

ORDINANCE NO. 209

BOROUGH OF AVONDALE
CHESTER COUNTY, PENNSYLVANIA

AN ORDINANCE AMENDING THE ZONING ORDINANCE TO ESTABLISH A NEW TOWNHOUSE GROSS DENSITY CONDITIONAL USE IN THE R-2 RESIDENCE AND FD. FLEXIBLE USE DISTRICTS; A NEW COMMERCIAL-BUSINESS USES CONDITIONAL USE IN THE C COMMERCIAL DISTRICT; PROCEDURES FOR CONDITIONAL USE APPLICATIONS AND DEFINITIONS FOR "CONDITIONAL USE," "MPC," "TRACT" AND THE NEW CONDITIONAL USES.

The Council of the Borough of Avondale, Chester County, Pennsylvania, hereby ORDAINS that the Avondale Borough Zoning Ordinance of 1963, Ordinance No. 172, as amended, and the Code of Ordinances of the Borough of Avondale, as amended, Chapter XXVI "Zoning," which codifies that Zoning Ordinance, are hereby further amended as follows:

1. By adding to Part 2 "Definitions," Section 2.2 "Specific Definitions," the following new terms and definitions, in alphabetical order within the Section:

MULTIPLE USE COMMERCIAL CENTER - The use of one or more lots and/or buildings only for any one or more of the following principal uses:

- bakery
- bank and/or substantially similar financial institution, which may include a Drive-thru Facility
- office, including, but not limited to medical office
- personal service shop including barber, beauty, tailor, dressmaking, manicure shop, dry cleaner and substantially similar shops
- restaurant, with or without drive-through services
- retail store
- tavern

CONDITIONAL USE - A use permitted in a particular zoning district when approved by Borough Council (See Section 14.4).

MPC - The Pennsylvania Municipalities Planning Code, Act 247, as amended.

TOWNHOUSE GROSS DENSITY DEVELOPMENT - The development of an entire Tract for only Single-Family Attached Dwellings with all of the Tract used only for Townhouse Units and common open space(s).

TRACT - A parcel or parcels of land developed and/or proposed to be developed pursuant to a single plan under the Subdivision and Land Development Ordinance and/or as part of a single Conditional Use application. Where multiple parcels of land comprise a Tract, such

parcels must be contiguous. For purposes of this provision, two or more parcels of land separated by an existing Street may be combined to meet the minimum area of a Tract.

2. By amending Part 5 "R-2 Residence District" so that:
 - A. Section 5.2 "Use Regulations" is amended by adding the following as a new Subsection C:
 - C. Uses Permitted as a Conditional Use:

A building may be erected or used and a lot may be used or occupied for any one of the following uses and no other, when approved as a Conditional Use (See Section 14.4 "Conditional Use Procedures"):

Townhouse Gross Density Development
 - B. Section 5.3 "Area and Bulk Regulations" is amended so that:
 - (1) the following language is deleted:

Uses within the R-2 district shall comply with the following standards:
 - (2) Subsections A through I shall be re-designated as 1 through 9 respectively and shall be preceded by the following, which shall be designated as Subsection A:

All uses in the R-2 Residence District, except for Townhouse Gross Density Development, shall comply with the following:
 - (3) the following is added as a new Subsection B:
 - B. The following shall apply to Townhouse Gross Density Development:
 1. The minimum area of a Tract to be used for Townhouse Gross Density Development, exclusive of existing Street rights-of-way, shall be six and one-half (6½) acres.
 2. Each Townhouse shall:
 - a. have a minimum width (side to side, not front to back) of 24 feet;
 - b. have a minimum of one (1) inside garage parking space;
 - c. have a minimum of one (1) outside parking space, in the driveway to the garage, for the exclusive use of the occupants of the Townhouse Unit;

- d. have a minimum living area, exclusive of garage and basement, of 1,700 square feet of floor area (using the ANSI method, which measures living space from exterior wall to exterior wall and double counts the square footage of two (2) story open areas, such as foyers and vaulted living areas);
 - e. shall be set back from the nearest curb and/or sidewalk at least 21 feet;
 - f. shall be set back from all Tract boundary lines and existing Street rights-of-way by at least 25 feet.
3. There shall be no more than six (6) Townhouse Units in any group of connected Townhouses (each group of connected Townhouse Units shall be referred to as a "Townhouse Building").
 4. There shall be a minimum of two and one-half (2½) parking spaces per Townhouse Unit including the garage and driveway spaces. Each Townhouse shall have the exclusive use of at least two (2) parking spaces (inclusive of interior, garage spaces). Each required parking space, not for the exclusive use of a Townhouse Unit, shall be separated from the Townhouse Unit for which it is required by no more than one hundred and eighty (180) feet.
 5. The minimum area of any Tract to be developed as a Townhouse Gross Density Development shall be six and one-half (6½) acres, exclusive of existing Street rights-of-way.
 6. The maximum density of a Townhouse Gross Density Development shall be 6,800 square feet per Townhouse Unit of total Tract area minus only existing Street rights-of-way.
 7. All parking areas shall be set back a minimum of 20 feet from the Tract boundary and existing Street rights-of-way.
 8. A landscaping plan shall be provided as part of the Conditional Use application. The implementation of the landscaping plan shall be a condition of any Conditional Use approval. The landscaping plan shall show:
 - a. street trees, at intervals of 40 feet, on both sides of all proposed street rights-of-way within the Tract;
 - b. a continuous (except for areas proposed for new Street rights-of-way) vegetative screening, between the Tract boundary and the Townhouse Buildings and parking areas, which screening shall comply with Section 11.2. excluding

those existing woodlands areas that are not disturbed during development.

9. All areas not deeded, in fee title, to owners of individual Townhouse units shall be owned by a homeowners association in which the owners of each Townhouse unit are mandatory members.
10. Continuous four (4) foot wide sidewalks shall be provided along at least one side of each new street, which at the election of the developer, may abut the curb if the curb is a vertical curb or be separated from the curb by a grass strip. Sidewalks will be constructed of concrete.
11. The length of Street between a cul-de-sac bulb and the nearest intersection of the Street with another public Street shall not exceed 1,000 feet.
12. The Applicant must establish that the public water supply system serving all proposed Townhouse Units will have water pressure and supply adequate for fire fighting purposes.

C. By amending Section 5.5. so that the language preceding Subsection A shall read as follows:

Except for Townhouse Units in a Townhouse Gross Density Development, all front yard setbacks in the R-2 Residence District shall be as follows:

D. By re-designating Section 5.7 as 5.6 and changing it to read as follows:

Except for Townhouse Gross Density Development, parking shall be provided in accordance with Section 11.7. "Off Street Parking."

E. By adding a new Section 5.7 as follows:

Section 5.7. Additional Standards.

Sections 10.2 "Carbonate Overlay District," 10.3 "Floodplain Hazard Overlay District," 10.4 "Wetland Protection Overlay District," 10.5 "Steep Slope Overlay District" and 10.6 "Woodland Overlay District" shall not apply to Townhouse Gross Density Development, provided that it shall be a condition of any conditional use approval for such use that the Applicant or the Applicant's successors or assigns shall establish, to the Borough's satisfaction, prior to doing any work and/or filling in the Floodplain Hazard Overlay District, that such work and/or filling will be in compliance with all applicable regulations of the Federal Emergency Management Agency and will not compromise, in any way, the Borough regulatory duties in a manner that could affect the availability and/or cost of flood hazard insurance for property and improvements within the Borough.

3. By amending Part 6 “(FD) Flexible Use District” so that:

A. Section 6.2 “Use Regulations” is amended by adding the following as a new Subsection C:

C. Uses Permitted as a Conditional Use:

A building may be erected or used and a lot may be used or occupied for any one of the following uses and no other, when approved as a Conditional Use (See Section 14.4 “Conditional Use Procedures):

Townhouse Gross Density Development

B. Section 6.3 “Area and Bulk Regulations” is amended so that:

(1) the following language is deleted:

Uses within the Flexible Use District shall comply with the following standards:

(2) Subsections A through F shall be re-designated as 1 through 6 respectively and shall be preceded by the following, which shall be designated as Subsection A:

All uses in the FD Flexible Use District, except for Townhouse Gross Density Development, shall comply with the following:

(3) the following is added as a new Subsection B:

B. Townhouse Gross Density Development shall comply with the requirements of Section 5.3.B, except that the minimum area of a Tract to be developed as a Townhouse Gross Density Development (in the FD District) shall be six and one-half (6½) acres, exclusive of existing Street rights-of-way and all of the Tract shall be north of Route 41.

C. By amending Section 6.5 “Additional Standards” so that:

(1) Subsection A shall read:

Design Standards as established in Part 11, except that Section 11.7 “Off Street Parking” shall not apply to Townhouse Gross Density Development.

(2) Subsection C shall read:

Regulations relating to the use of flood plains, steep slope, wetland and woodland areas as established by Part 10 “Environmental Protection Standards,” except that, with respect to Townhouse Gross Density Development, Sections 10.2 “Carbonate Overlay District,” 10.3 “Floodplain

Hazard Overlay District,” 10.4 “Wetland Protection Overlay District,” 10.5 “Steep Slope Overlay District,” and 10.6 “Woodland Overlay District” shall not apply, provided that it shall be a condition of any conditional use approval for such use that the Applicant or the Applicant’s successors or assigns shall establish, to the Borough’s satisfaction, prior to doing any work and/or filling in the Floodplain Hazard Overlay District, that such work and/or filling will be in compliance with all applicable regulations of the Federal Emergency Management Agency and will not compromise, in any way, the Borough regulatory duties in a manner that could affect the availability and/or cost of flood hazard insurance for property and improvements within the Borough.

4. By amending Part 8 “(C) Commercial District” so that:

A. Section 8.2 “Use Regulations in C Commercial District” is amended by adding the following as a new Subsection C:

C. Uses Permitted as a Conditional Use:

A building may be erected and used and a lot may be used and occupied for any one of the following uses and no other, when approved by the Borough Council as a Conditional Use (See Section 14.4 “Conditional Use Procedures”):

Multiple Use Commercial Center

B. Section 8.3 “Area and Bulk Regulations” is amended so that:

(1) the following language shall be deleted:

The following Area and Bulk Regulations shall apply to all uses in the C District.

(2) Subsections A through E shall be re-designated as 1 through 5 respectively and shall be preceded by the following, which shall be designated as Subsection A:

All uses in the Commercial District, except for Multiple Use Commercial Center, shall comply with the following:

(3) the following is added as a new Subsection B:

B. The following regulations shall apply to Multiple Use Commercial Center:

- | | |
|----------------------------|--------------------------------|
| 1. minimum Tract area | three and one-half (3 ½) acres |
| 2. Maximum Building Height | forty-five (45) feet |
| 3. Maximum Impervious Area | 80% |

4. Minimum setback from public Street right-of-way:

to all parking areas	15 feet
to all buildings	70 feet
5. There shall be no outside display and/or storage.
6. Off street, on Tract parking shall be provided so that the total number of spaces, for the exclusive use of the Multiple Use Commercial Center, shall be at least one (1) space for each 250 square feet of gross leaseable floor area.
7. When a parking area is located along a public Street and/or between a public Street and a building, a continuous solid three (3) foot high evergreen hedge shall be provided, prior to occupancy, between the parking area and the Street. A planting island shall be provided, in the parking area, for each twenty (20) parking spaces and a tree shall be planted and continuously maintained in each island.

C. By amending Section 8.4 "Additional Standards" so that Subsection C shall be replaced with the following:

Regulations relating to the use of flood plains, steep slope, wetland and woodland areas as established by Part 10 "Environmental Protection Standards," except that with respect to a Commercial-Business Use(s) type development, Section 10.2 "Carbonate Overlay District," 10.3 "Floodplain Hazard Overlay District," 10.4 "Wetland Protection Overlay District," 10.5 "Steep Slope Overlay District," and 10.6 "Woodland Overlay District" shall not apply, provided that it shall be a condition of any conditional use approval for such use that the Applicant or the Applicant's successors or assigns shall establish, to the Borough's satisfaction, prior to doing any work and/or filling in the Floodplain Hazard Overlay District, that such work and/or filling will be in compliance with all applicable regulations of the Federal Emergency Management Agency and will not compromise, in any way, the Borough regulatory duties in a manner that could affect the availability and/or cost of flood hazard insurance for property and improvements within the Borough.

5. By amending Part 14 "Administration" to add the following as a new Section 14.4 "Conditional Use Procedures":

Section 14.4. Conditional Use Procedures.

A. Requirements.

The following provisions shall apply to Conditional Use applications, in addition to the provisions of the district in which the proposed use is located and any other applicable Borough regulations.

B. Application.

The application for a Conditional Use Permit shall include a proposed plan indicating the size and location of the proposed use, the location of all proposed buildings and facilities, and the location of all existing buildings and structures on adjacent properties which are both within the Borough and within five hundred (500) feet of the Tract Boundary. Application for a Conditional Use Permit shall be filed with the Borough Secretary with accompanying forms, text and fees.

C. Notice to Landowners.

Applicant shall give written notice of the Conditional Use Application to the record owner of each parcel of land which is adjacent to the Tract, or any part thereof, by certified mail, return receipt requested, at least ten (10) days prior to the date of the first hearing. Ownership of each parcel of land, and the notice address of such owner, shall be determined based on tax assessment office records as of the date the Conditional Use Application is filed.

D. Procedure for Review.

1. The Borough Planning Commission or Council Planning Committee shall review each Conditional Use application pursuant to the criteria under Section 14.4.E., and submit its recommendations to Borough Council.
2. After review by the Planning Commission or Council Planning Committee, Borough Council shall hold a public hearing pursuant to public notice, as required by the MPC.
3. Following the Public Hearing, Borough Council shall render a decision as required by the MPC.

E. Criteria.

The following criteria shall be used as a guide in evaluating a proposed Conditional Use. The burden of proof in establishing that all criteria have been met shall at all times rest upon the applicant.

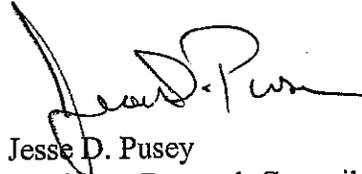
1. The size, scope character and design of the proposed use shall be consistent with the spirit, purpose and intent of this Ordinance.
2. The proposed use shall be compatible with the character and type of development in the area surrounding the Tract and will not injure or detract from the use of surrounding properties or from the character of the neighborhood.
3. The proposed use shall not adversely affect surrounding building and property values and shall be designed in compliance with all applicable regulations and according to good engineering design principles.

- 4. The proposed use shall not affect adversely the aesthetic setting of buildings or districts of historical or architectural significance or result in their destruction.

F. Safeguards.

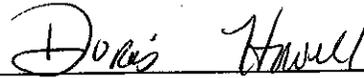
In granting a Conditional Use, Borough Council may attach such reasonable conditions and safeguards, as it may deem necessary to implement the purposes of this Ordinance, the Borough Comprehensive Plan and the MPC.

Passed by Borough Council, this 19 day of April, 2005.



Jesse D. Pusey
President, Borough Council

Approved by the Mayor, this 19 day of April, 2005.



Doris Howell
Mayor

Enacted, this 19 day of April, 2005.

BOROUGH OF AVONDALE



Rebecca Brownback
Borough Secretary