

34-O-20

AN ORDINANCE

**Amending the Zoning Map to Remove 2044 Wesley Avenue from the
oWE West Evanston Overlay 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 February 12, 2020, the Plan Commission held a public hearing, pursuant to proper notice, regarding case no. 20PLND-0002, to consider amendments to the Zoning Map, cited in Section 6-7-2 of the Zoning Ordinance, to remove 2044 Wesley Avenue from the oWE West Evanston Overlay District;

WHEREAS, at its February 12, 2020 meeting, the Plan Commission received testimony and made findings pursuant to Subsection 6-3-4-6 of the Zoning Ordinance and recommended City Council denial thereof; and

WHEREAS, at its meeting of March 9, 2020, the Planning and Development Committee of the City Council considered and reviewed the findings and recommendation of denial of the Plan Commission in case no. 20PLND-0002 and recommended City Council approval thereof; and

WHEREAS, at its meetings of March 9, 2020 and April 13, 2020, 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 the property listed in Exhibit A and identified in Exhibit B, both attached hereto and incorporated herein by reference, from the oWE West Evanston Overlay 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: March 9, 2020

Adopted: April 13, 2020

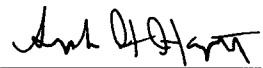
Attest:



Devon Reid, City Clerk

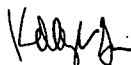
Approved:

April 23, 2021



Stephen H. Hagerty, Mayor

Approved as to form:



Kelley A. Gandurski, Corporation Counsel

EXHIBIT A**Legal Description of Property Removed from the oWE West Evanston Overlay District**

That part of Lots 11 and 12 in Block 2 in Grant & Jackson's Addition to Evanston, Lots 6-10 in Block 1 in Doyle's Addition to Evanston, vacated Jackson Ave., and the vacated alleys in said Block 1 in Doyle's Addition to Evanston, all being bounded and described as follows: Commencing at the Southeast corner of Block 3 in Grant and Jackson's Addition to Evanston; thence Westerly along the South line of said Block 3 a distance of 71.82 feet; thence Northeasterly along a line forming an angle of 65 degrees 25 minutes 30 seconds, measured counterclockwise from the last described course, a distance of 150.20 feet; thence continuing Northeasterly along a line forming an angle of 167 degrees 40 minutes, measured counterclockwise from the alst described course, a distance of 26.26 feet, more or less, to a point on the East line of said Block 3 distant 157 feet, more or less, northerly from the Southeast corner of said Block 3, said point being the point of beginning of the parcel of land herein described; thence Southerly along said East line of Block 3 a distance of 5 feet, more or less, to a point distant 152 feet Northerly from the Southeast corner of said Block 3; thence Northeasterly along a straight line a distance of 45 feet, more or less, to a point on the Southerly extension of the centerline of vacated Jackson Ave., said straight line being drawn from the last described point on the East line of said Block 3 to the Southwest corner of Lot 11 in Block 2 in Grant and Jackson's Addition to Evanston; thence Northerly along said centerline of vacated Jackson Ave., extended, a distance of 20 feet, more or less, to a point on a line drawn parallel with and distant 32 feet Southerly, measured radially, from the centerline of the most Southerly main track (now removed) of the East wye tracks of the Mayfair to Evanston Line of the Chicago and Northwestern Transportation Company, as said main track was previously located; thence Northeasterly parallel with said centerline of the most Southerly main track a dstance of 195 feet, more or less, to a point on the North line of said Block 2 in Grant and Jackson's Addition to Evanston; thence Easterly along said North line of Block 2, and the Easterly extension thereof, a distance of 310 feet, more or less, to a point on the South line of Lot 8 in Block 1 in Doyle's Addition to Evanston, distant 19 feet Westerly from the most Easterly corner of said Block 1, said point being also the Southwest corner of that certain parcel of land dedicated for public street by plat dated February 2, 1935 and recorded April 1, 1936, as document number 11785127; thence Northwesterly along the Southwesterly line of said parcel dedicated for street purposes, a distance of 101 feet, more or less, to a point distant 91.5 feet Southeasterly, measured at right angles, from the Northwest line of Lot 6 in Block 1 in Doyle's Addition to Evanston; thence Southwesterly parallel with said Northwest line of Lot 6 a distance of 32 feet, more or oess, to a point distant 28 feet Northerly, measured radially, from the centerline of the msot Northerly main track (now removed) of said Chicaog and Northwestern Transportation Company's East wye tracks; thence Westerly parallel with said main track centerline a distance of 380 feet, more or less, to a point on the East line of vacated Jackson Ave.; thence Southwesterly

along a straight line a distance of 165 feet, more or less, to the point of beginning, in the Northeast 1/4 of Section 13, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PIN: 10-13-204-021-0000

That part of Lots 4-6 in Block 12 in Evanston Centre Addition, Block 13 in Evanston Centre Addition, Lots 1-7 in Block 3 in Grant and Jackson's Addition to Evanston, the vacated North South alley in said Block 3, and vacated Jackson Ave., all being bounded and described as follows: Commencing at the Southeast corner of Block 3 in Grant and Jackson's Addition to Evanston; thence Westerly along the South line of said Block 3 a distance of 71.82 feet to the point of beginning of the parcel of land herein described; thence Northeasterly along a line forming an angle of 65 degrees 25 minutes 30 seconds, measured counterclockwise from the last described course, a distance of 150.30 feet; thence continuing Northeasterly along a line forming an angle of 167 degrees 40 minutes, measured counterclockwise from the last described course, a distance of 26.26 feet, more or less, to a point on the East line of said Block 3, distant 157 feet, more or less, Northerly from the Southeast corner of said Block 3; thence Northeasterly along a straight line a distance of 165 feet, more or less, to a point on the East line of vacated Jackson Ave., distant 26 feet Northerly, measured radially, from the centerline of the most Northerly main track (now removed) of the Chicago and Northwestern Transportation Company's East wye tracks; thence Northerly along said East line of vacated Jackson Ave. a distance of 37 feet, more or less, to a point distant 44 feet Easterly, measured at right angles from the centerline of the original main track (now removed) of the Westerly leg of the Chicago and Northwestern Transportation Company's Mayfair to Evanston Line; thence Northeasterly parallel with said original main track centerline to a point on the North line of Block 13 in Evanston Centre Addition; thence Westerly along the North line of said Block 13 to the Northwest corner thereof; thence Southwesterly along a straight line a distance of 174 feet, more or less, to a point on the East line of Lot 4 in Block 12 in Evanston Centre Addition, distant 7.7 feet Southerly of the Northeast corner of said Lot 4, said point being also 50 feet Northwesterly, measured at right angles, from the original main track centerline (now removed) of said transportation company's Mayfair to Evanston Line; thence Southwesterly parallel with said original main track centerline a distance of 475 feet, more or less, to a point on the South line of Lot 7 in Block 3 of Grant and Jackson's Addition to Evanston; thence Easterly along the South line of said Block 3 a distance of 112 feet, more or less, to the point of beginning, excepting therefrom that part of Block 13 in Evanston Centre Addition, and vacated Jackson Ave., all being bounded and described as follows: beginning at the Northwest corner of Lot 1 in Public Storage Consolidation Subdivision per document no. 49142050 recorded March 13, 1989; thence Southwesterly along the Westerly line of aforesaid Lot 1, also being a curve concave to the Northwest, having a chord length of 156.72 feet, and an arc length of 156.80 feet; thence Northwesterly along a line making an angle of 85 degrees 50 minutes 56 seconds measured counterclockwise from the last described course, a distance of 91.78 feet; thence Northeasterly 110.76 feet to the South line of Simpson St. 68.80 feet West from the Northwest corner of said Lot 1 in Public Storage Consolidation

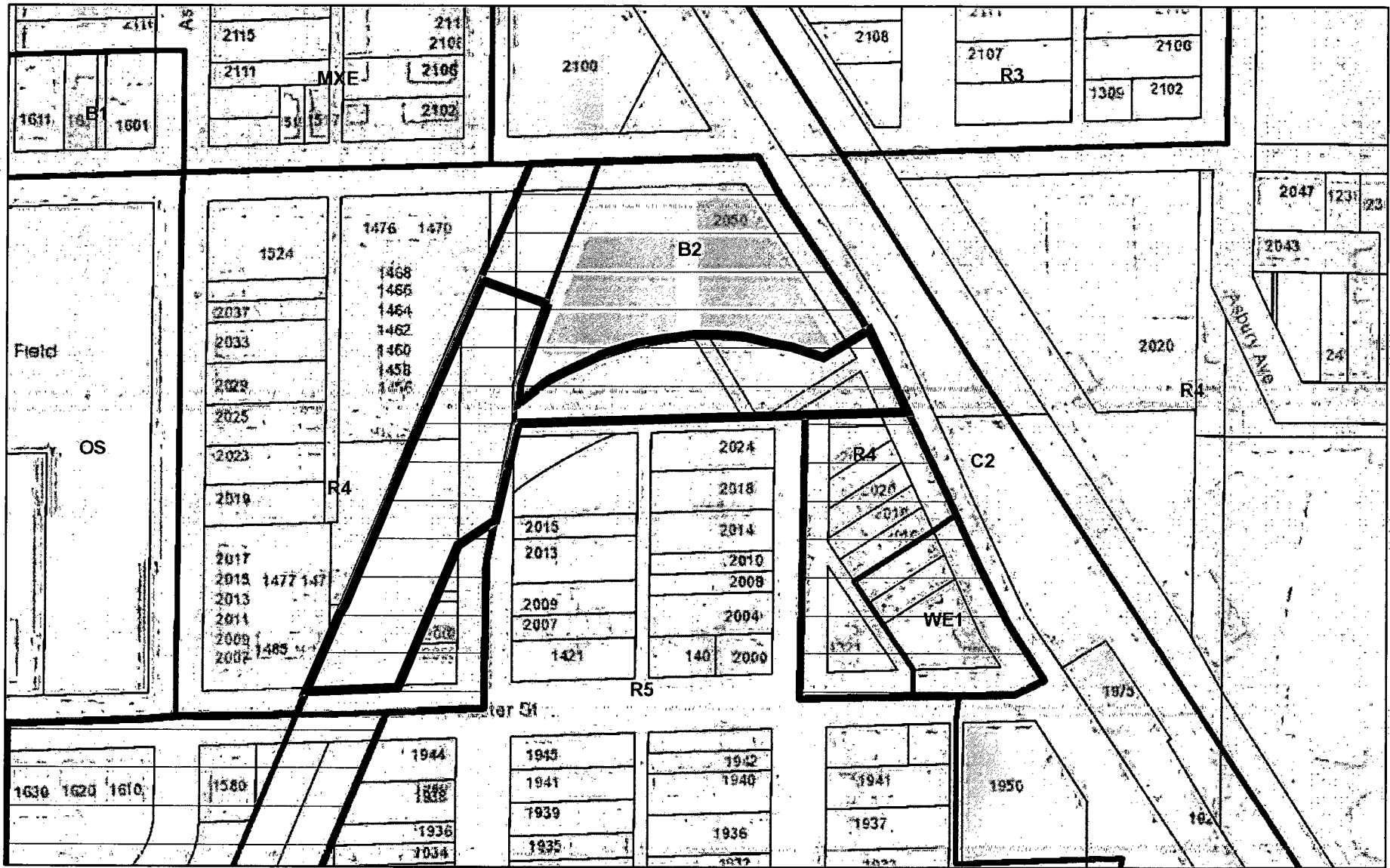
Subdivision; thence East along the North line of Block 13, also South line of Simpson St. a distance of 86.60 feet to the point of beginning, in the Northeast 1/4 of Section 13, Township 41 North, Range 13, East of the Third Principal Meridian, in Cook County, Illinois.

PINs: 10-13-203-024-0000 & 10-13-203-021-0000

EXHIBIT B

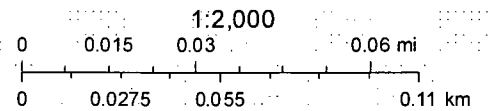
Map of Properties Removed from the oWE West Evanston Overlay District

My Map



January 30, 2020

- Zoning Boundaries & Labels
- oDM - Dempster-Main Overlay
- oWE- West Evanston Overlay
- Zoning Overlay Districts**
- oH - Hospital Overlay
- Tax Parcels
- oCSC - Central Street Corridor
- oRD - Redevelopment Overlay





MEETING MINUTES EXCERPT

PLAN COMMISSION

Wednesday, February 12, 2020

7:00 P.M.

Evanston Civic Center, 2100 Ridge Avenue, James C. Lytle Council Chambers

Members Present: Peter Isaac (Chair), Jennifer Draper, Carol Goddard, John Hewko, Brian Johnson, Jane Sloss

Members Absent: George Halik, Andrew Pigozzi

Staff Present: Scott Mangum, Planning and Zoning Manager
Meagan Jones, Neighborhood and Land Use Planner
Brian George, Assistant City Attorney

Presiding Member: Chair Isaac

1. NEW BUSINESS

A. Map Amendment

2044 Wesley Avenue

20PLND-0002

John Cleary, owner, submits for a Zoning Ordinance Map Amendment pursuant to City Code Title 6, Zoning, to remove property, known as 2044 Wesley Ave., from the West Evanston Overlay (oWE) District. This map amendment is in anticipation of a future planned development that would include this and additional properties, and consist of 3-story townhouses and one 4-story apartment building with indoor and outdoor parking.

Mr. Mangum provided an overview of past plans for the area such as the West Evanston Master Plan and the Canal-Green Bay Road- Ridge Avenue-Church Street Study Area Report. He then reviewed some existing regulations for the West Evanston Overlay District and properties within the district that had been developed. He then introduced the proposed map amendment.

Chair Isaac opened the hearing up to questions from the Commission. He then asked why the removal from the overlay was needed. Mr. Mangum replied that it was a request from the applicant due to not owning enough of the needed properties (such as the Public Storage and Parking Lot) to fully comply with the overlay.

Commissioner Sloss then asked how the development would follow the West Evanston Master Plan versus the overlay district and does that relate the form-based code. Mr.

DRAFT- NOT APPROVED

Mangum replied that the form based code of the West Evanston Overlay District implements the West Evanston Plan.

Mr. John Cleary, the applicant, stated he moved to Evanston in 2013 and lives near the site with children in the local schools. He then expressed that the overlay is very restrictive. He then explained that part of the overlay requirements include connecting the streets; on a lot that is 100 ft. deep this would be restrictive for building once the streets are in place. Mr. Cleary then stated that he is looking to build 2.5 to 3 –story townhouses; the proposed apartment building is not within the overlay district. If the properties are not in the overlay he would seek to build within the underlay zoning code regulations

Chair Isaac inquired why the applicant was not applying for the map amendment and planned development at the same time. Mr. Cleary responded that due to cost, approximately \$100,000 in plans, civil engineering and environmental work, it makes more sense to do the map amendment first then apply for the development. If the City wants only townhouses, he would agree to sign an agreement or undertaking to proceed and appear before City Council. He went on to state that there is very little new affordable housing construction and townhomes are a form of housing that is missing.

Commissioner Draper asked Mr. Cleary what his plans would be if the proposed text amendment does not pass. Mr. Cleary responded that building a road between Wesley Ave. and Jackson St. would be impossible, however, if the overlay is removed then the site would be developed and generate taxes.

Commissioner Hewko stated that the materials indicate a need for the Public Storage lot along Simpson St. to be a part of development and inquired if the development is contingent on obtaining that property. Mr. Cleary responded that the proposal has nothing to do with the Public Storage facility and the parking owned by Walgreens.

Chair Isaac then opened up the hearing to questions from the public.

Mr. Marcus Lechleidner asked if all of the parcels are needed for the project to make financial sense. Mr. Cleary responded that the way the plan is laid out, development would require the purchase of the public storage facility, Walgreen's parking lot, and property along Green Bay Road as well as putting in a road, which would be very expensive. He added that the plan was created in an era when a lot of development was occurring.

Mr. Lechleidner then asked what the expected cost of the townhomes would be. Mr. Cleary replied that townhomes costs are proposed to be \$500,000 - \$550,000 once complete, approximately \$2,000 per month mortgage. Expected to be 2,000 square feet with 2-car garages.

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Mr. Lechleidner then stated that a lot of people walk through the property and asked if it would still be possible with the development? Mr. Cleary responded that it could be possible to have access. He has an option on the properties but the City may have to foot the bill to clean the property. It would still be possible to walk through from Jackson St.

Jeff Masters inquired if the public storage facility does not go away if there would still be a road between the two properties. Mr. Cleary responded that there would be a private drive linking Jackson Ave. and Wesley Ave. between the facility and the townhome buildings, owned by the townhome owners.

Chair Isaac stated that it appears that the front of the townhomes would be south facing and to access the homes, one would need to go from the public street to the private sidewalk to access the townhomes and there would be a private alley to access public streets to get to the garages in the back.

Jeff Masters asked for clarification on the zoning change. Mr. Cleary stated that the Plan calls out the layout of roads and development. The underlying zoning would remain R4 and building could occur. Mr. Mangum stated that the overlay calls out the area for the public roads and then calls for development regulations. If it is removed, the underlying zoning district regulations would have to be followed. The R4 District provides for a wider variety of housing than the overlay. Mr. Cleary added that the R4 District has lower height restrictions as well as density.

Ms. Carolyn Dellutri asked what the maximum height is for the R4 District. Mr. Mangum responded that the maximum height is 35 ft. or 2.5 stories. R5 is 50 ft. or five stories.

Ms. Amy Masters voiced concern over the amount of greenspace and asked if removing the property from the overlay would remove those requirements? Mr. Mangum responded that the overlay requirements would be removed. One way to ensure keeping the greenspace could be to tie the two together, the map amendment and planned development. Chair Isaac stated the other option would be to amend the plan.

Ms. Dellutri asked if the property is removed and a planned development follows, could variances be granted regarding height. Mr. Mangum confirmed that could be done.

Chair Isaac then opened the hearing up to public comment.

Mr. Masters voiced concern of the proposal coming in two parts. There was a long process to implement the plan. If the proposed change occurs but the property is sold, there are no guarantees that "good faith" would be followed.

Ms. Dellutri asked for the Commission to consider the character of the area which should be kept. In the discussion about the R5a zoning Commissioners stated that the

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study should be looked at again. The Study called for downzoning. If the parking lot and storage facility are sold then they are stuck so the entire area should be considered.

Ms. Masters stated that there is a lot of resentment in the 5th Ward towards developers and residents are angry. The whole area should be restudied and the people in the area should be considered, not add too many people and density to the area.

Mr. Chris Gotschall stated that there are decisions being made based on old plans and data. There is a lot of tension. He added that townhomes are not necessarily bad but items addressed in the plan spoke to density.

Mr. Cleary stated that part of the parcel does not restrict but extends Jackson St. at his cost. He has no problem committing to just townhomes. There is density further south with very dense zoning, this area is less dense.

Chair Isaac closed the public hearing and the Commission began deliberations.

Commissioner Goddard asked what has been developed within the overlay. Mr. Mangum reviewed three properties, Emerson Square, Y.O.U. building and a ComEd station. He added that some properties have become available but not enough TIF increment has been created for public aggregation of properties.

Commissioner Draper asked if there was a public-private partnership possible for the street. Mr. Mangum stated that there would have to be a discussion with the City Council.

Commissioner Johnson stated in looking at the 5 principles, how would principles one and three affect connectivity. Mr. Mangum responded that the project would create a connection with the private drive. There would be some extension of the road, but it would compromise the quality of the connections contemplated including the orientation of development towards public streets as a traditional neighborhood design would.

Commissioner Isaac asked the Commissioners how they feel about a partial removal and not having a continuous block.

Commissioner Goddard stated that they need to consider if the overlay has accomplished its goals. If it has, it should be kept; if not, it should be removed. Chair Isaac inquired why one parcel should be removed that is the central area of this portion of the overlay district. It could be compromising that portion of the overlay.

Commissioner Draper stated that it would be difficult to development the site and has not been done in 15 years. Rather than leave the property vacant, attempts could be made at figuring out a compromise.

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Chair Isaac stated that the proposal is a smart use of space but that he has an issue of doing so piecemeal without knowing what is being done with it. Only one step could be compromising the overlay, so there is the need to see the next step.

Commissioner Johnson agreed with Chair Isaac. He explained that while it is less expensive this way, there is a great amount of uncertainty. If it were done with a developed plan it would ensure greater certainty.

Commissioner Draper stated that the applicant should work more with the City on the drives and roads. Cannot guarantee the proposal will be built so she agreed with previous comments.

The Commission then reviewed the standards. There was some disagreement on the 1st standard. The property would be removed from the overlay but still meet the intent of the Comprehensive Plan; however, there is no guarantee that the proposal would be built. Standard 2 was met as the underlying zoning is not changing. Standard 3 could possibly not be met. There is the possibility that the change could adversely affect other properties but no testimony was provided proving this. Standard 4 does not apply to the proposed amendment.

Commissioner Goddard stated that she is not sure that the plan has been successful and the TIF has not been at this point. If the amendment is not approved the property may sit vacant.

Commissioner Hewko made a motion to recommend approval of the proposed map amendment to remove 2044 Wesley from the West Evanston Overlay District. Seconded by Commissioner Goddard.

A roll call vote was then taken and the motion failed, 2-4.

Ayes: Goddard, Hewko

Nays: Draper, Johnson, Sloss, Isaac

5. PUBLIC COMMENT

There was no public comment provided.

6. ADJOURNMENT

Commissioner Johnson made a motion to adjourn the meeting. Commissioner Goddard seconded the motion.

A voice vote was taken and the motion was approved by voice vote 6-0.

The meeting was adjourned at 8:27 pm.

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Respectfully Submitted,
Meagan Jones
Neighborhood and Land Use Planner
Community Development Department