



**PLANNING and ZONING COMMISSION  
MINUTES  
JUNE 8, 2010**

**Albertville Council Chamber**

**7:00 PM**

**CALL TO ORDER – ROLL CALL**

Chair Kocon called the meeting to order at 7:01 p.m.

**PRESENT:** Chair Frank Kocon, Commission members Dale Edgren, Natalya Lindberg, Robert Olson, and Council liaison Tom Fay

**ABSENT:** none

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

**ADOPT AGENDA**

**PZCMs Olson/Edgren motioned** to approve the Tuesday, June 8, 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 Edgren/Olson motioned** to approve the Tuesday, May 11, 2010 regular Planning and Zoning Commission minutes as presented, the minutes will be scanned and an electronic copy will be kept on file in the office of the City Clerk. Chair Kocon, Commission members Olson and Edgren voted aye. Commission members Lindberg abstained. Motion carried.

**PUBLIC HEARINGS**

**EMMA'S EXPRESS PLANNED UNIT DEVELOPMENT (PUD) AMENDMENT – PROPANE TANK, OUTDOOR DINING, CAR WASH, VACUUMS, AND LANDSCAPE PLAN**

Chair Kocon opened the public hearing at 7:02 p.m.

City Planner Brixius reported that in April 2007, Phil Morris presented a Preliminary Plan and Planned Unit Development (PUD) for Albertville Marketplace. The Planning and Zoning Commission along with the City Council approved the Planned Unit Development that requested to allow ordinance flexibility in subdivision and site design to create four (4) lots with an integrated site design. Items include: Private street, shared site parking and driveways, and flexibility in site signage.

The flexibility approval included and was not limited to site plans, uses, and architectural standards that would be applied to each of the four (4) lots within the Albertville Marketplace Addition.

Phil Morris submitted an amendment to the PUD that would apply towards the Albert and Emma's Express Convenience Store and Car Wash to allow a larger building. The Planning and Zoning Commission plus the City Council allowed for the expanded building from 4,700 square-foot to 6,208 square-feet in 2009. With the approval of the expansion of the building the amount of landscaped area and land available for other ancillary uses was reduced.

Staff noticed that a propane tank was installed without a permit or approval from the City. The owner sought and received a building permit without the proper zoning approvals. Staff met with the applicant regarding the number of safety and planning concerns related to the permit. During the meeting the applicant introduced the want to have vacuums for the car wash and some outdoor dining. Upon hearing the additional requests, staff directed the applicant to submit a development review application requesting an amendment to the PUD that would cover all of the proposed changes.

City Planner Brixius proceeded by reviewing each item individually. The first item for discussion was the issue analysis dealing with the Propane Tank. The original PUD from 2007 and the 2009 Site and Building Plan that was approved for Albert and Emma's Express established a landscaped yard 10 feet wide along the northern lot line. This landscape area intention was to screen and buffer the outdoor activities related to the gas sales. The landscaping feature of the PUD was an important one as it abutted County Road 37, which is highly visible to passing motorists.

In review of the propane tank location, staff identified at least 5 issues:

1. The propane tank is an accessory use to the overall operation. According to the 2005 Albertville Municipal City Code, Section 1000.4 of the 2005 Albertville Municipal City Code Appendix A-Zoning Ordinance requires commercial uses/equipment to meet the principal building setbacks. This accessory equipment is 2.3 feet from the property line. PUD flexibility must be approved to allow variance from this peripheral setback.
2. The propane tank is located in a side-yard abutting a street, fully exposed to sight lines from County Road 37. This location displaces required landscaping on the approved site plan.

The applicant has indicated that they will not be screening or landscaping the propane tank from County Road 37.

3. The actual location of the propane tank is not consistent with the site plan that was submitted to the Building Official for a building permit. The applicant's submitted site plan maintained a 10 foot setback outside of the landscaped yard.
4. The placement of the propane tank encroaches on a City utility easement. The tank was installed over the City's sanitary sewer and water mains. This interferes with the City's access to its utility lines.
5. The Albertville Fire Chief has expressed concern over the location of the propane tank in relation to CR 37. This tank location may be vulnerable to collision if an automobile or truck left the roadway. The applicant has provided bollards around the tank; however, the bollards are designed to prevent parking lot traffic (at 10-20 mph) from hitting the tank and would not stop a vehicle traveling at faster speeds.
6. The propane tank includes signage that is in excess of the ordinance and in excess of what was approved by the PUD.

Brixius went on to explain that the tank was installed without appropriate approvals; therefore, staff cannot recommend approval of the propane tank in light of the aforementioned issues. It is noted that the tank is movable. Staff recommended relocation of the tank to another area within the site, which would make the approval of the propane tank more accessible. In addition to relocating the propane tank, staff is recommending removal of signage from the propane tank; revise the site plan to provide updated plans and illustrations of the tank in the new location; installation of bollards around the tank to avoid or prevent damage from the on-site traffic; restoration and planting of the northern lot line green space area per the approved landscape plan.

After the presentation of the amendment, staff presented the portion of the application that dealt with the outdoor dining. The applicant has furnished a detailed site plan of the dining area and a narrative that explains the tables will offer seasonal use. (Brixius displayed Exhibit D for the Commission members and those in the audience.)

Based on the information submitted for the outdoor dining area, below are staff's recommendations for approval of the PUD amendment:

1. The dining area is limited to the area identified in the plan dated May 17, 2010 with regard to the number of tables, size, and location.
2. The applicant maintains the five (5) foot walkway between the tables and sidewalk edge.
3. The applicant is responsible for litter pick up within 100 feet of the dining area.
4. No outdoor sound system in the dining area.

The next item that was discussed was the Car Wash Vacuums, which the applicant wishes to install to complement the car wash operations. Staff reviewed the original PUD, the site design is limited to the locations to allow the vacuums without interfering with other site operations. To accommodate these vacuums, the applicant would eliminate the pre-approved ground sign. The

applicant would still be required to utilize the landscaping that would be placed around the sign to screen the vacuums provided they are allowed and approved.

There was additional discussion relating to the entrance sign that is approved for the northeast corner of the site with the intentions that it serve as a directory sign listing the businesses in the entire Albertville Marketplace Addition. As of today, the only businesses in the complex are Emma Krumbes and Albert & Emma's Express. The applicant wishes to postpone the construction of the sign and installation of the adjacent landscaping until an undetermined date. Staff agrees to postponing of the sign installation with the exception that a date specific to insure the final landscaping be completed. Staff is concerned that if a date specific is not set the property will remain unfinished.

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

Commission members had issues with the signage on the propane tank, which they would like to make it clear there is propane inside the tank. Kocon was familiar with propane tanks and the fact there are regulators that can be of a safety concern.

Neil Weber of Weber Architects and Randy Dooley of Albert & Emma's Express were present to address some of the concerns with the propane tank. Mr. Dooley commented that the proposed relocation of the tank to the southern part of the site places the tank near the exit of the site. Dooley demonstrated the customers with bigger RVs or mobile campers will have a challenge accessing the area to fuel up with propane. The vehicles or RVs will potentially block the exit from other motorists stopping in to purchase gas or purchasing something from the convenience store.

Dooley then went over the pros for the current location that included the regulator is a safety concern to Albert & Emma's Express that meet the general standards as propane tanks go; therefore, are protected as best can be. The current location is about the safest on the site, it is easily accessible to the customers and away for the general traffic that will be within the site. The other option for relocation would be moving the tank south of the current location placing it on the parking lot meeting the setback requirements off of CR 37.

In general, Mr. Dooley was not in favor of the additional landscaping requirements for the site as a whole. The additional screening will take away for the intended services being provided within the site. Screening the propane tank and the vacuums would not make them as visible to the customers.

Chair Kocon proceeded by inviting members of the audience to share any comments relating to the proposed public hearing for Albert and Emma's Express.

There was no one in the audience to comment on the Albert and Emma's Express public hearing.

After the lengthy discussion of coming to an agreement on the recommendations, Chair Kocon closed the public hearing at 8:17 p.m.

**PZCMs Olson/Edgren motioned** to approve the proposed Albert & Emma's Express Planned Unit Development (PUD) Amendment to allow a Propane Tank, Outdoor Dining, Car Wash, Vacuums, and Landscape Plan with the recommendations listed.

**Propane Tank:**

- A-1. Propane tank is relocated into the parking lot just south of the north curb line (south of the current location). The applicant provide a revised site plan for City staff approval showing the new location and construction details of the propane tank. Setbacks must meet the Fire Code regulations (Albertville Fire Chief's approval).
- A-2. Approval of signage from the propane tank other than warning sign and operational instructions as presented.
- A-3. Installation of bollards around the tank.
- A-4. Restoration and landscape of the north lot line green area per the approved landscape plan.
- A-5. Submission of a revised landscape plan showing plantings to screen the propane tank. Screening shall consist of coniferous shrubs. Planting shall be installed at a height of four or more feet to provide immediate screening with the additional berming to provide more safety around the tank.

**Outdoor Dining:**

- B-1. The propane tank is relocated in accordance with conditions of the aforementioned PUD amendment.
- B-2. The dining area is limited to the area identified on the plans dated May 17, 2010 with regard to number of tables, size, and location.
- B-3. The applicant maintains the five (5) foot walkway between the tables and sidewalk edge.
- B-4. The applicant is responsible for litter pick up within 100 feet of the dining area.
- B-5. No outdoor sound systems in the dining area.
- B-6. The applicant shall be responsible for any additional SAC/WAC changes deemed necessary due the expanded dining seating per the City Engineer.

**Car Wash Vacuums:**

- C-1. The propane tank is relocated in accordance with the conditions of the aforementioned PUD amendment.
- C-2. The applicant provides a revised landscape plan showing the landscaping to screen the vacuums. Landscape screening shall consist of coniferous shrubs. Plants shall be installed at a height of four (4) or more feet in height to provide immediate screening.

**Landscape Plan:**

- D-1. The applicant shall relocate the propane tank internal to the site and restore the north lot line green space to the approved landscape plan.

- D-2. The City will allow deferment on the installation of the area identification signage; however, landscaping in the northeast corner of the site shall be installed in accordance with the approved landscape plan.
- D-3. The applicant shall revise the landscape plan for the areas of the vacuums and the relocated propane tank for City staff approval.
- D-4. All landscape areas shall be irrigated, mulched, and edged per the original approved landscape plan.

Enforcement (to insure compliance):

- E-1. The permanent occupancy permit shall not be issued until all the PUD design elements are addressed including the propane tank relocation and final site landscaping, and the applicant has entered into an amendment to the PUD agreement consistent with the recommendations of this report.
- E-2. The City withholds implementation of the outdoor dining use and vacuum construction until the propane tank is relocated.

Motion carried unanimously.

**ZONING ORDINANCE AMENDMENT – HOT TUB REGULATIONS**

Chair Kocon opened the public hearing at 8:18 p.m.

City Planner Brixius stated that earlier this year the Building Department received a request for the installation of an outdoor hot tub. Since the size parameters of the recreational hot tub falls below the standard size of swimming pools; hot tubs are not addressed in the 2005 Albertville Municipal City Code Appendix A-Zoning Ordinance. With the absence of set regulations or restrictions, the issue raised concern over the placement on the lot and the need to secure the tub when not in use.

Staff presented basic performance standards at the May 11, 2010 regular Planning Commission meeting to regulate location (placement), nuisance, noise, and safety. It was staff's interpretation to draft an ordinance setting these regulations to address outdoor recreational hot tubs. Before you this evening is Ordinance No. 2010-002 entitled an Ordinance Amending Section 1000.5 (Swimming Pools) of the 2005 Albertville Municipal City Code Appendix A (Zoning Code) relating to Hot Tub Regulations.

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

The Commission members discussed the location commenting that the average homeowner places these hot tubs generally close to the main dwelling. Very seldom do you see a hot tub set approximately 10 feet off of the rear property line.

The Chair wanted the regulation to include obtaining an Administrative Permit to insure the placement and electrical portion is installed correctly.

Chair Kocon continued by inviting members of the audience to share any comments relating to the proposed public hearing for a zoning ordinance amendment relating to hot tub regulations.

There were two (2) members in the audience; however, they had no comments or concerns with the hot tub regulations.

Chair Kocon closed the public hearing at 8:25 p.m.

**PZCMs Olson/Lindberg motioned** to approve the proposed Ordinance No. 2010-002 entitled an Ordinance Amending Section 1000.5 (Swimming Pools) of the 2005 Albertville Municipal City Code Appendix A (Zoning Code) relating to Hot Tub Regulations as amended to include the language 'allow by Administrative Permit'. Motion carried unanimously.

#### **ZONING ORDINANCE AMENDMENT – TEMPORARY OUTDOOR SEASONAL SALES SIGN HEIGHT**

Chair Kocon opened the public hearing at 8:26 p.m.

City Planner Brixius reminded the Commission that the City recently approved an amendment-variance for the Dan and Jerry's request for a Temporary Seasonal Sales to include signage above the regulated height of six (6) feet. In reviewing the site, the signage placed on the upper portion of the greenhouse does not appear offensive. It gives the applicant reasonable signage from the street.

Staff has prepared an Ordinance Amendment to Appendix A (Zoning Ordinance) to allow for temporary outdoor signage height to a maximum of twelve (12) feet.

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

The Commission had no additional comments or concerns with the amendment.

Chair Kocon continued by inviting members of the audience to share any comments relating to the proposed public hearing for a zoning ordinance amendment relating to temporary outdoor seasonal sales signage height.

Chair Kocon closed the public hearing at 8:28 p.m.

**PZCMs Edgren/Lindberg motioned** to approve proposed Ordinance No. 2010-003 entitled an Ordinance Amending Section 1000.22 (Temporary Outdoor Seasonal Sales) of the 2005 Albertville Municipal City Code Relating to Allowable Sign Height for Temporary Outdoor Seasonal Sales as presented. Motion carried unanimously.

## **OTHER BUSINESS**

### **ZONING ITEMS – DISCUSSION ON TEMPORARY FENCES**

Building Official/Zoning Administrator Sutherland informed the Commission that earlier this year the City received complaints with regards to the placement of a temporary snow fence. As staff researched Appendix A – Zoning Ordinance, there is nothing that addresses temporary fences. The City has not received complaints in prior years about orange temporary snow fences; however, with the comments received in the 2009-2010 snow season staff looked to the Planning Commission for direction at the May 11, 2010 meeting.

The options before the Commission are:

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 person making a number of complaints?
2. Amend the Albertville City Code Appendix A – Zoning Ordinance:
  - a. Definition. Define temporary fences.
  - b. Establish Reasonable Locations. Five (5) feet from all property lot lines to insure the fence is contained within the property owner's lot.
  - c. Height. No temporary fence shall exceed 42 inches in height.
  - d. Time Period or Event. Time for removal of the temporary fence.

Commission members continued the discussion to the July meeting only if there is additional business to be presented.

## **ADJOURNMENT**

**PZCMs Olson/Lindberg motioned** to adjourn the June 8, 2010 regular Planning and Zoning Commission meeting at 8:56 p.m. Motion carried unanimously.

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Bridget Miller, City Clerk/Secretary