



VANDEWALLE & ASSOCIATES INC.

To: Brian Zirbes, Zoning Administrator

From: Sonja Kruesel, AICP, Vandewalle & Associates – City Consulting Planner

Date: October 14, 2024

Re: City of Watertown Zoning Map Corrections

The City of Watertown has identified numerous zoning map issues likely resulting from errors or gaps in record management. With City staff, we have reviewed approximately 125 parcels which require possible amendment to clarify their effective zoning districts and applicable land use regulations. The identified zoning map issues are categorized into four groups which are described below.

Mixed Zoning

The mixed zoning category includes parcels that have more than one zoning district mapped on the parcel. This is often referred to as split zoning, where the boundaries of zoning districts do not align exactly with the boundaries of a parcel. Split zoned parcels may continue, however they often exist as unintentional misalignments between a rezoning request and a land division request. Split zoned parcels can cause confusion as to what land use may be allowed and where. Resolving split zoned parcels into a single zoning category is a cleaner approach to land use regulation. There are six instances of mixed zoning on the current zoning map. The subject parcels and proposed zoning solution are summarized below.

No.	Location	Proposed Approach
1	104 E Division St	Unified commercial zoning on entire former Johnsonville parcel
2	637 Milford St	Existing agricultural land use. Proposed RH zoning as holding zone for future development.
3	795 Milford Street	Unify commercial zoning on entire parcel.
4	1035 Hill Street	Unify Senior Neighborhood Residential zoning for existing Marquardt Manor development.
5	1923 Gateway Drive	Existing agricultural land use. Proposed RH zoning as holding zone for future development.
6	STH 16 parcel	Unify commercial zoning on entire parcel.

Unknown Zonings

Ninety-seven parcels are currently mapped without a zoning district or without a base zoning district in the case of parcels mapped with a Planned Development Overlay.

Parcels mapped without a zoning district include remnant or on-going right-of-way corridors which exist as separate parcels of record. All parcels of record must have an assigned zoning district. Parcels without a mapped district include the Interurban Trail corridor between Humbolt Street and Concord Ave, an unimproved Boomer Street right-of-way parcel, and rail corridor parcels north and south of Main Street near the former train depot building and Glenn's Market. The proposed zoning approach in these cases is to generally assign a zoning district that best matches the area's surrounding zoning pattern.

Watertown's Zoning Code uses Planned Development zoning as an Overlay Zoning District. Therefore, wherever PD Overlays are mapped, there must also be a documented base zoning district. Examples of parcels which do not have a clearly mapped base zoning district but are subject to a Planned Development Overlay include the Watertown Streets Department parcels on First Street, the downtown YMCA, commercial parcels near Piggly Wiggly, and many parcels in the Hunter Oaks subdivision. The proposed zoning approach in these cases is to either use a base zoning district that is documented in City records, or where records do not exist, assign a base zoning district that most closely resembles the development occurring on the parcel.

Multi Zoning

Numerous parcels are currently mapped as "Multi Zoning". This is a confusing zoning district because it exists on the City's Official Zoning map but is not referenced anywhere in the Zoning Code text. The presumed intent of the "multi-zoning" map category is that it should be used or has been used as a placeholder for future potential rezoning to a Planned Development Overlay. The assumption is that a unique mix of land uses or development would occur in these areas, which would necessitate the flexibility afforded by planned development zoning. In exchange for the zoning flexibility, the development would be anticipated to deliver a higher level of design, economic, or environmental benefit than would otherwise occur.

Like other issues described above, the lack of a standard zoning district on any parcel raises questions about property rights if a parcel does not have any permitted or conditional land uses allowed on it without further rezoning action. It also results in confusing administration of land use regulations. We propose applying a standard zoning district to these parcels.

The proposed approach is to utilize RH Rural Holding in most cases which often functions as a holding district that would be considered for rezoning upon receipt of a development proposal. It also reflects the ongoing existing land use of tillage happening in these areas.

Conditional Rezoning

There are three instances where a "conditional rezoning" action occurred which has resulted in ambiguity about how to regulate the parcels' zoning. There is a fourth instance that does not have a "conditional rezoning" approval for the parcel, but which has a similar mix of incompatible land uses that could be resolved in the same manner as the three parcels that do have a conditional rezoning approval. These situations are identified as follows:

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1. Greenhouse on Arcade Ave (with single family)
2. Greenhouse on Boughton Street (with single family)
3. Auto Body on Milford Street (with single family)
4. Personal Storage on Concord Ave (with multi-family)

Two of the conditional rezonings apply to very similar situations. One is a greenhouse and single-family home on Arcade Ave. Another is a greenhouse and single-family home on Boughton Street. At some point, commercial and single-family land uses were established on these parcels. The establishment of two different land uses did not comply with the allowed land uses of the zoning district at the time. To allow for legal continuation of the commercial use, the city passed a rezoning ordinance that conditionally rezoned the parcel to B-3. The B-3 zoning was limited to only continuation of the existing greenhouse and did not allow for enlargement or conversion to a different commercial use. The fact that the rezoning ordinance is conditional leaves ambiguity as to what zoning district applies and when. We recommend a different approach using existing code text which would clarify the zoning district and offer the same property rights to the parcels and land uses in question.

Section 550-61 of the Watertown Zoning Code discusses “*continuation of nonconforming uses*”. It states: “Any nonconforming use lawfully existing upon the effective date of this chapter may be continued at the size and in a manner of operation existing upon such date, except as specified in this article. Any legal use under the previous zoning ordinance which is made nonconforming by this chapter may apply for a conditional use permit (per Section 550-142) to be granted legal conforming status. Any legal use under the previous Zoning Map which is made nonconforming by a change to the Official Zoning Map may apply for a Zoning Map amendment (per Section 55-141) to an appropriate zoning district to be granted legal conforming use status”.

We recommend utilizing *Section 550-61* to address the two greenhouse parcels. The zoning action would involve rezoning to SR-4 to match the surrounding zoning pattern and to more clearly protect the single-family land use as a permitted-by-right use on the parcel. Concurrently, a Conditional Use Permit would be considered to grant the greenhouses legal conforming status in the size and manner of operation existing upon the CUP approval date. This would more clearly grant legal conforming status to the greenhouses than a conditional rezoning. Ultimately, the proposed approach is very similar to how the uses are regulated now but is proposed as a more technically accurate approach to clarify zoning status.

The third instance of conditional rezoning is slightly different. The parcel in question is on Milford Street, which contains a single-family land use and a commercial auto body land use. In this case, residential and commercial land uses are occurring on the same parcel like the greenhouse

examples above. The difference is in the zoning action that was taken, which applied an “automatic reversion” to B-1 zoning upon cessation of the commercial land use.

“Automatic reversions” in zoning are not legal. To properly change a zoning district classification, procedural requirements must be met including publication of a Class II notice, holding a public hearing, a recommendation by the Plan Commission and action by the City Council. We again recommend utilizing *Section 550-61* as described above, to clarify the zoning situation. The zoning action would involve rezoning to SR-4 to match the surrounding zoning pattern and to protect the single-family land use more clearly as a permitted by-right use on the parcel. Concurrently, a Conditional Use Permit would be approved to grant the Auto Body legal conforming status in the size and manner of operation existing upon the CUP approval date. This would more clearly grant legal conforming status to the auto body than a conditional rezoning and would eliminate the language about automatic reversion. Upon cessation of the auto body use, a nonconforming use may not be reestablished, and the parcel would remain zoned SR-4.

The fourth parcel to discuss in this section houses a multi-family residential structure and personal storage mini-warehouse units. The current zoning of the parcel is “multi” which as discussed above, is a questionable approach to zoning. The Future Land Use recommendation for this parcel according to the Comprehensive Plan is residential (two family and multi-family). It is surrounded by residentially zoned parcels. We recommend zoning the parcel to MR-10 which would permit the multi-family structure. The commercial use was established prior to the zoning code adoption and therefore may use *Section 550-61* to obtain legal conforming status via a Conditional Use Permit, limited to the size and operation of the storage unit.

Property Owner Outreach

As part of this project, an individual letter was mailed to each of the property owners with an identified “conditional” or “mixed” zoning correction issue. These letters informed the owners of the specific zoning situation relative to their parcel, invited them to contact City staff to address any questions or concerns, and explained the future procedural steps for adopting the changes. City staff discussed the changes with a few of the property owners who called. There were no major concerns resulting from the conversations.

Procedural Steps

At the September 23, 2024, Plan Commission meeting, the Commission discussed the zoning map corrections topic. At the October 14, 2024, meeting the request is to set a public hearing to take formal action on the zoning map amendments (rezone) and Conditional Use Permits (CUPs). After the public hearing occurs, the Plan Commission will make a recommendation on rezoning to the Common Council for final action. The Plan Commission has authority to take final action on CUPs, therefore the Commission’s vote on the CUP applications would be contingent and become effective upon the final Council approval of the rezone due to the timing of the Council rezone action occurring later.