

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 488

(Duly Adopted March 31, 2010)

AN ORDINANCE AMENDING SECTION 21-407 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING—REGULATIONS FOR R-1 LOW-DENSITY RESIDENTIAL DISTRICT—AREA AND HEIGHT REGULATIONS) TO ESTABLISH DIMENSIONAL REGULATIONS FOR TWO-FAMILY DETACHED DWELLINGS WHICH ARE PERMITTED PREEXISTING NON-CONFORMING USES, SO THAT A SINGLE LOT CONTAINING TWO OR MORE SUCH DWELLINGS MAY BE SUBDIVIDED IF, INTER ALIA, THEY SATISFY THE NEW DIMENSIONAL REGULATIONS FOR TWO-FAMILY DETACHED DWELLINGS RATHER THAN THE DIMENSIONAL REGULATIONS FOR “ALL OTHER USES”; AMENDING THE BOROUGH’S OFFICIAL ZONING MAP UNDER CHAPTER 21 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING) TO PLACE IN THE C-1 COMMERCIAL ZONING DISTRICT THE FOLLOWING PROPERTIES WHICH WERE PREVIOUSLY IN THE L-1 LIGHT INDUSTRIAL-OFFICE RESEARCH ZONING DISTRICT: (1) ALL OF 45 WEST PENN AVENUE, AND (2) ALL PROPERTY IN THE TRIANGULAR AREA BOUNDED ON THE NORTH BY THE CENTER LINE OF WEST PENN AVENUE, ON THE SOUTH BY THE CENTER LINE OF WEST FRONT STREET, AND ON THE EAST BY THE CURRENT BOUNDARY LINE BETWEEN THE L-1 ZONING DISTRICT AND THE C-1 ZONING DISTRICT; AND AMENDING SECTION 21-2002 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO ZONING—FEES, CHARGES, AND EXPENSES) TO ESTABLISH A FEE OF \$40.00 FOR ZONING PERMITS.

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 amended from time to time and codified as Chapter 21 of the Alburtis Codified Ordinances; and

WHEREAS, Borough Council desires to amend the zoning ordinance to establish dimensional requirements applicable to two-family detached dwellings in the R-1 Low Density Residential District, even though such dwellings are only permitted if they are pre-existing nonconforming uses, so that a single lot containing two or more such dwellings may be subdivided in accordance with these new dimensional requirements rather than the more stringent current dimensional requirements for “all other uses”; and

WHEREAS, Borough Council has received a request on behalf of the owner of property known as 45 West Penn Avenue and 40 West Penn Avenue to rezone such property to be included within the C-1 Commercial Zoning District rather than the L-1 Light Industrial-Office Research Zoning District; and

WHEREAS, Borough Council is willing to so rezone 45 West Penn Avenue (which is on the north side of West Penn Avenue), and to so rezone not just 40 West Penn Avenue (which is on the south side of West Penn Avenue), but also all other property south of West Penn Avenue and north of West Front Street which is currently included within the L-1 Light Industrial-Office Research Zoning District; and

WHEREAS, the Borough Comprehensive Plan, as recently adopted by Resolution 2005-3 (January 26, 2005) in the form of the “Southwestern Lehigh County Comprehensive Plan – Alburtis, Emmaus and Macungie Boroughs and Lower Milford, Lower Macungie and Upper Milford Townships,” shows in its Draft Land Use Plan (dated October 25, 2004) that the area to be rezoned is recommended for office/business and very light industrial use and is adjacent to land recommended for use as village center/town center use, and thus this rezoning to the C-1 Commercial Zoning District is generally consistent with the Comprehensive Plan; and

WHEREAS, Borough Council desires to amend the zoning ordinance to establish a fee of Forty Dollars (\$40.00) for zoning permits; and

WHEREAS, Borough Council desires to amend the zoning ordinance as set forth in this ordinance, and this amendment is generally consistent with the Borough Comprehensive Plan; and

WHEREAS, at least thirty (30) days prior to the Council's adoption of this Ordinance, the Borough submitted a copy of this Ordinance to the Alburdis 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. §§ 10609(c) and 10609(e); and

WHEREAS, the Alburdis Planning Commission reviewed this Ordinance at its meeting on February 16, 2010 and recommended its adoption; and

WHEREAS, the Comprehensive Planning Committee of the Lehigh Valley Planning Commission reviewed this Ordinance at its meeting on February 23, 2010 and returned the following comments for the Borough's use:

The Committee found the proposed amendments to be a matter of local concern only and voted to offer no comments.

; and

WHEREAS, at least thirty (30) days prior to the Council's adoption of this Ordinance, the Borough submitted a copy of this Ordinance to the Boroughs of Macungie and Emmaus, and to the Townships of Lower Macungie, Lower Milford, and Upper Milford to provide them with an opportunity to submit comments, in accordance with paragraph 6 of the recent Southwestern Lehigh County Comprehensive Plan Inter-Governmental Agreement and Ordinance. The Borough of Macungie Planning Commission, the Borough of Macungie Council, the Upper Milford Township Planning Commission, and the Upper Milford Township Board of Supervisors all considered the ordinance and informed

the Borough that they had no comments at this time. No other comments were received; and

WHEREAS, on March 10, 2010 and March 17, 2010, 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 March 31, 2010 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. § 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;

WHEREAS, at least thirty (30) days prior to the hearing on this Ordinance, the Borough provided written notice of the public hearing by first class mail to the owners of all property in the area being rezoned, to the addresses to which real estate tax bills are sent; and

WHEREAS, at least one (1) week prior to the hearing on this Ordinance, the Borough posted written notice of the public hearing along the area being rezoned at points deemed sufficient by the Borough; and

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

SECTION 1. Codified Ordinances § 21-407 (relating to Zoning—Regulations for R-1 Low-Density Residential District—Area and Height Regulations) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-407 Area and Height Regulations.

The following dimensional requirements in this section apply to each use permitted in the R-1 District by right, by condition, or by special exception, subject to further applicable provisions of this Article, Article IX (relating to General Regulations), and Article XIII (relating to Conditional Uses and Special Exceptions). The most restrictive dimensional requirements for each use shall apply. The minimum lot area requirements shall apply unless larger minimum lot areas are required by the Pennsylvania Department of Environmental Protection. All uses in the R-1 District shall hook up with the existing public centralized water and sewerage systems.

Principal Use	Minimum Lot Area	Minimum Lot Width (feet)	Maximum Building Coverage (%)	Maximum Building Height (feet)
Single-family detached dwelling, sectional or modular house	8,000 ft ²	80	35	35
<u>Two-family detached dwelling*</u>	<u>5,000 ft²</u> <u>per</u> <u>dwelling</u>	<u>40</u>	<u>35</u>	<u>35</u>
Farmstead	1 acre	130	15	35
Crop farming	1 acre	—	10	35
Public and private institutions	3 acres	200	15	35
Places of worship	2 acres	150	25	35
Utility substation	1 acre	150	15	35
All other uses	20,000 ft ²	100	15	35

* Two-family detached dwellings are not permitted by right, conditional use, or special exception in the R-1 District. However, there are a number of permitted nonconforming two-family detached dwellings in the R-1 District which came into existence before April 4, 1975 and have not lost their status as a permitted non-conforming use. Where a single lot contains two or more permitted nonconforming two-family detached dwellings, the lot may be subdivided into two or more lots so long as each resulting lot satisfies the dimensional requirements of this Section, and either satisfies all other dimensional requirements of this Chapter or is not more non-conforming with respect to any other dimensional requirement of this Chapter than the pre-existing lot prior to the subdivision.

SECTION 2. The Official Zoning Map of the Borough under the Alburdis Zoning Ordinance of 1975 (chapter 21 of the Codified Ordinances) is hereby amended so that the property known as 45 West Penn Avenue in the Borough of Alburdis (Lehigh County Tax Assessment Office Parcel Identification Number 546346674376), shown on the attached **Exhibit**, will be within the C-1 Commercial Zoning District instead of the L-1 Light Industrial-Office Research Zoning District. The property to be so rezoned is bounded and described as follows:

BEGINNING at a point marked by an railroad spike in the bed of West Penn Avenue, said point being located 204.21 feet west from the intersection formed by the center line of Main Street with the center line of West Penn Avenue;

THENCE extending in and through the bed of West Penn Avenue the following two (2) courses and distances:

- (1) South 86°30'00" West 210.00 feet to a point; and
- (2) South 71°30'30" West 51.44 feet to a point, a corner of lands now or late of David M. Jaindl;

THENCE extending along lands now or late of David M. Jaindl North 20°21'00" West 243.00 feet to an iron pin;

THENCE extending along lands now or late of Barbara E. Boyd the following three (3) courses and distances:

- (1) North 86°45'00" East 50.00 feet to an iron pin;

- (2) South 21°15'00" East 1.20 feet to a point;
- (3) North 86°30'00" East 210.00 feet to an iron pin;

THENCE extending partly along lands now or late of Barbara E. Boyd and along the westerly side of a 16 foot wide alley South 21°15'00" East 228.80 feet to the point of BEGINNING.

SHOWN AS the lot which CONTAINS = 1.319 AC., D.B. VOL. 1445 P. 769, P.I.N. 546346674376, on the attached **Exhibit** (plan entitled "Plan of Survey, prepared for West Penn Ave. Properties, Robert Wimmer", dated December 2, 2009, job no. 09-42, prepared by Martin H. Schuler Co., Engineers, Surveyors, Allentown, Pennsylvania).

TOGETHER WITH any sliver of property currently in the L-1 zoning district which may exist between the southern boundary of the above-described property and the center line of West Penn Avenue.

COMMONLY KNOWN AS 45 West Penn Avenue.

SECTION 3. The Official Zoning Map of the Borough under the Alburdis Zoning Ordinance of 1975 (chapter 21 of the Codified Ordinances) is hereby amended so that all of the following property will be within the C-1 Commercial Zoning District instead of the L-1 Light Industrial-Office Research Zoning District:

The triangular area bounded—

- (1) on the north by the center line of West Penn Avenue;
 - (2) on the south by the center line of West Front Street;
- and
- (3) the east by the current boundary line between the L-1 zoning district and the C-1 zoning district.

SECTION 4. Codified Ordinances § 21-A is amended by revising the language at the end (after the map) as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

The Zoning Map was amended by Section 2 of Ordinance 403 (4/9/2003) to place all of 164 North Main Street in the L-1 zoning district and all of 210 North Main Street in the R-1 zoning district.

The Zoning Map was amended by Section 1 of Ordinance 416 (12/29/2003) to place all of 109 North Main Street in the C-1 zoning district.

The Zoning Map was amended by Section 1 of Ordinance 445 (6/28/06) to place certain property along the eastern boundary of the Borough which was previously in the L-1 zoning district (being the southern portion of property then known as 380 Church Street) in the R-3 zoning district.

The Zoning Map was amended by Sections 2 and 3 of Ordinance 488 (3/10/10) to place in the C-1 zoning district the following properties which were previously in the L-1 zoning district: (1) all of 45 West Penn Avenue; and (2) all property in the triangular area bounded on the north by the center line of West Penn Avenue, on the south by the center line of West Front Street, and on the east by the then-boundary line between the L-1 zoning district and the C-1 zoning district.

Such ordinance provisions are incorporated herein by reference.

SECTION 5. Codified Ordinances § 21-2002 (relating to Zoning—Administration, Fees, Permits, and Penalties—Fees, Charges, and Expenses) is amended as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

§ 21-2002 Fees, Charges, and Expenses.

(a) Zoning Hearing Board or Conditional Use Proceedings.

(1) Base Fees. The base fee for a proceeding before the Zoning Hearing Board (whether an appeal, request for a variance, interpretation, special exception, etc.) or a conditional use proceeding before Council shall be Two Hundred Dollars (\$200.00).

~~(b)(2)~~ **Additional Fees.** In addition to the base fees set forth in ~~subsection (a) paragraph (1),~~ the Borough shall recover from the applicant all properly-chargeable engineering and legal costs incurred by the Borough in connection with the proceeding.

~~(e)(3)~~ **Escrow.** The applicant shall deposit the sum of Four Hundred Dollars (\$400.00) with the Borough at the time the application is filed as security for the payment of additional fees under ~~subsection (b) paragraph (2),~~ and shall replenish any sums drawn against the escrow upon demand.

(b) Zoning Permits. The fee for a zoning permit under § 21-2003 (relating to Zoning Permits Required) shall be Forty Dollars (\$40.00). This fee is in addition to the fees for all other permits which may be required in connection with the activity or use which is the subject of the zoning permit, including but not limited to building permits and other permits under Chapter 30 (relating to Uniform Construction Code).

(c) [RESERVED]

(d) Other Fees. Council may establish, by resolution, a schedule of additional fees with respect to the administration of this Chapter, as amended from time to time, and with respect to hearings before the Zoning Hearing Board. Fees for these hearings may include compensation for the secretary and members of the Zoning Hearing Board, notice and advertising costs, and necessary administrative overhead connected with the hearing. The costs, however, shall not include legal expenses of the Zoning Hearing Board, expenses for engineering, architectural, or other technical consultants, or expert witness costs. The schedule of fees shall be posted in the office of the Zoning Officer.

(e) **No Action Taken Unless Fees Are Paid.** No action shall be taken on any application or appeal until all application fees, charges, and expenses have been paid in full.

SECTION 6. The Executive 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. § 10609(g).

DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburtis, this 31st day of March, 2010, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

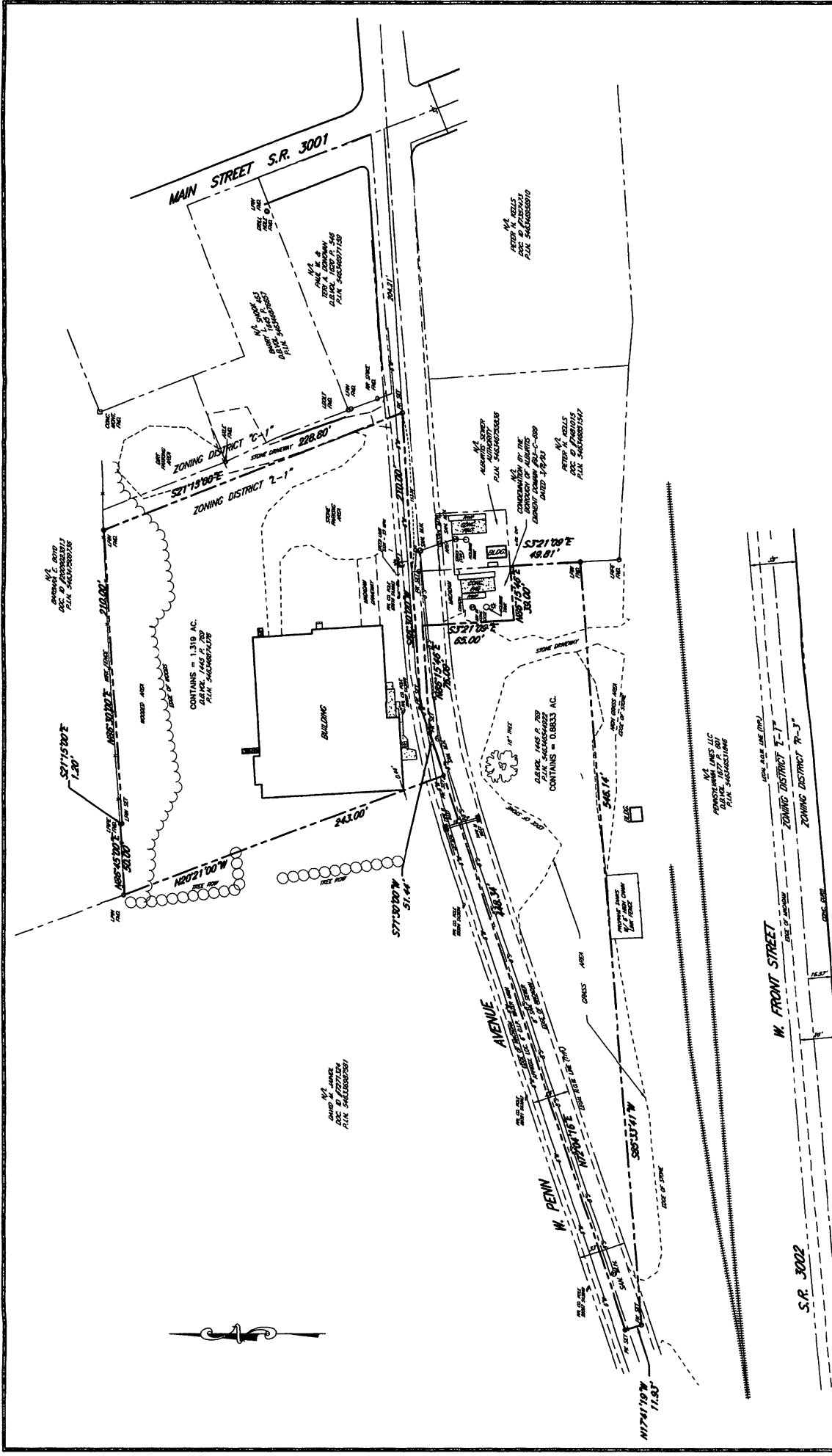
Steven R. Hill, President

Attest:

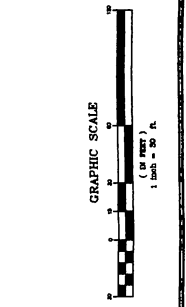
Sharon Trexler, Executive Secretary

AND NOW, this 31st day of March, 2010, the above Ordinance is hereby APPROVED.

Robert W. Mader, Mayor



DATE	REVISION	BY/CHKD



PLAN OF SURVEY
 PREPARED FOR
WEST PENN AVE. PROPERTIES
ROBERT WIMMER
 BOROUGH OF ALBURTIS
 LEHIGH COUNTY, PENNSYLVANIA

MARTIN H. SCHULER CO.
 SURVEYORS
 1500 MARKET STREET
 ALLENTOWN, PA. 18103-4810
 610-261-2200

DATE _____ **REVISION** _____ **BY/CHKD** _____

SCALE _____ **DATE** _____

DESIGNED BY CHW/BY **PLD/CS**
W.E.B. E.A.S. **R.D./P.L.** **DEC. 2, 2009**

SHEET NO. _____ **OF** _____ **DATE** _____ **JOB NO.** _____