

ORDINANCE NO. 2009-02

**AMENDING ORDINANCE NO. 2008-01A
(originally adopted March 5, 2008)**

**BOROUGH OF DOWNINGTOWN
CHESTER COUNTY, PENNSYLVANIA**

**AN ORDINANCE OF THE BOROUGH OF
DOWNINGTOWN ADOPTING ARTICLE
XVC, KPRD -- KARDON PARK
REDEVELOPMENT DISTRICT; MAKING A
MAP CHANGE TO INDICATE THE
LOCATION OF THE DISTRICT; ADDING
CERTAIN DEFINITIONS; AMENDING THE
PROVISIONS OF SECTION 287-107
RELATED TO REQUIRED PARKING; AND
PROVIDING FOR SEVERABILITY,
REPEALER AND EFFECTIVE DATE**

WHEREAS, Borough Council resolved to advertise for adoption of proposed amendments to the Code of the Borough of Downingtown relating to zoning at its meeting on February 25, 2008; and,

WHEREAS, the said amendments and additions were subsequently supplied to the Chester County Planning Commission and the Borough of Downingtown Planning Commission more than thirty (30) days prior to the date of adoption and their comments or reports received and considered by Borough Council; and,

WHEREAS, as required by the Municipalities Planning Code, the notice of the public hearing was conspicuously posted at points deemed sufficient by the Borough along the tract to notify potentially interested citizens at least one week prior to the date of the hearing; and

WHEREAS, the proposed amendment was first adopted at the March 5, 2008 meeting as Ordinance 2008-01; and,

WHEREAS, Because of defects in the advertising, the proposed amendments, slightly revised, were re-adopted on January 7, 2009 as Ordinance 2008-1A

WHEREAS, it has come to the attention of Council that persons may claim the changes to have been "substantial" and, further, that the map may not have been fully

included, even though the area subject to the change was fully understood and posted; and

WHEREAS, Council has published notice on _____ and _____ that Borough Council would conduct another public hearing on _____, 2009, after which it would consider the re-adoption of the same Ordinance, and notice of the public hearing was conspicuously posted at points deemed sufficient by the Borough along the tract to notify potentially interested citizens by at least _____. In addition, although not required by the Municipalities Planning Code, notice was delivered by hand delivery or certified mail to property owners and occupiers of adjoining parcels and any parcels across the street from the tract to be rezoned; and

WHEREAS, copies of the said amendment have been supplied to the Downingtown Planning Commission and the Chester County Planning Commission thirty (30) days prior to the hearing as well as to the Daily Local News and the Chester County Law Library;; and,

WHEREAS, Borough Council conducted a public hearing on _____, 2009, at which public comments and concerns were considered by Borough Council. Following such hearing, no substantial amendments were made to the proposed zoning ordinance amendments and additions:

NOW, THEREFORE, BE IT HEREBY ENACTED AND ORDAINED by the Borough of Downingtown, Chester County, Pennsylvania, and it is hereby enacted by the authority of the same, as follows:

SECTION 1. In the following sections 287-69.19 through Section 287-69.25 are hereby added to and made a part of the Code of the Borough of Downingtown:

**ARTICLE XVC
KPRD – KARDON PARK REDEVELOPMENT DISTRICT**

§ 287-69.19 Intent.

The Kardon Park Redevelopment District (KPRD) is intended to promote neighborhood development that will provide a graceful transition from nearby existing commercial development to nearby existing residential development. The KRPD is also intended:

- A. To provide for a balanced development and open space program, whereby the flood plain areas, wetlands, and other hydrologic resources are conserved as open space, and the other portions of the site are planned, designed, and built as a viable neighborhood.
- B. To provide for mixed-use development including housing, recreational areas and open space, and compatible non-residential development.

- C. To achieve a low lot coverage so as to conserve existing natural amenities, and to create a healthy and functional neighborhood.

§ 287-69.20 Use Regulations.

A. Permitted Principal Uses:

- (1) Recreation and Open Space.
- (2) Municipal.

B. Conditional Uses:

1) Commercial including any use permitted in § 287-37 (A)(1) through A(6) and §287-37 (C)(2) except that the dwelling unit use outlined in (C)(2) shall be permitted as a conditional use not as a special exception.

2) Neighborhood Community Center which may or may not contain residential dwelling units above so long as they have independent access and rear parking.

- 3) Single family detached dwelling
- 4) Two Family dwelling (twin; duplex)
- 5) Four Family dwelling (four-plex; quadraplex)
- 6) Townhouse (single family attached)
- 7) Traditional Neighborhood Townhouse Multiplex
- 8) Traditional Neighborhood Multiplex
- 9) Any combination of the above

C. Overlay District Uses:

- (1) Uses as provided for in the Floodplain District as per § 287-12.

D. Accessory Uses:

- (1) Uses customarily accessory to the above uses.
- (2) Uses customarily accessory and incidental to uses in retail and services uses on lots used for such uses, such as but not limited to

off-street parking, outside café eating areas and any use of the same general character.

§ 287-69.21 Area, bulk, density, open space and height regulations.

A. Lot Areas and Density.

- (1) Maximum Residential Density: 9.0 dwelling units per gross acre not including live-work loft units.
- (2) Maximum number of dwelling units per building: 10.0.

B. Open Space

- (1) Minimum Open Space Area: 10% of the gross residential tract area.

C. Coverages: Building and Impervious.

- (1) Maximum Building Coverage: 40% for the overall tract.
- (2) Maximum Impervious Coverage: 70% for the overall tract.

D. Setbacks: Perimeter.

- (1) Minimum Perimeter Setback: 20 feet. Storm water management structures, pavement, and landscaping shall be permitted in the perimeter setback.

E. Building Widths.

- (1) Minimum Lot Width: 16 feet for residential building width and mixed use uses, and 65 feet for non-residential use lot widths.

F. Building Separation Distances.

- (1) Minimum Building Separation Distance: 0 feet for non-residential buildings provided appropriate fire protections are provided per the International Building Code.
- (2) 8' for residential buildings up to 3 stories in height and 10' for residential buildings of 4 stories or more.

G. Height of Buildings

- (1) Maximum Height of Buildings: four (4) stories or 48 feet whichever is less.

- (2) Minimum Height of Buildings: two (2) stories or 20 feet which ever is less. For purposes of this definition, detached or attached garages shall be excluded.

§ 287-69.22 Design Standards.

A. Natural Resource Protection Standards.

(1) Floodplains.

- (a) All standards of § 287-12, Floodplain District, shall apply.

(2) Wetlands.

- (a) All standards of the Pennsylvania DEP and the U.S. Army Corps of Engineers shall apply, and all standards of § 287-14 shall apply.

(3) Vegetation.

- (a) All standards of § 287-15 shall apply except as may need to be adjusted to permit remediation of environmental contamination identified on the site.

B. Environmental Performance Standards.

(1) Soil quality.

- (a) All standards of the Pennsylvania DEP shall apply to the disturbance and reuse of soils.

(2) Water quality.

- (a) All regulations pertaining to the protection of groundwater in § 287-85 shall apply.

C. Revitalization Design Standards

(1) The following standards of § 256-56.1 of the Subdivision and Land Development Ordinance shall apply:

- (a) Streetscape – A street wall line shall be provided, as per § 256-56.1.B.(1) and (9).

- (b) Building Location – Buildings shall be located and regulated in accordance with § 256-56.1.B.(2), (3), (4), (5) and (6).
- (c) Streets and Alleys – Streets shall be in accordance with § 256-56.1.C (1) (2) (4) (5) and (6) except that Alleys shall be at least 16 feet in width but no greater than 22 feet in width.
- (d) Parking Location and Parking Lots – Parking shall be in accordance with § 256-56.1.D.(1), (2), (3), (7), (8) and (9) except that for an “L” shape building, the side of the building may serve the purpose of a street wall.

D. Pedestrian Accessway Standards.

(1) Sidewalks.

- (a) Sidewalks shall be in accordance with § 256-56.1.B.(8) and § 256-56.1.J.(1), (2), (3), (4), (5) and (6) except that sidewalks may be five (5) feet in width in residential districts.

(2) Struble Trail.

- (a) Access to the Struble Trail shall be maintained throughout the District, so that a trail runs from Pennsylvania Avenue to the Struble Trail.

(3) Crosswalks.

- (a) Crosswalks shall be in accordance with § 256-56.1.J.(7) and (8).

E. Civic Infrastructure Standards.

(1) Park and recreation structures.

- (a) All pre-existing monuments, or other park and recreation structures shall be protected and, along with pre-existing trails, incorporated into all proposed land development plans.

(2) Municipal structures.

- (a) Any municipal grounds or structures that may be shown on the Official Map of the Borough of Downingtown shall be shown in any land development plan.

F. Landscape and Buffer Standards.

- (1) Street trees.
 - (a) Street trees shall be designed, installed and maintained in accordance with § 256-56.1. L.
- (2) Buffer adjoining existing residential and non-residential development.
 - (a) A landscaped buffer of at least twenty (20) feet in width shall be designed, installed and maintained to continuously screen views of the proposed development from any existing residential and non-residential development.

G. Lighting Standards.

- (1) Street lights.
 - (a) Street lights shall be in accordance with § 256-56.1.M. (1), (2, except that reference to Lancaster Avenue shall be removed and the “Visco or equivalent” standard shall apply throughout the development), and (4).

§ 287-69.23 Plan Submission Requirements.

A. Conceptual Master Plan.

- (1) Master Plan.
 - (a) An overall site plan or Master Plan may be prepared to depict the proposed concept for redevelopment. Such plan shall be at a scale of 1”=100’ or better.
- (2) Street Cross-Sections Drawings.
 - (a) Street details shall be depicted through the submission of Cross-Section drawings indicating compliance with § 256-56.1.
 - (b) Street details shall include such features as: cartway width, on-street parking widths, sidewalks, and building location.

- B. Street, Alley and Pedestrian Networks Plan.**
- (1) Street and Alley Interconnected Network Plan.**
 - (a) A separate sheet or Plan shall be prepared and submitted to depict an interconnected network of streets and alleys.**
 - (b) The Plan shall depict connections to all existing streets within all non-residential districts.**
 - (2) Sidewalk, Trail, and Crosswalk Interconnected Network Plan.**
 - (a) A separate sheet or Plan shall be prepared and submitted to depict an interconnected network of sidewalks and trails.**
 - (b) The Plan shall depict connections to all existing sidewalks and trails in order to link the District with the Downtown area and nearby parks, trails, sidewalks and pathways.**
 - (c) The Plan shall also depict crosswalks to link sidewalks and trails.**
 - (d) The Plan shall also depict bicycle trails, routes and/or paths to link to existing nearby bicycle trails, routes and/or paths.**
- C. Site Preparation and Phasing Plan.**
- (1) Land Disturbance.**
 - (a) All land disturbance shall comply with Pennsylvania DEP conditions for brownfield site redevelopment, and all Act 2 Closure letters from the Pennsylvania DEP.**
 - (2) Stormwater Management/Flood Control.**
 - (a) All stormwater management/flood control shall comply with Chapters 256-54 and Chapter 246, Stormwater Management, with the exception of Section 246-21E. The applicant shall also demonstrate to the satisfaction of the Borough Engineer that the post-development 100 year storm can be effectively routed. In addition, all DEP and FEMA requirements shall be met with such modifications as may be necessitated by the presence of hazardous substances within soils on the property.**
 - (3) Staging of Land Development Program.**

(a) A Plan depicting all proposed phases or stages of development shall be prepared and submitted.

D. Preliminary and Final Land Development Plans.

(1) All Preliminary and Final Land Development Plans shall comply with Chapter 256.

§ 287-69.24 Procedures

A. Concept Master Plan.

(1) Informal, voluntary submission.

(a) An informal, voluntary submission is strongly encouraged, whereby the proposed land development plans are submitted for review and comment by the Borough prior to formal land development plan application. Such submission is intended to provide the Applicant and the Borough with an opportunity to review and analyze the proposal. The submission of a concept master plan is not a submission under the SALDO and gives the Applicant no entitlements or structured review requirements.

B. Conditional Use Approval.

(1) Uses.

(a) All applications for Conditional Use approval shall demonstrate compliance with the Design Standards of this Article.

(2) Restrictions.

(a) All applications for Conditional Use approval shall demonstrate procedures for intended compliance with all Act 2 Closure letters from the Pennsylvania DEP.

C. Governmental Agency Approvals.

(1) All approvals from the DEP, PADOT, the Downingtown Area Regional Authority (DARA), and the Downingtown Municipal Water Authority shall be submitted prior to commencement of construction.

D. Borough Approvals.

- (1) All Land Development Plan approvals shall be obtained prior to the commencement of construction.

§ 287-69.25 Conflicts

The provisions of this Section 287-69 Kardon Park Redevelopment District shall take precedence over Article XVI General Regulations Section 287-73 and Section 287-74. In addition to the extent that anything in the Kardon Park Redevelopment District ordinance shall conflict with provision(s) in Chapter 287 Zoning code, the Kardon Park Redevelopment District ordinance provisions shall apply.

SECTION 2: The following words and definitions are hereby added to and included in Article II Section 287-7 “Definitions and Word Usage”:

“DWELLING or DWELLING UNIT

...

C. MULTIFAMILY”

....

(5) TRADITIONAL NEIGHBORHOOD MULTIPLEX (SINGLE-FAMILY ATTACHED) A building containing dwelling units separated by parallel party walls at grade level, and parallel or nonparallel party walls above grade level, each dwelling unit of which has independent outside access, open space on at least one side, and rear accessed garage parking, may contain one, two or three stories per unit, and is developed in accordance with traditional neighborhood development patterns defined in §256-7 of Chapter 256, Subdivision of Land. For applicable area and bulk regulations, see Kardon Park Redevelopment District ordinance.

LIVE-WORK LOFT – A vertical triplex unit consisting of at least three (3) stories but no more than twelve (12) units side by side, with the following mixed-use opportunities:

- (i) a ground floor commercial use consisting of any uses permitted by right in C-1 General Commercial District Section 287-37 except as otherwise provided below, or any use permitted by conditional use under Section 287.69.20(B);
- (ii) a second floor commercial or residential use;
- (iii) a third floor residential use;
- (iv) residential use may occupy the ground floor of the unit for a period of up to two (2) years after commencement of development in the Kardon Park Redevelopment District;
- (v) one (1) ground floor residential unit may be perpetually established for the purpose of providing universal access for handicapped persons.

- (vi) A community center or public meeting space including such amenities as fitness center, kitchenette and offices may be considered a commercial use for the purposes of this definition.

A person or persons other than the owner or tenant of the ground floor unit may own or rent the second and/or third floor of the Live-Work Loft, provided that, for separate ownership, the units must be separately assessed and the building structured as a condominium or legally subdivided.

SECTION 3: Schedule of required parking spaces.

Section 287-107 is amended by the substitution of the following:

...

D. ...

(1) Residential Uses

- (a) Single-family, two family, quadruplex, traditional neighborhood townhouse multiplex, traditional neighborhood multiplex, and townhouse dwellings: two (2) parking spaces for each dwelling unit.

....

(2) Retail and service uses.

- (a) Indoor retail businesses:

[1] Parking or storage spaces for all vehicles used directly in the conduct of such business shall be provided, plus six parking spaces for each 1,000 square feet of gross leasable area except that in the case of Live Work Loft units, parking shall be provided for the ground floor commercial area at the rate of two (2) parking spaces for each 1,000 square feet of gross leasable area in addition to the parking required for residences above such commercial floor area which shall have a minimum of 1.5 parking spaces per residential dwelling unit.

...

SECTION 4. Map Change. The Kardon Park Redevelopment District applies to those portions of all parcels listed that are located within the Borough of Downingtown. Tax Parcels 11-4-23E; 11-4-13E; 11-4-14E; and 11-4-14.2E. Attached as Exhibit 1 is a depiction of the area subject to this map change.

SECTION 5. Repealer. All Ordinances or parts of Ordinances conflicting with any provision of this Ordinance are hereby repealed.

SECTION 6. Severability. If any sentence, clause, section, or part of this Ordinance is for any reason found to be unconstitutional, illegal or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections, or parts hereof. It is hereby declared as the intent of the Borough Council that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

SECTION 7. Effective Date. This Ordinance shall become effective five days after enactment as provided by law.

ENACTED by the Borough Council of Downingtown this ____th day of _____, 2009.

ATTEST:

Stephen T. Sullins
Manager

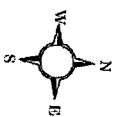
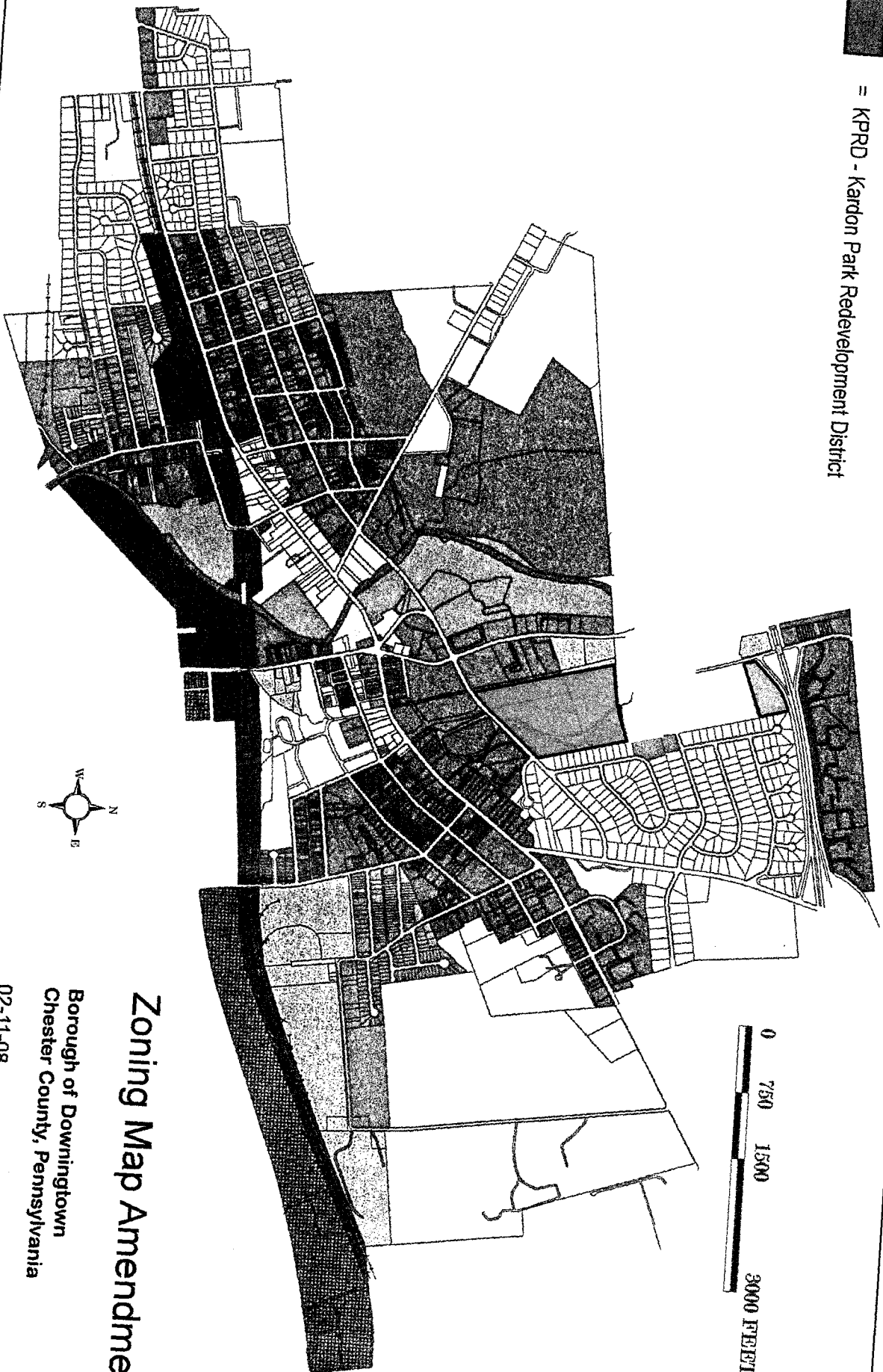
Anthony J. Madiro, Jr.
President, Borough Council
BOROUGH OF DOWNINGTOWN (SEAL)

Approved by the Mayor, this ____th day of _____, 2009.

Heather A. Bruno
Mayor

Legend

 = KPRD - Kardon Park Redevelopment District



Zoning Map Amendment

Borough of Downingtown
Chester County, Pennsylvania

02-11-08