

**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” land use designation for the Subject Property indicated in the recently adopted Comprehensive Plan. 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 B 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 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%. 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 R-2 zone is a low to moderate density zone. (See Exhibit C, Existing and Proposed Zoning Maps.)

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

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. 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” D.C. Code § 6-641.01 (2001). The Zoning Act further provides that:

[z]oning maps and regulations, and amendments thereto, shall not be inconsistent with the comprehensive plan for the national capital, and zoning regulations shall be designed to lessen congestion in the street, to secure safety from fire, panic, and other dangers, to promote health and the general welfare, to provide adequate light and air, to prevent the undue concentration of population and the overcrowding of land, and to promote such distribution of population and of the uses of land as would tend to create conditions favorable to health, safety, transportation, prosperity, protection of property, civic activity, and recreational, educational, and cultural opportunities, and as would tend to further economy and efficiency in the supply of public services. Such regulations shall be made with reasonable consideration, among other things, of the character of the

respective districts and their suitability for the uses provided in the regulations, and with a view to encouraging stability of districts and of land values therein. D.C. Code § 6-641.02 (2001).

The Commission must apply these standards and criteria in determining whether to approve a requested map amendment. The proposed rezoning of the Property from the R-2 to RA-2 zone district will promote each of the purposes described above.

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

The requested zoning map amendment is submitted as a contested case pursuant to 11-ZDCMR §§ 201.2(e). 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 (manner) which is not inconsistent with the Comprehensive Plan. Accordingly, to approve the proposed rezoning, the Commission must conclude that it 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 citywide and area elements.

Based on the foregoing standards and as demonstrated below, the proposed map

amendment satisfy the applicable criteria for a zoning map amendment filed as a contested case. The rezoning of the Subject Property to the RA-2 zone is not inconsistent with the policies and goals of the recently adopted Comprehensive Plan, including the Future Land Use Map and further complies with the goals and recommendations of the Mid- City East Small Area Plan.

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. On July 8, 2021, the Mayor signed the legislation reflecting that change. The legislation is now subject to a 30 day Congressional review but will have taken effect by the time the Zoning Commission will review this application. Medium Density Residential is defined in the Comprehensive Plan Framework Element as applicable to neighborhoods or areas generally, but not exclusively, suited for mid-rise apartment buildings as well as taller residential buildings surrounded by large areas of permanent open space. According to the plan, “Density typically ranges from 1.8 to 4.0 FAR. although greater density may be possible when complying with Inclusionary Zoning or when approved through a Planned Unit Development”. The RA-3 Zone District is consistent with the Medium Density Residential category, and other zones may also apply.”

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. **Compliance with the Citywide Elements of the Comprehensive Plan**

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.

The proposed map amendment advances this goal as well as specific policy objectives by facilitating additional development of the Subject Property that will help protect the health safety and welfare of seniors in the District of Columbia and generate new jobs for District residents.

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 for senior housing.

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.

3. **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. The 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. The additional development is not expected to have an adverse impact on neighboring properties as it will 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,
Saul Ewing Arnstein & Lehr, LLP



Cynthia A. Giordano

EXHIBIT B



Western Ave

Livingston St. NW

43rd St. NW

Military Rd NW

42nd Pl NW

42 St. NW

Legation St. NW

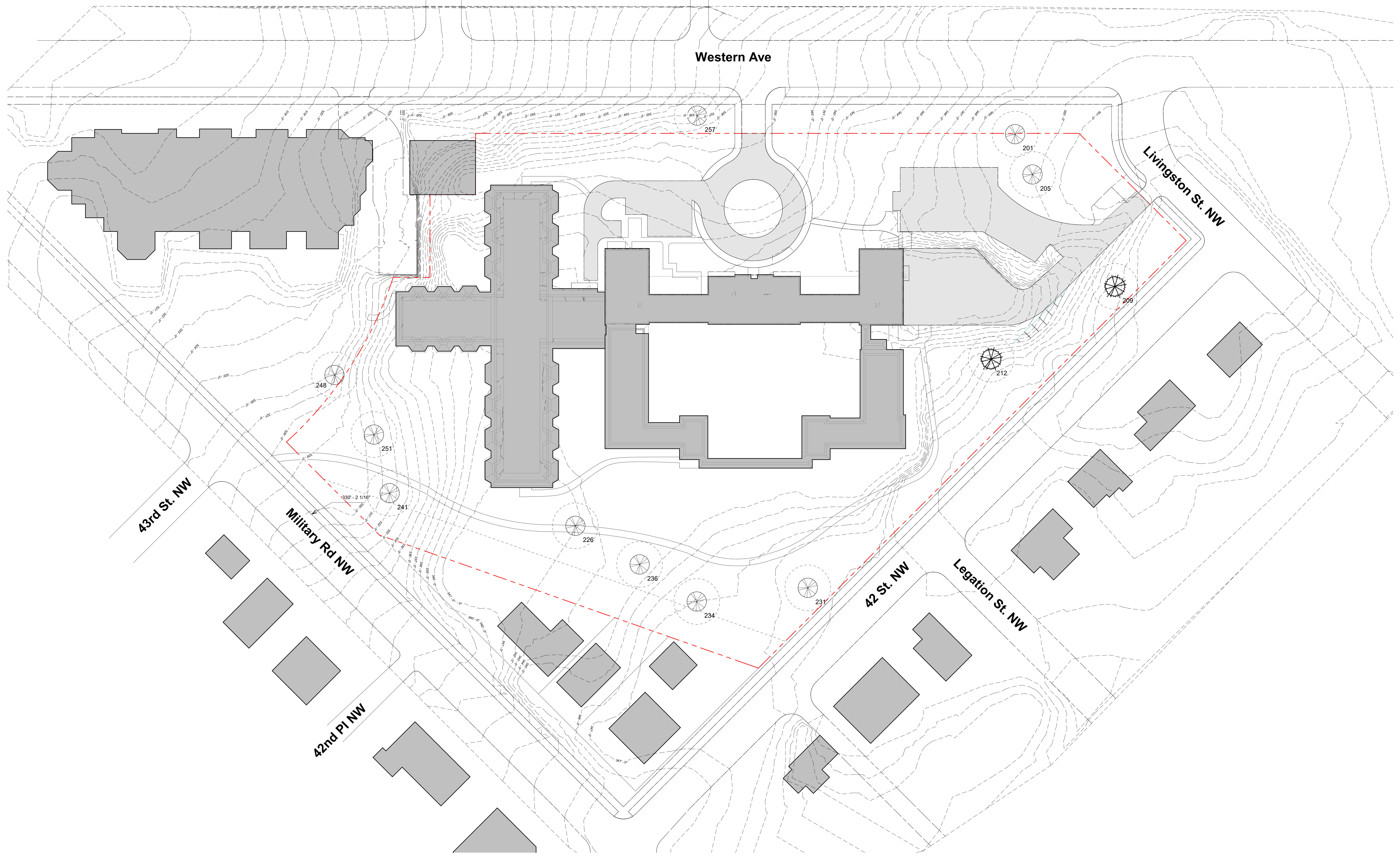
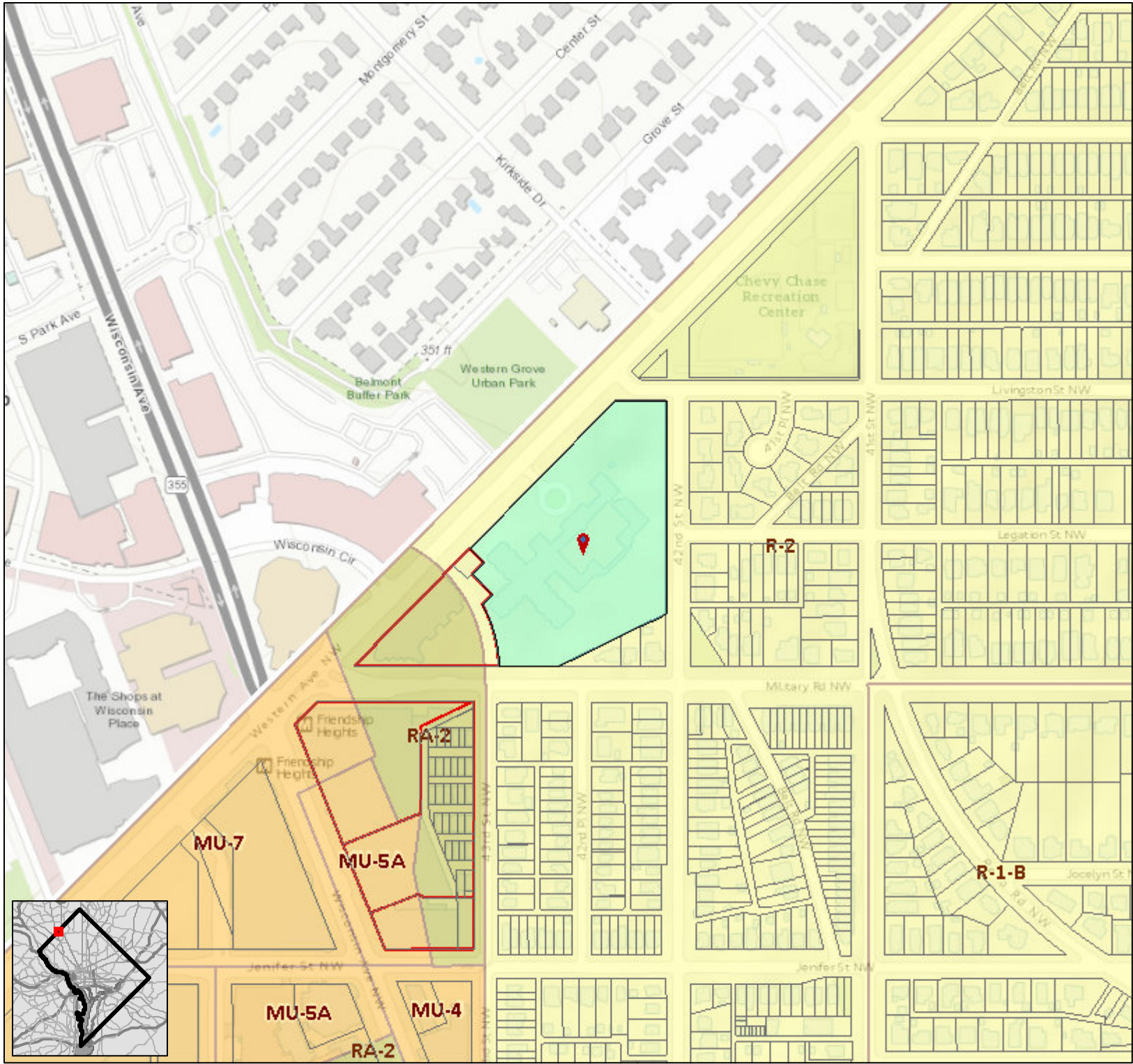
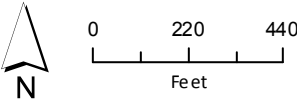


EXHIBIT C



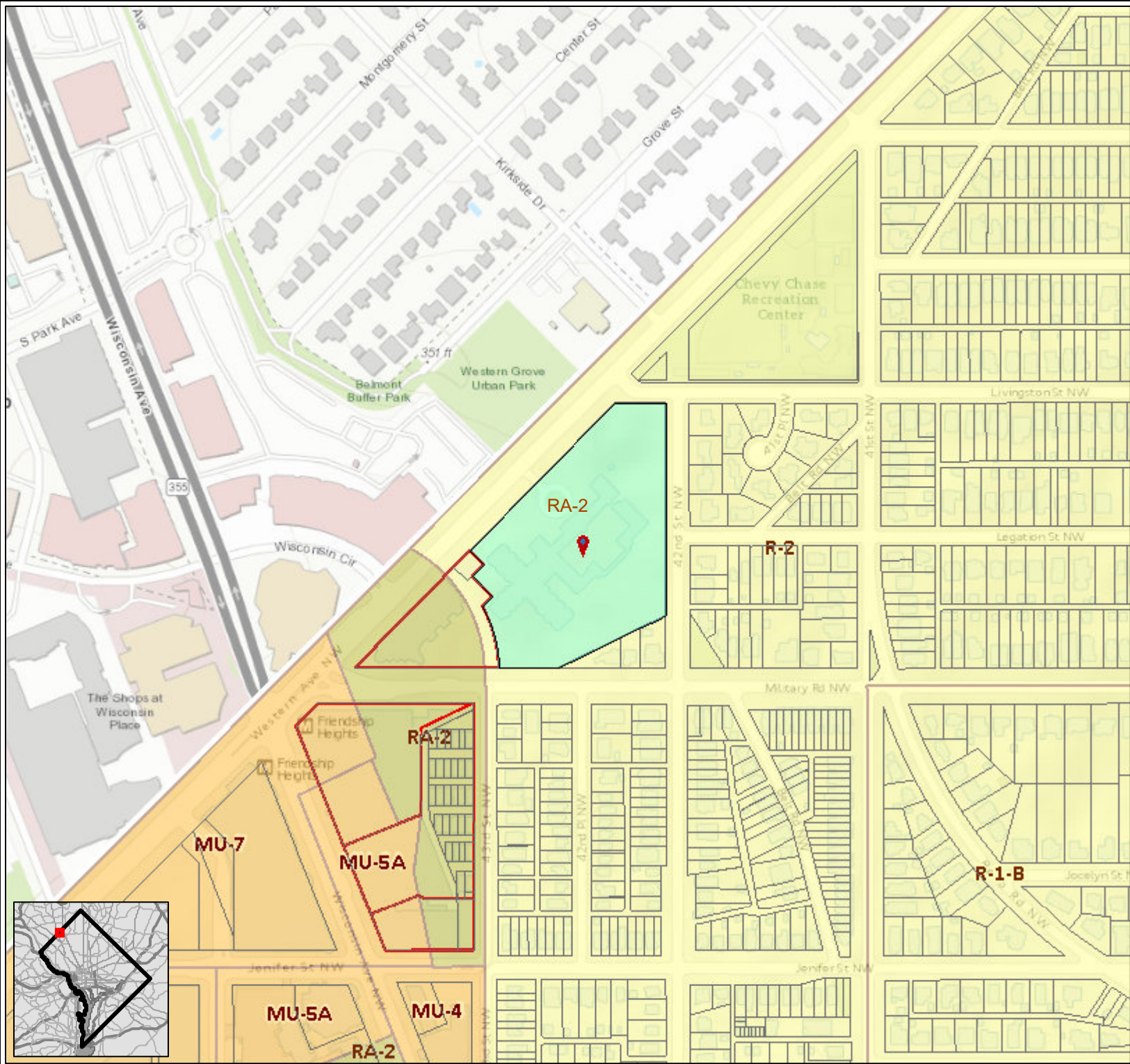
Zoning Map of the District of Columbia



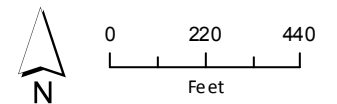
Extracted from Online Zoning Information published by the District of Columbia Office of Zoning, DCGIS, and Office of the Chief Technology Officer (OCTO) Exported on: 7/20/2021

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@d.c.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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