



**PLANNING and ZONING COMMISSION  
MINUTES  
MAY 11, 2010**

**Albertville Council Chamber**

**7:00 PM**

**CALL TO ORDER – ROLL CALL**

Meeting was called to order at 7:01 p.m. by Chair Kocon.

**PRESENT:** Chair Frank Kocon, Commission members Robert Olson, Dale Edgren, and Council liaison Dan Wagner

**ABSENT:** Commission member Natalya Lindberg

**OTHERS:** City Planner Al Brixius, Zoning Administrator/Building Official Jon Sutherland, and City Clerk/Recording Secretary Bridget Miller

**ADOPT AGENDA**

**PZCMs Edgren/Olson motioned** to approve the Tuesday, May 11, 2010 agenda as presented, which will be scanned and an electronic copy will be kept on file in the office of the City Clerk. Motion carried unanimously.

**MINUTES**

**PZCMs Olson/Edgren motioned** to approve the Tuesday, April 13, 2010 regular Planning and Zoning Commission minutes as presented. Motion carried unanimously.

**PUBLIC HEARINGS**

**PRO-TECH MARINE FOR THE FOLLOWING CONDITIONAL USE PERMITS (CUPs) WITHIN AN I-1 INDUSTRIAL ZONING DISTRICT FOR PROPERTY LOCATED AT 5720 BARTHEL INDUSTRIAL DRIVE NE**

**CONDITIONAL USE PERMIT (CUP) FOR OPEN AND OUTDOOR SALES DISPLAY AS A PRINCIPAL OR CONDITIONAL USE; AND,**

**CONDITIONAL USE PERMIT (CUP) FOR ENCLOSED RETAIL SALES OTHER THAN THOSE ALLOWED AS A PERMITTED OR CONDITIONAL USE IN AN I-1 INDUSTRIAL ZONING DISTRICT; AND, CONDITIONAL USE PERMIT (CUP) FOR OUTDOOR STORAGE PER SECTION 1000.16.B OF THE 2005 ALBERTVILLE MUNICIPAL CITY CODE (ZONING ORDINANCE)**

Chair Kocon continued the public hearing from the April 13, 2010 meeting.

City Planner Brixius stated that Steve Mruz submitted a Development Application on behalf of Pro-Tech Marine to relocate the business from 5640 MacKenzie Avenue NE to 5720 Barthel Industrial Drive NE. The property on Barthel Industrial Drive NE is currently owned by James and LaVerne Franklin, which is zoned I-1 limited Industrial District.

The main business of Pro-Tech Marine includes, and is not limited to, marine repair and storage, limited retail sales, outdoor storage, and outdoor sales or display. Staff reviewed the zoning regulations for I-1 Limited Industrial finding the facts that 'major auto repair' is a permitted use as currently zoned. However, the other proposed uses of the site require conditional use permits to legally occupy the site according to the 2005 Albertville Municipal City Code Section 4600.4 Conditional Uses. There are at least three (3) conditional use permits needed in order for the proposed business to operate:

- Open or outdoor service, sale(s) and rental as a principal or accessory use;
- Accessory, enclosed retail, rental, service, or processing manufacturing activity other than that allowed as a permitted use or conditional use within this chapter; and
- Outdoor storage as an accessory use as regulated by subsection 1000.16B

Brixius continued with the comment that Chair Kocon reopened the public hearing as it was tabled at the April 13, 2010 meeting. Staff encouraged the applicant to prepare and submit revised site and building plans, which the City received revised plans to resume processing the conditional use permits.

Basic history of the site includes it previously housed the Greater Minnesota Home Improvements (GMNI) business. The City reviewed and approved a Conditional Use Permit to allow for outdoor storage and outdoor sales in 2007. During the time GMNI was in operation, a cement slab was constructed for the purpose of an outdoor display area.

As mentioned earlier, Pro-Tech Marine was located on the east side of I-94 off of MacKenzie Avenue NE on a parcel that was zoned B-3 Highway Commercial, which allowed marine boat, repair, and service. However, within the provisions of B-3 Highway Commercial outdoor storage was not permitted. The City did approve and issue a conditional use permit to Pro-Tech Marine to store boats and other marine equipment outdoors provided there was appropriate screening.

Brixius went over the principal size of the building stating that it is 3,706 square-feet and noted that 1,360 square-feet of the space will be used for reception area, offices, and retail space; with the majority of 2,346 square-feet being dedicated for the marine mechanic shop space.

The other area that was mentioned during the discussion was the signage for the property, which all signing and informational or visual communication devices shall be in compliance with the provision of the Albertville City Code relating to signs. Secondly, the Albertville Fire Department expressed their concerns with access to the site in case of an emergency or fire. The Fire Department is requesting a 20 foot fire lane around the building that would not be obstructed by storage, parking, or display items. The topic of the fence or screening of the outdoor storage was discussed, which Mr. Mruz would install a fence around the area to screen and secure the items stored on the site. Lastly, the number of parking stalls was brought up noting staff recommends that the applicant provide 11 paved parking stalls that would include the striping or designation of a disability parking space. In order to accommodate the disability provision, Pro-Tech will take up two (2) required parking stalls.

Brixius broke out the three (3) conditional use permits recommendations that staff has provided for the Commission to consider.

**Outdoor Sales** – staff recommends that the conditional use permit for outdoor sales be approved subject to the following conditions being met:

1. The buildings are inspected and found to be compliant with Building and Fire Code for the intended repair business occupancy. If building modifications are necessary to meet Building and Fire Code, the modifications must be implemented.
2. The exterior display shall be limited to the improved display area shown on the site plan. This display shall not be expanded without City approval. No display shall occur on the grassed areas of the lot.

**Retail Sales** – staff recommends that the conditional use permit for retail sales be approved subject to the following conditions:

1. The buildings are inspected and found to be compliant with Building and Fire Code for the intended repair business occupancy. If building modifications are necessary to meet Building and Fire Code, the modifications must be implemented.
2. The applicant make the following parking lot improvements:
  - a. Provide 11 paved parking stalls
  - b. Parking lot be striped to provide a 24 foot drive lane, 9 foot by 20 foot parking stalls, and one disability parking stall at 16 feet by 20 feet
  - c. No outdoor storage may occupy required parking stalls or fire lanes
  - d. Provide a fire lane around the building
3. The applicant submits applications and receives sign permits for all wall and freestanding signs.
4. Trash dumpster shall be located within the fence storage area and screened from adjoining streets.

**Outdoor Storage** – staff recommends that the conditional use permit for outdoor storage be approved subject to the following conditions:

1. The buildings are inspected and found to be compliant with Building and Fire Code for the intended repair business occupancy. If building modifications are necessary to meet Building and Fire Code, the modifications must be implemented.
2. The outdoor storage area be delineated by a six (6) foot tall fence that matches the submitted site plan. The fence shall be stained to match the color of the principal building. The applicant shall submit an application for a fence permit prior to installation.
3. Outdoor storage shall not be stacked to extend above the height of the fence.
4. No outdoor storage shall occupy required parking spaces or obstruct the required drive aisle (fire lane) around the building.

**Application** – the applicant shall have the property owner, James and LaVerne Franklin, sign the development application(s) prior to City Council action.

Chair Kocon opened up the public hearing to the Commission members' comments.

Commission member Olson expressed concern with the number of parking stalls required, making sure there is adequate striping for the disability space and enforcing the Fire Code issue that requires additional parking spaces be provided for the fire drive lane around the building.

Building Official/Zoning Administrator Sutherland commented on the parking lot area noting the site appears to have more storage for vehicles on the site in comparison to outdoor storage. Therefore, Sutherland felt reducing the required number of parking stalls would not have an impact on the proposed purpose of the site. Sutherland was in agreement with the Fire Chief by designating a fire drive lane around the facility.

Chair Kocon continued by allowing members of the audience to share any comments relating to the proposed conditional use permits that were applied for by Pro-Tech Outdoor Marine.

Hearing no comments, Chair Kocon closed the public hearing at 7:25 p.m.

**PZCMs Olson/Edgren motioned** to approve the proposed Pro-Tech Marine Conditional Use Permits within an I-1 Industrial Zoning District for property located at 5720 Barthel Industrial Drive NE for open and outdoor sales display as a principal or conditional use; and, for enclosed retail sales other than those allowed as a permitted or conditional use in an I-1 Industrial Zoning District; and, for outdoor storage per Section 1000.16.B of the 2005 Albertville Municipal City Code (Zoning Ordinance) contingent upon City Council approval at the June 7, 2010 regular City Council meeting; and, with staff's recommendation as noted above with the following amendment(s) to the required number of parking stalls:

**Retail Sales** – staff recommends that the conditional use permit for retail sales be approved subject to the following conditions:

1. The applicant make the following parking lot improvements:
  - a. Provide eight (8) paved parking stalls, which will allow the applicant to meet the necessary requirements for the disability parking space and the fire lane around the structure.

Motion carried unanimously.

### **BRIAN BERNING REAR YARD VARIANCE AT 5543 LAKE AVENUE NE**

Chair Kocon opened the public hearing at 7:27 p.m.

City Planner Brixius reported that Brian Berning of 5543 Lake Avenue NE has submitted a Development Review Application requesting a variance from the R-1 District's 25 foot rear yard setback to allow for the construction of an attached third stall to the garage. The existing two (2) car garage measures 576 square-feet (24' x 24') in area on the exterior dimensions of the building. The proposed garage addition is 448 square-feet (16' x 28') making the accumulative floor area 1,024 square-feet. According to the Albertville City Code, the standard allowed is 1,000 square-feet; therefore, the new garage must be reduced in size in order to meet the exterior dimensions of both the existing and new addition not to exceed 1,000 square-feet.

The subject site is a corner lot bounded by 55<sup>th</sup> Street NE on the south and Lake Avenue NE on the east. According to the zoning definition, how the front yard is determined is by the shortest length. Therefore, 55<sup>th</sup> Street NE is the front of the lot even though the house is oriented to the side yard along Lake Avenue NE. The applicant's property, while conforming, is unique in the way this lot relates to adjoining lots, both on 55<sup>th</sup> Street NE and Lake Avenue NE. The house's orientation to Lake Avenue NE continues the continuity of building orientation along Lake Avenue NE. Based on this house orientation, the applicant is requesting the equivalent of an R-1 District side yard setback from the north lot line. This is consistent with the setbacks for the lots to the north.

In review of the aforementioned criteria by maintaining a minimum 10 foot setback from the north lot line and taking into account the Albertville Comprehensive Plan, the City promotes reinvestment in the existing housing stock. The addition would not anticipate issues related to impairing adequate supply of light or air, nor would it present issues of public safety. The third stall garage will not diminish the property value but would add value to the property.

To determine if the variance is warranted, the Planning and Zoning Commission must determine if the applicant's request represents a reasonable use of the property given existing development conditions. Garages up to 1,000 square-feet in area are permitted accessory uses within the R-1 Zoning District; however, the existing garage plus the new garage will be 1,024 square-feet in total exceeding the allowable size. In reviewing the lot and the proposed layout, the placement of the addition represents the only logical place to accommodate the expansion. After reviewing the application, staff is making the recommendations as it pertains to the variance:

**Option 2.** The City may choose to approve the variance with the following findings:

1. The proposed garage addition be reduced in size to result in an accumulative garage floor area not to exceed 1,000 square-feet. The floor area shall be calculated based on the exterior dimensions of the building.
2. The proposed garage shall maintain a minimum 10 foot setback from the north lot line.
3. Prior to building permit approval, the applicant shall either submit a survey of the property showing the exact boundary locations with 10 foot setbacks, or locate the property monuments and verify the setbacks on site with the Building Official.

Commission members expressed concern with future buildings or sheds that may be constructed on the property. The Commission was in agreement with the location of the garage expansion.

Mr. Berning was present in the audience to answer any questions or concerns. There were no other members in the audience that wanted to comment on the rear yard variance for Mr. Berning.

Chair Kocon closed the public hearing at 7:42 p.m.

**PZCMs Edgren/Olson motioned** to approve the rear yard variance that shall be maintained at a minimum 10 foot setback from the north lot line for the address of 5543 Lake Avenue NE to allow for a third staff garage addition not to exceed the accumulative garage floor area of 1,000 square-feet. Motion carried unanimously.

## **OTHER BUSINESS**

### **INTERVIEW PLANNING AND ZONING COMMISSION APPLICANTS**

Chair Kocon noted that Brian Totman was able to make the meeting and invited Mr. Totman to approach the podium. Kocon proceeded by asking Totman to provide information about himself.

Brian Totman informed the Commission that he is currently employed with Ebert Construction located in Corcoran, Mn. He has worked in the construction industry for the last 10 years. As a project manager, he reviews project documents, specifications, estimating, contracts and schedule control. He has experience in the private sector relating to city or county approvals preparing the appropriate site and building plans that are presented at the meetings. He would like to serve on the commission to help plan the physical growth and development of the community, in which he lives.

**PZCMs Olson/Edgren motioned** to recommend appointing Brian Totman to fill Sharon Leintz's vacancy on the Planning and Zoning Commission contingent upon Council's appointment at the June 7, 2010 regular City Council meeting. Motion carried unanimously.

## **ZONING ITEMS**

City Planner Brixius presented three (3) zoning items that staff is looking for input from the Commission to see if the concerns merit further consideration.

The first item Brixius brought up dealt with Hot Tubs. Currently, the Albertville Zoning Ordinance does not address the locations or regulations. The Building Official suggests the following language be added to Section 1000.5 of the Albertville City Code.

- E. Hot Tubs. Hot tubs accessory to single-family homes may be exempt for the swimming pool requirements of Section 1000.5 of this Ordinance but shall meet the following standards:
  - 1. Hot tubs shall not be located in front of the principal building.
  - 2. Hot tubs shall not be located within the required side yard of any zoning district.
  - 3. Hot tubs shall not be located any closer than ten (10) feet from the rear property line.
  - 4. All filter units; heating units; pumps, and any noise generating equipment shall be enclosed within the hot tub and insulated to buffer noise.
  - 5. All outdoor hot tubs shall be enclosed with protective fence or guard rails or shall be secured with a locked cover when not in use.

The next item Brixius reported on was the Fences. There are a handful of residents that place temporary snow fences along property lines to discourage snowmobilers or for other various reasons. With the recent complaint received by City staff during the 2009-2010 winter; staff offers the following possible amendments to the nuisance ordinance:

- 1. Do nothing. If this issue has not been a problem City-wide, should the City take steps to change the ordinance over a single complaint?
- 2. Ordinance change that addresses:
  - a. Definition. Define temporary fences.
  - b. Establish Reasonable Locations. Five (5) feet from all lot lines to insure the fence is within the property.
  - c. Height. No temporary fence may exceed 42 inches in height.
  - d. Time Period or Event. Time for removal of the temporary fence.

The last item that was noted dealt with Seasonal Sales Signage. Albertville recently approved a variance for the Dan and Jerry's Greenhouse for a Temporary Seasonal Sales site within the

Albertville Premium Outlets. Part of the request was to allow signage above the standard requirement height. The applicant was allowed to place a sign across the top portion of their shaded structure that was approximately 12 feet high.

Brixius concluded with the comment that if the Planning and Zoning Commission along with the City Council believe that some zoning adjustments are warranted, we will publish public hearings and bring ordinance amendments back to the Planning Commission in June provided there are other applications for review.

### **ADJOURNMENT**

**PZCMs Edgren/Olson motioned** to adjourn the May 11, 2010 regular Planning and Zoning Commission meeting at 8:12 p.m. Motion carried unanimously.

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Bridget Miller, City Clerk/Secretary