



# Town of Poughkeepsie

## Zoning Department

1 Overocker Road  
Poughkeepsie, NY 12603

845-485-3650 Phone  
845-486-7885/790-4772 Fax

February 21, 2017

VIA EMAIL: [rrang@kirchhoffcompanies.com](mailto:rrang@kirchhoffcompanies.com)  
Original Via First Class Mail

Mr. Richard Rang  
Kirchhoff Companies  
199 West Road  
Pleasant Valley, New York 12569

Re: *Determination of Zoning Consistency*  
*MacDonnell Heights Town Center Project*  
*928, 932, 935 & 936 Dutchess Turnpike*

Dear Mr. Rang:

You have asked for a determination as to whether the allocation of residential to non-residential space and construction phasing for the proposed MacDonnell Heights Town Center Project (MHTC) as set forth in the attached spreadsheet meets the standards as a conforming plan pursuant to 210-27 of the Town Code. Based on the information provided I have determined the following:

1. The project would meet the minimum open space set-aside requirements set forth in §210-27(E), (F), (G), and (H), and is therefore a conforming plan.
2. The project would meet the minimum open space set-aside requirements set forth in §210-27(E), (F), (G), and (H) note 3 with respect to residential units located immediately above a ground floor or a second floor non-residential use, and is therefore a conforming plan.
3. The project would not exceed the maximum residential density requirement set forth in §210-27(E), (F), (G), and (H) note 3, and is therefore a conforming plan.
4. The project would not exceed the maximum retail use density requirement set forth in §210-27(E), (F), (G), and (H) note 4, and is therefore a conforming plan.



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5. The project contains a mix of residential and non-residential use structures as required by §210-27(E), (F), (G), and (H) note 5, and is therefore a conforming plan.
6. No less than twenty (20%) percent of the total gross square footage of all structures has been set aside for non-residential business and institutional uses as required by §210-27(E), (F), (G), and (H) note 5 and is therefore a conforming plan.
7. The minimum twenty (20%) percent non-residential space requirements of §210-27(E), (F), (G), and (H) note 5, regardless of the percentage of residential/non-residential square footage for each constructed phase, would be met so long as the overall site plan, as approved by the Planning Board, meets the 20% non-residential requirement. In other words it is not necessary to construct the non-residential square footage as part of any phase so long as the land area on which such non-residential space is depicted on the overall site plan and is clearly shown as being devoted to a non-residential use. As presented the overall plan would comply with this requirement.
8. With respect to footnote “\*” at the bottom of the attached spreadsheet the express terms of §210-27 make clear that all of the residential units are subject to the open space set-aside and ratio of residential v. non-residential square footage requirements whether or not said units count toward the maximum density cap. I have therefore determined that the square footage attributable to the “non-density cap” residential units over ground floor and second floor commercial spaces must also be used to calculate the 20% non-residential requirement.
9. With respect to footnote “\*\*” at the bottom of the attached spreadsheet the Community Center and the Relocated Barn are not residential uses but rather are a type of non-residential use that may be used to satisfy the 20% non-residential and the 25% non-retail requirements.



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I trust that this letter clarifies the permitted lawful use of this parcel and the project. Please do not hesitate to contact me if you have any questions concerning the above, or if you require any additional information.

Sincerely,

A handwritten signature in cursive script that reads "Sarah J. Davis".

Sarah J. Davis  
Zoning Administrator

cc: Neil A. Wilson, Esq.

**MACDONNELL HEIGHTS CENTER (MHC) DISTRICT**  
**DEVELOPMENT PROGRAM FOR MACDONNELL HEIGHTS TOWN CENTER**  
**SQUARE FOOTAGE ANALYSES**

RESIDENTIAL	UNITS	NSF/Unit	Common Area,		TOTAL GSF
			Stairwells & Garage	Net Living Space	
Breezeway	72	896	16,254	64,512	80,766
Center Corridor (lg)	70	959	12,699	67,101	79,800
Center Corridor (sm)	30	979	3,711	29,373	33,084
Townhouse	36	1,463	13,680	52,650	66,330
8-Plex	56	1,179	7,910	66,038	73,948
Breezeway Studio	54	796	10,836	43,008	53,844
<b>SUB-TOTAL</b>	<b>318</b>	<b>1,015</b>	<b>65,090</b>	<b>322,682</b>	<b>387,772</b>
OVER COMMERCIAL (does not count against density) *	32	1,522	4,096	48,704	52,800
<b>SUB-TOTAL</b>	<b>32</b>	<b>1,522</b>	<b>4,096</b>	<b>48,704</b>	<b>52,800</b>
<b>TOTAL RESIDENTIAL USES</b>	<b>350</b>	<b>1,061</b>	<b>69,186</b>	<b>371,386</b>	<b>440,572</b>

NONRESIDENTIAL, BUSINESS & INSTITUTIONAL USES	Nonresidential	Business		Institutional (Civic)	TOTAL GSF
		GSF Retail	GSF Non-Retail		
Restaurant/Café/Food (NW)			10,000		10,000
Restaurant/Café/Food (SE)			4,000		4,000
General Retail (NW)		9,000			9,000
General Retail (SE)		20,000			20,000
Service (NW)			15,000		15,000
Service (SE)			9,000		9,000
Medical Office (NW)			8,000		8,000
Medical Office (SE)			5,000		5,000
Bank/Financial (w/Drive-thru) (NW)			5,000		5,000
General Office (NW)			15,000		15,000
Day Care (NW)			10,000		10,000
Maint. Office/Service Bldg. (Leased to Prop. Management Co.)			9,000		9,000
Garages (Available for Lease)			10,000		10,000
Pavilion in Open Space (Open to Public)				2,000	2,000
Community Center (Open to Community Residents Only) **	6,000				6,000
Relocated Barn (Open to Community Residents Only) **	1,600				1,600
<b>TOTAL NONRESIDENTIAL, BUSINESS &amp; INSTITUTIONAL USES</b>	<b>7,600</b>	<b>29,000</b>	<b>100,000</b>	<b>2,000</b>	<b>138,600</b>

**TOTAL GROSS SQUARE FOOTAGE (GSF) 579,172**

**BULK AREA REQUIREMENTS - Buildings**

	Req'd.	Provided
MIMIMUM NONRESIDENTIAL PERCENTAGE OF GSF	20%	24%
MIMIMUM NONRESIDENTIAL, BUSINESS & INSTITUTIONAL	115,834	138,600
MAXIMUM RETAIL OF NONRESIDENTIAL	75%	21%
MAXIMUM RETAIL	103,950	29,000
MINIMUM NON-RETAIL	34,650	109,600

\* As these units do not count towards the 6/du/ac. density, they should not count towards the square footage requirements.

\*\* Should this use be considered Institutional as it is a Civic use?

## Chapter 210. Zoning

### Article V. Town Center District Regulations

#### § 210-27. MacDonnell Heights Center (MHC) District.

[Amended 3-24-2010 by L.L. No. 5-2010; 4-6-2011 by L.L. No. 8-2011; 12-14-2011 by L.L. No. 34-2011]

- A. District purpose. This district defines the emerging mixed-use center along State Route 44 across from the former Frank Brothers Farm property. In addition, this district serves the following specific purposes:
- (1) Promote a mix of business, commercial, and residential uses in single-story and multistory buildings designed as an integrated community along the southeastern side of Route 44.
  - (2) Promote pedestrian activity through a safe and walkable environment, encourage a "park once and walk around" core and establish connections to adjacent residential neighborhoods.
  - (3) Minimize the visual impact of the automobile by managing the placement and screening/landscaping of parking areas.
  - (4) Create an interconnected street system for both pedestrian and vehicular traffic.
  - (5) Encourage the development of both on-street parking and shared parking areas between nearby uses.
  - (6) Promote a sufficient critical mass of employees, shoppers and residents within close proximity to a commercial and mixed-use core which encourages people to park once and walk because walking becomes more convenient than driving for short trips within the core.
  - (7) Promote a retail shopping and business environment that is not strip-retail oriented, where shoppers park once and walk between adjoining commercial uses where the buildings are primarily connected to each other or use zero lot lines.
  - (8) Provide public gathering spaces such as central greens and centerpiece buildings.
  - (9) Provide for a variety of housing options within walkable proximity to the commercial core including single-family, two-family homes, and multifamily units.
  - (10) Preserve, enhance and incorporate natural and historic features in order to enhance a sense of place, greenway connections and natural edge conditions.
- B. Permitted uses. Permitted uses shall be as follows (Note: "\*" designates a use which is subject to site plan approval by the Planning Board):
- (1) \*Adaptive reuse of existing residential structure for nonresidential use.
  - (2) \*Bank and financial services.
  - (3) \*Bakery.
  - (4) \*Bar, provided that food sales account for not less than 25% of gross sales and hours of operation shall be limited to 11:00 a.m. to 11:00 p.m.

- (5) \*Boutiques with or without goods processed or assembled on site, subject to § **210-57**.
  - (6) \*Business park, subject to § **210-60**.
  - (7) \*Clinics.
  - (8) \*Delicatessen.
  - (9) \*Dwelling, single-family.
  - (10) \*Dwelling, two-family.
  - (11) \*Health club.
  - (12) \*Inn, subject to § **210-77**.
  - (13) \*Library, community center.
  - (14) \*Laundry, dry cleaner.
  - (15) \*Office.
  - (16) \*Personal service business, no drive-in or drive-through.
  - (17) \*Retail business, no drive-in or drive-through.
  - (18) \*Restaurants, no drive-in or drive-through.
  - (19) \*Service business, no drive-in or drive-through.
  - (20) \*Supermarket.
  - (21) \*Theater.
  - (22) \*Veterinarian, no kennel, no crematorium.
- C. Special permitted uses. Special permitted uses shall be as follows (Note: "\*" designates a use which is also subject to site plan approval by the Planning Board):
- (1) \*Bed-and-breakfast, subject to § **210-55**.
  - (2) \*Commercial garage.
  - (3) \*Commercial recreation, indoor only.
  - (4) \*Day-care center, subject to § **210-65**.
  - (5) \*Home occupations, subject to § **210-74**.
  - (6) \*Motor vehicle accessory sales.
  - (7) \*Multifamily dwellings, and mixed residential and nonresidential uses within multistory structures as part of a unified development on a single lot.
  - (8) \*Nursery school, subject to § **210-65**.
  - (9) \*Outdoor restaurant dining area.
- D. Accessory uses shall be as follows (Note: "\*" designates a use which is also subject to site plan approval by the Planning Board):
- (1) \*Accessory buildings and structures, subject to § **210-48**.
  - (2) \*Clubhouse as part of a common use area for a residential project.
  - (3) \*Swimming pool (private), subject to § **210-107**.

(4) \*Temporary buildings for construction purposes, subject to § 210-109.

E. The area and bulk regulations for a detached single-family unit in the MHC District shall be as follows:

<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>	<b>Minimum Front Yard (feet)</b>	<b>Minimum Side and Rear Yard (feet)</b>	<b>Usable Open Space Set-Aside (square feet)<sup>a</sup></b>	<b>Maximum Lot Coverage (%)</b>	<b>Maximum Impervious Surface (%)</b>	<b>Maximum Height (feet)</b>
4,000	40	15	6 feet side; 20 feet rear	1,000 per unit	45%	68%	28 feet or 2 stories

**NOTE:**

<sup>a</sup> Shall be reserved outside of building lot area as usable open space for the development of public parks, commons, or small pedestrian plazas with amenities such as benches, landscaping and natural walking trails.

F. The area and bulk regulations for attached residential units in the MHC District shall be as follows:

<b>Minimum Lot Area (acres)</b>	<b>Minimum Frontage (feet)</b>	<b>Minimum Front Yard (feet)</b>	<b>Minimum Side and Rear Yard (feet)</b>	<b>Usable Open Space Set-Aside (square feet)<sup>a</sup></b>	<b>Maximum Lot Coverage (%)</b>	<b>Maximum Impervious Surface<sup>b</sup> (%)</b>	<b>Maximum Height (feet)</b>
8	70	25	15	1,000 per unit	70%	80%	50 feet or 3 1/2 stories

**NOTE:**

<sup>a</sup> Shall be reserved outside of building lot area as usable open space for the development of public parks, commons, or small pedestrian plazas with amenities such as benches, landscaping and natural walking trails.

G. The area and bulk regulations for nonresidential or mixed residential/nonresidential use structures as attached units in the MHC District shall be as follows:

<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>	<b>Minimum Front Yard (feet)</b>	<b>Minimum Side and Rear Yard (feet)</b>	<b>Usable Open Space Set-Aside (square feet)<sup>a</sup></b>	<b>Maximum Lot Coverage (%)</b>	<b>Maximum Impervious Surface<sup>b</sup> (%)</b>	<b>Maximum Height (feet)</b>
1,600	22	10	0	500 per 1,600 square feet of lot area	95%	100%	50 feet or 4 stories

**NOTES:**

<sup>a</sup> Shall be reserved outside of building lot area as usable open space for the development of public parks, commons, or small pedestrian plazas with amenities such as benches, landscaping and natural walking trails.

<sup>b</sup> Lot coverage % vs. impervious coverage % is designed to encourage parking within attached residential structures to minimize grade (ground) parking.

H. The area and bulk regulations for nonresidential or mixed residential/nonresidential use structures as detached units in the MHC District shall be as follows:

<b>Minimum Lot Area (square feet)</b>	<b>Minimum Frontage (feet)</b>	<b>Minimum Front Yard (feet)</b>	<b>Minimum Side and Rear Yard (feet)</b>	<b>Usable Open Space Set-Aside (square feet)<sup>a</sup></b>	<b>Maximum Lot Coverage (%)</b>	<b>Maximum Impervious Surface (%)<sup>b</sup></b>	<b>Maximum Height (feet)</b>
5,000	30	10	10 feet side; 25 feet rear	500 per 5,000 square feet of lot area	65%	80%	50 feet or 3 1/2 stories

**NOTES:**

<sup>a</sup> Shall be reserved outside of building lot area as usable open space for the development of public parks, commons, or small pedestrian plazas with amenities such as benches, landscaping and natural walking trails.

<sup>b</sup> Lot coverage percentage vs. impervious coverage percentage is designed to encourage parking within attached residential structures to minimize grade (ground) parking.

(1) With the exception of a supermarket/grocery store on a lot, no single retail use shall occupy ground-floor space in excess of 35,000 square feet. A supermarket/grocery store may occupy ground-floor space not to exceed 65,000 square feet.

(2) The continuous ground-level frontage of a single commercial use building in excess of 60 feet in length along any frontage exposed to a street, public space or parking area and ground-level commercial uses larger than 15,000 square feet shall be contained in a mixed-use structure or be architecturally designed to appear as a streetscape composed of a variety of small buildings that helps to further prevent the visual dominance or appearance of a single, large commercial use.

(3) Maximum residential dwelling unit density. Within the MHC District, residential density shall not exceed six dwelling units per acre. Notwithstanding, residential dwelling units located immediately above a ground-floor or second-floor nonresidential use shall not be counted against the maximum residential dwelling unit density, provided the building meets applicable coverage and open space requirements, sufficient parking for the residential uses is provided, and open space is set aside for the dwelling units as provided herein. In approving the maximum allowable density, the Planning Board may condition the approval of any development plan on an agreement between the applicant and the Town in which the maximum residential density as agreed to between the applicant and the Town shall not be exceeded.  
[Amended 5-7-2014 by L.L. No. 4-2014]

(4) Maximum retail use density. Within the MHC District the total gross square footage of building space devoted to retail uses shall not exceed 75% of the total gross square footage of all nonresidential building space. Within the MHC District not less than 25% of the gross square footage of all nonresidential space shall be nonretail uses such as offices, restaurants, civic uses, etc. The Planning Board shall ensure that compliance with this provision is maintained by requiring the reduction or elimination of proposed retail space where the maximum gross square footage of retail space would exceed 75%. Nothing herein shall be construed to prevent the development of a greater amount of nonretail commercial space than the minimum of 25%. In approving the maximum allowable percentage of retail space the Planning Board may condition the approval of any development plan on an agreement between the applicant and the Town in which the maximum allowable percentage of retail as agreed to between the applicant and the Town shall not be exceeded.

(5) The development of mixed residential and nonresidential uses is required for each application. The Planning Board shall reject any application that does not include nonresidential uses providing services to center district and community residents. For any application no less than 20% of the total gross square footage of all structures shall be reserved for nonresidential business and institutional uses. The Zoning Board of Appeals shall have no authority to grant a variance from this requirement.

(6) Location of open space. The open space set-aside is intended to be located in one or more designated areas for the use of MHC residents and/or the general public, the intention being that the open space that

is set-aside be aggregated as a large parcel(s) and not be disbursed into small, less usable spaces.

- (7) Ingress and egress. Locations for ingress and egress to a lot shall be approved by the Planning Board and shall be so arranged as to connect with existing state, county or Town highways, or to a proposed Town highway that has been approved by the Town Board.
  - (8) Unless approved by the Planning Board, parking shall be located to the side or to the rear of principal structures.
- I. Design standards. The following guidelines shall be applied during the site plan and subdivision review of any new development project involving undeveloped land in the MHC District. The Planning Board shall use its discretion as to the applicability of these guidelines to an adaptive reuse project. All redevelopment projects shall meet the standards set forth herein.
- (1) The use of traditional neighborhood development design is required. A mix of commercial uses and/or residential and commercial uses in all development projects is required. Further, the Planning Board shall require that a development be phased to ensure the required mix of uses is implemented.
  - (2) New or in-fill construction should be designed so as to be compatible with the general character of buildings on the street frontage. The setback, height, bulk, gable and pitch of roofs, use of porches, shutters and other exterior design elements should result in an overall design that complements the existing character of the streetscape.
  - (3) Shared parking facilities are encouraged. The Planning Board shall ensure that appropriate cross easements for use and ingress and egress to shared parking facilities are filed with the county clerk as part of development plan approval. Where appropriate the Planning Board may allow on-street parking provided the street width is adequate to safely accommodate on-street parking. Service alleys should access practicable, off-street parking spaces for residential uses.
  - (4) The incorporation of small, landscaped, front yards is encouraged with any new residential or commercial use (if building is not built to the sidewalk edge).
  - (5) The development of public parks, commons, or small pedestrian plazas with amenities such as benches and landscaping is encouraged.
  - (6) Where practicable, existing tree rows and hedgerows, stonewalls, and similar features should be retained in the development of any new use or the expansion of any existing use.
  - (7) Setbacks and landscaping for nonresidential and mixed-use developments shall be subject to the requirements of § 210-152A(2) of this chapter.
  - (8) The construction of any blank, windowless facade facing a corridor that provides frontage for the lot on which the building is located is prohibited. All facades that face a street, parking lot or public area shall have windows.
  - (9) The utilization of ribbon or continuous strip glazing in any building facade should be avoided.
  - (10) Flat roofs shall be avoided, except where the size or type of the building requires a flat roof and facade variations and other architectural features can disguise the flatness of the roof. Pitched roofs shall be used on buildings in lieu of flat roofs to the extent feasible. If pitched roofs are not feasible or practical in a given situation, then, at a minimum, a pitched roof architectural feature shall be required as a detail element, i.e., entry way or tower element to break the horizontal facade.
  - (11) Any large building facade and the sides visible from the transportation corridor should incorporate changes in plane and architectural features that give the appearance of several common-wall buildings.
  - (12) All streets shall be designed to permit the installation of electric, water, sewer, gas and other utilities underground, either initially or at the time major improvements or upgrades are made to the street or the particular service.
  - (13) Sidewalks of not less than five feet in width shall be provided along any street and shall, where practicable, link with existing and future potential sidewalks and pedestrian pathways. The sidewalks shall be separated

from the street by a tree lawn at least five feet wide. In approving sidewalks the Planning Board shall ensure that a recorded instrument sets forth the responsibility of the applicant and the future owners of the lots for maintenance and repair of the new sidewalks and landscaping. Alternatively the Planning Board may request that the Town Board establish a special district for the purpose of sidewalk and landscaping maintenance and repair.

- (14) The number of off-street parking spaces provided should be the minimum necessary to adequately serve the intended use.
- (15) Where practicable, service alleys for deliveries and utility access should be established along rear property lines.
- (16) Drive-through facilities should be located at the side or rear of buildings and landscaping should be used to reduce the visibility of such facilities.
- (17) Pedestrian safety and internal vehicular circulation must be considered in the design of any drive-through facilities.
- (18) Cross-easements should be used to provide shared access to parking and driveways whenever possible.
- (19) Off-street parking lots and loading areas, accessory use structures or storage other than sheds should be screened from walkways and streets utilizing appropriate vegetation and/or fencing.