

**Planning and Zoning Commission Meeting
March 9, 2015 @ 7:00pm**

In attendance were Chairman Bob Linett, Commissioners Holly Wingate, Paul DuCott, and Charles Laskowski, URS representative Kyle Gulbranson, Town Code & Building Administrator Eric Evans, and Executive Assistant Matt Amerling. Commissioner Jim Koozer was absent.

- 1. CALL TO ORDER:** Chairman Linett called the meeting to order at 7:00 p.m.
- 2. PLEDGE OF ALLEGIANCE**
- 3. ADOPTION OF MEETING MINUTES – January 12, 2015:** Commissioner Paul DuCott motioned to accept the adoption of the minutes from the January 12, 2015, Planning & Zoning (P&Z) Meeting. Commissioner Holly Wingate seconded the motion. Motion was carried 4-0.
- 4. NEW BUSINESS:**
 - A.** Review, discuss and vote on possible recommendation to the Town Council on draft Ordinance 15-03. Synopsis: Ordinance 15-03, previously titled 15-02, amends the Town of Millville Code at Chapter 155 at: Article VI “District Regulations”, § 155-09. AR-Agriculture Residential District, § 155-10. R-Residential District, § 155-12. MPC – Master Planned Community District, § 155-13. C1-Route 26 Corridor/Town Center Commercial District, § 155-14. C2-Town Commercial District, Article VII. “Supplementary District Regulations” adding § 155-28. Off-Street Parking. C. Design standards for parking areas, Article XIV. “Terminology”. Mayor Hocker formed a committee earlier this year which consisted of the following persons: Councilmembers Steve Maneri and Harry Kent, Town Manager Debbie Botchie, Code & Building Administrator Eric Evans, Town Planner Kyle Gulbranson, URS Corp., and Planning & Zoning (P&Z) Chairman Bob Linett. The committee worked very diligently this past year reviewing and discussing the zoning district regulations in the Town’s current code, and has made several suggested changes to the code to ready the Town for future growth. The P&Z Commission, at its regular meeting on January 12, 2015, reviewed the sections of AR District and R District. The ordinance was redesignated the number 15-03 after the number 15-02 was assigned to another ordinance.

Mr. Linett stated this was a continuance of the review of the amendment to the Town’s zoning code, picking up where the P&Z commission left off last month, starting with the C1 (Commercial) district. Mr. Kyle Gulbranson, of URS Corporation, stated the current Town zoning code is about ten (10) years old and since the Town administration was constantly finding tweaks to be made, the Town figured it would be a good idea to review the zoning code and see what needed to be amended. Mr. Gulbranson stated C1 deals with smaller scale commercial buildings, all along Route 26 and, for the most part, Route 17; while C2 deals with more larger-scale commercial buildings, such as the Giant Food shopping center, and larger retail places. Mr. Gulbranson stated the zoning ordinance review committee reviewed these districts and updated their permitted uses, and the lot sizes, setbacks, and wording.

Town Code & Building Administrator Eric Evans brought the large Town zoning map into the Council chambers and stated where the C1 and C2 districts were located on the current zoning map, as well as some land which could potentially accommodate C2 zoning. Mr. Gulbranson stated the Town's comprehensive plan calls for if the Town was to expand, there would be more commercial along Route 17/Roxana Road. Mr. Gulbranson stated the potential is there and, going through the C2 district, the Town really wants to be sure it is prepared with that type of development should it come forward.

Mr. Linett stated, starting with the C1 district, on page 12, the commission wanted to omit the words "Route 26 Corridor" under the C1 district heading, as well as the description under item B, "Permitted Uses," on page 13, so Route 17 would also be covered. Mr. Linett stated the residential properties reviewed last month can be built if desired, and the second major category is apartments above commercial businesses, which is also allowed. Mr. Evans stated with the current Code, regarding restaurants, there is wording saying there can be a restaurant but there could be no bar (i.e., a T.G.I. Friday's), and this tied up a lot of restaurants from coming into Town. Mr. Evans further stated the commission decided – with times being how they are now – the Town said if these restaurants owners can comply with Alcoholic Beverage Control (ABC), then the restaurant should be able to come into Town. Mr. Evans stated after deciding this aspect, the commission decided to allow restaurant uses such as full service, carry outs, Drive throughs/drive-ins, food counters, and taverns/bars. Mr. Evans stated this decision brought up the inclusion of including brew pubs, wineries and distilleries in conjunction with a restaurant since such establishments are becoming more popular. Commissioner Charles Laskowski asked if the distilleries and wineries means simply a brew pub, or could a business such as Seagram's come in and make a sole distillery. Town Executive Assistant Matt Amerling stated distilleries and wineries could only come in if they were attached to a restaurant (such as Delaware Distilling Company in Midway Shopping Center in Lewes, Delaware).

Mr. Linett stated, on page 14, item "k," reading "coffee shop and ice cream, frozen yogurt, etc., parlor," there is no need to include "etc." in the term, so it will read "[c]offee shop and ice cream parlor." Mr. DuCott stated item "m," known as "specialty shop," has a real problem with this term because he remembers in the town in which he grew up, an adult bookstore came into the town and it took 15 years to get rid of the business. Mr. Linett stated he does not think the term "specialty shop" needs to be included because it is could be interpreted as being under "general stores," etc. Mr. Amerling stated the term is too general. Ms. Wingate stated she thinks the Commission is "pinning itself to the wall by even identifying such a business." Mr. Gulbranson stated typically if a use is not listed, it is prohibited, but by stating in the Code that retail stores are permitted, that term is open to interpretation. Mr. Linett stated he recalled a conversation with Mr. Gulbranson, who mentioned there is no way to keep out an adult establishment (such as a Red Light District store or Dragon's Lair store). Mr. Gulbranson stated Mr. Linett was correct, and unless the Town specifically lists such a store as a prohibited use. Mr. Gulbranson stated one Town which has dealt with this type of issue is Dagsboro, whose Code states such businesses (i.e., adult stores) are allowed but they must be five-hundred (500) feet from a school, and they have set up the restriction so there is no place in Town in which the adult store could utilize. Mr. Linett asked if such a use would be a

conditional use or an exception. Mr. Laskowski stated the problem with making an adult store a prohibited use is the business owner will come and fight the Town because they might interpret such a prohibition as “taking away [my] freedom of speech.” Mr. Evans stated the Town of Dagsboro is pretty specific because they have the setbacks, but, in the purpose of the district, which can be compatible with the residential uses, would a specialty shop (i.e. adult entertainment) be compatible with residential uses? Mr. Linett stated this is what Town Council Member Harry Kent brought up in that the specialty shop could be compatible with residential recreation. Mr. Evans further asked if the Commission could argue that an adult store is not compatible next-door to a residential property because someone has children? Mr. Evans asked if the Town could use such language to protect it. Mr. Gulbranson stated this is a question for Town Solicitor Seth Thompson to address. Mr. Evans stated the Town should ask Mr. Thompson what language to use to deter such uses. Mr. Gulbranson stated the Town could also set it up as a conditional use and put in conditions so it would be extremely difficult for such an establishment to come into Town.

Mr. Linett stated, on page 16, under item number eight (8), P&Z would like to take out hotel and motel because their size – and space for parking – is more appropriate for a C2 district. Mr. Linett stated the “meeting hall” use can stay, but a “conference center” should also be in C2. Mr. Evans stated, regarding item C, “permitted accessory uses and structures,” he does not know why sub-item one (1), “parking in conjunction with permitted use,” is in this section as it will be required regardless; and sub-item number two (2), “indoor storage of merchandise or supplies carried in conjunction with a permitted business or office use,” is not an accessory use either. Mr. Evans stated the residence for the owner or employees of the business would be an accessory structure, as would also a detached accessory garage; and every business has indoor storage. Mr. Gulbranson stated the intent of this inclusion was for indoor storage in a separate additional building. The P&Z Commission recommended rewording the entry. Mr. Linett stated sub-item two (2) could read “indoor accessory storage building for storage of merchandise or supplies.”

Mr. Linett stated, on page 17, the item 486-21, “Yard Waste,” was mentioned to him by Town Manager Debbie Botchie as to not be discussed with P&Z tonight as the section was still in need of further language and review with Mr. Gulbranson. Mr. Gulbranson stated yes, Ms. Botchie has some language which she has been tweaking and would like to hold off on this section until she has had more time for review. Mr. Laskowski asked if the Town was getting into the yard waste business. Mr. Gulbranson stated no, but there is a business in Town, McCarthy Stones, which would like to include yard waste disposal as one of its services. Mr. Laskowski stated he thinks the title of the section should be changed from “Yard waste” to “Yard waste site,” so the public does not think there is a site the Town provides for yard waste.

Mr. Gulbranson stated, on page 18, under item D, “uses permitted by conditional use,” the way the Code was previously written, there were a lot of special use exceptions as opposed to conditional use and he thinks a conditional use is a better way of handling it, because the Town can oppose conditions based on whatever the use may be. Mr. Gulbranson asked if the Town wants to keep “outdoor dining service area” as a conditional use. Mr. DuCott asked why an outdoor dining service area is considered a conditional use. Ms. Wingate stated it is considered

as such because the Town did not want the same situation as Fat Tuna restaurant, with noise from crowds, as well as music bands and DJs, coming in.

Mr. Gulbranson stated, on page 19, under item G, “area and yard requirements,” that area has been stricken because it deals specifically with the Route 26 project. Mr. Gulbranson further stated under the new item number one (1), the commission board knew the way the ordinance was written, it was making a lot of nonconforming parcels along Route 26, so the commission went through and did an analysis of the frontage of all parcels, lot sizes, along Route 26 and what the commission found was there were quite a few lots which were smaller than 14,000 square feet. Mr. Gulbranson stated what the commission decided to do was change the lot area from 14,000 square feet to 8,000 square feet as a minimum lot size. Mr. Gulbranson stated the commission also made a change in the front yard and rear yard setbacks from 30 feet to 20 feet.

Mr. Gulbranson stated, on page 20, sub-item “a,” is something new and what it does state is if a residence has commercial property behind it, the rear yard setback will be 20 feet; but if there is a residential property behind the lot, the rear yard setback bumps up to 30 feet in order to give an added buffer area between the residential and commercial uses. Mr. Gulbranson stated item number three (3) increases the lot coverage and one of the reasons the commission did this was because there are still some instances where expanding the setback areas, the Town should offer “a trade-off” to allow to cover a greater percentage of the property, and that is why the coverage went up to sixty (60) percent, which is total coverage – including the building, parking lots, all impervious surfaces. Mr. Gulbranson further stated this item also allows a developer to increase the coverage percentage of up to seventy (70) percent if the applicant can present a plan meeting a couple of requirements, including placing the building near the street with parking located to the side or rear of the primary building, and the additions of streetscape, plazas, courtyards, and permanent site furnishings such as benches, tables, bike racks, trash cans, planters, lighting and additional landscaping, etc. Mr. Gulbranson stated this item gives the P&Z Commission the discretion to increase from 60 to 70 percent if the applicant presents a plan P&Z feels is an improvement and yielding a better quality design. Mr. Linett stated the item should include in its language that this decision will move forward to Town Council but P&Z can recommend it to Council.

Mr. Linett stated the next review, on page 21, will be on the C2 district, which is “to provide for well-planned and attractive larger scale commercial and shopping facilities.” Mr. Linett further stated it is his understanding that any business which can be done in the C1 district can also be done in the C2. Mr. Linett stated, on page 22, the inclusion of “Motels, hotels and bed-and-breakfast inns” will be changed to simply “Motels and hotels” since bed-and-breakfasts are in the C1 category and all C1 businesses are also permitted in C2. Mr. Gulbranson stated the language of “Home improvement stores” relays the use as a “big-box store” such as Lowe’s or Home Depot. Mr. Evans stated he thinks the square footage will also dictate to the public what kind of home improvement store is coming in, whether it be a smaller hardware store or “big-box store.” Ms. Wingate stated, with item number seven, “Nursery, garden and farm supply sales,” her concern are the operations within the nursery, such as the waste disposal. Mr. Gulbranson stated the particular type of nursery facility operation (i.e., involving waste and

growing) has been addressed in the AG (agricultural) district but not yet in the commercial; however, it can be considered a nonconforming business in a residential district. Mr. Linett stated, under C1, is the nursery which has to do with just sales, and under the agricultural district, there is cultivation of nursery stock. Mr. Evans stated if the word nursery were taken out and it was left as simply “garden and farm supply sales,” Mr. Evans would think of a store which sells tractors or big farming equipment (i.e., Southern States or John Deere). Mr. Linett stated P&Z might want to consider leaving “nursery” out since it is already in the C1 district section, and sticking to just “garden and farm supply sales.” Mr. Gulbranson asked if P&Z needs a definition of “nursery.” Ms. Wingate stated she thinks P&Z does need a definition because she is worried there could be piles and piles of items like mulch, manure, soil, etc. Mr. Gulbranson asked if the Town needs a definition or a provision for a retail nursery, which Mr. Gulbranson considers Lord’s Landscaping on Route 26 to be. Mr. Gulbranson stated he thinks the use should say “retail nursery ...,” as well as some definitions. Mr. Gulbranson stated he also thinks P&Z needs to come up with another category for some other kind of landscaping business. Mr. Linett stated the Town will have definitions of “nursery,” and “landscaping business.”

Mr. Linett stated, on page 23, regarding item number ten (10), “learning and educational centers,” these uses should be moved from the C2 district back onto page fifteen (15), under permitted uses for the C1 district, item “k,” named “Daycare and learning centers.” Mr. Linett asked if churches made it into the C1 district. Mr. Evans stated “churches, synagogues or other places of religious worship or parish houses” made it into the R1 (residential) district. Mr. Linett stated the addition of “conference centers” is good. Mr. Linett stated, under item C, “Permitted accessory use,” sub-item three (3) should be moved to the C1 district. Mr. Laskowski asked why the item would not be moved to the R1 district since it was just decided that was where churches and places of worship would be moved. Mr. Gulbranson stated the accessory use included churches which have a daycare center and/or pre-school and asked P&Z if they would want a daycare center in the residential district. Mr. Laskowski stated if that was the case, maybe churches should be limited to the commercial district. Mr. Gulbranson asked if the Town wants churches in just the commercial districts. Mr. Evans stated he thinks is a commercial use and taking churches out of the residential district is the right thing to do. Mr. Laskowski, Ms. Wingate and Mr. Linett agreed. Ms. Wingate stated P&Z could recommend this action to Town Council on the basis that traffic associated with churches – particularly those with daycare/nursery services – would be better fitted to commercial districts and remain out of smaller, quieter residential areas.

Mr. Linett stated, on page 24, under item “E,” “uses permitted by special exception,” specifically sub-item one (1), “boat sales, service ...,” this was an additional service which did not appear in C1, but the concern here was there would be used cars, etc., sitting out front on a lot and the Town Council should have some additional power to address said item. Mr. Evans asked if this should be a special exception or a conditional use. Mr. Evans stated a special exception is approved by the Board of Adjustment (BOA) and Council has no say over it, but can only appeal it by going to court. Mr. Linett stated he thinks the item should be moved to a conditional use. Mr. Linett and Mr. DuCott asked why the item only referenced boats and not cars. Mr. Gulbranson stated the commission had a long discussion about the subject, and boats

were included because the Town is so close to the water, and there is such a high demand for that type of service, it would be appropriate to add. Mr. Gulbranson further stated the commission did discuss cars and how the Town will never be an area where there is a new car dealership. Mr. Linett stated under the next item, "F," "prohibited uses," there is "motor vehicle sales, storage." Mr. Laskowski asked if car sales is under prohibited uses, why can't the Town put adult stores in the prohibited uses section as well. Mr. Amerling stated the Town – until this review – used to have bars as a prohibited use. Mr. Laskowski stated a car dealer may come in and think every other type of retail can come into Town, but a car dealership cannot. Mr. Linett stated he thinks this should be under conditional uses because if the Town were concerned about a junky-looking type of place, the Town could make rules to prevent such a look from happening. Mr. Gulbranson stated a lot with boats could look just as junky or cluttered as a lot with cars. Mr. Linett stated P&Z is going to put "automobile and boat sales, services, ..." in as a conditional uses under item "D," and labelling it as sub-item eight (8), thus striking item E altogether. Mr. Gulbranson asked if P&Z wanted to separate out the "docks, wharves and marine engine" portion. Mr. Linett stated P&Z will take out the "including docks, wharves and marine engine repairs" and add it as another sub-item, number nine (9), "Marine construction establishments," under "Uses permitted by conditional use." Mr. Linett stated the only prohibited use will be a tap room and the "motor vehicle sales, storage" will be deleted.

Mr. Gulbranson stated under item H, "area and yard requirements," the commission did the same thing with C1, and thought the minimum lot frontage of 400 feet was restrictive so they took it down to 200 feet. Mr. Gulbranson stated the rear setback was changed from 25 feet up to 30 feet for the same reasons as they did in the C1 district. Mr. Linett stated he would rather not see a bunch of "big-box stores" up and down Route 26. Ms. Wingate and Mr. Laskowski agreed. Mr. Evans stated most of the zoned property along Route 26 is C1; however, a retailer could petition to rezone as C2 with a minimum of 15,000 square feet, but they could not put a shopping center in unless the property is five (5) acres.

Mr. Gulbranson stated, on page 26, item "M," does not need to be in this section due to it being repetitive of the Town's design standards. Mr. Linett agreed and suggested to take item "M" out. The P&Z Commission agreed.

Mr. Linett stated the next page with comments – page 27 – will have to wait to be reviewed until the next P&Z meeting in April. The P&Z Commission agreed.

6. PROPERTY OWNER/AUDIENCE COMMENTS:

There were no comments.

7. ADJOURNMENT:

Mr. Linett stated the next P&Z meeting would be on April 13, 2015. Ms. Wingate motioned to adjourn the meeting at 8:19 p.m. Mr. DuCott seconded the motion. Motion passed 4-0.

Respectfully submitted and transcribed
by Matt Amerling, Executive Assistant