

Memorandum

To: Members, Planning and Zoning Commission

From: Mary Young, (*Former*) Planning and Zoning Director

Date: October 28, 2024

Re: **Text Amend. #846/PZ-24-00565, Request to amend the Zoning Regulations including modifying §32-20, Special Requirements for Outdoor Eating Areas; modify definitions in §5-2, for "Retail Food Establishment," and "Outdoor Eating Areas;" and modify standards in §31-9, Liquor Establishments, Supplemental Comments #1**

Statutory Timelines

Submission Date: 9/25/24 Application

Receipt Date: 10/7/24

Public Hearing (*must open within 65 days of receipt*): 10/7/24 Public

Hearing Held: Scheduled for 11/4/24

Public Hearing Closed (*must close 35 days from opening the public hearing*):

Action Deadline (*decision must be rendered within 65-days of closing the public hearing*):

Update

Attorney Eric Bernheim submitted [Text Amendment #846, Revised 10/23/24](#). The revisions serve to clarify the proposed modifications to the "Retail Food Establishment" definition in §5-2, and proposed modified standards in §31-9, Liquor Establishments and §32-20, Special Requirements for Outdoor Eating Areas, will override any existing language, if found to be contrary. Currently the Residence AAA, AA, A, B and C zone chapters do not contain standards for Outdoor Eating Areas or Retail Food Establishments. The 10/23/24 revised text adds language to §5-2, §31-9, and §32-20 clarifying if adopted, the language will apply to any existing Retail Food Establishments operating prior to Sept. 1, 2024, located in the Residence AAA, AA, A, B, and C zones, notwithstanding existing language in §11-2, §12-2, §13-2, §14-2 and §18-2.

The [10/4/24 P&Z Staff Report](#) listed the three (3) Retail Food Establishments operating prior to Sept. 1, 2024, in a residence zone, that will benefit from Text Amendment #846 if adopted, including:

1. Old Mill Grocery & Deli by Romanacci-222 Hillspoint Rd. in the Residence B zone (*open until 8pm*);
2. The Porch at Christie's-161 Cross Highway in the Residence AA zone (*open until 3pm*); and
3. The Country Store – 332 Wilton Rd. in the Residence AA zone (*open until 8pm*).

Text Amendment #846 if adopted will provide Outdoor Eating Area standards for existing Retail Food Establishments in existence prior to Sept. 1, 2024, located in the Residence AAA, AA, A, B, and C zones.

Text Amendment #846 will expand upon [Text Amendment #843](#) adopted in June 2024 that modified the Retail Food Establishment definition, and Liquor Establishment standards to permit on-premises liquor consumption (indoors) for existing Retail Food Establishments in the Residence B zone as of 6/3/24.

A reason to adopt Text Amendment #846, as suggested in the 10/4/24 P&Z Staff Report, is provide standards where they don't currently exist for Outdoor Eating that are Accessory to existing Retail Food Establishments in residence zones. Enforceable standards will be adopted affecting hours of operation, lighting, and signage any of which if left unregulated can become nuisances to residential neighbors. In comparison to existing standards applicable to Outdoor Eating Areas in non-residential zones, the applicant provided for reduced hours of operation for establishments: Sun-Th from 7am-9pm (versus 6:30am-11pm), and Fr-Sat from 7am-10pm (versus 6:30am-Midnight).

Additional Updates

1. The Zoning Board of Appeals, on 10/8/24, opened but received no testimony on the appeal filed by Attorney Joel Green on behalf of 227 Hillspoint, LLC, Hillspoint Cove LLC of 223 Hillspoint Rd., and E. Van Dorsten of 216 Hillspoint Rd., Case #ZBA-24-00496, seeking to overturn the Planning and Zoning Director's decision to endorse the "*Application for [Café] Liquor Permit*" for Old Mill Grocery & Deli by Romanacci located at 222 Hillspoint Rd. The public hearing was continued to 11/12/24;
2. The Fire Marshal, submitted [comments dated 10/17/24](#) indicating he has "no comments;"
3. MetroCOG submitted [comments dated 10/28/24](#) concluding they find no regional significance; and
4. The Town Attorney's Office, submitted [comments dated 10/28/24](#) concluding they have no legal objections and defers to the Commission on rendering the policy decision on whether the amendment should be adopted.

Considerations

The Planning and Zoning Commission acting in their legislative capacity has the authority to adopt, deny, or modify an amendment. Reasons for a decision should be offered. If Text Amendment #846 is adopted, an effective date must be established that is subsequent to publishing any Notice of Decision.

The Commission should consider if the text amendment is consistent with the standards in §42 of the Zoning Regulations that require an applicant identify benefits to the Town that may come if adopted. The applicant's [Explanatory Statement](#) offered the following in part:

"If approved, the proposed text amendments will provide an additional avenue for revenue for the above referenced establishments. The vision and impetus behind these proposed text amendments is for these establishments to serve as a place where neighbors can enjoy a casual glass of wine, or a beer, with their food, unwind, and socialize with their friends."

C.G.S. §8-2, *Regulations*, requires consideration by the Planning and Zoning Commission that regulations shall be made in accordance with a comprehensive plan (Zoning Regulations and Zoning Map) and in adopting such regulations the Commission shall consider the Plan of Conservation and Development (POCD). The amendment appears to be consistent with the Business and Economic goals listed in Chapter 9 of the POCD:

"A key charm of Westport is the variety of commercial styles in the town including Saugatuck, the Westport Center area, the Post Road as well as the scattered and well-scale office parks and even tiny commercial uses embedded in some of the residential areas. The Plan welcomes this variety and believes is an important element of Westport's unique strength." Pg. 73

"Guide business and economic development in Westport so that it is appropriate for the community, enhances community character, and minimizes any potential negative impacts while striving to increase the Grand List." Pg. 73

"Business and economic development in Westport enhances the community by increasing the grand list, providing jobs, making goods and service available, and enhancing the quality of life in the community." Pg. 73