

## **ZONING CHANGE REVIEW SHEET**

**CASE:** C14-2010-0115 Westend Bistro

**P. C. DATE:** 08-10-2010

**ADDRESS:** 1315 West 6<sup>th</sup> Street

**AREA:** 0.4029 acres

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

**AGENT:** Jim Bennett Consulting  
(Jim Bennett)

**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:** GR-V-CO-NP

**ZONING TO:** GR-V-CO-NP

### **SUMMARY STAFF RECOMMENDATION:**

Staff recommends GR-V-CO-NP, Community Commercial – Vertical Mixed Use - Conditional Overlay-Neighborhood Plan. The Conditional Overlay would be modified to delete the twenty five foot (25') front yard setback.

### **PLANNING COMMISSION RECOMMENDATION:**

The motion to approve staff's recommendation for GR-V-CO-NP zoning; was approved on the Consent Agenda by Commissioner Mandy Deely's motion, Commissioner Danette Chimenti seconded the motion on a vote of 8-0. Commissioner Reddy was absent.

### **DEPARTMENT COMMENTS:**

The applicant is converting the existing single family dwelling that was serving as a chiropractor's office into a restaurant. The applicant requested a zone change from LO-V-NP, LO-NP to GR-V-CO-NP with case number C14-2009-0166 which was approved by the City Council on March 10<sup>th</sup>, 2010. The neighborhood wanted the conditional overlay to include a twenty five foot setback to ensure that any future building would line up with the existing structure(s). The applicant has submitted a site plan, case number SP-2010-098C for the conversion of the structure to a restaurant. However, the site plan calls for a deck to be built over the twenty five foot (25') setback line. The applicant has made application with the City to change a condition of the original zoning case, in particular, to delete the twenty five foot (25') front yard setback from the conditional overlay and let the front yard setback for Community Commercial (GR) zoning district prevail, which is ten feet (10'). The Old West Austin Neighborhood Association has entered into a private restrictive covenant that would place additional restrictions on the property. One of those restrictions is that any new habitable structure observes a twenty five foot (25') front yard setback. With the execution of the private restrictive covenant, (attached) the Old West Austin Neighborhood Association will not object to the requested change in the conditional overlay.

**EXISTING ZONING AND LAND USES:**

	<b>ZONING</b>	<b>LAND USES</b>
Site	GR-V-CO-NP	Vacant office
North	SF-3-H-NP	Residential
South	CS-MU-CO-NP	Multi-family
East	CS-MU-V-CO-NP	Parking Lot
West	LO-CO-NP	Office

**CASE HISTORIES:**

<b>NUMBER</b>	<b>REQUEST</b>	<b>COMMISSION</b>	<b>CITY COUNCIL</b>
C814-96-0001	From CS to PUD	Approved staff's recommendation for PUD. (7-1)	Approved staff's recommendation for PUD. (5-0) All 3 readings.
C14-99-2032	From SF-3 to LO-MU	Approved staff's recommendation for LO-MU. (6-0)	Approved staff's recommendation for LO-MU. (7-0) 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:**

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

**SCHOOLS:**

- Matthews Elementary School
- OHenry Middle School
- Austin High School

**ENVIRONMENTAL:**

- 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.
- 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 s.f. 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 Clara Hilling at 974-2686.

### **TRANSPORTATION:**

TR1: Existing Street Characteristics:

Name	ROW	Pavement	Classification	Daily Traffic
West 6 <sup>th</sup> 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:** August 26<sup>th</sup>, 2010

**ACTION:**

**ORDINANCE READINGS:** 1ST 2ND 3RD

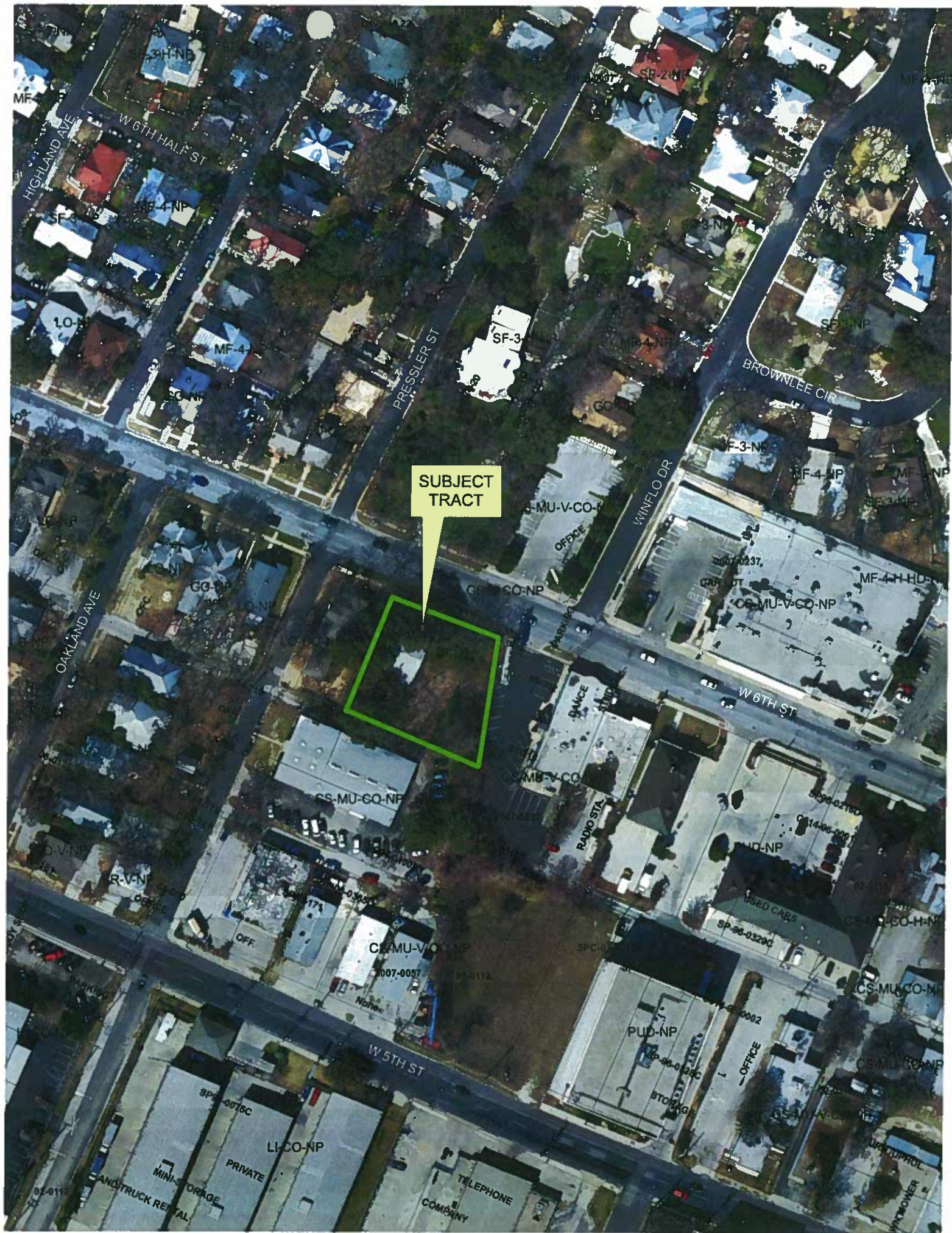
**ORDINANCE NUMBER:**

**CASE MANAGER:** Clark Patterson  
[Clark.patterson@ci.austin.tx.us](mailto:Clark.patterson@ci.austin.tx.us)

**PHONE:** 974-7691









**RESTRICTIVE COVENANTS**

Date: March 9, 2010

Owner: AGSA GROUP LLC

Owner's Address: AGSA GROUP LLC, c/o Capital Leasing, 3536 Bee Cave Road, #310, Austin, Texas 78746.

Consideration: Ten dollars and no cents (\$10.00) and other good and valuable consideration the receipt and sufficiency of which is hereby acknowledged.

Property: The property commonly known as 1315 W. 6th Street, Suite A, Austin, Texas, Travis County, 78703 and 1315 W. 6th Street, Suite B, Austin, Texas, Travis County, 78703 as more particularly described on Exhibit A (the "Property").

Owner and Old West Austin Neighborhood Association, a Texas nonprofit corporation ("OWANA"), hereby agree to the following restrictions and terms described below:

1. Owner agrees not to obtain, seek to obtain or allow any other person to obtain or seek to obtain an alcohol permit for the serving of alcoholic beverages after 12:00 a.m. on the Property's premises (i.e. a Late Night Hours Alcohol Permit from the City of Austin).
2. Owner agrees not to obtain, seek to obtain or allow any other person to obtain or seek to obtain an Outside Amplification Permit from the City of Austin on the Property's premises.
3. Owner agrees not to obtain, seek to obtain or allow any other person to obtain or seek to obtain an Outside Music Venue Permit from the City of Austin on the Property's premises.
4. Owner agrees not to construct or allow any other person to construct a permanently enclosed patio deck on the premises of the Property. Owner further agrees that any deck shall be set back at least five (5) feet from the property lines.
5. Owner agrees that any outdoor seating on the premises of the Property shall be limited to one thousand five hundred (1500) square feet (the "Seating Area"); provided, however, access areas including stairs, ramps, chair lifts, platforms, and other areas of a deck or outdoor improvements that are not specifically intended for patron seating shall not be included in the calculation of the Seating Area.
6. Owner agrees that the building setback on Lot 19 for any future building which may be constructed shall be the greater of the building setback limit imposed by the City of Austin or 25 feet.
7. These Restrictive Covenants are being executed in connection with the pending approval of the rezoning of the Property by the City of Austin City Council, zoning case number C14-2009-0166 ("Zoning Request"). As such, these Restrictive Covenants shall only be effective and may only be filed in the records of Travis County, Texas, after all of the zoning matters in the Zoning Request are granted in favor of Owner, to Owner's complete satisfaction.

8. If any person or entity shall violate or attempt to violate these Restrictive Covenants, OWANA may, or its successor organization, pursue legal proceedings in law or in equity against such person or entity violating or attempting to violate these Restrictive Covenants.
9. The parties agree that if either party has to institute legal proceedings to enforce its rights hereunder, then the prevailing party is entitled to recover reasonable legal fees and court costs upon final determination by a court of competent jurisdiction from the non-prevailing party.
10. If any part of these Restrictive Covenants are declared invalid or void, by judgment or court order, the same shall in no way affect any of the other provisions of these Restrictive Covenants, and such remaining provisions of these Restrictive Covenants shall remain in full force and effect.
11. ~~Except as provided for in Section 13 below~~ These Restrictive Covenants may only be modified, amended or terminated by joint action of the OWANA Steering Committee, or such other committee or committee of a successor organization, and Owner.
12. These Restrictive Covenants are a private agreement among the parties hereto and no third party beneficiaries are intended. No third party, other than successors or assigns of OWANA or Owner may enforce these Restrictive Covenants.
13. ~~If in the future, after the approval of the Zoning Request described in Section 2 above, a new zoning application is approved for any part or all of the Property, then the restrictions in these Restrictive Covenants are automatically terminated and shall be of no further force and effect with respect to the Property or portion of the Property which is rezoned.~~

INITIAL  
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INITIAL  
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IN WITNESS WHEREOF, Owner and OWANA have executed these Restrictive Covenants as of March 11, 2010.

OWNER:

AGSA GROUP LLC

By: Gretchen Alley  
Name: Gretchen Alley  
Title: Owner

OWANA:

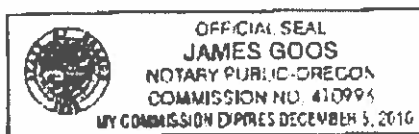
Old West Austin Neighborhood Association

By: Paul Seals  
Name: PAUL SEALS  
Title: Chair, Old West Austin  
Neighborhood Assoc.



THE STATE OF OREGONCOUNTY OF WINTHROP§  
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These Restrictive Covenants were acknowledged before me on 3/9/2010  
2010, by GRETCHE ALLEN, Owner of AGSA GROUP LLC, a Texas  
limited liability company, on behalf of said limited liability company.

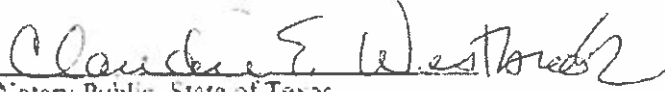
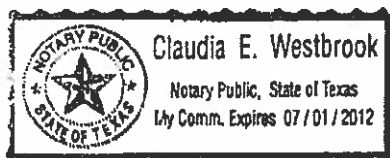
  
Notary Public, State of OREGON

THE STATE OF TEXAS

COUNTY OF TRAVIS

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These Restrictive Covenants were acknowledged before me on March 10<sup>th</sup>  
2010, by PAUL SEALS, Chair of Old West Austin Neighborhood  
Association, a Texas nonprofit corporation, on behalf of said nonprofit corporation.

  
Notary Public, State of Texas

**EXHIBIT A**

Regarding 1315 W. 6<sup>th</sup> Street Lots 18 and 19, Woodland Subdivision, a subdivision in the City of Austin, Travis County, Texas, according to the map or plat of record in Plat Book 294, Page 1, of the Plat Records of Travis County, Texas