

Memorandum

To: Members, Planning and Zoning Commission

From: Keisha Fink

Date: May 11, 2017

Re: **Text Amendment #733/Appl. #17-024**

Modifications to §22-2.2.11, Restricted Office-Retail Districts #1, 2 & 3 (RORD)

Statutory Time Lines

Application Submission Date: 4/6/17

Application Receipt Date: 4/13/17

65 Days from Date of Receipt (*when public hearing must open*): 6/17/17

Public Hearing Opened (*scheduled to open*): 5/18/17

35 Days from Public Hearing Commencing (*when hearing must close*): 6/22/17

65 Days from Close of Public Hearing (*when decision required*):

Summary

Have all documents been submitted as required in accordance with §42?	Yes
Has the application received all necessary prior approvals?	Prior approvals are not required. A referral was sent to the Department of Energy and Environmental Protection, Office of Long Island Sound Programs (DEEP OLISP) as well as the regional planning agencies, pursuant to the Connecticut General Statutes. The application was also referred to Town Department heads for comments consistent with past practices. All comments received to date are listed and/or attached herein.
Other comments?	<p>Members of the Planning and Zoning Commission should consider whether the amendment is consistent with the Zoning Regulations, Zoning Map and the <i>2007 Plan of Conservation and Development</i> as required pursuant to C.G.S. §8-2, <i>Regulations</i>. The Commission should also determine if the applicant's <i>Explanatory Statement</i> and any testimony offered at the public hearing is persuasive in concluding the amendment will benefit the Town, pursuant to §42 of the Westport Zoning Regulations.</p> <p>The Town Attorney has concerns about the legality of approving the direct sales/leasing of cars from a manufacture to the consumer, for which is illegal in the State of Connecticut.</p>

Description of Application

Applicant	Mel Barr, Jr./Barr Associates, LLC
Requested Action	Text Amendment approval
Purpose	To modify §22-2.2.11 of the Zoning Regulations to allow Electric Automobile Establishments (or Service Centers) in RORD#2 Zone As an “adaptive reuse” based on certain building and site criteria.
Location	<p>§22-2.2.11 Electric Automobile Establishments for electric motor vehicles, only, in the RORD #2, only, subject the following additional provisions:</p> <ul style="list-style-type: none"> a) Said establishments shall only be permitted as an “adaptive reuse” of an existing, non-conforming building with more than 7,500 square feet of first floor area located on a site with at least 1.0 acre of gross lot area and at least 200 feet of frontage on an Arterial Street. b) Said establishments may provide vehicle services, recharge stations, gallery display, vehicle deliveries, vehicle storage and related services for such electric motor vehicles. Said establishments may also provide vehicle sales of new and used electric motor vehicles, subject to a state License. c) Said vehicle services may include suspension, tire, brake, electrical, and interior repair work, but no paint or exterior body work. d) Existing legally non-conforming parking spaces may be maintained and utilized or reorganized for this use, provided the buffer landscaping enhanced to the satisfaction of the planning & Zoning Commission. <p>The applicant’s analysis provided the existence of three (3) RORD #2 Zones, Myrtle Avenue and Post Road East in Westport Center, along Riverside Avenue and Franklin Street in Saugatuck Center. It is the applicant’s determination that most of the lots in the above mentioned RORD#2 Zones contain buildings with less than 2,500 sf of first floor area on lots of less than ½ acre with less than 100 feet of arterial street frontage.</p>
2007 Plan of Conservation and Development	<p>The following goals and strategies are listed in Chapter 3, (<i>Preserve Critical Environmental Areas</i>):</p> <p><i>“Preserve and enhance the quality of the environment in order to provide long term use of the resources to ensure potable water, flood storage, creation, and scenic beauty.” Pg. 3-1</i></p>

	<p><i>“Require to the extent possible, minimization of site imperviousness, maintenance of natural buffers, and use of natural drainage systems.” Pg. 3-10</i></p> <p>The following goals and strategies are listed in Chapter 7, <i>(Maintain Distinctive Centers With a Strong Sense of Place)</i>:</p> <p><i>“Improve the appearance and functioning of all commercial areas and minimize negative influences on neighboring residential quality of life.” Pg. 7-1</i></p> <p><i>“Through changes in zoning regulations, manage driveway access and parking capacity.” Pg. 7-18</i></p> <p><i>“Through changes in the Zoning Regulations, consider reducing require parking for some commercial uses and permit/encourage the use of “pavers” in appropriate locations.” Pg. 7-18</i></p> <p><i>“Continue to Promote Good Design.” Pg. 7-18</i></p> <p>The following goals and strategies are listed in Chapter 11, <i>(Promote Sustainable Initiatives)</i>:</p> <p><i>“Evaluate the zoning regulations for ways to reduce land coverage and building size to conserve energy.” Pg. 11-5</i></p>
<p>Applicable Regulations</p>	<p>§22 Restricted Office-Retail Districts #1, 2 & 3 (RORD) The Purpose of the RORD is to allow for the limited use of land and existing buildings for offices, retail stores, multiple-family dwellings and combinations thereof.</p> <p>§25 Highway Service District (HSD) The purpose of the Highway Service District is to provide suitable locations for general commercial, automobile and dive-in type establishments which serve the needs of motorists.</p>
<p>Zoning History</p>	<p>See attached.</p>

Background

The applicant discussed the proposed text amendment at a Pre-Application meeting with the Planning and Zoning Commission on March 16, 2017. At that meeting the applicant presented a possible Zoning Text Amendment to allow Electric Automotive Establishments (or Service Centers) in the RORD #2 Zone as an “adaptive reuse” based on certain building and site criteria.

Proposal

To modify §22-2.2.11 of the Zoning Regulations to allow Electric Automotive Establishments (or Service Centers) in the RORD #2 Zone as an “adaptive resue” based on certain building and site criteria.

The applicant’s analysis noted the existence of three (3) RORD #2 Zones, Myrtle Avenue and Post Road East in Westport Center, along Riverside Avenue and Franklin Street in Saugatuck Center. It is the applicant’s determination that most of the lots in the above mentioned RORD#2 Zones contain buildings with less than 2,500 sf of first floor area on lots of less than ½ acre with less than 100 feet of arterial street frontage.

The proposed building and site criteria for this new use are:

1. The “adaptive reuse” of existing non-conforming buildings containing a first floor area of more than 7,500 SF;
2. Sites containing more than 1.0 acre of gross lot area; and
3. Sites with at least 200 feet of frontage on an Arterial Street.

An analysis by the applicant, of the proposed criteria indicates that only two sites would be eligible in the RORD #2 Zone for this proposed new use: (1) 521 Riverside Ave currently occupied by the Saugatuck Rowing Club and (2) 20 Saugatuck Avenue, a former Tennis Club and currently vacant.

“The demonstration site of 20 Saugatuck Avenue is adequate for five service bays with areas for delivery vehicles, gallery display vehicles and administrative offices. Electric Vehicle Services would include mechanical, electrical and interior repair work, with no exterior body work.”

It is the opinion of the applicant, *“that the continued use of the demonstration site of 20 Saugatuck Avenue, for retail tenants would require about 88 parking spaces. Whereas, a new electric vehicle service center with five bays and up to 25 employees would reduce the parking demand to about 52 spaces, exclusive of several charging stations. Such a parking reduction would have both traffic and environmental benefits for adjacent residents.”*

The Commission should consider asking the applicant to list alternative locations of the proposed amendment to allow Electric Automotive Establishments, that would be compatible with the proposed use.

Demonstration Site:



20 Saugatuck Avenue

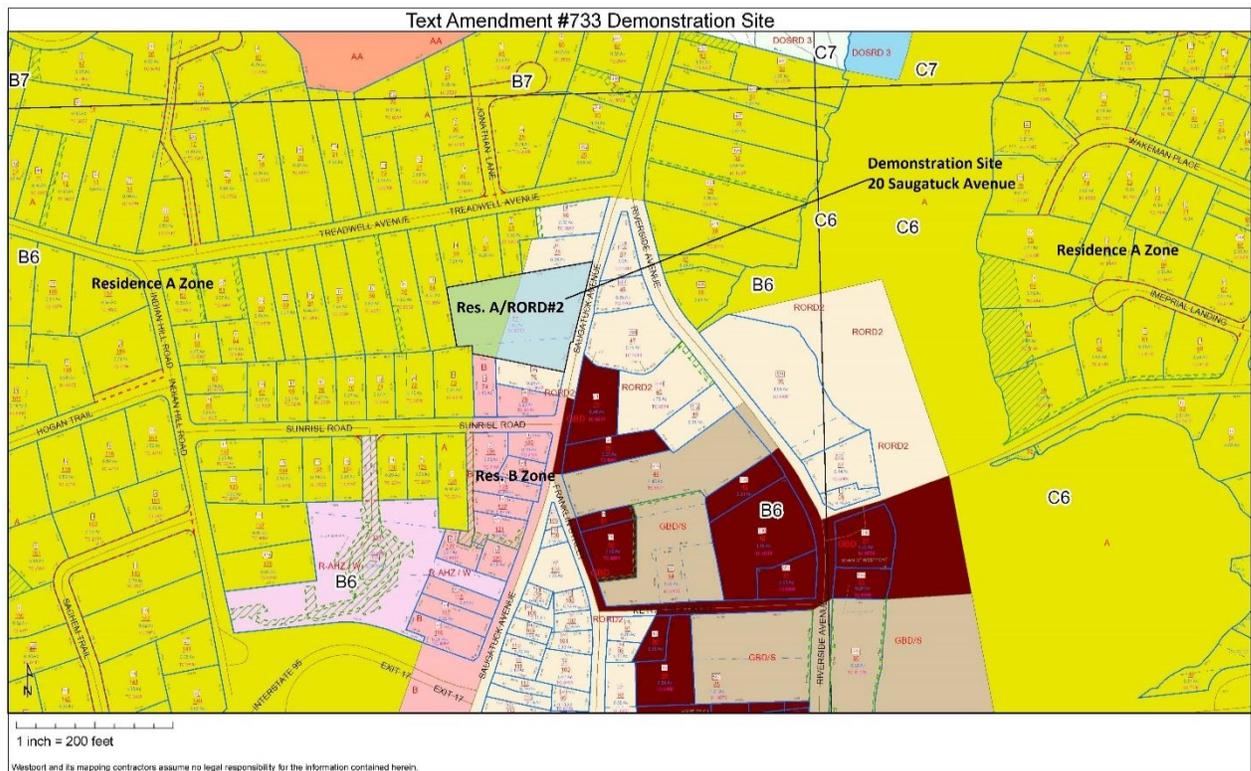
1.87 acre (71,584 SF) property located in the Restricted Office-Retail District (RORD) #2 and Residence A Zone.

The existing building contains a 17,204 SF retail and office building and has 92 parking space, including 2 handicap spaces.

This site is located within the Coastal Area Management (CAM) however, is exempt from Coastal Site Plan review permit §31-10.6.7. The property is not located within the 100-year flood zone.

The building is currently vacant.

Demonstration Site Zoning Map:



Analysis

The purpose of the Town of Westport Zoning Regulations §22 Restricted Office-Retail Districts #1,2 &3 is to allow for the limited use of land and existing buildings for office, retail stores, multiple-family dwellings and combinations thereof. The intent of the regulation is to retain the residential character of the existing buildings and not intended to lead to the wholesale redevelopment of those areas to new commercial uses. Further, to limit the intensity of uses while preserving the character of such areas from the standpoint of compatible land uses.

It is the applicant's analysis that in the Highway Service District (HSD), where the purpose is to provide suitable locations for general commercial, automobile and drive-in type establishments which serve the needs of motorists, should no suitable sites are available.

The commission shall also consider that the State of Connecticut prohibits the direct sale of vehicles by auto manufacturers directly to consumers and the current law bars motor vehicle manufacturers from holding a new or used car dealer's license. The State of Connecticut House of Representative, under HB 7097 "An Act Concerning the Licensing of New and Used Car Dealers" and whose purpose is to authorize the Commissioner of Motor Vehicles to issue a new or used car dealer's license to an electric vehicle manufacturer is currently in committee and anticipates a ruling in the coming months.

Town Attorney comments dated May 5, 2017 stating the following concerns:

Section 22-2.2.11 (b) That Section states that "[s]aid establishments may also provide vehicle sales of new and used electric motor vehicles, *subject to a State License.*"

The Town Attorney continues to state "Approvals that are subject to the approval of another agency or official are not generally upheld. "It is usually illegal to condition upon the action or approval of another agency or official except for ministerial acts which are expected to occur..." R. Fuller, 9 Connecticut Practice Series: Land Use Law and Practice §22:16.

The Town Attorney recommends “*segregating the portion of Section 22-2.2.11(b) that addressed the direct sales and/or lease of automobile manufacturers directly to consumers. The applicant may amend the text amendment to segregate the sales from the activities permitted and require that the permit from the State be issued before any special permit is issued.*”

Staff believes that the intent of the Town Attorney recommendation to the Commission is to remove that portion of the text amendment that reference the direct sales and/or lease of automobiles directly to consumers. Therefore, requiring the applicant to submit a special permit application at the time direct sales and/or lease of automobile to consumers shall be permitted per state law.

Neighbor Letter

In a letter dated May 2, 2017, submitted to the Planning and Zoning Department on 5/2/17, by Mr. Mark Kirby a resident of the adjoining residential neighborhood. He ask two questions to the Commission, 1) Why propose a text amendment to the RORD #2 zone? And 2) What is an “Electric Vehicle Establishment”?

“Mr. Barr’s proposal offer no argument as to what it is about Eclectic Vehicle Establishment’s that make them or suited to a zone of “residential character” than to Westport’s other commercial zones. The town has a large number of lots zoned GBD; there are only three small RORD #2 areas in the entire town. It’s not immediately apparent why this same amendment language could not be applied to the GBD regulations, opening a much larger range of possibilities.”

Mr. Kirby continues by asking the question of what is an Electric Vehicle Establishment? And asking the following questions of the Commission:

- *How many charging stations would the establishment need? How would the number of these stations grow over a ten-year period?*
- *How many other dealerships are there likely to be in CT over the one-, five-, ten-year period? Would the Westport location be the first dealer in the state?*
- *How many deliveries and sales would Tesla expect at this location, not just for its present models but for more affordable future models such as the Model 3?*
- *How many vehicles of what types would be stored at a site like this?*
- *What kinds of trucks would be used in the delivery of vehicles?*
- *What routs would test drives take on local streets? How would such drives impact traffic and public safety?*
- *When the Westport PD and FD reviewed Mr. Barr’s proposal, were thy considering future uses of the site or just the service center outlined in his letter? Did they consider any public safety impacts of test driving Tesla cars on Saugatuck’s streets or any hazards associated with lithium-ion battery fires, especially fires in a lot full of lithium-ion powered cars?*

Considerations

§42-3.3 of the Westport Zoning Regulations describes the process for submission of a text amendment. Words to be deleted shall be bracketed and stricken out and additions shall be underlined. The application as submitted conforms to this requirement.

The existing zoning regulations for RORD #2 does not permitted the use of an Electric Automobile Establishments(or Service Centers) and §22-2.4 explicitly prohibits the use of automobile service establishment or repair garage. However, if the Commission grants the application to amend §22-2.2.11 to include Electric Automobile Establishments for electric motor vehicles which will provide vehicle

services, recharge stations, gallery display, vehicle deliveries, vehicle storage and vehicle servicing the commission should consider the following:

1. Under current State of Connecticut laws, the proposed site shall only be approved to operate as a gallery to display cars and educate customers on electric vehicles.
2. Requiring furthering enhancement of the existing landscaping, screening and buffer Areas with evergreens in accordance with §35 of the Supplementary Regulations.
3. Limiting the hours of operation.
4. Restricting the use of residential streets for the purpose of deliveries.
5. Restricting and/or Prohibiting the use of residential streets for the purpose of test driving cars.
6. Limiting the lighting of outdoor vehicle display to end no later than 10:00 p.m.

Procedural Considerations

The Planning and Zoning Commission is acting in their legislative capacity, and therefore may adopt, deny, or modify any amendment to the Westport Zoning Regulations. The criteria for decision are:

1. Findings that the amendment will benefit the Town as identified in §42-3.5 of the Zoning Regulations.
2. Findings by the Commission that the amendment is consistent with the Comprehensive Plan (Zoning Regulations and Zoning Map), and the *2007 Town Plan of Conservation and Development* as identified in the Connecticut General Statutes.

The Planning and Zoning Commission may find the applicant's amendment if adopted will facilitate the following goal contained in the *2007 Plan of Conservation and Development* discussed in the attached Explanatory Statement, dated 3/28/17:

1. "A key charm of Westport is a variety of commercial styles in the town including Saugatuck, the Westport Center area and the Post Road, as well as the scattered and well-scaled office parks and even tiny commercial uses embedded in some of the residential areas. The Plan welcomes this variety and believes it is an important element of Westport's unique strength."
2. "Improve the appearance and functioning of all commercial areas and minimize negative influences on neighboring residential quality of life."
3. "Maintain present zoning districts that provide a variety of scale on the Post Road and in other commercial areas."
4. One of the primary roles of Saugatuck is a transportation hub.

Alternately, the Commission may find it inappropriate to adopt an amendment that benefits only a small (3) property sites and further encourages more intensive use in the RORD Zone.

An effective date must be established if the amendment is adopted which is typically 30-days from the adoption date.

Notice to the Public

A legal notice appeared in the local newspaper and was posted in the Town Clerk's Office as required in accordance with the Connecticut General Statutes. Comments from the public were received dated May 2, 2017.

Staff Recommendations:

The commission should hold the public hearing open to receive the following from the applicant.

1. The applicant should supply a narrative of the impact of the existing Electric Automobile Establishments including, the Milford Service location and the Greenwich “Gallery” and how these site currently operates in accordance to current state laws.
2. The applicant should also confirm whether the targeted site is the only beneficiary of the amendment as adopted.

Department Comments

Conservation Director:	Referral sent 4/17/17; no comment received.
Fire Chief:	The Fire Department has no comment at this time. 4/18/17
Police Chief:	The Police Department has reviewed, “ <i>We have no public safety concerns at this time.</i> ” 4/19/17
Public Works Director:	Referral sent 4/17/17; no comment received.
Town Attorney’s Office:	See attached commented dated 5/5/17
WWHD Director:	The Westport Weston Health District has no objection to the proposed Text Amendment #733, “ <i>I should be noted that should the Text Amendment be approved, any proposal submitted for approval on a particular site will need to be reviewed to ensure that adequacy of the potable water supply and sewage disposal.</i> ” 4/20/17
Greater Bridgeport Regional Council:	Referral sent 4/17/17; no comment received.
Western Connecticut Council of Governments:	The proposal is of local interest and with minimal intermunicipal impact dated 4/17/17.

Attached

- Explanatory Statements dated 3/28/2017
- Proposed Text Amendment for Eclectic Automotive Establishments in RORD#2 dated 3/24/17
- RORD Zoning History
- Bill history Session Year 2017 Raised H.B. No. 7097
- H.B. 7097
- Neighbor letter dated 5/2/17
- Neighbor letter dated 5/11/17
- Town Attorney letter dated 5/5/17



*Land Use Planning
Development Coordination
Regulatory Process Management*

Barr Associates LLC

Planning and Development Consultant

March 28, 2017

Mary Young
Planning & Zoning Director
Town of Westport
110 Myrtle Avenue
Westport, CT 06880

Re: **Explanatory Statement**
Proposed Text Amendment
Electric Automobile Establishments
in RORD #2 Zone

TEXT AMEND #733
RECEIVED

APR 06 2017 -17-024

WESTPORT P. & Z. C.

Dear Mary:

The goal of this application is to find an appropriate home for an Electric Automotive Establishment (or Service Center) in Westport. There are no suitable automotive sites available in the one small Highway Service District and all of the other six (6) non-conforming automobile establishments in Town are occupied. Therefore, another location needs to be found for this new use.

Electric automobiles are distinctly different from gasoline and/or diesel powered cars. Because they have no internal combustion engine, there is no exhaust system, no fuel tank, no liquid fuel storage, no new or used motor oil, no noise from the vehicle, and no hydrocarbon or carbon monoxide emissions. Electric motors are more environmentally friendly and require less maintenance. Therefore, locations other than the Post Road may be suitable and appropriate for this use.

The purpose of this proposed Zoning Text Amendment is to allow Electric Automotive Establishments (or Service Centers) in the RORD #2 Zone as an "adaptive reuse" based on certain building and site criteria.

There are only three (3) small RORD #2 Zones located along Myrtle Avenue in Westport Center, and along Riverside Avenue and Franklin Street in Saugatuck Center. These two centers are connected by Riverside/Saugatuck Avenue which is a State Highway (Route 33) running between Merritt Parkway Exit 41 in the north to I-95 Exit 17 in the south.

Most of the lots in these RORD #2 Zones contain buildings with less than 2,500 SF of first floor area on lots of less than ½ acre with less than 100 feet of arterial street frontage.

25 Sylvan Road South, Suite P, Westport, CT 06880
OFFICE PHONE (203) 454-9933 – CELL (203) 984-3015
Email: barrplan@earthlink.net



*Land Use Planning
Development Coordination
Regulatory Process Management*

Barr Associates LLC

Planning and Development Consultant

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However, the proposed building and site criteria for this new use are:

1. The “adaptive reuse” of existing non-conforming buildings containing a first floor area of more than 7,500 SF;
2. Sites containing more than 1.0 acre of gross lot area; and
3. Sites with at least 200 feet of frontage on an Arterial Street.

An analysis of the proposed criteria indicates that only two sites would be eligible in the RORD #2 Zone for this proposed new use: (1) 521 Riverside Avenue currently occupied by the Saugatuck Rowing Club and (2) 20 Saugatuck Avenue, a former tennis Club and currently vacant retail center.

The demonstration site is 20 Saugatuck Avenue with its 16,000 SF first floor area, served by over 90 parking spaces, on a 1.87 acre site with 290 feet of frontage along Saugatuck Avenue (Route 33). Both the building and site have been recently renovated and improved.

The building is adequate for five service bays with areas for delivery vehicles, gallery display vehicles and administrative offices. Electric Vehicle Services would include mechanical, electrical and interior repair work, with no exterior body work.

The continued use of this building for retail tenants, however, would require about 88 parking spaces. Whereas, a new electric vehicle service center with five bays and up to 25 employees would reduce the parking demand to about 52 spaces, exclusive of several charging stations. Such a parking reduction would have both traffic and environmental benefits for the neighborhood.

This text amendment would benefit the Town by allowing the “adaptive reuse” of large, non-conforming buildings for a different kind of automobile establishment which is important to Westport's commercial composition and will create a healthier environment for adjacent residents.

This amendment is also consistent with a number of goals and strategies recommended in the 2007 P of CD, such as:

- “A key charm of Westport is the variety of commercial styles in the town including Saugatuck, the Westport Center area and the Post Road, as well as the scattered and well-scaled office parks and even tiny commercial uses embedded in some of the residential areas. The Plan welcomes this variety and believes it is an important element of Westport's unique strength.”
- “Improve the appearance and functioning of all commercial areas and minimize negative influences on neighboring residential quality of life.”

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- “Maintain present zoning districts that provide a variety of scale on the Post Road and in other commercial areas.”
- One of the primary roles of Saugatuck is as a transportation hub.

This proposal will also help to conserve the value of buildings and to encourage the most appropriate use of land in Saugatuck Center.

Please review and schedule this application for the next available Planning & Zoning Commission hearing.

Very truly yours,

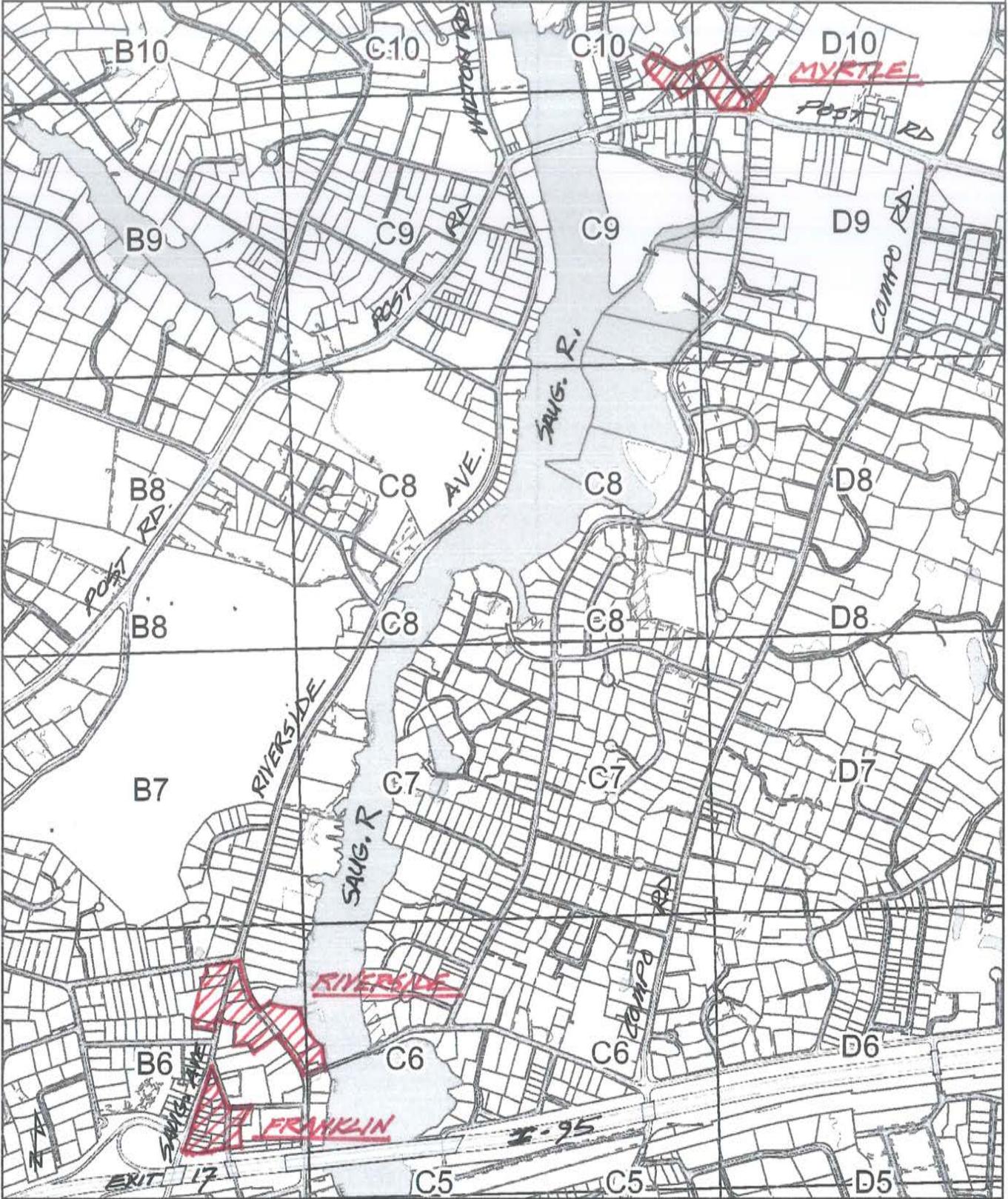
Melvin H. Barr, Jr., President

Enclosures: 1) Proposed Text Amend.
 2) RORD #2 Zone Map
 3) GIS Demonstration Site Map
 4) Demonstration Floor Plan
 5) Service Intent at Tesla

cc: Katherine Daniel
 Byron Knowlson

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RORD #2 Zones

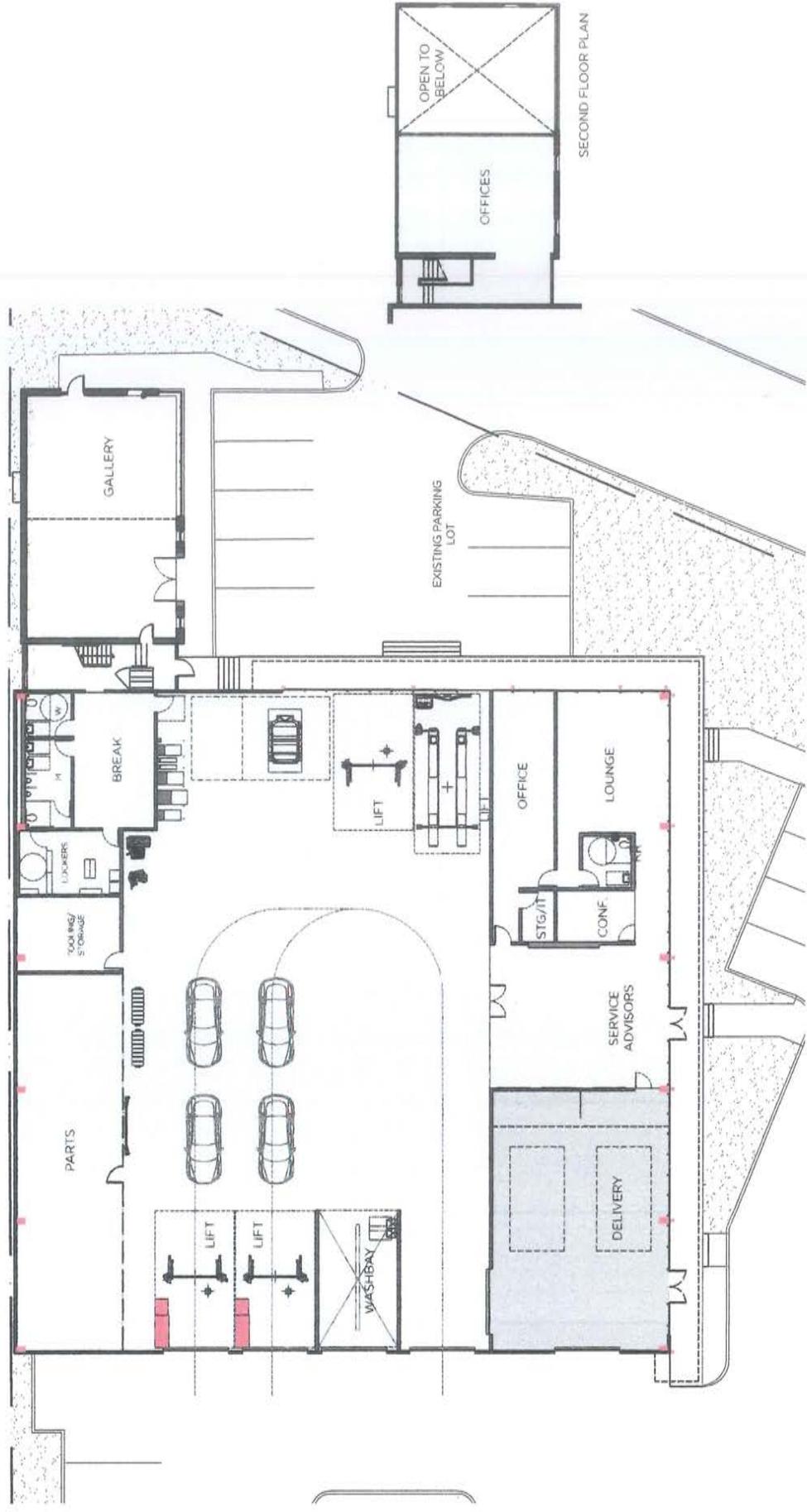


1 inch = 1,000 feet

Westport and its mapping contractors assume no legal responsibility for the information contained herein.

2.20.17

WESTPORT, CT
PROPOSED FLOOR PLAN



MARCH 16, 2017



NORTH AMERICA | 70 SAUGATUCK AVE | WESTPORT, CONNECTICUT | 5



To Whom It May Concern:

RE: Service Intent at Tesla Retail Service Center Locations:

Tesla Motors, Inc. operates an Electric Automobile Repair Center in select retail stores (which are also called Service Centers). Servicing an electric automobile is markedly different from servicing a gas-powered car. Tesla's vehicles have no internal combustion engine. Accordingly, there is no exhaust system, no fuel tanks, no liquid fuel usage, no new or used motor oil, no noise from the vehicles, and no emissions like hydrocarbon and carbon monoxide that are emitted from an automobile powered by an internal combustion engine. Instead of an engine, an electric motor powers Tesla's vehicles. Electric motors require little to no maintenance.

Tesla's single speed transmission (technically a "gear box" and not a "transmission" as transmissions contain more than one gear) uses less than 2 quarts of transmission oil per vehicles. This is the only oil used in Tesla's vehicles. By comparison, a typical car's transmission uses 12-14 quarts of fluid. Tesla uses propylene glycol anti-freeze in its vehicles, which is significantly less harmful than the ethylene glycol that is typical used in other automobiles. Tesla's propylene glycol is circulated through tubes in the battery, and assists in managing the temperature in the battery. Because it is not used with an internal combustion engine, there is no hydrocarbon contamination of the anti-freeze. Accordingly, Tesla's waste coolant is significantly less harmful to the environment than typical automotive-use anti-freeze.

Tesla performs its own suspension, tire, brake, electrical and interior repair work. However, the primary focus of Tesla's work on its automobiles is electrically based with most technician time spent working the electrical and computer systems within the vehicle. Our batteries are completely enclosed and don't give off any chemical vapors. When replaced, there are four points to uncouple the batter from the car and then it is sent to one of our remanufacturing locations for refurbishment. Additionally, no paint or exterior body work is done at our service locations. As such, Tesla is one of the least polluting automobile service operations in the industry.

Sincerely,
Byron Knowlson

Retail Development
bknowlson@tesla.com

T E S L A

Tesla Motors, Inc.

Proposed Text Amendment for Electric Automotive Establishments in RORD #2

3/24/17

Application # _____
Text Amendment # _____
Submitted: _____
Received: _____
Public Hearing: _____
Continued: _____
Adopted: _____
Effective Date: _____

TEXT AMEND # 733
RECEIVED
APR 06 2017 - 17-024
WESTPORT P. & Z. C.

Deleted language is [struck-out in brackets];

New language is underlined.

§22 RESTRICTED OFFICE-RETAIL DISTRICTS #1, 2 & 3 (RORD) Revised 10-09-16

22.1 Purpose

The purpose of the RORD is to allow for the limited use of land and existing buildings for offices, retail stores, multiple-family dwellings, adaptive reuses and combinations thereof. These provisions are designed to create zone classifications which would afford a reasonable and desirable combination of compatible uses along the Post Road, Riverside Avenue and Saugatuck Avenue adjacent to and in scale with established residential areas. Frame residential structures on small lots with topographic limitations in the proximity of commercial areas tend to become economically depressed as the demand for fire resistant buildings on larger and more accessible sites increases. The character of such areas is more residential in architectural design, building scale and physical features of the land. These provisions are intended to retain the residential character of the existing buildings and are not intended to lead to the wholesale redevelopment of those areas to new commercial uses. Consequently, a mixed-use type of zone is required to conserve the value of such property and to recognize the intensity of uses while preserving the character of such areas from the standpoint of compatible land uses, architectural design, building scale and physical appearance.

22.2 Permitted Uses

In a Restricted Office-Retail District, no land, building, or structure shall be used, and no building shall be hereafter erected, altered or added to, unless otherwise provided in these regulations except for one (1) or more of the following uses:

22.2.1 Principal Uses

- 22.2.1.1 Any use permitted in the Residence AAA District, subject to the same approvals and conditions as specified in §11-2, herein, except §11-2.4.12, Accessory

Apartments; and §11-2.4.6A Home Occupation, Level 1, and §32-21, Home Occupation, Level 2.

22.2.2 Special Permit Uses

The following uses are permitted in principal buildings subject to Special Permit and Site Plan Approval in accordance with §43, herein.

- 22.2.2.1 Business, professional, insurance, real estate or other offices; Healthcare Professional offices (as defined herein), but excluding medical offices, (as defined herein).
- 22.2.2.2 Stores and shops where goods are sold and services are rendered primarily at retail in RORD #1 and #2 only; except that a fitness center and/or exercise facility may be permitted in RORD #3 provided;
 - (a) The facility shall not exceed 2,500 square feet of floor area;
 - (b) The main exercise area in the facility shall not exceed 1,000 square feet of floor area;
 - (c) There shall be no more than two (2) such facilities within this zone; and
 - (d) Hours of operation are not restricted except the number of clients that may be present at any one time shall not exceed twenty (20) on weekdays between the hours of 9:00am - 5:00pm when available parking may be limited.
- 22.2.2.3 Off-street parking lots, decks and garages.
- 22.2.2.4 Grocery Stores, delicatessens and Retail Food Establishments.
- 22.2.2.5 Restaurants, Cafes and Taverns.
- 22.2.2.6 Commercial marinas, docks, landings and boathouses in RORD #2, only. No boat shall be occupied or used as a dwelling or dwelling unit.
- 22.2.2.7 Inclusionary two-family and multi-family dwelling units subject to the provisions of §32-12, herein.
- 22.2.2.8 Commercial Wireless telecommunication service facilities, in conformance with §32-16.
- 22.2.2.9 Private Occupational Schools.
- 22.2.2.10 Indoor and Outdoor Commercial Recreation and Entertainment Uses.
- 22.2.2.11 Electric Automobile Establishments for electric motor vehicles, only, in the RORD #2, only, subject to the following additional provisions:
 - (a) Said establishments shall only be permitted as an “adaptive reuse” of an existing non-conforming building with more than 7,500 square feet of first floor area located on a site with at least 1.0 acre of gross lot area and at least 200 feet of frontage on an Arterial Street.
 - (b) Said establishments may provide vehicle services, recharge stations, gallery display, vehicle deliveries, vehicle storage and related services for

such electric motor vehicles. Said establishments may also provide vehicle sales of new and used electric motor vehicles, subject to a State License.

(c) Said vehicle services may include suspension, tire, brake, electrical, and interior repair work, but no paint or exterior body work.

(d) Existing legally non-conforming parking spaces may be maintained and utilized or reorganized for this use, provided the buffer landscaping is enhanced to the satisfaction of the Planning & Zoning Commission.

22.2.3 Accessory Uses

22.2.3.1 Uses customarily accessory to a permitted principal use, including the manufacturing, processing or assembling of goods which is incidental to the conduct of a retail business conducted on the premises subject to the provisions of §32-7, herein, in RORD #1 & #2, only.

22.2.3.2 Outdoor storage and display is permitted in accordance with §32-6, herein, in RORD #1 & #2, only.

22.2.3.3 Outdoor Eating Areas for Restaurants, Cafes, Taverns and Retail Food Establishments subject to an annual Zoning Permit approval pursuant to §5 and §32-20 Outdoor Eating Areas.

22.2.3.4 One attached dwelling unit, provided density does not exceed 20 bedrooms per acre.

22.2.4 Prohibited Uses

The following uses in addition to §32-7, herein, shall be prohibited: gasoline filling station, automobile service establishment or repair garage, any lot, establishment or dealer for new or used motor vehicles, automobiles, motorcycles, trucks, mobile homes, trailers, campers, boats, farm or other heavy equipment, hotels, motels, motor inns, drive-in restaurants, newspaper and job printing establishments, veterinary hospitals, animal clinics, bowling alleys, skating rinks, and heavy commercial uses such as lumber yards, septic tank sales, construction equipment yards and contractor's storage; EXCEPT FOR automobile establishments for the sale, service and/or repair of electric motor vehicles.

#

file name: proposed text amendment for electric automotive establishments in RORD #2 32417.
word.doc.doc

RORD Zoning History

The Restricted Office Retail District (RORD) is a zoning district created and adopted by the Planning and Zoning Commission pursuant to Text Amendment #84 in 1975. The Commission simultaneously rezoned a number of properties to the new zoning designation pursuant to Map Amendment #85. The RORD boundary map was described as extending along both sides of West State Street from Wilton Road to just west of Burr Road, along the south side of Cross Street from West State Street to Riverside Avenue, and along the West side of Riverside Avenue from Cross Street to just north of Lincoln Street. The meeting minutes describe the purpose for this amendment was to help these areas retain their character, to preserve historical structures, and to be consistent with the 1975 Plan of Development. The Purpose for the RORD listed in the adopted regulation stated:

“The purpose of the RORD is to allow for the limited use of land and existing buildings for offices, retail stores, multiple-family dwellings and combinations thereof. These provisions are designed to create a zone classification which would afford a reasonable and desirable combination of compatible uses along the Post Road and Riverside Avenue adjacent to and in scale with established residential areas. Frame residential structures on small lots with topographic limitations in the proximity of commercial areas tend to become economically depressed as the demand for fire resistant buildings on larger and more accessible sites increases. The character of such areas is more residential in architectural design, building scale and physical features of the land. These provisions are not intended to lead to the wholesale redevelopment of those areas to new commercial uses. Consequently, a mixed-use type of zone is required to conserve the value of such property and to recognize the intensity of uses while preserving the character of such areas from the standpoint of compatible land uses, architectural design, building scale and physical appearance. The RORD provides for such mixed-use.”

Allowable uses in the RORD in 1975 included Two-Family and Multi-Family Residential, Office, Medical, and Retail/Service. Prohibited uses included Restaurants, Cafes, Taverns, Gas Stations, Automobile Service Stations, any automobile sales, hotels and motels, veterinary hospitals, and various indoor recreation facilities.

The RORD zoning standards in 1975 permitted small scale development in comparison to the Business District in effect at the time. A Building Area standard was established for new buildings in the RORD requiring no one building shall have more than 2,500 SF of building footprint. A Floor Area Maximum standard was also adopted that limited expansion to existing buildings in the RORD.

Additional properties were rezoned to the RORD in the late 1970's including 170 Post Road West. This property was rezoned from the Business District to the RORD in 1979 pursuant to Map Amendment #221. Reasons listed in the resolution included to reduce the intensity of commercial development, to preserve an existing 2-story frame residential structure, and to allow for the modest expansion of multi-family dwelling units in Westport.

The RORD #1 and #2 districts and corresponding regulations were created and adopted by the Planning and Zoning Commission pursuant to Text Amendment #251-A in 1981. The Commission simultaneously rezoned various properties from RORD to RORD #1 and RORD #2 pursuant to Map Amendment #251-B. The rezoning expanded the RORD to include properties located along Riverside Avenue from Treadwell Avenue to Bridge Street. Reasons listed for the regulation changes included to reduce commercial development, to reduce traffic impact, and to help to retain existing dwelling units. The adopted RORD regulations in part restricted Restaurants and other food service establishments to the RORD #2, and allowed commercial marinas and docks in the RORD #2 only. Retail/Service and Office uses were allowed in both the RORD #1 and #2.

The designation of the RORD #3 and corresponding regulations was created and adopted by the Planning and Zoning Commission pursuant to Text Amendment #285-A in 1983. The Commission simultaneously rezoned various properties to the RORD #3 pursuant to Map Amendment #285-B. The rezoning expanded the RORD to include nine (9) properties located at the intersection of Sylvan Road South and Riverside Avenue (consistent with the current RORD #3 zoning map designations).

Zoning standards for the RORD in 1983 allowed Office uses in all RORD's and restricted Retail/Service uses to the RORD #1 and #2 only. Additional density requirements were added to the multi-family standards in the RORD #3 to encourage this use. These standards required at least 30% of the total building floor area on the lot shall be used for residential uses. The RORD #2 in comparison only required a minimum of one dwelling unit to be provided within each principal building. Indoor recreational facilities remained a prohibited use for all RORD properties in 1983. The Sylvan Tennis Club located at 26 Sylvan Road South pre-dated the prohibition on Indoor Recreational Facilities. The facility was approved by Zoning Permit in 1968.

The list of allowable uses in the RORD was clarified in 1996 pursuant to Text Amendment #451 to identify that medical use is not permitted in any RORD. The minutes from 6/13/96 state *"the previous Commission implied the RORD change but didn't state it clearly. The change was excluding medical use."* A letter dated 2/10/96 from Pat Coplen, previous Planning and Zoning Commission Chairwoman, stated that the intent of the regulations was not to permit medical offices in the RORD zone due to traffic concerns.

In the 2000's the Planning and Zoning Commission adopted a number of text amendments that allowed more intense uses in the RORD, and eroded the distinctions between the RORD #1, #2 and #3 that previously served as a sort of hierarchy of intensity with respect to allowable uses.

In 2005, the Planning and Zoning Commission adopted Text Amendment #556 to allow Private Occupational Schools to locate in the RORD (as well as in the RBD, and GBD) pursuant to Res. #06-002. The amendment was submitted by Attorney Lawrence Weisman in an effort to help legalize an expansion of the Connecticut Center for Massage Therapy who had previously obtained approval to located at 25 Sylvan Road South, in the RORD #3, as a "School," but became a pre-existing non-conforming use when the "School" definition was modified by the Commission to require a curriculum comparable to that of a public school, nursery school, kindergarten or religious school.

In 2010 the Planning and Zoning Commission adopted Text Amendment #613 to allow Restaurants, Cafes, and Taverns in the RORD #1, #2, and #3. The reason offered for the amendment was to address a need to increase opportunities and remove barriers for new restaurants to locate throughout Westport.

In 2013 the Planning and Zoning Commission adopted Text Amendment #661 to allow Healthcare Professionals in the RORD #1 and #2. Reasons listed in the resolution of approval included: the additional office use will help retain the residential character of the existing buildings in the RORD, and allow a more compatible intensity of use that will preserve the character of these RORD areas. A Healthcare Professional is defined in §5-2 as:

"A practitioner with an advanced degree, certification or trained specialist who works with people to resolve health related issues and except as specifically provided, who is not a licensed medical doctor, such as psychologists, social workers, counselors, naturopaths, massage therapists, and nutritionists. Psychiatrists are also considered Healthcare Professionals."

In 2015 the Planning and Zoning Commission adopted Text Amendment #699 to allow Healthcare Professionals in the RORD #3. This amendment was submitted by Barr Associates in an effort to legalize two tenants who had occupied space at 25 Sylvan Road South preventing a Zoning Certificate of Compliance to be issued as requested by the property owner to refinance the property. One of these tenants was Peak Fitness whom the Commission determined could qualify as a Healthcare Professional due to the proprietor's education and training as a physiologist.

Currently, the only distinctions between the RORD #1, 2, and 3 with respect to allowable uses include:

- 1) The allowance for commercial marinas and docks to locate in the RORD #2 only; and
- 2) The prohibition on Retail/Service uses from locating in the RORD #3.

Today there are twelve (12) non-residential zoning districts in Westport including the RORD. Retail/Service uses are excluded in only three (3) districts including:

1. The Restricted Professional Office District (RPOD);
2. The Corporate Park District (CPD); and
3. The Restricted Office-Retail District (RORD) #3.

The Purpose statements for each district listed above identify the intensity of uses and development are limited, and the architectural design standards more conservative, due to the unique characters of the properties many of which contain buildings listed on the Historic Resources Inventory (HRI).

Gyms/Fitness Centers/Exercise Facilities

The Planning and Zoning Commission has recently focused their attention on this use. The Commission authored Text Amendment #686 and held hearings in 2015 to create in part a new definition and parking standards for gyms/fitness centers. The amendment was submitted as part of a P&ZC Parking and Traffic Subcommittee proposal to amend several sections of the Zoning Regulations.

The Explanatory Statement cited the rationale for the amendment was, "gyms/fitness centers often create a greater demand for parking in comparison to traditional retail uses." The Text Amendment proposed allowing gyms/fitness centers in most non-residential zoning districts, including the RORD #3, subject to Special Permit approval, and subject to a new parking standard:

- 1 parking space per 165 SF; and
- If space is proposed within these facilities for group classes (more than 5 people) then the area devoted to classes must have parking provided at a ratio of 1 space per 100 SF.

The Commission subsequently withdrew this amendment and instead focused on the Traffic components which were eventually adopted in another Text Amendment. Gyms/fitness centers, and exercise facilities therefore remain regulated under the umbrella of the Retail/Service use category parked at the 1:180 SF standard.



General Assembly

Raised Bill No. 7097

January Session, 2017

LCO No. 3814

* _____HB07097FIN_____050917_____*

Referred to Committee on TRANSPORTATION

Introduced by:

(TRA)

AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Section 14-52b of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) In the event a manufacturer licensed in accordance with the provisions of section 14-67a, [as amended by this act](#), cancels, terminates or fails to renew any franchise, as defined in section 42-133r, [as amended by this act](#), with a new car dealer, as defined in section 14-51, [as amended by this act](#), the Commissioner of Motor Vehicles, upon receipt of written notice of such action by the manufacturer, shall, unless the dealer holds one or more additional franchises, demand that such new car dealer surrender such license to the commissioner. If such action is contested by such dealer in accordance with the provisions of sections 42-133r to 42-133ee, inclusive, [as amended by this act](#), the commissioner shall not demand surrender of such license, and no replacement motor vehicle dealer shall be named for the dealer's point or location, except in accordance with subdivision (10) of section 42-133cc, until the proceedings to contest such action by the manufacturer are finally determined after all means of administrative, judicial and appellate review have been exhausted and the decision is adverse to the dealer.

(b) Except as provided in subsections (c) [and (d)] [to \(e\), inclusive](#), of this section, no person, firm or corporation licensed as a manufacturer in accordance with the provisions of section 14-67a, [as amended by this act](#), may be the holder of a new or used car dealer's license issued in accordance with

the provisions of section 14-52, except a manufacturer may operate as a dealer on a temporary basis in accordance with the provisions of subdivision (8) of section 42-133cc. The provisions of this subsection shall apply to any firm or corporation that is owned or controlled by a manufacturer, as determined by the commissioner. Any applicant for a new or used car dealer license that is denied a license under the provisions of this subsection shall be entitled to a hearing in accordance with the provisions of chapter 54.

(c) Notwithstanding the provisions of subsection (b) of this section, the commissioner may issue a used car dealer's license to a person, firm or corporation, owned or controlled by a manufacturer, engaged primarily in the business of rental of motor vehicles and industrial and construction equipment, provided: (1) Motor vehicles offered for sale by any such person, firm or corporation are limited to motor vehicles that have been previously used exclusively and regularly in the conduct of the business or motor vehicles traded in by purchasers of such previously used motor vehicles, (2) any warranty repairs performed by such person, firm or corporation are limited to motor vehicles that such person, firm or corporation owns, has previously owned, or has taken in trade, and (3) any retail financing provided or arranged by such person, firm or corporation is limited to vehicles sold by such person, firm or corporation.

(d) The commissioner may extend the period of a license issued to a manufacturer to operate a dealership on a temporary basis, in accordance with the provisions of subsection (b) of this section and subdivision (8) of section 42-133cc, for not more than one additional year, up to a maximum period of two years, if the commissioner is satisfied that such manufacturer has made and is continuing to make bona fide efforts to sell and transfer the dealership to a person, firm or corporation that is qualified to hold a new or used dealer's license.

(e) (1) For the purposes of this subsection, "manufacturer" means a person, firm or corporation licensed as a manufacturer in accordance with the provisions of section 14-67a, as amended by this act, and any subsidiary, affiliate or entity owned or controlled by such manufacturer.

(2) Notwithstanding the provisions of subsection (b) of this section, the commissioner may issue a new or used car dealer's license to a manufacturer, provided such manufacturer (A) does not have any franchise agreement with any new car dealer in the state, (B) manufactures only electric vehicles, (C) sells at retail only motor vehicles manufactured by such manufacturer, (D) does not hold a controlling interest in another manufacturer, or a subsidiary, affiliate or entity owned or controlled by such other manufacturer, that is licensed as a dealer under this subsection, and (E) is not owned or controlled by another manufacturer, or a subsidiary, affiliate, or entity owned or controlled by such other manufacturer, that is licensed as a dealer under this subsection.

Sec. 2. Subdivisions (1) and (2) of subsection (a) of section 14-51 of the general statutes are repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(1) "New car dealer" includes (A) any person, firm or corporation engaged in the business of merchandising new motor vehicles under a manufacturer's or importer's contract for each such make of vehicle, [who may, incidental to such business, sell used motor vehicles and repair motor vehicles. Such person] and (B) any person, firm or corporation licensed as a manufacturer, as defined in subsection (e) of section 14-52b, as amended by this act, that is engaged in the business of merchandising new motor vehicles and licensed as a new car dealer as provided in said subsection. Such person, firm or corporation may, incidental to such business, sell used motor vehicles and repair motor vehicles, and shall be qualified to conduct such business in accordance with the requirements of section 14-52a.

(2) "Used car dealer" includes [\(A\)](#) any person, firm or corporation engaged in the business of merchandising motor vehicles other than new, [who] [and \(B\) any person, firm or corporation licensed as a manufacturer, as defined in subsection \(e\) of section 14-52b, as amended by this act, that is engaged in the business of merchandising motor vehicles other than new and licensed as a used car dealer as provided in said subsection. Such person, firm or corporation](#) may, incidental to such business, repair motor vehicles. A used car dealer does not include any person, firm or corporation engaged in the business of leasing or renting motor vehicles that offers for sale or sells used motor vehicles incidental to its primary business, if [(A)] such person, firm or corporation is licensed in accordance with the provisions of section 14-15, and [(B)] the motor vehicles that it offers for sale were formerly the subject of one or more lease agreements to which it was a party and the actual or prospective purchaser is the original lessee pursuant to a purchase option specified in a lease agreement. Such person shall be qualified to conduct such business in accordance with the requirements of section 14-52a.

Sec. 3. Section 14-67a of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) No person, firm or corporation shall engage in the business of manufacturing motor vehicles for sale in this state without having been issued a manufacturer's license, which license shall expire biennially on the last day of June. Application for such license or renewal thereof may be made to the Commissioner of Motor Vehicles in such form as the commissioner shall require. The commissioner may require with such application all of the following, which [\[he\] the commissioner](#) may consider in determining the fitness of such applicant to engage in business as a manufacturer of motor vehicles for sale in this state:

(1) Information relating to the applicant's solvency and [\[his\] financial standing](#);

(2) A certified copy of any warranty made by the manufacturer or any other party in whom title to such motor vehicle may have been vested prior to possession of such motor vehicle being transferred to a person licensed under the provisions of this section;

(3) A copy of the applicant's standard franchise agreement and all supplements thereto, together with a list of the applicant's authorized dealers or distributors in this state and their [\[address\] addresses](#). Such applicant shall notify the commissioner immediately of the appointment of any additional dealers or distributors or any revisions of or additions to the basic franchise agreement on file with [\[him\] the commissioner](#), or of any individual dealer or distributor supplements to such agreement. [The provisions of this subdivision shall not apply to any manufacturer licensed as a new or used car dealer pursuant to subsection \(e\) of section 14-52b, as amended by this act](#);

(4) A certified copy of the delivery and preparation obligations of the applicant's new car dealers, which obligations shall constitute such new car dealers' only responsibility for product liability between the dealer and the manufacturer;

(5) An affidavit stating the rates such applicant pays or agrees to pay any authorized new car dealer for parts and labor used and expended by such authorized new car dealer for the manufacturer under delivery and preparation obligations under the new car warranty;

(6) A biennial license fee of two thousand three hundred dollars, which fee shall not be subject to refund or proration; and

(7) Any other pertinent matter commensurate with the safeguarding of the public interest.

(b) An application for renewal of such license filed with the commissioner after the expiration date of such license shall be accompanied by a late fee of two hundred fifty dollars. The commissioner shall not renew any license under this section which has expired for more than forty-five days.

Sec. 4. Section 42-133r of the general statutes is repealed and the following is substituted in lieu thereof (Effective October 1, 2017):

(a) As used in [sections 42-133r] [this section and sections 42-133s](#) to 42-133ee, inclusive, unless the context indicates a different meaning:

(1) "Manufacturer" means any person who manufactures or assembles new motor vehicles, or imports motor vehicles for distribution to dealers or through distributors, or factory branches.

(2) "Distributor" means any person who offers for sale, sells or distributes any new motor vehicle to dealers or who maintains factory representatives or who controls any person, firm, association, joint venture corporation or trust, who offers for sale, sells or distributes any new motor vehicle to dealers.

(3) "Factory branch" means a branch office maintained by a manufacturer for the purpose of selling, or offering for sale, motor vehicles to a distributor or dealer, or for directing or supervising factory or distributor representatives.

(4) "Owner" means any person holding an ownership interest in a business entity operating as a dealer or under a franchise as defined in this section either as a corporation, partnership or sole proprietorship. To the extent that the rights of any owner under [sections 42-133r] [this section and sections 42-133s](#) to 42-133ee, inclusive, conflict with the rights of any other owner, such rights shall accrue in priority order based on the percentage of ownership interest held by each owner with the owner having the greatest ownership interest having first priority and succeeding priority accruing to other owners in the descending order of their percentage of ownership interest.

(5) "Dealership facilities" means real estate, buildings, fixtures and improvements which are used in the course of business under a franchise by a new motor vehicle dealer.

(6) "Dealer" means any person engaged in the business of selling, offering to sell, soliciting or advertising the sale of new motor vehicles and who holds a valid sales and service agreement, franchise or contract, granted by a manufacturer or distributor for the retail sale of the manufacturer's or distributor's new motor vehicles.

(7) "Motor vehicle" means a self-propelled vehicle intended primarily for use and operation on the public highways, other than a farm tractor or other machinery or tools used in the production, harvesting and care of farm products.

(8) "New motor vehicle" means a motor vehicle which has been sold to a new motor vehicle dealer and which has not been used for other than demonstration purposes and on which the original title has not been issued from the new motor vehicle dealer.

(9) "Established place of business" means a permanent, commercial building easily accessible and open to the public at reasonable times and at which the business of a new motor vehicle dealer, including the display and repair of vehicles, may be lawfully carried on.

(10) "Franchise" means a written agreement or contract between a manufacturer or distributor and a dealer which purports to fix the legal rights and liabilities of the parties to such agreement or contract, and pursuant to which the dealer purchases and resells the franchise product or leases or rents the dealership premises.

(11) "Good faith" means honesty in fact and the observance of reasonable commercial standards of fair dealing in the trade.

(12) "Designated family member" means the spouse, child, grandchild, parent, brother or sister of an owner who, in the case of the owner's death, is entitled to inherit the ownership interest in the dealer under the terms of the owner's will, or who has been nominated in any other written instrument, or who, in the case of an incapacitated owner of a dealer, has been appointed by a court as the legal representative of the dealer's property.

(13) "Person" means a natural person, partnership, corporation, limited liability company, association, trust, estate or any other legal entity.

(14) "Relevant market area" means the area within a radius of fourteen miles around an existing dealer or the area of responsibility defined in a franchise, whichever is greater.

(15) "Commissioner" means the Commissioner of Motor Vehicles.

[\(b\) The provisions of this section and sections 42-133s to 42-133ee, inclusive, shall not apply to any manufacturer licensed as a new or used car dealer pursuant to subsection \(e\) of section 14-52b, as amended by this act.](#)

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2017	14-52b
Sec. 2	October 1, 2017	14-51(a)(1) and (2)
Sec. 3	October 1, 2017	14-67a
Sec. 4	October 1, 2017	42-133r

TRA Joint Favorable

FIN Joint Favorable

Bill History
Session Year 2017
Raised H.B. No. 7097

[Bill Analysis For File Copy 323](#) [File No. 323 \[pdf\]](#)
[Fiscal Note For File Copy 323](#) [TRA Joint Fav. Rpt](#)
[Raised Bill \[pdf\]](#) [TRA Joint Favorable \[pdf\]](#)
[TRA Vote Tally Sheet \[pdf\]](#)

Introducer(s):

Transportation Committee

Title: AN ACT CONCERNING THE LICENSING OF NEW AND USED CAR DEALERS.

Statement of Purpose: To authorize the Commissioner of Motor Vehicles to issue a new or used car dealer's license to an electric vehicle manufacturer.

Bill History:

02-16-2017 REFERRED TO JOINT COMMITTEE ON Transportation Committee
02-17-2017 PUBLIC HEARING 02/22
02-21-2017 RESERVED FOR SUBJECT MATTER PUBLIC HEARING
03-17-2017 JOINT FAVORABLE
03-20-2017 FILED WITH LEGISLATIVE COMMISSIONERS' OFFICE
03-24-2017 REFERRED TO OFFICE OF LEGISLATIVE RESEARCH AND OFFICE OF FISCAL ANALYSIS 03/29/17-5:00 PM
03-30-2017 REPORTED OUT OF LEGISLATIVE COMMISSIONERS' OFFICE
03-30-2017 FAVORABLE REPORT, TABLED FOR THE CALENDAR, HOUSE
03-30-2017 HOUSE CALENDAR NUMBER 238
03-30-2017 FILE NUMBER 323

Co-sponsor(s):

Rep. Diana S. Urban, 43rd Dist.	Rep. James M. Albis, 99th Dist.
Sen. Art Linares, 33rd Dist.	Rep. Jonathan Steinberg, 136th Dist.
Rep. Cristin McCarthy Vahey, 133rd Dist.	Rep. Angel Arce, 4th Dist.
Rep. Michael D'Agostino, 91st Dist.	Rep. Josh Elliott, 88th Dist.
Rep. Joseph P. Gresko, 121st Dist.	Rep. Christopher Rosario, 128th Dist.
Rep. Brandon L. McGee, 5th Dist.	Rep. Terrie E. Wood, 141st Dist.

2 May 2017

Dear Mary,

Thank you again for making the time to meet with me on Friday to discuss Zoning Text Amendment #733.

I've listened to the pre-app conversation between the Tesla representative, Mr. Barr, and the Planning and Zoning Commission; in that conversation, Commission member Stevens asked Mr. Barr to "help the board" understand the new proposed use, Electric Vehicle Establishment. As a Westport resident, member of the Saugatuck neighborhood, and abutting property owner of the demonstration site for this amendment, I'd humbly offer the following questions to help the board gain such an understanding.

The questions below fall under two broad categories: 1) why propose a text amendment to the RORD #2 zone? and 2) what is an "Electric Vehicle Establishment"?

Why RORD #2?

The purpose of the RORD #2 zone includes the following definition:

"The character of such areas is more residential in architectural design, building scale and physical features of the land. These provisions are intended to retain the residential character of the existing buildings and are not intended to lead to the wholesale redevelopment of those areas to new commercial uses."

Further, the zone's prohibited uses include:

"The following uses in addition to §32-7, herein, shall be prohibited: gasoline filling station, automobile service establishment or repair garage, any lot, establishment or dealer for new or used motor vehicles, automobiles..."

Mr. Barr's proposal offers no argument as to what it is about Electric Vehicle Establishments that make them more suited to a zone of "residential character" than to Westport's other commercial zones. The town has a large number of lots zoned GBD; there are only three small RORD #2 areas in the entire town. It's not immediately apparent why this same amendment language could not be applied to the GBD regulations, opening a much larger range of possibilities. For example, if it's important that Electric Vehicle Establishments be close to I-95, there are a number of vacant lots zoned GBD along the Post Rd not far from the Sherwood Island Connector (the former Bertucci's space, the lot across the street from that on Long Lots, the former Anthropologie space, to name a few.)

Based on the application submitted, it also seems that the only two potential locations for Electric Vehicle Establishments in all of Westport are in the Saugatuck neighborhood. It's not clear what it is about Saugatuck, other than the fact that it contains RORD #2 zones, that makes it so well-suited for this use. Both of these potential sites lie within the footprint of the current Saugatuck Transit-Oriented Design Master Plan study, which states the following among its goals:

- Maintain the authenticity and identity of Saugatuck
 - Respect the character of this community
 - Preserve it, build upon it and enhance it
- Create an even stronger sense of place designed for extraordinary livability
- Improve the connectivity and walkability between the station, village and waterfront

What do Electric Vehicle Establishments have to do with enhancing these values? From reading Mr. Barr's application, I'm not sure. In fact, it's not clear that Mr. Barr and Tesla are even aware of this ongoing study.

Finally, while Mr. Barr's proposal does cite some parts of the 2007 TP of C and D, it fails to explain how Electric Vehicle Establishments will help "Protect and Manage" the Saugatuck neighborhood or how it will help Saugatuck remain a "Distinctive Center with a Strong Sense of Place."

I would hope the P&Z Commission would press Mr. Barr for an answer to these questions, or at the very least to explain why this zoning text amendment had to be written in such a way that it applies only to two lots in Saugatuck.

What is an Electric Vehicle Establishment?

Mr. Barr's letter states that his client's goal is to establish a "service center" and "gallery" at the 20 Saugatuck Ave demonstration site. But his text amendment also allows for the delivery, storage, and sale of vehicles, subject to state license. Tesla indicated to neighbors at an April 18th meeting that it would sign a 10-year lease on this building; the company has also had legislation pending before the state assembly for each of the past three years that would grant it a license to sell directly. (The latest proposal will be voted on by the State Senate in a few weeks.)

While Tesla may not be able to sell direct to consumers this year, or even next, it is a virtual certainty that it will receive that license in less than 10 years. It's for that reason I would suggest the following lines of questioning to better understand what form an Electric Vehicle Establishment in Westport might take, not just now but in the coming years:

- How many charging stations would the establishment need? How would the number of these stations grow over a ten-year period?
- How many other dealerships are there likely to be in CT over the one-, five-, ten- year period? Would the Westport location be the first dealer in the state?
- How many deliveries and sales would Tesla expect at this location, not just for its present models but for more affordable future models such as the Model 3?
- How many vehicles of what types would be stored at a site like this?
- What kinds of trucks would be used in the delivery of vehicles?
- What routes would test drives take on local streets? How would such drives impact traffic and public safety?
- When the Westport PD and FD reviewed Mr. Barr's proposal, were they considering future uses of the site or just the service center outlined in his letter? Did they consider any public safety impacts of test driving Tesla cars on Saugatuck's streets or any hazards associated with lithium-ion battery fires, especially fires in a lot full of lithium-ion powered cars?

Finally, based on the application and the pre-application meeting, it remains unclear exactly how much acreage an Electric Vehicle Establishment requires. Mr. Barr's original proposal stipulated 0.75 acres; after some feedback from Mrs. Walsh on excluding the Sconset Square RORD #2, the acreage in Mr. Barr's proposal was revised upward to 1 acre. Nothing else about the proposed use changed, so it's unclear what is actually needed. Is it 0.75 acres? One acre?

Or is it less? Mr. Barr's letter suggests that the demonstration site has approximately 40% more parking than his client needs; if that's the case, it would seem that the actual required acreage for Electric Vehicle Establishments could be as low as 0.6 acres, though I would look to Mr. Barr and Tesla to clarify by detailing their plans. If it is the case that such an establishment could operate on a 0.6 acre lot, I'm sure the range of possibilities for Tesla in Westport would broaden significantly.

I hope these questions are helpful as you work on your report on this application, and if there's any other information I can provide, please let me know. I look forward to hearing the answers at the hearing on May 18th.

Thanks again!

Best,

Mark Kirby
11 Treadwell Ave
717-873-0526

Alcaraz, Annie

From: PZ DEPT
Subject: Amend # 733 Tesla

-----Original Message-----

From: Jill Greenberg [mailto:jsgreenb@icloud.com]
Sent: Thursday, May 11, 2017 6:58 AM
To: Planning and Zoning <PANDZ@westportct.gov>
Subject: Tesla Amend #733

RECEIVED
MAY 11 2017
WESTPORT P. & Z. C.

Dear P and Z,

While i do hope some day the space that once housed the Wome's Fitness Edge comes to some good use, as a person who walks past the property in question many times each day (walking my dogs). I can assure you that this is not the space for a dealership/service station of any type of car. I do not think you understand how much of a neighborhood/non comercial block this is and how a dealership/service property would detrack from that neighborhood.

Let's start with traffic. Have you ever been on the road over there after 2:30 in the afternoon? Certainly by 4:00 the cars are backing up in both directions and trying to cross the street if I am walking from the train station can take a good bit of time because of trucks and cars zipping by.

Neighborhood: We are one of the few neighborhoods in westport that still feels relatively humble, with houses of modest size, but that does not make us less intrinsic to the totality of the community. Would you put such a business, not a mom and pop shop or a little pub that would add to you neighborhood, but, rather a commercial business that will bring folks from all over the county plop into the center of your living room?

With the upsurge in traffic from the revitilization of Suagutuck the traffic in the neighborhood is already horrendous, bringing more out of towners in will attrack them to the nearby streets, one would think and honestly the area can't handle it. A one minute drive, on the rare occasions I do drive, from the intersection of Riverside, Saugutuck and Treadwell to the bridge can take up to 15 minutes in the later part of an afternoon or on a busy Saturday midday.

So, I just don't see this as making any type of sense, despite the fact that it also makes no sense to keep that property vacant.

What about converting it to housing..... I know people would complain about that too. But it would be less polluting, and result in less pressure on the community in the end.

Regards,
Jill Greenberg