPA, lawyers etc that don't need a lot of traffic to thrive are the best fit. So I am in opposition to the zoning change.

>

> Thanks,

> Denise Younger

> 700 Pressler St

MALISH & COWAN, PLLC

ATTORNEYS AND COUNSELORS AT LAW

A PROFESSIONAL LIMITED LIABILITY COMPANY

1403 WEST SIXTH STREET

AUSTIN, TEXAS 78703

(512) 476-8591

FAX (512) 697-2829

December 6, 2013

CLAIBORNE L. COWAN
BOARD CERTIFIED • ESTATE PLANNING & PROBATE LAW
TEXAS BOARD OF LEGAL SPECIALIZATION

WRITER'S EMAIL:
CCOWAN@MALISHCOWAN.COM

City of Austin
Planning & Development Review Department
Attn: Mr. Clark Patterson
P.O. Box 1088
Austin, Texas 78767-8810

Re: Case Number: C14-2013-0138

Dear Mr. Patterson:

I am the business owner at 1403 West 6th Street. I am writing you about the above referenced case which is a request for a zoning change from office zoning to restaurant zoning for 1401 West 6th Street for the Nightcap Dessert Lounge (the "Lounge"). I own one-half of Malish-Foster Properties, LLC which owns the real property located at 1403 West 6th Street.

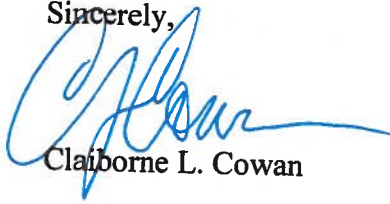
Our Property is the only privately owned property which shares a property line with 1401 West 6th Street. I object to the requested zoning change. The area around West 6th and Pressler has very limited parking and I believe that a restaurant/lounge at 1401 West 6th Street will cause more congestion.

I have spoken several times with Christin Rowan who is the applicant for the zoning change. Ms. Rowan believes that she has obtained adequate parking for the Lounge from other property owners in the area. However, I have concerns regarding her ability to maintain the required parking from several lessors and the location of Ms. Rowan's proposed parking. One parking area that she has apparently received a commitment from is on the west side of our property. Since our Property is sandwiched between the Lounge's proposed parking lot and the Lounge, I believe that we will have persons walking across our Property late at night to the Lounge.

There are better available places to locate the Lounge. The Gables 5th Street Commons appears to have available space and adequate parking. I would prefer for our block to remain zoned for office use.

If you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in blue ink, appearing to read 'C. Cowan', with a long horizontal flourish extending to the right.

Claiborne L. Cowan

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Case Number: C14-2013-0138

Contact: Clark Patterson, 512-974-7691

Public Hearing: Dec 10, 2013, Planning Commission

Jan 23, 2014, City Council

Claburne L. Cowan,
Your Name (please print)

1403 West 6th Street
Your address(es) affected by this application

Claburne L. Cowan
Signature

12/6/2013
Date

Daytime Telephone: 512-476-8591

Comments:

see enclosed letter

If you use this form to comment, it may be returned to:

City of Austin

Planning & Development Review Department

Clark Patterson

P. O. Box 1088

Austin, TX 78767-8810

OLD WEST AUSTIN NEIGHBORHOOD ASSOCIATION

Date: January 9, 2014
To: Clark Patterson, Case Manager
From: OWANA, Old West Austin Neighborhood Association
Subject: Letter of Support
Zoning Case No. C14-2013-0138
1401 W. 6th Street

The Old West Austin Neighborhood Association (OWANA) has agreed to support the proposed rezoning of the referenced property from LO-NP to GR-CO-NP, based on the following list of prohibited and restricted land uses, which have been mutually agreed to by the property owner and the neighborhood, and which will be incorporated into a Conditional Overlay on the rezoning ordinance:

- Automotive Rentals
- Automotive Repair Services
- Automotive Sales
- Automotive Washing
- Bail Bond Services
- Business or Trade School
- Building support Services
- Commercial Off-street Parking
- Consumer Convenience Services
- Consumer Repair Services
- Drop Off Recycling Collection Services
- Exterminating Services
- Financial Services
- Funeral Services
- General Retail Sales (Convenience)
- General Retail Sales (Retail)
- Hotel Motel
- Indoor Entertainment
- Indoor Sports and Recreation
- Offsite Accessory Parking
- Outdoor Sports and Recreation
- Pawn Shop Services
- Pedicab Storage and Dispatch
- Pet Services
- Plant Nursery
- Research services
- Service Station

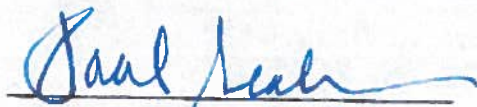
- Day Care Services
- Residential Treatment
- Urban Farms

Property Owner additionally:

- Agrees to prohibit all Drive-thru Services
- Agrees to prohibit late hours permit for selling alcohol
- Agrees to limit Restaurant General use to 2,500 square feet, including outdoor seating
- Agrees to prohibit outdoor amplified sound and outdoor live music
- Agrees not to object to the City initiating a rollback in zoning to LO in the event any loss of required off-site parking is not replaced within 90 days
- Agrees the restaurant use will close at midnight, Monday – Sunday
- Agrees to provide valet parking for customer use

We believe that a small specialty restaurant use could benefit the local neighborhood more so than general professional services which tend to benefit the larger community. Thus, we feel that this limited GR zoning change can be beneficial to, and can cooperatively coexist with, the surrounding neighborhood experience.

A written and enforceable agreement with the City of Austin that assures a manageable offsite parking solution incorporating valet service is fundamental to OWANA support for this proposed rezoning.



Paul Seals, Chair

Old West Austin Neighborhood Association