

**ZONING CHANGE REVIEW SHEET**CASE: C14-2023-0125 (1601 W 38th)DISTRICT: 10ADDRESS: 1601 W 38th Street, Ste 3ZONING FROM: GRTO: CS-1-CO\*

\*The applicant is proposing a conditional overlay to prohibit the following uses on the site: Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing (of any type), Campground, Commercial Blood Plasma Center, Drop-Off Recycling Collection Facility, Pawn Shop Services, Pedicab Storage and Dispatch, Service Station and Vehicle Storage.

SITE AREA: 0.0616 acres

PROPERTY OWNER: EHRlich JEFFERSON SQUARE LIMITED PARTNERSHIP  
(Robert Ehrlich, Jr.)

AGENT: Metcalfe Wolff Stuart & Williams LLP (Michele Rogerson Lynch)

CASE MANAGER: Sherri Sirwaitis (512-974-3057, [sherri.sirwaitis@austintexas.gov](mailto:sherri.sirwaitis@austintexas.gov))

STAFF RECOMMENDATION:

**Staff recommends the applicant's request for CS-1-CO, Commercial-Liquor Sales-Conditional Overlay Combining District zoning. The proposed conditional overlay will prohibit Automotive Rentals, Automotive Repair Services, Automotive Sales, Automotive Washing (of any type), Campground, Commercial Blood Plasma Center, Drop-Off Recycling Collection Facility, Pawn Shop Services, Pedicab Storage and Dispatch, Service Station and Vehicle Storage uses. In addition, the staff recommends a condition to prohibit the Cocktail Lounge use on the property.**

ZONING AND PLATTING COMMISSION ACTION / RECOMMENDATION:**December 19, 2023**CITY COUNCIL ACTION:ORDINANCE NUMBER:

ISSUES: N/A

CASE MANAGER COMMENTS:

The property in question is a 2,600 square foot suite within a commercial center (Jefferson Square Shopping Center) that is zoned GR and was previously developed with a retail sales use. There are personal services/salon and retail sales uses to the north and a restaurant/coffee house and office use to the south within the retail center. Across W. 38<sup>th</sup> Street to the north, there is a medical office complex zoned CS. To the south along Kerbey Lane there is a restaurant use zoned CS and an office uses zoned LR. On the other side of Kerbey Lane to the east, there is a medical office and retail uses that are zoned LR. Behind this site to the west, there are retail and food sales uses that are zoned LR. The applicant is requesting CS-1-CO zoning to allow for Liquor Sales as a permitted use on the property (*please see the Applicant's Request Letter – Exhibit C*).

The staff recommends the applicant's request for a footprint of CS-1-CO zoning to allow the existing structure to be repurposed for additional retail sales uses. The property in question meets the intent of the CS-1 district as the site is located within an existing commercial/retail center. The proposed zoning will provide additional commercial services to the surrounding community along a designated Activity Corridor in the Imagine Austin Comprehensive Plan.

The applicant agrees with the staff's recommendation.

BASIS OF RECOMMENDATION:

*1. The proposed zoning should be consistent with the purpose statement of the district sought.*

Commercial-Liquor Sales district is intended predominately for commercial and industrial activities of a service nature which typically have operating characteristics or traffic service requirements generally incompatible with residential environments, and specifically includes liquor sales as a permitted use.

*2. The proposed zoning should allow for a reasonable use of the property.*

The CS-1 zoning district would allow for a fair and reasonable use of the site. A 2,600 footprint of CS-1 zoning is appropriate at this location as it is part of a larger retail development (Jefferson Square Shopping Center).

There is access public transportation with Capital Metro bus routes to the east along Jefferson Street and to the south along W. 35<sup>th</sup> Street. There is a Capital Metro bus stop directly behind this property on Jefferson Street.

*3. The proposed zoning should promote consistency and orderly planning.*

The proposed zoning is consistent with surrounding land uses because of the commercial character of the area. The applicant's request for CS-1-CO zoning is consistent with the zoning patterns to the north (GR, LR and CS), south (CS, LR), east and west (LR). This

site is located within 0.06 miles from the West 38<sup>th</sup> Street Activity Corridor, as designated by the Imagine Austin Comprehensive Plan.

EXISTING ZONING AND LAND USES:

	ZONING	LAND USES
<i>Site</i>	GR	Retail Sales (Jefferson Square Shopping Center: Formerly Over the Rainbow toy store)
<i>North</i>	LR, CS	Jefferson Square Shopping Center: Personal Services (Calm Skincare, Tiffany Taylor Beauty Co.), Retail (The Garden Room Women's Clothing), across W. 38 <sup>th</sup> Street - Medical Office (Women's Imaging Center, Pearce Plastic Surgery, Pediatric Associates of Austin, Texas AeroMed, Belton Hearing Care Center, MiraBelle Spa/ Wellspring Plastic Surgery, etc.)
<i>South</i>	CS, LR	Jefferson Square Shopping Center: Restaurant (Anderson's Coffee, Office (AMT Lifetime Financial), Restaurant (Spread & CO), Office/Retail Spaces, Office Structures (Sanders Architecture), Restaurant (Kerbey Lane Café)
<i>East</i>	LR	Medical Office (Kerbey Lane Vision), Retail (Franzetti Jewelers)
<i>West</i>	LR	Jefferson Square Shopping Center: Retail (Santa Fe Optical, Wendow Fine Living), Personal Services (Salon 1601), Retail (Verbena Floral Design), Food Sales (Lee's Meat Market)

NEIGHBORHOOD PLANNING AREA:

WATERSHED: Shoal Creek

SCHOOLS: Austin I.S.D.

Bryker Woods Elementary School  
O Henry Middle School  
Austin High School

NEIGHBORHOOD ORGANIZATIONS:

Austin Independent School District  
Austin Lost and Found Pets  
Austin Neighborhoods Council  
Bull Creek Road Coalition  
Friends of Austin Neighborhoods  
Homeless Neighborhood Association  
Neighborhood Empowerment Foundation

North Austin Neighborhood Alliance  
 Preservation Austin  
 Ridgelea Neighborhood Assn.  
 SELTexas  
 Shoal Creek Conservancy  
 Sierra Club-Austin Regional Group

AREA CASE HISTORIES:

Number	Request	Commission	City Council
C14-2022-0010 – 3402 Kerbey Lane	NO-NP to GO-NP	3/22/22: Approved LO-NP zoning (10-0, C. Llanes-Pulido—abstained, J. Connolly and J. Mushtaler-absent); G. Cox-1 <sup>st</sup> , J. Shieh-2 <sup>nd</sup> .	4/21/2022: Ordinance No. 20220421-043 for limited office-neighborhood plan (LO-NP) combining district zoning was approved on Council Member Harper-Madison's motion, Council Member Renteria's second on a 10-0 vote. Council Member Pool was absent.
C14-2021-0137 – 3427 Jefferson Street	LR-NP to CS-NP	To Grant CS-CO-NP w/CO for list of prohibited uses	3/24/2022: Approved CS-CO-NP as Commission recommended, with enhanced streetscape standards
C14-96-0069 - Kerbey Lane Village: 1507- 1513 W 35 <sup>th</sup> St	From SF-3 to GR	To Grant GR-MU-CO Conditions: no vehicle access to Kerby Lane; max 2,000 daily vehicle trips; Site Development Stds per “LR” district; List of prohibited and conditional uses	8/15/1996: Approved Ord.# 960815-B
C14-2019-0163 - 3405 Glenview Ave	Rezone 0.1791 ac from NO-NP to LO-NP	To Grant	3/12/2020: Approved Ord.# 20200312-058
C14-03-0161 - 1608 W 34 <sup>th</sup> St	Rezone SF-3 to NO. Staff Rec NO	To Grant NO-MU-CO w/CO for list of 16 prohibited uses; if existing structure replaced, FAR not to exceed 0.26:1	02/26/2004: Approved Ord.# 040226-Z-6
C14-06-0139 - Mills Ave Parking Rezoning 3401 Mills Ave	Rezone P to GO-CO: Conditions: List of 20 prohibited uses.	To Grant	8/24/2006: Approved Ord.# 20060824-083
C14-00-2233 - 3409 Glenview Ave	SF-3 to LO. Amended to NO-MU	To Grant	1/18/2001: Approved Ord.# 010118-77

C14-2008-0003 - Windsor Road NP Vertical Mixed Use Bldg Opt In/Opt Out	Rezone 27.46 ac	To Grant	5/22/2008: Approved Ord.#20080522- 045(V) 6/18/2008: Approved Ord.# 20080618-079 (VMU)
C14-06-0020 - Gallery Shoal Creek 1500 W 34 <sup>th</sup> St	Rezone LO to GO-CO: Conditions: development stds per LO district; list of 5 prohibited uses	To Grant	5/04/2006: Approved Ord.# 20060504-036
C14-2008-0003 - Rosedale Neighborhood NPA Vertical Mixed Use Opt In/Opt out	Rezone 27.4 ac. to add vertical mixed use building (V) and to exclude certain tracts	To Grant	4/10/2008: Approved Ord.# 20080410-065

RELATED CASES: N/A

OTHER STAFF COMMENTS:

Comprehensive Planning

**Project Name and Proposed Use:** 1601 W 38TH ST. C14-2023-0125. 0.0616 acres from GR to CS-1-CO. General Retail Sales to Liquor Sales.

Yes	Imagine Austin Decision Guidelines
<b>Complete Community Measures *</b>	
Y	<b>Imagine Austin Growth Concept Map:</b> Located within or adjacent to an Imagine Austin Activity Center, Imagine Austin Activity Corridor, or Imagine Austin Job Center as identified the Growth Concept Map. <b>Names of Activity Centers/Activity Corridors/Job Centers *:</b> 0.06 miles from West 38 <sup>th</sup> Street Activity Corridor
Y	<b>Mobility and Public Transit *:</b> Located within 0.25 miles of public transit stop and/or light rail station.
Y	<b>Mobility and Bike/Ped Access *:</b> Adjoins a public sidewalk, shared path, and/or bike lane.
Y	<b>Connectivity, Good and Services, Employment *:</b> Provides or is located within 0.50 miles to goods and services, and/or employment center.
	<b>Connectivity and Food Access *:</b> Provides or is located within 0.50 miles of a grocery store/farmers market.
Y	<b>Connectivity and Education *:</b> Located within 0.50 miles from a public school or university.
	<b>Connectivity and Healthy Living *:</b> Provides or is located within 0.50 miles from a recreation area, park or walking trail.
Y	<b>Connectivity and Health *:</b> Provides or is located within 0.50 miles of health facility (ex: hospital, urgent care, doctor's office, drugstore clinic, and/or specialized outpatient care.)
	<b>Housing Choice *:</b> Expands the number of units and housing choice that suits a variety of household sizes, incomes, and lifestyle needs of a diverse population (ex: apartments, triplex, granny flat, live/work units, cottage homes, and townhomes) in support of Imagine Austin and the Strategic Housing Blueprint.
	<b>Housing Affordability *:</b> Provides a minimum of 10% of units for workforce housing (80% MFI or less) and/or fee in lieu for affordable housing.
	<b>Mixed use *:</b> Provides a mix of residential and non-industrial uses.
	<b>Culture and Creative Economy *:</b> Provides or is located within 0.50 miles of a cultural resource (ex: library, theater, museum, cultural center).
	<b>Culture and Historic Preservation:</b> Preserves or enhances a historically and/or culturally significant site.
	<b>Creative Economy:</b> Expands Austin's creative economy (ex: live music venue, art studio, film, digital, theater.)
	<b>Workforce Development, the Economy and Education:</b> Expands the economic base by creating permanent jobs, especially in industries that are currently not represented in a particular area or that promotes a new technology, and/or promotes educational opportunities and workforce development training.
	<b>Industrial Land:</b> Preserves or enhances industrial land.
Y	<b>Not located over Edwards Aquifer Contributing Zone or Edwards Aquifer Recharge Zone</b>
7	<b>Number of "Yes's"</b>

### Environmental

The site is not located over the Edwards Aquifer Recharge Zone. The site is located in the Shoal Creek 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.

Zoning district impervious cover limits apply in the Urban Watershed classification.

According to floodplain maps there is no floodplain within or adjacent to the project location.

Standard landscaping and tree protection will be required in accordance with LDC 25-2 and 25-8 for all development and/or redevelopment.

At this time, site specific information is unavailable regarding vegetation, areas of steep slope, or other environmental features such as bluffs, springs, canyon rimrock, caves, sinkholes, and wetlands.

This site is required to provide on-site water quality controls (or payment in lieu of) for all development and/or redevelopment when 8,000 s.f. cumulative is exceeded, and on site control for the two-year storm.

At this time, no information has been provided as to whether this property has any preexisting approvals that preempt current water quality or Code requirements.

### Fire

No comments.

### Parks and Recreation

Beginning on January 1, 2024, there will be no parkland dedication requirements for development applications with commercial-nonresidential land uses, such as liquor sales.

### Site Plan

Site plans will be required for any new development other than single-family or duplex residential.

Any development which occurs in an SF-6 or less restrictive zoning district which is located 540-feet or less from property in an SF-5 or more restrictive zoning district will be subject to compatibility development regulations.

Any new development is subject to Subchapter E. Design Standards and Mixed Use. Additional comments will be made when the site plan is submitted.

### Transportation

The Austin Strategic Mobility Plan (ASMP) calls for 84 feet of right-of-way for W 38<sup>th</sup> Street. It is recommended that 42 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The Austin Strategic Mobility Plan (ASMP) calls for 58 feet of right-of-way for Kerbey Lane. It is recommended that 29 feet of right-of-way from the centerline should be dedicated according to the Transportation Plan with the first subdivision or site plan application. [LDC 25-6-51 and 25-6-55].

The adjacent street characteristics table is provided below:

Name	ASMP Classification	ASMP Required ROW	Existing ROW	Existing Pavement	Sidewalks	Bicycle Route	Capital Metro (within ¼ mile)
W 38 <sup>th</sup> Street	Level 2	84 feet	~76 feet	40 feet	None	On opposite side of project	Yes
Kerbey Lane	Level 1	58 feet	50 feet	30 feet	None	No	Yes

### Water Utility

No comments on zoning change.

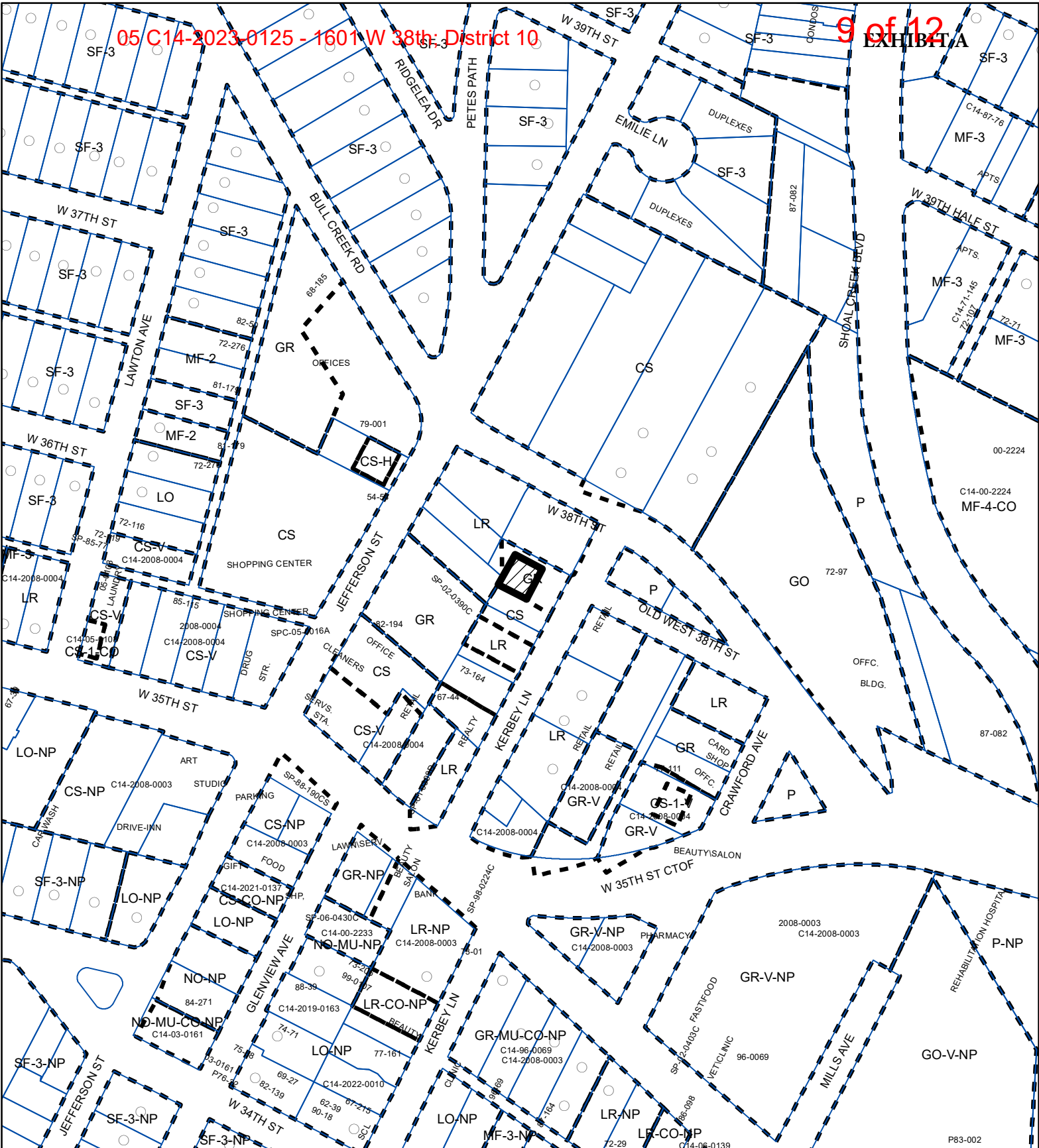
FYI: The landowner intends to serve the site with existing City of Austin water utilities.

Depending on the development plans submitted, water and or wastewater service extension requests may be required. All water and wastewater construction must be inspected by the City of Austin. For more information pertaining to the Service Extension Request process and submittal requirements contact the Austin Water SER team at [ser@austintexas.gov](mailto:ser@austintexas.gov).

### INDEX OF EXHIBITS TO FOLLOW




- A: Zoning Map
- B. Aerial Map
- C. Applicant's Request Letter




$$1'' = 200'$$

## ZONING

ZONING CASE#: C14-2023-0125

-  SUBJECT TRACT
-  PENDING CASE
-  ZONING BOUNDARY

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 the Planning Department for the sole purpose of geographic reference. No warranty is made by the City of Austin regarding specific accuracy or completeness.



**Created: 10/23/2023**









METCALFE WOLFF  
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MICHELE ROGERSON LYNCH  
Director of Land Use &  
Entitlements

mlynch@mwswtexas.com  
512-404-2251

September 28, 2023

Mrs. Lauren Middleton-Pratt, Director of Planning  
Housing and Planning Department  
1000 East 11<sup>th</sup> Street  
Austin, Texas 78702

**Via Online Submittal**

Re: Application for Rezoning; 0.0616 acres, located at 1601 W 38th Street (the  
"Property")

Dear Mrs. Pratt:

As representatives of the owner of the above stated Property we respectfully submit the attached Application for Rezoning. The Property consists of a 2,600 square foot portion of an existing shopping center (see Zoning Exhibit attached) that is currently zoned Community Commercial (GR). The Application for Rezoning requests to rezone this portion of the Property to Commercial-Liquor Sales Conditional Overlay (CS-1-CO) to allow for Liquor Sales as a permitted use. The following uses are suggested for prohibition with the CO:

**PROHIBITED**

Automotive Rentals	Drop-Off Recycling Collection Facility
Automotive Repair Services	Pawn Shop Services
Automotive Sales	Pedicab Storage and Dispatch
Automotive Washing (of any type)	Service Station
Campground	Vehicle Storage
Commercial Blood Plasma Center	

If you have any questions about this Application for Rezoning or need additional information, please do not hesitate to contact me at your convenience. Thank you for your time and attention to this project.

Very truly yours,

A handwritten signature in black ink that reads "Michele Rogerson Lynch".

Michele Rogerson Lynch

ZONING EXHIBIT

