

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 407

(Duly Adopted September 10, 2003)

AN ORDINANCE AMENDING THE BOROUGH OF ALBURTIS ZONING ORDINANCE BY REVISING THE REQUIREMENTS FOR A PLANNED NEIGHBORHOOD CONVENIENCE CENTER RELATING TO PRIMARY SERVICE AREA, LOCATION, STREET ACCESS AND LIMITATIONS WHERE ACCESS IS PROPOSED FROM A LOCAL STREET, LOT SIZE, CONSISTENCY WITH MARKET FEASIBILITY STUDY, AND BUFFER STRIPS, AND ELIMINATING THE REQUIREMENT THAT SUCH CENTERS IN L-1 DISTRICTS MUST HAVE USES NECESSARY AND CONVENIENT TO EMPLOYEES IN THE L-1 DISTRICT; DEFINING THE TERMS LOCAL STREET, COLLECTOR STREET, AND ARTERIAL STREET OR HIGHWAY; AND ELIMINATING THE REQUIREMENT THAT A NEIGHBORHOOD CONVENIENCE STORE MUST BE AT LEAST 1000 FEET FROM ANOTHER NEIGHBORHOOD CONVENIENCE STORE.

WHEREAS, the Borough of Alburtis is empowered to enact, amend, and repeal zoning ordinances under Article VI of the Pennsylvania Municipalities Planning Code, 53 PA. STAT. ANN. § 10601 *et seq.*; and

WHEREAS, Borough Council has enacted a zoning ordinance, which has been codified as Chapter 137 of the Code of the Borough of Alburtis (1981), as amended; and

WHEREAS, current zoning requirements concerning planned neighborhood convenience centers are impractical and prevent the development of a type of use that is beneficial to the Borough; and

WHEREAS, the current zoning ordinance restricts competition unnecessarily and detrimentally by preventing certain similar uses from being located in close proximity to each other; and

WHEREAS, Borough Council desires to clarify the meaning of the terms local, collector, and arterial streets as used in the Zoning Ordinance; and

WHEREAS, Borough Council desires to amend the provisions of the Zoning Ordinance as provided below; and

WHEREAS, more than thirty (30) days prior to the date of the enactment of this Ordinance, the Borough submitted a copy of this Ordinance to the Alburtis Planning Commission and the Lehigh Valley Planning Commission, to provide them with an opportunity to submit recommendations, in accordance with the provisions of 53 PA. STAT. ANN. §§ 10505(a), 10609(c), and 10609(e); and

WHEREAS, the Alburtis Planning Commission recommended that this Ordinance be approved by a unanimous vote at its meeting on August 19, 2003; and

WHEREAS, the Lehigh Valley Planning Commission reviewed this Ordinance at its meeting on August 28, 2003 and offered the following comments:

“The purpose of this amendment is to enable the development of the Lock Ridge Commercial Center consistent with the subdivision and land development plans as drafted in 2000. The amendments would allow, among other things, the construction of a larger retail center than the current zoning provisions would allow.

“Our primary concern expressed in the September 22, 2000 review of the development plans, centered on the ability of the surrounding road network to handle the traffic. The documentation provided to us by the Pidcock Company in connection with the proposed rezoning indicates that off-site road improvements are not necessary for the smooth functioning of the surrounding road network. In view of this information, we find that the proposal does not conflict with LVPC plans and policies.”; and

WHEREAS, Borough Council appreciates the comments of the Lehigh Valley Planning Commission and its conclusion that the proposal does not conflict with their plans and policies. However, Council notes that this amendment does not apply solely to the proposed Lock Ridge Commercial Center plans drafted in 2000, but is rather a general revision of the zoning regulations relating to planned neighborhood convenience centers, which is designed to overcome impractical and/or unnecessary restrictions on such uses under the current zoning ordinance. While the Lock Ridge Commercial Center

draft plans provided the occasion for reexamining the zoning regulation, Council's purpose in adopting this ordinance is to provide appropriate rules for all future planned neighborhood convenience centers in the Borough, not merely to enable the development of the Lock Ridge Commercial Center; and

WHEREAS, on August 27, 2003 and September 3, 2003, the Borough published a public notice in the *East Penn Press*, a newspaper of general circulation in the Borough of Alburdis, of its intention to conduct a hearing on this Ordinance on September 10, 2003 at 7:00 P.M. in the Borough Hall, 260 Franklin Street, Alburdis, Pennsylvania, and to consider the adoption of this Ordinance thereafter. The notice stated the particular nature of the matter to be considered at the hearing, as provided in the title of this Ordinance; and

WHEREAS, immediately prior to the vote of Borough Council enacting this Ordinance, Borough Council conducted a hearing on this Ordinance, pursuant to 53 PA. STAT. ANN. §§ 10505(a) and 10609(b), and did not substantially change or revise this Ordinance as a result of the hearing or the comments of the Alburdis Planning Commission or the Lehigh Valley Planning Commission;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, as follows :

SECTION 1. Section 137-92 of Chapter 137 of the Code of the Borough of Alburdis (relating to Zoning Ordinance—Planned Neighborhood Convenience Centers—Authorization and Conditions) shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining)¹:

§ 137-92 Authorization and conditions.

A planned neighborhood convenience center may be permitted in any district where designated as a use permitted by right, condition, or special exception. All of the following criteria, standards and conditions

¹ To be re-codified as Section 21-1701 in the forthcoming re-codification of the Borough's ordinances.

for such use shall apply. A planned neighborhood convenience center shall be:

A. A totally planned development on contiguous land under single ownership or control; all proposed uses shall be submitted for the total development of the site.

B. Intended and planned to primarily serve the daily and convenient shopping and personal service needs of residences within approximately ~~one-fourth (1/4) to one-half (1/2) mile~~ three (3) miles of the planned neighborhood convenience center.

C. ~~Located on or within a two hundred foot radius of an intersection of two (2) collector streets, two (2) arterial streets, or one (1) collector and one (1) arterial street as designated on the Borough Comprehensive Plan and as defined in the Borough Subdivision and Land Development Ordinance.~~ Designed so that the building coverage does not exceed thirty percent (30%) of the lot area.

D. ~~Fronting on at least one (1) collector or arterial street as designated on the Borough Comprehensive Plan.~~ Accessed by vehicle only from—

(1) a collector street; and/or

(2) a local street that is at least thirty (30) feet wide.

No vehicular access to/from the planned neighborhood convenience center from/to a local street shall be more than one thousand five hundred (1,500) feet from the nearest collector street or arterial street (measured along the center line of the local street, from the intersection of the street center line and a perpendicular line passing through the center of the access entrance/exit, to the intersection of the center lines of the local street and the collector or arterial street). The uses in the planned neighborhood convenience center shall be restricted such that the average number of trips per business day to/from the planned neighborhood convenience center which utilize any given local street shall not exceed one thousand (1,000).

E. Based on the market feasibility study submitted by the developer and prepared in accordance with professionally accepted standards

for real estate economics and market research. Such study shall document the anticipated primary service area of the development, the types and magnitudes of shopping and personal service demands of the anticipated service area, and the types and recommended floor areas of stores, shops, and offices and other activities proposed.

F. Located on a site of not less than two (2) acres ~~one (1) acre~~ nor more than ~~three (3) acres~~.

G. Planned to include the following types of land use activities or similar uses thereto necessary to serve the neighborhood: grocery store, pharmacy, bakery shop, confectionery, ice cream parlor, gift shop, beauty shop, barbershop, shoe repair, small appliance repair, dry cleaner, medical and dental offices, branch bank, professional or related service offices, lunch counter, place for sale and consumption of beverages and ice cream, household goods store, local government offices, library, nursery or day-care center. The above uses shall be permitted only when performed entirely within an enclosed building and in accordance with the access, setback, sign, and other applicable provisions of this chapter.

H. Planned to reflect ~~the~~ floor areas for each store, shop, ~~or~~ office, ~~or other proposed activity~~ as deemed essential by which are consistent with the market feasibility study prepared in accordance with Subsection E above. ~~The maximum lot coverage shall not exceed thirty percent (30%).~~

I. Provided with parking facilities in accordance with the provisions of this chapter.

J. Governed by the sign regulations of this chapter. Signs which portray the name of the planned neighborhood convenience center shall be limited to a total of two (2) signs. There shall be only one (1) identification sign for each entrance to each store, shop, office, or other establishment, such sign to be attached flat against the face of the building.

K. Designed so that the arrangement and appearance of buildings and grounds will be functionally and visually harmonious with the character and value of the neighborhood.

L. Surrounded by a twenty-five (25) foot buffer strip, except for —

(1) portions abutting arterial streets;

(2) portions abutting or collector streets where the property on the opposite side of the collector street is not located in a residential zoning district; to which the center has access, by a twenty foot buffer strip.

(3) locations where vehicles access the planned neighborhood convenience center from abutting streets, together with associated required clear-sight areas; and

(4) locations where Council approves pedestrian access to the planned neighborhood convenience center.

Such buffer strip shall be so designed that a dense screen of planted trees, shrubs, or other plant material, or a natural area of forest, provides a substantial barrier to visibility, airborne particles, glare, and noise; plant materials used in screen planting shall be of such species and size as to produce, within three (3) years, a complete visual screen of at least six (6) feet in height, ~~except where pedestrian access or recreation activity areas open into the planned neighborhood convenience center.~~

M. Lighted in a manner which will not emit glare and visual disturbances to the neighborhood; lighting shall be provided only in accordance with this chapter.

N. Designed so that there are no more than two (2) ingress or egress points on each abutting ~~arterial or collector~~ street, and so that traffic congestion in the center and in the vicinity of the center is minimized.

SECTION 2. Section 137-45(AA) of Chapter 137 of the Code of the Borough of Alburty (relating to Zoning Ordinance—Regulations for L-1 Light Industrial-Office Re-

search District—Conditional Uses) shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining)²:

§ 137-45 Conditional uses.

* * *

AA. Planned neighborhood convenience center ~~with uses necessary and convenient to employees in this L-1 District.~~

* * *

SECTION 3. Section 137-79.1(C)(10) of Chapter 137 of the Code of the Borough of Alburtis (relating to Zoning Ordinance—Buffer Strips—Deferral of Buffer-Type Improvements with Consent of the Property Owner to be Protected by the Improvements—Buffer-Type Improvement; Protected Property—Planned Neighborhood Convenience Centers) shall be amended as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining)³:

(10) Section 137-92(L) (relating to Planned Neighborhood Convenience Centers—Authorization and Conditions—Buffer Strip): the “Buffer-Type Improvement” is the ~~twenty (20)~~ twenty-five (25) foot buffer strip, and the “Protected Property” is the abutting property(ies) along lot lines where the buffer strip is required or across the street along which the buffer strip is required.

² To be re-codified as Section 21-804(aa) in the forthcoming re-codification of the Borough’s ordinances.

³ To be re-codified as Section 21-1506(c)(10) in the forthcoming re-codification of the Borough’s ordinances.

SECTION 4. Section 137-5 of Chapter 137 of the Code of the Borough of Al-
burtis (relating to Zoning Ordinance—Definitions and Usage—Definitions) shall be
amended by revising the definition of “Street” as follows (with deletions indicated in
~~strike-outs~~ and insertions indicated by double underlining)⁴:

Street.

(a) In General. The term “Street” shall mean ~~a~~ A public or pri-
vate way having a right-of-way width of more than twenty (20) feet, used
or intended to be used for passage or travel by automotive vehicles. If
private, such way must be used or intended to be used as the principal
means of access to an abutting lot or lots or to more than two (2) dwell-
ings on a lot on which a private way is exclusively used.

(b) Arterial Street or Highway. The term “Arterial Street” or
“Arterial Highway” shall mean a major regional highway designed to
carry heavy vehicular traffic into, out of, or through the regional area.
There are no arterial streets or highways within the Borough of Al-
burtis.

(c) Collector Street. The term “Collector Street” shall mean a
street which is designed or functions to carry a moderate volume of traffic,
to intercept local streets, to provide routes to arterial roads and to commu-
nity facilities, and to provide a limited amount of access to the abutting
properties. Within the Borough of Al-
burtis, the following streets, at a
minimum, function as “collector streets”: Franklin Street; Main Street
(from Franklin Street north to the Borough line); East Penn Avenue; West
Penn Avenue; West Front Street; and Church Street.

(d) Local Street. The term “Local Street” means a street which
provides access to the abutting properties and a route to collector streets.

⁴To be re-codified as Section 21-285 in the forthcoming re-codification of the Borough’s ordinances.

SECTION 5. Section 137-72(EE)(9) of Chapter 137 of the Code of the Borough of Alburdis (relating to Zoning Ordinance—Conditional Uses and Special Exception Uses—Specific Requirements—Neighborhood Convenience Stores) shall be deleted and reserved as follows (with deletions indicated in ~~strike-outs~~ and insertions indicated by double underlining)⁵:

(9) ~~No neighborhood convenience store shall be located within one thousand (1,000) feet of another neighborhood convenience store.~~ [RESERVED]

SECTION 6. The Secretary of the Borough shall send a certified copy of this Ordinance to the Lehigh Valley Planning Commission within thirty (30) days after the date of enactment, as required by 53 PA. STAT. ANN. §§ 10505(b) and 10609(g).

{Remainder of page intentionally left blank.}

⁵ Section 137-72(EE) is to be re-codified as Section 21-1334 in the forthcoming re-codification of the Borough's ordinances.

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Al-
burtis, this 10th day of September, 2003, in lawful session duly assembled.

**BOROUGH COUNCIL
BOROUGH OF ALBURTIS**

Steven R. Hill, President

Attest:

Melanie Hansen, Secretary

AND NOW, this 10th day of September, 2003, the above Ordinance is hereby
APPROVED.

Russell J. Afflerbach, Mayor