



CITY OF FRANKLIN

DEPARTMENT OF PLANNING & ECONOMIC DEVELOPMENT › DEPARTMENT OF ENGINEERING
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BZA Staff Report

To: Board of Zoning Appeals Members

From: Kevin Tolloty, Associate Planner

Date: August 30, 2011

Re: Case ZB 2011-14 (UV)

REQUEST:

Case ZB 2011-14 (UV)...Dennis Dougherty. A request for a use variance from the City of Franklin Zoning Ordinance, Article 3, Chapter 23; to allow the conversion of a legal nonconforming single family dwelling into a two-family dwelling in the Industrial: General (IG) zoning district. The property is located at 990 Hamilton Avenue.

PURPOSE OF STANDARD:

The "IG", Industrial: General zoning district is intended to provide locations for general industrial manufacturing, production, assembly, warehousing, research & development facilities, and similar land uses. This district is intended to accommodate a variety of industrial uses in locations and under conditions that minimize land use conflicts. This district should be used to support industrial retention and expansion in Franklin.

CONSIDERATIONS:

1. The petitioner is requesting a use variance to allow the subject property to be converted to a two-family dwelling.
2. The current use of the property as a single family dwelling is a legal nonconforming use.
3. Article 10, Chapter 4 of the Zoning Ordinance addresses the change of a legal nonconforming use to another nonconforming use. This section states "Nonconforming uses may only be changed to other dissimilar nonconforming uses with the approval of the Board of Zoning Appeals (as a use variance). For the purpose of this Section dissimilar uses shall be considered those that are not within the same land use categories (such as office uses, retail uses (small scale), etc.) as provided by Article 3 of this Ordinance."
 - a. The Board may approve the change of use if it finds that the proposed use is equally or more appropriate to the district in which it is located than the existing use.
 - b. The Board shall consider the development standards applicable to the proposed use established by this Ordinance and may make reasonable conditions as part of any approval.

4. A two-family dwelling, for the purpose of defining permitted uses in the Zoning Ordinance, is considered a dissimilar use than a single family dwelling.
5. Of the 17 parcels on the north side of Hamilton Avenue between Hurricane Street and Hurricane Road (all zoned IG), there are:
 - a. 9 residential parcels (8 single family, 1 two-family);
 - b. 4 industrial parcels;
 - c. 3 vacant parcels;
 - d. 1 commercial parcel
6. Article 7, Chapter 10 states “Any use which is nonconforming in the zoning district in which it is located or is permitted by special exception or variance shall provide parking which is consistent with the use and the standards for the zoning district in which the use is permitted by this Ordinance.”
7. Two-family dwellings are permitted by right only in the Residential, Multi-Family (RM) zoning district.
8. A minimum of 2.5 spaces per dwelling unit are required in the RM zoning district.

2 dwelling units = 5 parking spaces

9. A total of five (5) parking spaces would be required to be located onsite. Currently there is a significant amount of paved area available to be delineated to meet this requirement.
10. Article 11, Chapter 3 states “Unless otherwise specified by the Board, use variance approvals shall be limited to, and run with the applicant at the location specified in the application.”
11. The definition of a practical difficulty, according to the 2004 City of Franklin Zoning Ordinance is: A difficulty with regard to one's ability to improve land stemming from regulations of this Ordinance. A practical difficulty is not a "hardship," rather it is a situation where the owner could comply with the regulations within the Zoning Ordinance, but would like a variance from the Developmental Standards to improve his/her site in practical manner. For instance, a person may request a variance from a side yard setback due to a large tree that is blocking the only location that would meet the Development Standards for a new garage location
12. The 2002 Franklin Comprehensive Plan, Land Use Plan, identifies this area as Manufacturing. “Manufacturing areas are intended to accommodate large scale businesses that produce finished products from raw materials. Uses in these areas may include product manufacturers, as well as any related warehousing and offices. Manufacturing areas may include facilities that involve emissions or the outdoor storage of materials and finished products. These two factors are the primary distinction between manufacturing areas and light industrial areas.”

The surrounding zoning and land uses are as follows:

Surrounding Zoning:

North: IG, Industrial: General
 South: RSN, Residential: Suburban Neighborhood
 East: IG, Industrial: General
 West: IG, Industrial: General

Surrounding Land Use:

North: Community Recycling Services
 South: Single Family Residential
 East: Vacant Industrial
 West: Single Family Residential/Vacant Industrial

CRITERIA FOR DECISIONS:

(The petitioner will need to address the Criteria for Decisions in their presentation**)**

In taking action on all special exception and variance requests, the Board of Zoning Appeals shall use the following decision criteria, consistent with the requirements of the Indiana Code. The Board may grant a special exception and a variance from development standards and limitations of this Ordinance if, after a public hearing, it makes findings of facts in writing (consistent with IC 36-7-4-918.4) that:

DECISION CRITERIA

- 1. **General Welfare: The approval (will or will not) be injurious to the public health, safety, morals, and general welfare of the community.***

Staff Finding:

The approval of the variance will not be injurious to the public health, safety, morals, or general welfare of the community as there is adequate off-street parking to allow for the home to be converted into a two-family dwelling.

- 2. **Adjacent Property: The use and value of the area adjacent to the property included in the variance (will or will not) be affected in a substantially adverse manner.***

Staff Finding:

The use and value of adjacent properties will not be affected in an adverse manner as the appearance of the property will not be significantly altered, and the use will remain residential in nature.

- 3. **Practical Difficulty: The strict application of the terms of the ordinance (will or will not) result in a practical difficulty in the use of the property. This situation shall not be self-imposed, nor be based on a perceived reduction of, or restriction on, economic gain.***

Staff Finding:

The strict application of the ordinance will not result in a practical difficulty as the petitioner may use the property for a use consistent with the IG zoning district or may continue to use the property as a single family dwelling (legal nonconforming use). Staff finds that the practical difficulty is based on the perceived reduction of, or restriction on, economic gain. The petitioner should explain how approval of this variance will result in a practical difficulty in the use of the property.

- 4. **Unnecessary Hardship: The strict application of the terms of this Ordinance (will or will not) constitute an unnecessary hardship as they are applied to the property for which the variance is sought.***

Staff Finding:

Staff finds that the strict application of the terms of the Ordinance will not result in an unnecessary hardship as the petitioner may use the property for a use consistent with the IG zoning district or may continue to use the property as a single family dwelling (legal nonconforming use). The petitioner should explain how approval of this variance will result in a practical difficulty in the use of the property.

5. *Comprehensive Plan: The granting of the variance (does or does not) interfere substantially with the Comprehensive Plan.*

Staff Finding:

The granting of use variance does interfere with the Comprehensive Plan as it states that these areas are “intended to accommodate large scale businesses that produce finished products from raw materials.” Residential uses are generally discouraged from being located near industrial areas due to the noise, odors and other effects of industry that are generally not compatible with residential uses. With that said, it should be noted that the majority of the properties located in the IG zoning district along Hamilton Avenue are currently legal nonconforming residential uses.

Please Note: The City of Franklin Board of Zoning Appeals may impose reasonable conditions as part of its approval.

STAFF RECOMMENDATION

Based on the written findings above, staff recommends **denial** of this petition.

If the Board finds that sufficient evidence to approve the Variance and the following modifications to the petition were made, staff would recommend approval:

1. Minimum of five (5) parking spaces be provided on site.
2. A building permit be obtained and all fees and/or fines are paid.

Site Photographs



990 Hamilton Avenue – Front



990 Hamilton Avenue – East Side

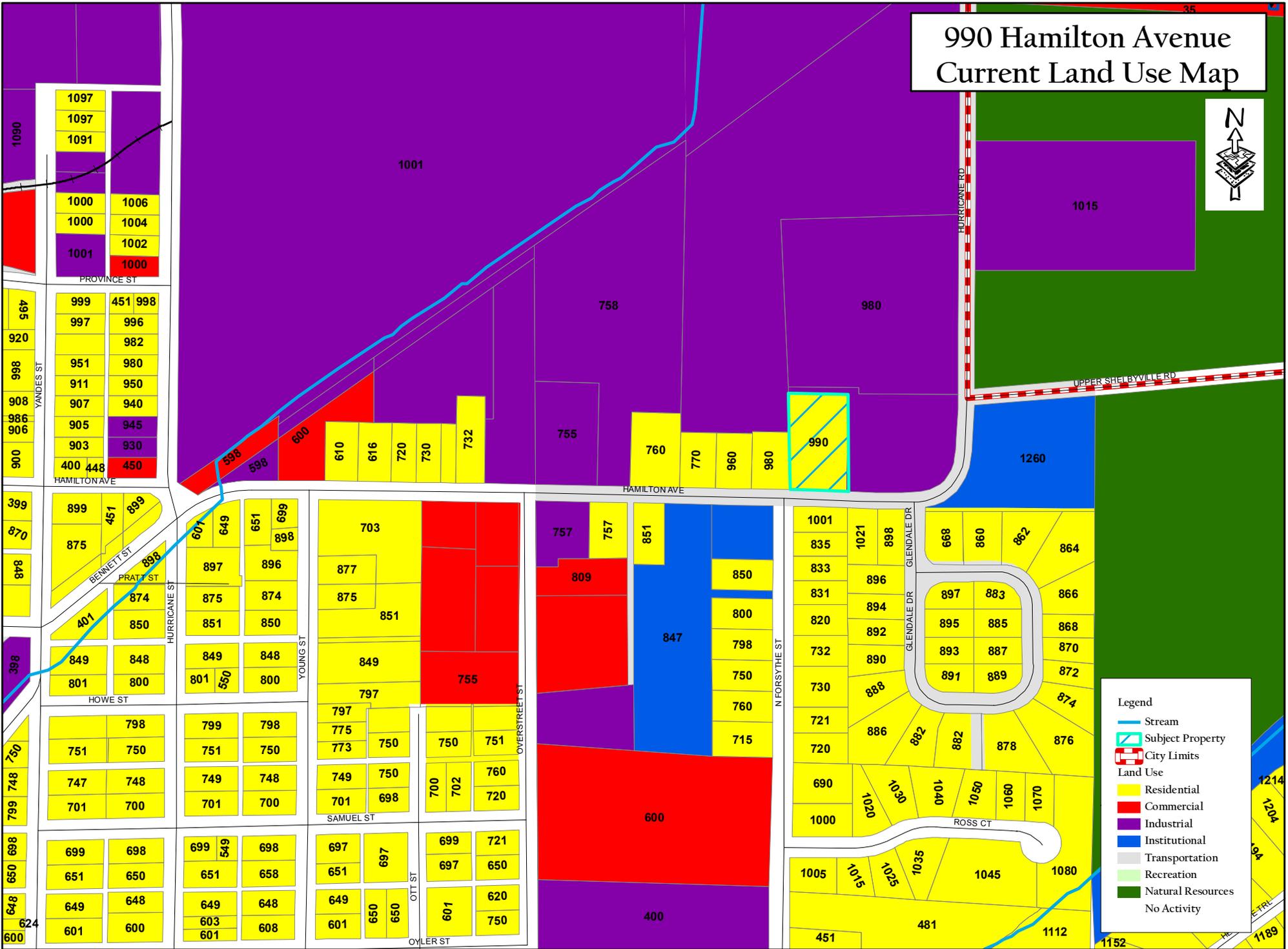


990 Hamilton Avenue – Southeast



990 Hamilton Avenue - Driveway

990 Hamilton Avenue Current Land Use Map



Legend

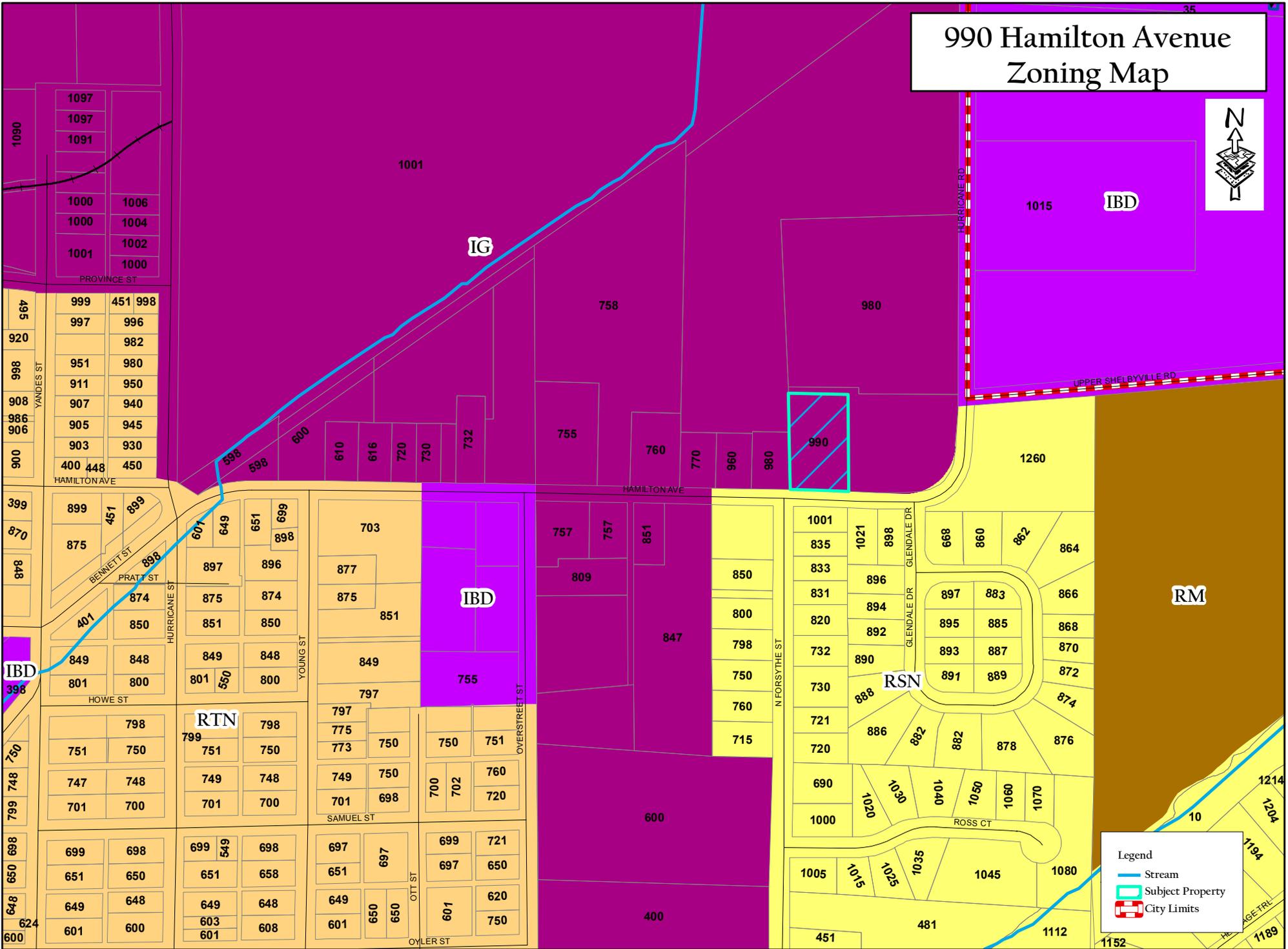
- Stream
- Subject Property
- City Limits
- Land Use**
- Residential
- Commercial
- Industrial
- Institutional
- Transportation
- Recreation
- Natural Resources
- No Activity

1 inch = 300 feet



Created by: K. Tolloty - 8/11
Franklin Planning Dept.

990 Hamilton Avenue Zoning Map



1 inch = 300 feet



- Legend
- Stream
 - Subject Property
 - City Limits

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