GOVERNMENT OF THE DISTRICT OF COLUMBIA
OFFICE OF PLANNING

Office of the Director

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**MEMORANDUM**

**TO:** Board of Zoning Adjustment

**FROM:** Andrew Altman
Director

**DATE:** May 13, 2003

**SUBJECT:** BZA Application 17013 - Request filed by Holland & Knight LLP for three **special exceptions** to permit a new residential development, a child development center and to extend the provisions of a less restrictive zoning district into a more restrictive zoning district, and an area **variance** to increase the distance the R-5-A District provisions may be extended into the R-2 District, proposed by First Rock Baptist Church Foundation, Inc. for 4638 H Street, S.E.

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**APPLICATION**
Application of First Rock Baptist Church Foundation, Inc.:

1) **Special Exception pursuant to 11 DCMR §§353 and 3104.1** to permit the construction of a 74-unit affordable apartment building;
2) **Special Exception pursuant to 11 DCMR §§205 and 3104.1** to permit a child day care center for 90 children;
3) **Special Exception pursuant to 11 DCMR §§2514.2 and 3104.2** to extend the provisions of the less restrictive R-5-A District into the more restrictive R-2 District; and
4) **Variance relief to 11 DCMR §§2514.2(a) and 3104.1** to increase the distance the provisions of the R-5-A District may be extended into the R-2 District from a maximum of 35 feet to approximately 160 feet

for property located on the north side of H Street, S.E. and the south side of Hanna Place, 4638 H Street, between 46th Street and Benning Road, Square 5359, Lot 324. The property is zoned R-5-A, low density general residence district, and R-2, one-family, semi-detached dwellings residence district.

**SUMMARY RECOMMENDATION**
The Office of Planning recommends approval of the request to permit a 74-unit affordable apartment building, to permit a 90-child day care center, to permit the provisions of the R-5-A District to be extended into the R-2 District, and to increase the distance those provisions may be

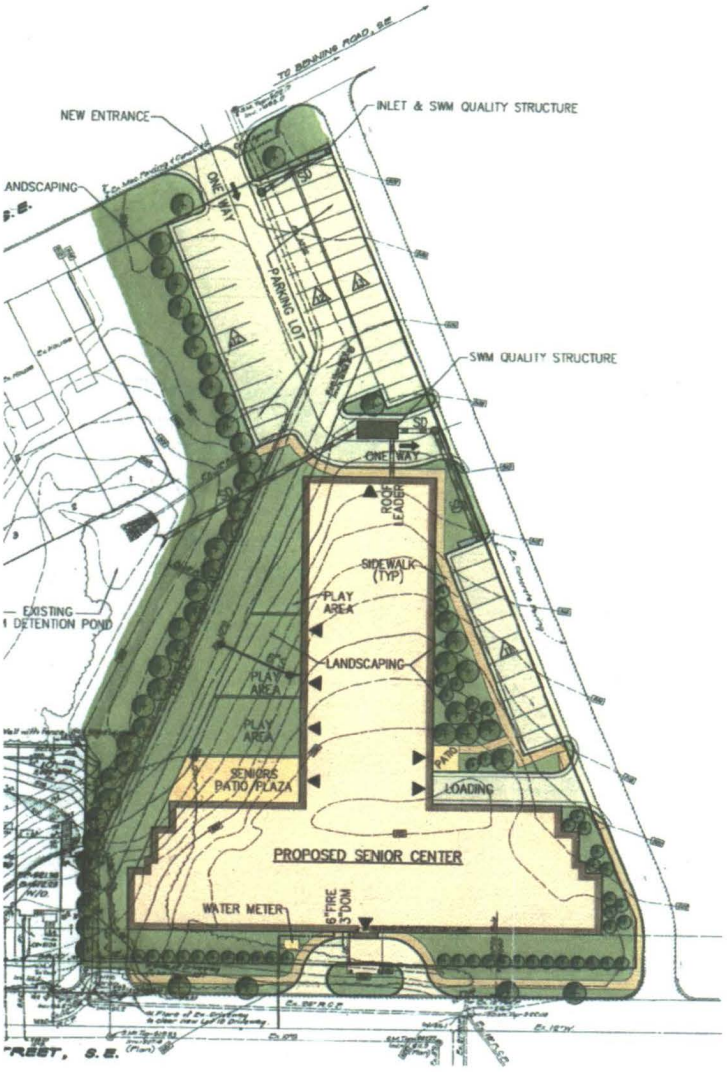
BZA
Case No. 17013
Exhibit No. 33

Board of Zoning Adjustment
District of Columbia
CASE NO. 17013
EXHIBIT NO. 33

extended from the maximum of 35 feet to approximately 160 feet, as submitted by the applicant, subject to the following conditions:

1. The application shall be amended to incorporate any conditions recommended by the D.C. Department of Transportation.
2. The application shall be amended to incorporate any conditions recommended by the D.C. Department of Health.
3. Pedestrian access be provided to the child development center from Hanna Place and a sidewalk be provided along the subject property's frontage along Hanna Place.

**PROJECT DESCRIPTION**




Proposed Landscape Plan

The proposed three-story, 'T' shaped building with basement is to include 74 apartment units for the elderly and a 90-child day care center, and a gross floor area of 66,451 square feet. The front of the building, which includes the "cap" portion of the 'T', will face H Street, and will include a covered entranceway and circular drive at the lobby entrance to the apartment building. At the rear of the building will be the entrance to the day care center on the lower level facing the parking lot fronting on Hanna Place. Due to the sloping topography of the site, the entrance to the day care center will be at grade.

Parking provided will total 41 parking spaces, either directly accessible from the alley on the east side of the property, or from a separate driveway entrance on Hanna Place on the north side of the building. The entrance from Hanna Place will be in only, allowing for one-way circulation for the drop-off of children at the day care center, and then exiting out to the alley. A total of 16 parking spaces are required, 12 for the apartments and 4 for the day care center. One loading space will be provided directly from the alley, as required for the apartment building.

Outdoor play area for the day care center and outdoor recreation space for the apartments is proposed to be located on the northwest side of the building, more or less in the center of the square.

**SITE AND AREA DESCRIPTION**

The property consists of Lot 324 of Square 5359, in the South East quadrant of the District. It is 73,837.12 square feet in size, 132.37 feet in width and unusually shaped. It is unimproved, grassy and enclosed by a 6-foot high chain link fence. The topography of the site slopes downward from H Street to Hanna Place and also from east to west. A closed 20-foot wide public alley that is now a drainage and sewer easement angles through the site. The site is bounded on the north by Hanna Place, on the east by a 20-foot wide public alley, on the south by H Street, and on the west by one-family and semi-detached dwellings.

To the north, across Hanna Place, is undeveloped and wooded property within the R-2 and R-5-A Districts. To the east, across the public alley and within the R-5-A District, are one-family detached dwellings fronting on Benning Road with rear vehicular access from the alley. Across Benning Road are two to four story apartment buildings within the R-5-A District. To south, across H Street and within the R-2 District, are semi-detached dwellings. To the west, within the R-2 District, are semi-detached dwellings, beyond which are one-family detached dwellings. The semi-detached dwelling adjoining the subject property and fronting on Hanna Place is split zoned between the R-2 and R-5-A Districts.

The surrounding area is predominantly residential, developed with a mixture of low-rise apartment buildings, and one family, semi-attached, and triple-attached dwellings. Neighborhood serving retail is located at the northwest corner of G Street and Benning Road and at the southeast corner of H Street and Benning Road.

The area has been identified on the Generalized Land Use Map as moderate density, which is described as *"[r]ow houses and garden apartments are the predominant uses; may also include low density housing."*

**EXISTING ZONING**
The subject property is split zoned between the R-5-A, low density general residence district, and R-2, one-family, semi-detached dwellings residence district.

**R-5 General Residence Districts**
*"The R-5 Districts are designed to permit a flexibility of design by permitting in a single district, except as provided in §§350 through 361, all types of urban residential development if they conform to the height, density, and area requirements established for those districts under chapter 4 of this title. The R-5 Districts shall also permit the construction of those institutional and semi-public buildings that would be compatible with adjoining residential uses and that are excluded from the more restrictive Residence Districts."* (§350.1)

**R-2 Residence Districts**
*"The R-2 District consists of those areas that have been developed with one-family, semi-detached dwellings, and is designed to protect to protect them from invasion by denser types of residential development. It shall be expected that these areas will continue to contain some small one-family detached dwellings."* (§300.1)

**RELIEF REQUESTED:**
**Special Exception pursuant to §353- New Residential Developments**
Section 353 sets forth the specific criteria under which new residential developments may be permitted within the R-5-A District. Those provisions are as follows

*353.1 In R-5-A Districts, all new residential developments, except those comprising all one-family detached and semi-detached dwellings, shall be reviewed by the Board of Zoning Adjustment as special exceptions under § 3104 in accordance with the standards and requirements in § 410 and this section.*

**410 GROUPS OF RESDENTIAL BUILDINGS IN R-4 AND R-5 DISTRICTS**

*410.1 In an R-5 District, if approved by the Board of Zoning Adjustment as a special exception under § 3104, a group of one-family dwellings, flats, or apartment houses, or a combination of these buildings, with division walls erected from the ground up or from the lowest floor up, may be erected and deemed a single building for the purpose of this title; provided, that the requirements of §§ 410.2 through 410.11 shall be met.*

This section of the Zoning Regulations is not applicable to the subject application because it is for the construction of one building only.

*353.2 The Board shall refer the application to the D.C. Board of Education for comment and recommendation as to the adequacy of existing and planned area schools to accommodate the numbers of students that can be expected to reside in the project.*

The proposed units are for senior citizens only. Therefore, this development will have no effect on the adequacy of existing and planned area schools. No students will reside in the project.

*353.3 The Board shall refer the application to the D.C. Departments of Transportation and Housing and Community Development for comment and recommendation as to the adequacy of public streets, recreation, and other services to accommodate the residents of the project and the relationship of the proposed project to public plans and projects.*

The application was referred to the D.C. Department of Transportation (DDOT) and the D.C. Department of Housing and Community Development (DHCD) for comment and recommendation. DHCD recommended approval of the application and responded in two letters, one dated April 4, 2003 and the other April 15, 2003. DHCD indicated that the *"project will provide in-fill development in the Minnesota-Benning neighborhood, a priority funding area in Southeast D. C."* and that it *"meets several goals of DHCD including increasing the supply of decent affordable housing, supporting neighborhood revitalization, and promoting economic and community development."*

Comments were solicited from the D.C. Department of Transportation, but none were received.

*353.4 The Board shall refer the application to the D.C. Office of Planning for comment and recommendation on the site plan, arrangement of buildings and structures, and provisions of light, air, parking, recreation, landscaping, and grading as they relate to the future residents of the project and the surrounding neighborhood.*

This report serves as the comments and recommendation of the D.C. Office of Planning.

*353.5 In addition to the other filing requirements, the developer shall submit to the Board with the application, four (4) site plans and two (2) sets of typical floor plans and elevations, grading plans (existing and final), landscaping plans, and plans for all new rights-of-way and easements.*

The application contains the filing requirements as provided above, with the exception of final grading plans. However, the application does include site and landscape plans that depict the final development of the site.

It is the conclusion of the Office of Planning that the applicant has satisfactorily me the criteria for special exception relief of §353.

**Special Exception pursuant to §205– Child/Elderly Development Centers**

Section 205 sets forth the specific criteria under which Child Development Centers may be permitted within a residential district. Those provisions are as follows:

*"205.2 The center shall be capable of meeting all applicable code and licensing requirements.*

The application indicates that the applicant proposes to be in conformance with all code and licensing requirements.

*205.3 The center shall be located and designed to create no objectionable traffic condition and no unsafe condition for picking up and dropping off children or elderly persons.*

The use should not create an objectionable traffic condition or unsafe condition for picking up and dropping off of children. A separate vehicular entrance, utilizing one-way circulation from Hanna Place, is proposed providing access to the child development center. Off-street parking is also proposed at this location for those walking their children into the building.

The Landscape Plan proposes a sidewalk across the front of the property on H Street and along the alley to the rear of the building and the entrance to the child development center and the parking lot. However, no pedestrian access is proposed from Hanna Place. As the application indicates that many of the children will walk to the site, pedestrian access to the child development center from Hanna Place, including a sidewalk along Hanna Place across the width of the subject property, should be provided for those children that will be walked to the site from that direction.

Comments were solicited from the D.C. District Department of Transportation, but none were received. The ANC has not indicated any concern regarding objectionable traffic conditions.

*205.4 The center shall provide sufficient off-street parking spaces to meet the reasonable needs of the teachers, other employees, and visitors.*

Adequate parking as required by 11 DCMR §2101.1 is proposed.

*205.5 The center, including any outdoor play space provided, shall be located and designed so that there will be no objectionable impacts on adjacent or nearby properties due to noise or activity, or visual or other objectionable conditions.*

The outdoor play space is proposed to be located on the west side of the building, at near the juncture of the two parts of the letter 'T'. The building will screen the outdoor play from the south and east. To the west and north, the outdoor play area will be buffered by a staggered row of trees, beyond which is the storm water

management pond. The building and the trees will minimize the effects of the outdoor play area to nearby properties due to noise or activity.

205.6 *The Board may require special treatment in the way of design, screening of buildings, planting and parking areas, signs, or other requirements, as it shall deem necessary to protect adjacent and nearby properties.*

The Landscape Plan proposes a staggered row of trees on the northwest side of the building, which will buffer the outdoor play area from the nearby dwellings.

205.7 *Any off-site play area shall be located so as not to result in endangerment to the individuals in attendance at the center in traveling between the play area and the center itself.*

No off-site play area is proposed.

205.8 *The Board may approve more than one (1) child/elderly development center in a square or within one thousand (1,000 ft.) of anther child/elderly development center only when the Board finds that the cumulative effect of these facilities will not have an adverse impact on the neighborhood due to traffic, noise, operations, other similar factors.*

The Board has not approved any other child development centers within the subject square and the Office of Planning is unaware of any other child development centers within 1,000 feet of the subject property.

205.9 *Before taking final action on an application for use as a child development center and/or elderly development center, the Board shall submit the application to the D.C. Department of Public Works and Health, the D.C. Office on Aging and the D.C. Office of Planning, for review and written reports.*

This application is not relevant to the D.C. Office on Aging and this report is the written report of the D.C. Office of Planning. The D.C. Department of Health, in a memo to the Office of Planning dated May 13, 2003, recommended the approval of the special exception to establish and maintain a child development center.

205.10 *The referral* to the *D.C. Department of Human Services shall request advice as to whether the proposed center can meet all licensing requirements set forth in the applicable laws of the District."*

The D.C. Department of Human Services informed the Office of Planning by telephone that they do not license child development centers. The Child Care Branch, Child and Residential Care Facilities Division of the D.C. Department of Health licenses child development centers. The Department Health will making a recommendation on the licensure of the child development center following their assessment of the proposed facility's program space.

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for special exception relief of Section 205, provided pedestrian access is provided to the child development center from Hanna Place, and provided any recommendations of the D.C. Department of Transportation are complied with.

**Special exception pursuant to §2514- Zone District Boundary Line Crossing a Lot**

*2514.2 If approved by the Board of Zoning Adjustment as a special exception under § 3104, the regulations applicable to that portion of a lot located in a lesser restrictive use zone district that control the use, height, and bulk of structures and the use of land may be extended to that portion of the lot in a more restrictive use zone district; provided:*

*(a) The extension shall be limited to that portion of the lot in the more restrictive use zone district but not exceeding thirty-five (35 ft.);*

The subject application includes a variance request to increase the distance of the extension to approximately 160 feet.

*(b) In authorizing an extension, the Board shall require compliance with § 2514.1 (d);*

*2514.1(d) For computation purposes, any portion of the lot located in an R-1 or R-2 District shall be deemed to be limited to a floor area ratio of four-tenths (0.4), any portion of the lot located in an R-3 District shall be deemed to be limited to a floor are ratio of six-tenths (0.6), and any portion of the lot located in an R-4 District shall be deemed to be limited to a floor area ratio of nine-tenths (0.9); and*

This section is not applicable as the application is for the extension of the R-5-A provisions, for which a FAR is proscribed, into the R-2 District.

*(c) The extension shall have no adverse effect upon the present character and future development of the neighborhood; and*

The extension should have no adverse effect upon the present character and future development of the neighborhood. Neither the accessory parking and loading, nor any part of the building will extend into the R-2 zoned portion of the site. The R-2 portion of the property is currently and is proposed to remain a storm water management detention pond. The maximum square footage permitted, assuming this special exception and the accompanying variance are approved, is 66,453.41. The proposed building is 66,451 square feet, which the applicant has informed the Office of Planning will allow for 74 dwelling units, or 10 more than would otherwise be allowed. The addition of 10 affordable apartments for the elderly should not have an adverse affect on the neighborhood.

*(d) The Board may impose requirements pertaining to design, appearance, screening, location of structures, lighting, or any other requirements it deems necessary to protect adjacent or nearby property.*

No portion of the proposed building is to be located within the R-2 District. The portion of the site closest to the R-2 District is proposed for use as outdoor play area for the day care center and a senior's patio plaza. The Landscape Plan submitted as a part of the application depicts a staggered row of trees separating the R-2 District portion of the site and the adjoining dwellings to the west from the proposed improvements, screening the proposed use from the adjoining uses.

It is the conclusion of the Office of Planning that the application satisfies the criteria contained within §2514.2, provided the variance to §2514.2(a) is approved.

**Variance relief to § 2514.2 (a) pursuant to Section 3103.2**

The subject property is unusually shaped, with the R-2 zoned portion of the site almost landlocked in the center of the square. The R-2 zoned portion contains a 10-foot wide strip 100 feet long from H Street, with the result that this portion of the site resembles a flag lot. A separate small triangular portion of the R-2 District is also located along Hanna Street. After extending the R-5-A provisions 35 feet into the R-2 District, the remaining portion of the site is totally landlocked, surrounded on three sides by the rear yards of one-family and semi-detached dwellings and the side of the proposed apartment building. In addition, this portion of the site contains an existing storm water management pond. As a result, its use for residential purposes is minimal considering its physical use and the surrounding developed properties. Extending the R-5-A provisions to the full extent of the R-2 District will permit the allowable density to be transferred to the proposed building on the east side of the subject property, retaining the existing storm water management pond on the west side of the site and shifting the density away from the existing dwellings that surround it, reducing the impact that this proposed building will have on those homes.

The Office of Planning recommends that the variance to extend the provisions of a more intensive zoning district into a less intensive zoning district from 35 feet to approximately 160 feet be permitted.

**COMPREHENSIVE PLAN**

This proposal will contribute toward achieving the following focus of the Ward 7 Element:

*"Recognize the need to retain the general housing stock with an emphasis on retaining an adequate supply of low- and moderate-income residential units;"* (§1801.1(f))

This proposal will contribute toward achieving the following objectives of the Ward 7 Element:

*"Stimulate the production of new and rehabilitated housing to meet all levels of need and to provide incentives for all types of housing at desired locations;"* (§1808.1 (b))

*"Provide for the housing needs of the elderly and to reduce their overall housing costs;"* (§1808.1 (g))

*"Provide for the special employment needs of women in Ward 7, particularly single heads of households;"* (§1826.1(h))

This proposal will contribute toward achieving the following actions of the Ward 7 Element:

*"Continue and expedite efforts to redevelop the site at Benning Road and H Street S.E., through a community development organization or private developer;"* (§1809.1(d)(2)(A))

*"The production of housing of various types for elderly individuals and households should be a major priority of the District government. Particular emphasis should be given to low cost affordable housing for the elderly in Ward 7; and"* (§1809.1(g)(1))

*"Increase the number of housing units for the elderly in Ward 7; and"* (§1809.1(g)(2)(B))

**COMMUNITY COMMENTS**

In a letter dated March 11, 2003 to First Rock Baptist Church, **ANC 7E** indicated that they support the proposal as presented to them at their meeting of February 11, 2003.

In a letter dated May 6, 2003, the single member district commissioner for **ANC 7E03** indicated that the ANC was rescinding its support of the child development center.

**AGENCY COMMENTS**

The Office on Aging submitted a letter to the file dated April 29, 2003 in support of the requested special exceptions and variance for the construction of the proposed affordable apartment building for the elderly.

The D.C. Department of submitted a memorandum dated May 13, 2003 recommending the approval of the special exception for the child development center.

**CONCLUSION**

It is the Office of Planning's conclusion that the applicant has satisfactorily met the criteria for special exception relief of §353, §205 and §2514.2, and variance relief of §2514.2(a), and *"that the relief can be granted without substantial detriment to the public good and without substantially impairing the intent, purpose, and integrity of the zone plan as embodied in the Zoning Regulations and Map"* (§3103.2), provided the D.C. Department of Transportation has no issues with the application. In addition, the applicant must also provide pedestrian access to the child development center from Hanna Place.

**RECOMMENDATIONS**

The Office of Planning has reviewed the application in terms of the property's zoning, the intensity of use, the character of the neighborhood and the standards for special exception and variance relief. The Office of Planning concludes that each of the special exception requests conform to the required criteria provided the applicant conforms to the recommended conditions of approval. The Office of Planning also concludes that the variance can be granted "without substantial detriment to the public good and without substantially impairing the intent, purpose and integrity of the zone plan as embodied in the Zoning Regulations and Map."

The Office of Planning recommends approval of the following:

1. **Special Exception pursuant to 11 DCMR §§353 and 3104.1** to permit the construction of a 74-unit affordable apartment building;
2. **Special Exception pursuant to 11 DCMR §§205 and 3104.1** to permit a child day care center for 90 children; s
3. **Special Exception pursuant to 11 DCMR §§2514.2 and 3104.2** to extend the provisions of the less restrictive R-5-A District into the more restrictive R-2 District; and
4. **Variance relief to 11 DCMR §§2514.2 and 3104.1** to increase the distance the provisions of the R-5-A District may be extended into the R-2 District from a maximum of 35 feet to approximately 160 feet.

subject to the following conditions:

1. The application shall be amended to incorporate any conditions recommended by the D.C. Department of Transportation.
2. Pedestrian access be provided to the child development center from Hanna Place and a sidewalk be provided along the subject property's frontage along Hanna Place.

AA/sjm$_{AICP}$




Feature Key

Zoning Boundaries

Square Index

Ortho-Photography was taken in 1999.

Board of Zoning Adjustment
Application No. 17013

DC Office of Planning
May 6, 2003

Scale 1:1652

25 0 25 50 75 100 Feet

Attachment 1