

**STATEMENT ON BEHALF OF LISNER-LOUISE-DICKSON-HURT HOME
IN SUPPORT OF MAP AMENDMENT**

I. INTRODUCTION

The Abraham and Laura Lisner Home for Aged Women, owner of the Lisner-Louise-Dickson-Hurt Home (the “Applicant”), through undersigned counsel, submits this statement in support of its application to amend the Zoning Map of the District of Columbia (the “Zoning Map”) to rezone property located at 5425 Western Avenue NW (Lot 9 in Square 1663) (the “Subject Property” or “Property”), from the R-2 zone to the RA-2 zone. A building plat showing the lot to be rezoned is attached as Exhibit A.

The map amendment is requested to bring the zoning into closer consistency with the “Moderate Density Residential/Institutional” land use designation for the Subject Property indicated in the recently adopted Comprehensive Plan Land Use Map. The new designation signals additional emphasis on facilitating residential development on the Property which previously only had an “Institutional” land use designation. The rezoning is not expected to create any adverse impacts on surrounding properties, but is intended to facilitate additional development on the Property to support the mission of the Applicant to provide housing, health and life care services to seniors, particularly, low and modest income seniors of the District of Columbia, empowering them to live their lives to the fullest.

II. PROPERTY BACKGROUND AND HISTORY

The Abraham and Laura Lisner Home for Aged Women opened its doors in 1941 by virtue of the legacy of its founders, Abraham and Laura Lisner. Abraham owned and operated a local department store and his last will and testament, at the urging of Laura, directed the executors of his estate to establish a Home for indigent elder women of the District of Columbia. Today, the Home’s residents are of both genders, a wide-range of senior ages, and of many differing

educational and socio-economic backgrounds, although almost all are low or very low income.

Over the years, it has become increasingly difficult to operate facilities like the Home. The recent closure of the Washington Home, approximately 1 mile from the Home, underscores that reality. Indeed, since 1976, other similar institutions have shuttered and subsequently affiliated with the Home -- the Louise Home, the John Dickson Home for Men, the Henry and Annie Hurt Home for the Blind, and the Elizabeth R. Shoemaker Home. These affiliated entities now function as non-operating foundations and constitute the largest source of charitable funding to the Home.

The Home's original structure is an almost 80 year old, three-story building consisting of resident bedrooms, a commercial kitchen, a dining room, common areas, and administrator and program offices. The building is antiquated and has not been substantially rehabilitated since it opened. The Home anticipates undertaking a separate project to substantially rehabilitate the existing building prior to or simultaneous with the construction of additional development on the Property which may occur in staged projects over a number of years. In addition, the Home has a 60 bed nursing care wing constructed in the early 1990s that provides services to those requiring nursing facility care. (See Exhibit A for a photo and site plan of the Property.)

III. DESCRIPTION OF THE PROPERTY AND SURROUNDING AREA

The Property is located in the mixed-use Friendship Heights neighborhood of northwest Washington, abutting the border with the State of Maryland. The site is just east of the intersection of Wisconsin and Western Avenues, both major arterial roads. It is located in Square 1663 which is bordered by Western Avenue on the east, Military Road on the south, Livingston St NW on the north and 42nd Street on the west. Within Square 1663, the Property is bordered by the 8 story Chase Point condo on the east and several single family houses which flank the south west corner of Square 1663.

The Property totals 5.431 acres of R-2 zoned land and is improved with building of 1-3

stories above-grade and one below, totaling approximately 79,545 gsf. A portion of the building is in need of substantial repair due to damage caused by a burst water pipe in 2020. One objective of additional development on the Property is to generate income needed to repair and renovate that building. Patient rooms in that building consist of a mix of private bedrooms with private bathrooms, private bedrooms with shared bathrooms and semi-private rooms with private bathrooms. The building has multiple lounges, exam rooms, physical therapy rooms, offices, dining rooms, a kitchen, laundry room and other typical support spaces. There are 40 parking spaces, a ratio of 0.34 per bed.

The Property is licensed by D.C. as a community residential facility (CRF), an assisted living residence (ALR), and a nursing facility (NF); the NF is also certified by the federal government as a provider of health care eligible for reimbursement via Medicare and Medicaid. The ALR is eligible to receive D.C. Medicaid waiver dollars. The Home is recognized by local and federal organizations for the high quality of its care, consistently receiving a five star rating from the Centers for Medicare and Medicaid Services.

Immediately to the southeast of the Property at 5401 Western Ave. is an 8-story condo building developed under the PUD process. Along Wisconsin Avenue is substantial mixed-use development including the Mazza Gallerie retail mall (much of which is vacant at this time); the Chevy Chase Pavilion retail mall (also with much of the retail vacant at this time) and the Embassy Suites hotel (Hotel). The Friendship Heights Metro station is located at the intersection of Wisconsin Ave and Western Ave. In the recently passed Future Land Use and Planning Maps much of this area is slated for significant additional development. To the north the Property is buffered by the Chevy Chase Recreation Center and playground. To the east, the primary development pattern is single family residential.

IV. EXISTING AND PROPOSED ZONING

A. Existing and Proposed Zoning

The Property is presently zoned R-2. The Applicant is requesting a map amendment to rezone the entire Property to the RA-2 zone.

The RA-2 zone permits urban residential development and compatible institutional and semi-public buildings. It is designed to be mapped in areas identified as moderate-or high-density residential areas suitable for multiple dwelling unit development and supporting uses. (See 11-F DCMR §100). In contrast, the existing R-2 zone is a low to moderate density zone which does not permit multi-family development or even the existing improvements. According to the Zoning Regulations, the R-2 zone is intended to provide for areas predominantly developed with semi-detached houses on moderately sized lots that also contain some detached dwellings. (See Exhibit B, Existing and Proposed Zoning Maps.) .

The RA-2 zone permits a maximum building height of 50 feet (11-F DCMR § 303). The maximum permitted density in the RA-2 zone is 1.8 floor area ratio (“FAR”) (2.16 FAR for inclusionary zoning developments), 11-F DCMR § 302. The maximum permitted lot occupancy is 60%.

V. STANDARDS APPLICABLE TO AN APPLICATION FOR A ZONING MAP AMENDMENT

The requested zoning map amendment is submitted as a contested case pursuant to 11-ZDCMR §§ 201.2(e). To approve the proposed rezoning, the The Zoning Act sets forth a number of criteria that must be applied by the Commission in adopting and amending the Zoning Regulations and Zoning Map. Pursuant to the Zoning Act of 1938, approved June 20, 1938, as amended (52 Stat. 797; D.C. Official Code § 6-641.01 et seq. (2012 Repl.)) (the “Zoning Act”), there are multiple criteria that must be applied by the Zoning Commission in adopting and

amending the Zoning Regulations and Zoning Map. The Zoning Act states that the Zoning Regulations are designed to “promote the health, safety, morals, convenience, order, prosperity, or general welfare of the District of Columbia and its planning and orderly development as the national capital” Pursuant to the Home Rule Charter, the District of Columbia Comprehensive Plan Act of 1989 (D.C. Law 8-129), and 11-A DCMR § 401.1, the Commission is charged with preparing, adopting, and subsequently amending the Zoning Regulations and Zoning Map in a manner which is not inconsistent with the Comprehensive Plan.

The Commission must apply these standards and criteria in determining whether to approve a requested map amendment.

VI. EVALUATION OF PROPOSED MAP AMENDMENT AND COMPLIANCE WITH STATUTORY STANDARDS

As indicated above, the Commission must conclude that the proposed rezoning is not inconsistent with the Comprehensive Plan. The Comprehensive Plan provides that the zoning of any given area should be guided by the FLUM, interpreted in conjunction with the text of the Comprehensive Plan, including the citywide elements and the area elements. As set forth below, the proposed map amendment is not inconsistent with Comprehensive Plan’s FLUM or the citywide and area elements.

1. The Future Land Use Map

The Council of the District of Columbia voted on May 18, 2021 to amend the Comprehensive Plan to change the land use designation of the Property from Institutional to Moderate Density Residential/Institutional on the Comprehensive Plan Future Land Use Map:

“[T]he The area shown in the Mayor’s proposed amendment #5001 and generally bounded by Western Avenue, NW, Military Road, NW, Livingston Street, NW, and 42nd Street, NW, is changed to Moderate Density

Residential/Institutional.”

Moderate Density Residential is defined in the Comprehensive Plan Framework Element as applicable to:

neighborhoods generally, but not exclusively, suited for row houses as well as low-rise garden apartment complexes. The designation also applies to areas characterized by a mix of single-family homes, two- to four-unit buildings, row houses, and low-rise apartment buildings. In some neighborhoods with this designation, there may also be existing multi-story apartments, many built decades ago when the areas were zoned for more dense uses (or were not zoned at all). Density in Moderate Density Residential areas is typically calculated either as the number of dwelling units per minimum lot area, or as a FAR up to 1.8, although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development, The R-3, RF, and RA-2 Zone Districts are consistent with the Moderate Density Residential category, and other zones may also apply.

The Institutional designation is defined as follows :

“This designation includes land and facilities occupied and used by colleges and universities, large private schools, hospitals, religious organizations, and similar institutions. While included in this category, smaller institutional uses such as churches are generally not mapped, unless they are located on sites that are several acres in size, Zoning designations vary depending on surrounding uses. Institutional uses are also permitted in other land use categories.”

The proposed map amendment is supported by the FLUM designations and zoning of other areas surrounding the Subject Property, particularly those to the southeast which are designated mixed use including medium density residential and moderate density commercial.

2. Generalized Policy Map

The Generalized Policy Map included in the new Comprehensive Plan includes a Future Planning Analysis Area for the Friendship Heights portion of Wisconsin Avenue corridor. Planning analyses are recommended to precede zoning changes for properties located in this

Area. However, the Property is located outside the Planning Analysis Area boundaries in the adopted Plan.

3. Compliance with the Citywide Elements of the Comprehensive Plan

According to the Framework element ,the zoning of any given area should be guided by the Future Land Use Map, interpreted in conjunction with the text of the Comprehensive Plan, including the Citywide Elements and the Area Elements. The proposed map amendment is consistent with the citywide elements of the Comprehensive Plan and will advance a number of stated goals and policies.

a. Land Use Element (Chapter 3)

The Comprehensive Plan provides that “[b]ecause the Land Use Element integrates the policies and objectives of all the other District Elements, it should be given greater weight than the other elements as competing policies in different elements are balanced.” 10A DCMR § 300.2. The underlying goal of the Land Use Element is to:

[e]nsure the efficient use of land resources to meet the long-term neighborhood, citywide, and regional needs; to help foster other District goals; to protect the health, safety, and welfare of District residents and businesses; to sustain, restore, or improve the character and stability of neighborhoods in all parts of the city; and to effectively balance the competing demands for land to support the many activities that take place within District boundaries. 10A DCMR § 302.1.

The proposed map amendment will advance this important goal. Economic Development Element (Chapter 7) The goal of the Economic Development Element is to:

[s]trengthen the District’s economy by sustaining its core industries, attracting new and diverse industries, accommodating future job growth, fostering the success of small businesses, revitalizing neighborhood commercial centers, improving resident job skills, and helping a greater number of District residents find and keep jobs in the Washington regional economy. 10A DCMR § 701.1.

As indicated above, the FLUM identifies the Property as Moderate Density

Residential/Institutional. The newly adopted Comprehensive Plan identifies the Wisconsin Avenue corridor and Friendship Heights as a policy focus area :

Support coordinated planning for Wisconsin Avenue’s Tenleytown and Friendship Heights Metro station areas, extending north from Van Ness to the Maryland state line at Western Avenue. Planning considerations for the corridor should:

- Use the public transit infrastructure and maximize Metro and bus access;
- Enable merchants to upgrade existing businesses, attract new customers and new business establishments, and provide neighborhood services;
- Provide for the development of new housing for a mix of incomes;
- Conserve existing low-density residences in the vicinity, and the surrounding institutions and local public facilities, by mitigating the adverse effects of development;
- Ensure that planning and building design is sensitive to the area’s topography, existing architectural assets, street layout, and pedestrian circulation patterns;
- Promote safe and comfortable pedestrian and bicycle circulation to parks, schools, transit, and shopping, as outlined in the Rock Creek West II Livability Study;
- Enhance a robust public life on the corridor, with key public spaces that function as places where neighbors and visitors want to stay, linger, and enjoy; and
- Partner and collaborate with public and private institutional and educational facilities along the corridor. 2312.8

The proposed map amendment advances these goals as well as specific policy objectives by facilitating additional residential development of the Subject Property that will support the existing institutional use on the Property and provide new housing opportunities.

b. Housing Element (Chapter 5)

H-4.2 Meeting the Needs of Specific Groups 516

The housing needs of the District’s most vulnerable populations vary with each group. Some require housing with specific physical attributes, such as wheelchair ramps or bathrooms with grab bars. Some require housing

with on-site support services, such as meal service or job counseling. Most simply need housing that is safe, secure, and affordable. Five specific groups are profiled below.

Seniors. In 2000, there were 70,000 District residents over 65, including 8,500 residents over 85. As the baby boom generation matures and as average lifespan increases, the population of seniors in the District is expected to increase dramatically. At the national level, the Census projects the number of senior citizens will increase by 104 percent between 2000 and 2030—almost four times the rate of the population at large. There will be a need for a broad range of senior living environments, serving residents across the income spectrum.

This will be accompanied by a need for new programs, ranging from those that help seniors “age in place” through home retrofits to those that provide on-site nursing and health care in a congregate environment. As already noted, higher levels of assistance will be required to help senior homeowners on fixed incomes and to protect elderly renters from displacement. 516.2

The proposed map amendment advances this goal by facilitating additional development of the Subject Property in support of the existing senior housing on the Property..

c. Community Services and Facilities Element (Chapter 11)

CSF-2.3 Senior Care 1108

Seniors are expected to be the fastest growing segment of the District’s population during the next 20 years. Although the District’s Office of Aging and several affiliated non-profit organizations already provide a comprehensive system of health care, education, employment, and social services for the District’s elderly population, these entities may be hard pressed to keep up with demand as the number of seniors in the city rises.

Currently, about 45 percent of the city’s seniors live alone. Some 43 percent have no personal vehicle and 42 percent have a physical disability. The largest percentages of seniors are in Upper Northwest and Far Northeast. Many are homeowners, caring for their properties with diminished incomes and physical mobility. Others are primary caregivers for their grandchildren, facing the challenge of raising a family in their advancing years. 1108.1 The policies below focus on the importance of senior centers, services, and care facilities. There are currently three senior wellness centers in the city, two in Southeast and one in Northeast. A variety of services and programs are delivered from these facilities, including nutrition, exercise, health care, creative arts, and education. Future investment in senior facilities as well as new facilities will be

necessary in the future to serve the District's growing senior population and to help seniors lead more vital and productive lives. 1108.2

Policy CSF-2.3.1: Senior Care Facilities Establish new senior centers in areas that have large elderly populations, particularly neighborhoods in Upper Northwest and Far Northeast. These centers could be co-located in community health facilities or near other public facilities such as libraries or elementary schools to increase the interaction and learning between senior citizens, youth, and others. 1108.3

The proposed rezoning furthers these objectives by facilitating the development of additional senior services on the Subject Property.

2. **Health, Safety, and General Welfare**

The proposed map amendment would further the public health, safety, and general welfare of the District of Columbia. The requested rezoning to the RA-2 zone district will permit the development of additional affordable housing for seniors which is in great demand but short supply in D.C. As discussed above, the proposed map amendment will further a number of the policies embodied in the Comprehensive Plan including housing and land use goals and policies. The proposed map amendment will allow additional development on the Subject Property to be devoted to senior housing and senior care at a medium-density that is compatible with the Future Land Use Map of the Comprehensive Plan. Additional development is not expected to have an adverse impact on neighboring properties. Due to the location of the existing improvements and a number of Heritage trees on the Property, additional development on the Property is likely to be concentrated in the northeastern corner of the Property at the Western Ave and Livingston Street intersection and will be buffered by the adjacent Chevy Chase Community Center and playground. Further, Lisner has a long standing relationship with the ANC (the ANC meets at Lisner) and continued consultation will inform new development plans.

VII. AGENCY AND ANC COORDINATION

On April 6, 2021, the Applicant met virtually with the DC Office of Planning (“OP”) to discuss the proposed map amendment, and to obtain preliminary feedback as to whether the application is consistent with the Comprehensive Plan. Also, as required under 11 DCMR Subtitle Z § 304.6, the Applicant attended the July 8th, 2021 duly noticed meeting of ANC 3E (the “ANC”) to inform the ANC of its intent to file the subject application. The Applicant also previously met with the ANC on February 13, 2020 and obtained the ANC’s support for a change in the FLUM to “Moderate Density Residential” for the Property. As indicated above, Lisner has a long standing relationship with the ANC (the ANC meets at Lisner) and continued consultation will inform new development plans. Prior to the public hearing, the Applicant will continue to coordinate with the ANC, and relevant civic associations, to make a formal presentation of the subject application.

VIII. CONCLUSION

For all of the reasons stated herein, the Applicant submits that the proposed rezoning of the Property from the R-2 to RA-2 zone meets all of the requirements for an amendment to the Zoning Map. The proposed map amendment is consistent with the District’s plans and policies for the Subject Property. Furthermore, the proposed rezoning is not inconsistent with the Comprehensive Plan, and will further objectives set forth in the Zoning Act. Accordingly, the Applicant respectfully requests that the Commission schedule a public hearing on this application and grant the requested map amendment.

Respectfully submitted,



Cynthia A. Giordano
Saul Ewing Arnstein & Lehr, LLP

The undersigned certify that they are owners in fee simple of the property to be subdivided and are in peaceful occupation thereof; that there are no pending suits or actions that affect title to the property; that parties to any deeds of trust have herein indicated their assent; and that there are no interests or claims affecting title to the property other than such deeds of trust. This undesignated hereby subdivides Lot 7, Square 1663 (Book 154 of Page 55) into two lots and requests that this subdivision be recorded in the Office of the Surveyor of the District of Columbia.

WITNESSES

OWNERS
ABRAHAM AND LAURA LISNER
HOME FOR AGED WOMEN
Matthew W. Tobriner
MATTHEW W. TOBRINER, PRESIDENT
Mary V. Kagan
MARY V. KAGAN, TREASURER

Subscribed and sworn before me this 18 day of January, 2005

Joseph S. V. Skisich
Notary Public My Commission Expires 11/19/07

NUMBER OF TRUSTS: 0
ASSENT BY TRUSTEES:

SURVEYOR'S OFFICE, D.C.

Made by: HOLLAND & KNIGHT
Drawn by: LE S. Checked by: BM JED
Record and computations by: F. SLEEM
Recorded at: 9:05 AM FEBRUARY 8, 2005
Recorded in Book 199 Page 27 S.O. 15560
Scale: 1 inch = 100 feet File No. 04-13813

2004/SUBDIVISIONS/SO/15560/SO 1663

OFFICE OF TAX AND REVENUE

1 Ownership agrees with our records: 1/24/2005
2 Real estate taxes are paid to: Exempt
3 There are no unpaid assessments: 1/24/05

H. Joe Marx
Chief Assessor, Assessment Division

I acknowledge for the owners that this is not a tax certificate as intended by D.C. Code Section 47-105

Truda Robar

DEPARTMENT OF CONSUMER AND REGULATORY AFFAIRS

Zoning District: R-2
I certify that this subdivision complies with all applicable provisions of D.C.M.R.T., Zoning Regulation of the District of Columbia.

2/5, 2005

TOBRINER
Zoning Administrator

2/2, 2005

Joseph S. V. Skisich
Historic Preservation

OFFICE OF THE SURVEYOR

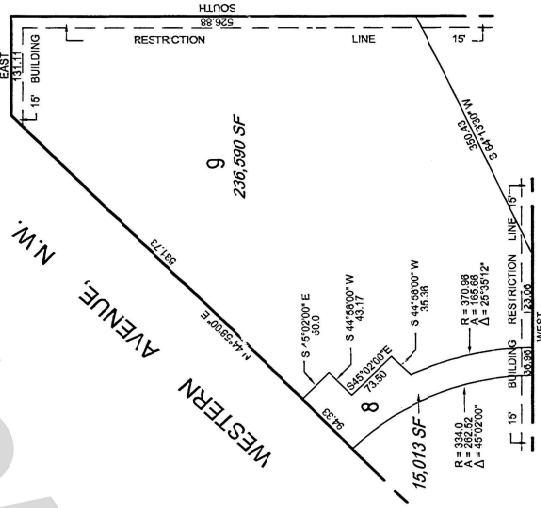
February 8, 2005

I certify that this plat is correct and is hereby recorded.

Richard J. Danforth
Surveyor, D.C.

SUBDIVISION
SQUARE 1663

LIVINGSTON
STREET, N.W.



42nd STREET, N.W.

MILITARY ROAD, N.W.

EXHIBIT B



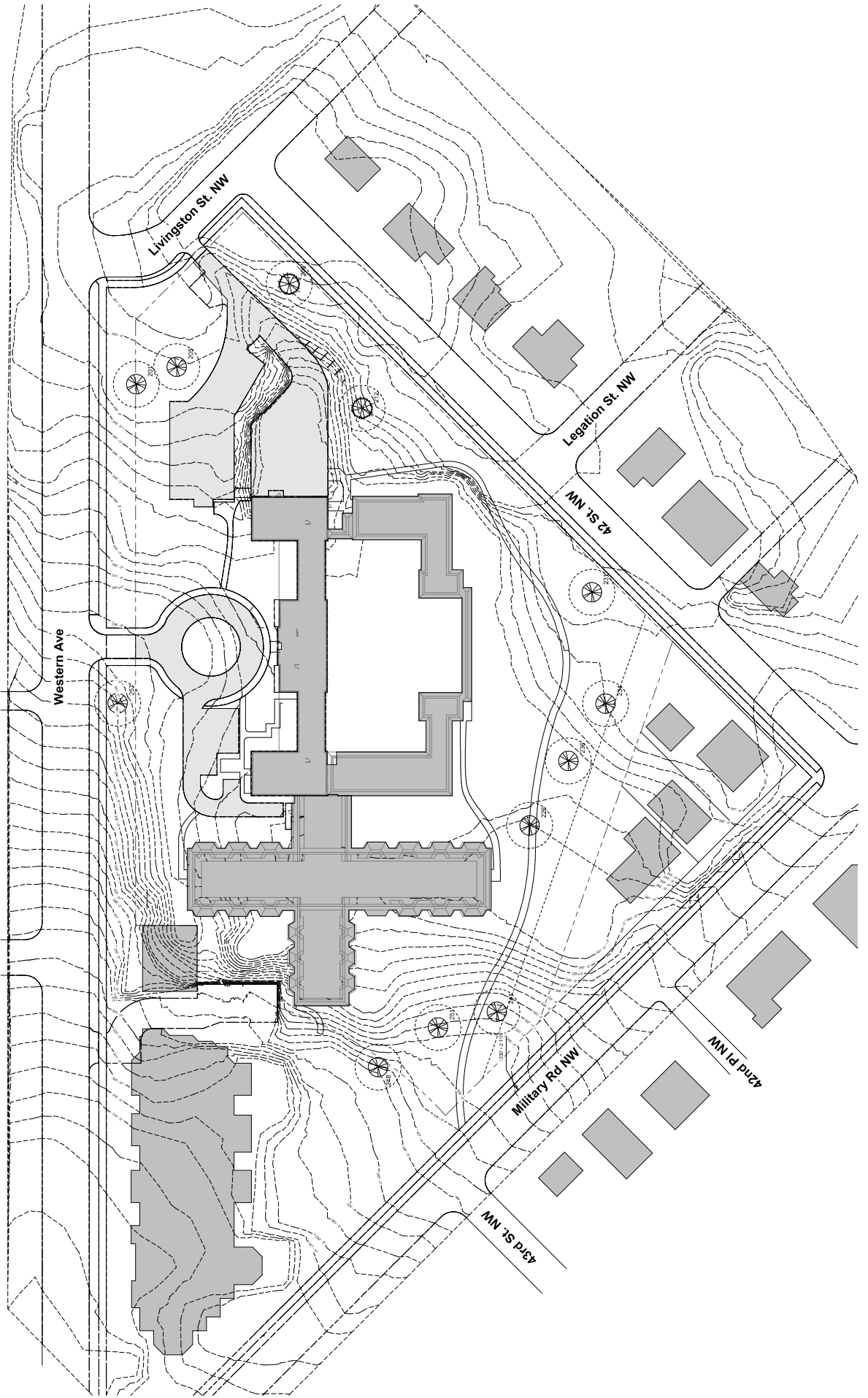
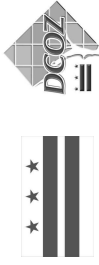
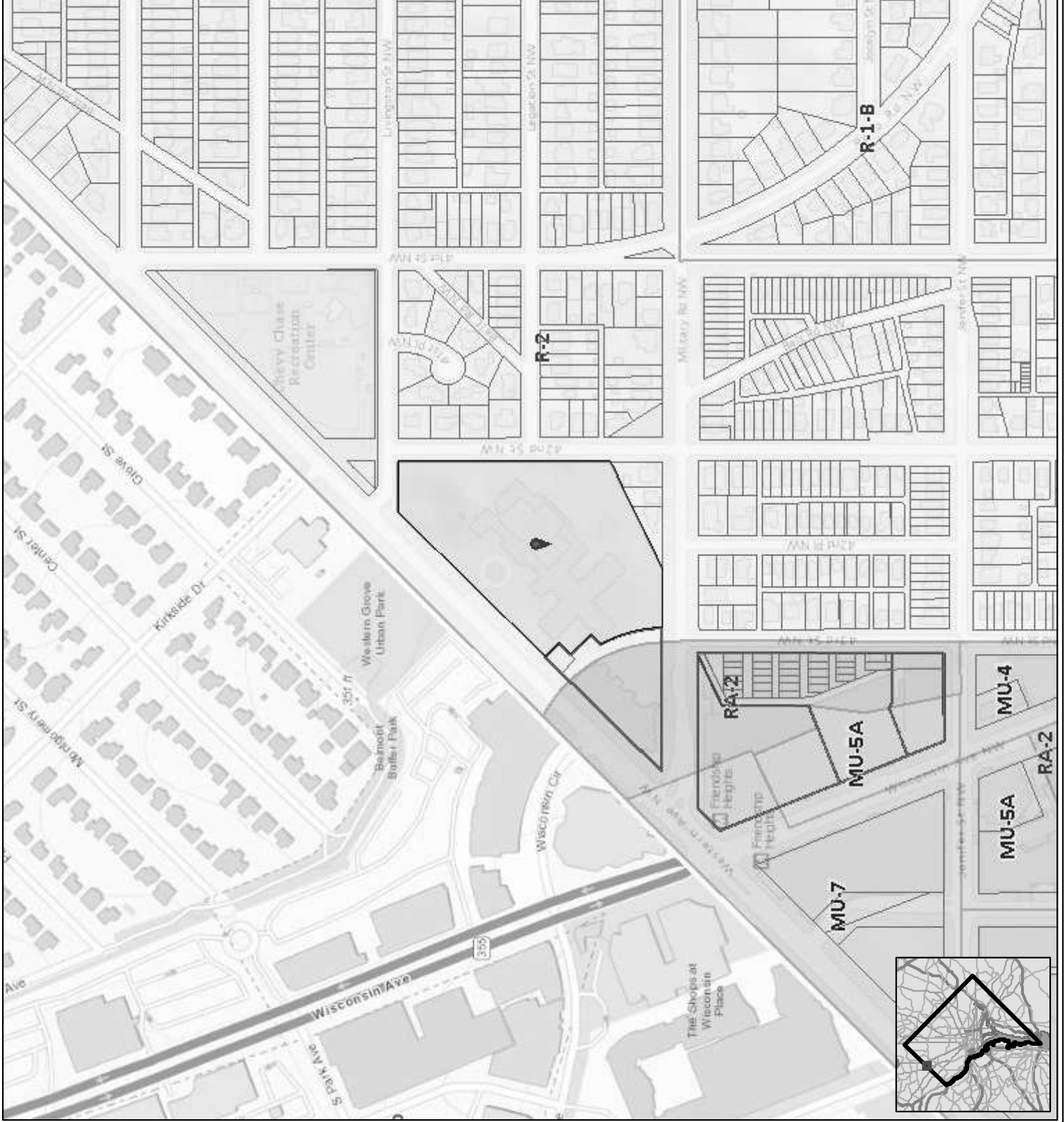


EXHIBIT C



Zoning Map of the District of Columbia



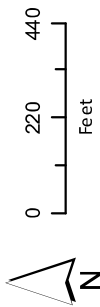
Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO). Exported on: 7/20/2021

To certify zoning on any property in order to satisfy a legal requirement, contact the office of Zoning at the address listed below.

District of Columbia Office of Zoning, 441 4th St NW, Suite 200 South, Washington, DC 20001 202-727-6311 | dcoz@dc.gov



Proposed Zoning Map of the District of Columbia



Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO). Exported on: 7/20/2021

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