

127-O-19

AN ORDINANCE

**Amending the Zoning Map to Rezone 951-1125 Howard Street
From the C1 Commercial District to the B2 Business District**

WHEREAS, the City of Evanston is a home-rule municipality pursuant to Article VII of the Illinois Constitution of 1970; and

WHEREAS, as a home rule unit of government, the City has the authority to adopt ordinances and to promulgate rules and regulations that protect the public health, safety, and welfare of its residents; and

WHEREAS, Article VII, Section (6)a of the Illinois Constitution of 1970, which states that the “powers and functions of home rule units shall be construed liberally,” was written “with the intention that home rule units be given the broadest powers possible” (*Scadron v. City of Des Plaines*, 153 Ill.2d 164); and

WHEREAS, it is a well-established proposition under all applicable case law that the power to regulate land use through zoning regulations is a legitimate means of promoting the public health, safety, and welfare; and

WHEREAS, Division 13 of the Illinois Municipal Code (65 ILCS 5/11-13-1, *et seq.*) grants each municipality the power to establish zoning regulations; and

WHEREAS, pursuant to its home rule authority and the Illinois Municipal Code, the City has adopted a set of zoning regulations, set forth in Title 6 of the Evanston City Code of 2012, as amended, (“the Zoning Ordinance”); and

WHEREAS, on September 11, 2019, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 19PLND-0080, to consider amendments to the Zoning Map, cited in Section 6-7-2 of the Zoning Ordinance, to place 951-1125 Howard Street from the C1 Commercial District to the B2 Business District. Prior to receiving testimony, the Plan Commission continued case no. 19PLND-0080 to its meeting on September 25, 2019; and

WHEREAS, On September 25, 2019, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 19PLND-0080, to consider amendments to the Zoning Map, cited in Section 6-7-2 of the Zoning Ordinance, to place 951-1125 Howard Street from the C1 Commercial District to the B2 Business District; and

WHEREAS, the Plan Commission received testimony and made findings pursuant to Subsection 6-3-4-6 of the Zoning Ordinance and unanimously recommended City Council approval thereof; and

WHEREAS, at its meeting of October 14, 2019, the Planning and Development Committee of the City Council considered and reviewed the findings and recommendation of approval of the Plan Commission in case no. 19PLND-0080 and recommended City Council approval thereof; and

WHEREAS, at its meetings of October 14, 2019 and October 28, 2019, the City Council considered and adopted the records and recommendations of the Planning and Development Committee; and

WHEREAS, it is well-settled law that the legislative judgment of the City Council must be considered presumptively valid (see *Glenview State Bank v. Village of*

Deerfield, 213 Ill.App.3d 747) and is not subject to courtroom fact-finding (see *National Paint & Coating Ass'n v. City of Chicago*, 45 F.3d 1124),

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EVANSTON, COOK COUNTY, ILLINOIS, THAT:

SECTION 1: The foregoing recitals are found as fact and incorporated herein by reference.

SECTION 2: The City Council hereby amends the Zoning Map to remove those properties with the addresses and PINs listed in Exhibit A and identified in Exhibit B, both attached hereto and incorporated herein by reference, from the C1 Commercial District and place them within the B2 Business District.

SECTION 3: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

SECTION 4: If any provision of this ordinance or application thereof to any person or circumstance is held unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this ordinance is severable.

SECTION 5: This ordinance shall be in full force and effect from and after its passage, approval and publication in the manner provided by law.

SECTION 6: The findings and recitals contained herein are declared to be prima facie evidence of the law of the City and shall be received in evidence as provided by the Illinois Compiled Statutes and the courts of the State of Illinois.

Introduced: October 14, 2019

Adopted: October 23, 2019

Approved:

November 14, 2019

Stephen H. Hagerty
Stephen H. Hagerty, Mayor

Attest:

Approved as to form:

Eduardo Gomez
~~Devon Reid, City Clerk~~
Eduardo Gomez, Deputy City Clerk

Michelle L. Masoncup
Michelle L. Masoncup, Corporation
Counsel

EXHIBIT A**Addresses and PINs of Properties Removed from the C1 Commercial District and Placed Within the B2 Business District**

Property Address	PIN
951-959 Howard St.	11-30-122-058-0000
999 Howard St.	11-30-122-053-0000 11-30-122-052-0000 11-30-122-051-0000 11-30-122-050-0000 11-30-122-049-0000 11-30-122-048-0000
1015 Howard St.	11-30-122-047-0000 11-30-122-046-0000 11-30-122-045-0000 11-30-122-044-0000 11-30-122-043-0000 11-30-122-042-0000 11-30-122-057-0000
1029-1101 Howard St.	11-30-122-037-0000 11-30-122-036-0000 11-30-122-059-0000
1117 Howard St.	11-30-122-032-0000 11-30-122-031-0000 11-30-122-030-0000 11-30-122-029-0000 11-30-122-028-0000 11-30-122-027-0000 11-30-122-026-0000 11-30-122-025-0000
1123-1125 Howard St.	11-30-122-024-0000

EXHIBIT B

**Map of Properties Removed from the C1 Commercial District and
Placed Within the B2 Business District**