

IN THE MATTER OF	:	BEFORE THE
First Korean Presbyterian	:	HOWARD COUNTY
Church of Maryland	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 25-008C

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DECISION AND ORDER

On January 20, 2026, the undersigned, serving as the Howard County Board of Appeals Hearing Examiner, and in accordance with the Hearing Examiner Rules of Procedure, held the evidentiary hearing for the Petition of First Korean Presbyterian Church of Maryland (Petitioner) for a Child Day Care Center and Nursery School Conditional Use in a R-20 (Residential: Single) Zoning District, filed pursuant to Section 131.0.N.13 of the Howard County Zoning Regulations (HCZR).

The Petitioner certified to compliance with the notice and posting requirements of the Howard County Code. The Hearing Examiner viewed the subject property as required by the Hearing Examiner Rules of Procedure. Sung Tan Kim, Young Smith, Eun Sang Cho, George Rippel, Sun Sook Lee, Jason Seong, and Rev. Youngho Lee testified in support of the Petition. No one appeared in opposition.

FINDINGS OF FACT

Based upon the evidence of record, the Hearing Examiner finds the following facts:

1. Property Identification. The Property is located north of MD 100, south of MD 103, east of Waterloo Road (MD 108) and in the southeast intersection of Waterloo Road (MD 108) and Glenmar Road. The Property is developed as a religious facility and includes an existing church that was constructed in 1954, an education/office building that was added in 1962, and another church building constructed in accordance with a special exception granted in 1987 (BA-86-054E). The site has 147 parking spaces. Access onto the site is by way of 5 access points. One two-way entrance onto Glenmar Road. A one-way exit onto Glenmar Road and two, one-way entrances to Glenmar Road. and one right turn exit onto Route 104. The site descends from an elevation of 510 feet at the southwest corner of the property to 464 feet at the eastern property line. The property has two approved site development plans (SDP-88-041 and SDP-94-127). The Property encompasses 3.84 acres of land, the Conditional Use area is 9,858 sq ft, is located in Council District 1, at Tax Map 31, Grid 13, Parcel 267, and is identified as 8430 Glenmar Road, Ellicott City, Maryland.

2. Vicinal Properties.

Direction	Zoning	Land Use
North	R-20	Single-Family Residential/Waterloo Road
South	R-20	Single-Family Residential/Glenmar Road
East	R-20	Single-Family Residential
West	R-20	Single-Family Residential/Glenmar Road

3. Roads. Glenmar Road has two travel lanes within a 50-foot right-of-way. The speed limit is 25 miles per hour. Annual Average Daily Traffic data is not available for this portion of Glenmar Road. Waterloo Road has two travel lanes with dedicated turn lanes within a 100-foot right-of-way. The speed limit is 45 miles per hour. In 2024 the Annual Average Daily Traffic data for this portion of Waterloo Road was 13,481 vehicle trips.

4. Water and Sewer Service. The Property is within the Planned Service Area for Water and Sewer and is served by public water and sewer.

5. The General Plan. The Property is designated Single-Family Neighborhood on the Future Land Use Map of HoCo by Design. Glenmar Road is a County owned Local Road. Waterloo Road is State owned and is designated as a Minor Arterial road.

6. Reported Agency Comments. There are no Agency or Department comments in objection to the Petition.

The Development Engineering Division "takes NO EXCEPTION to the request for a conditional use for a child day care center and nursery school, day treatment and care facility. The existing Site Development Plan shall be redlined to show the new use, and the submission shall include an APFO Study for the change in use to add the daycare and childcare center."

The Health Department stated "Change in use to a school facility will require submitted/updated floor plans for existing kitchen & menu if serving food. The Health Department has no objection to the proposal."

The Department of Inspections, Licenses and Permits stated "Be advised that a Change in use will require compliance with the Maryland Accessibility Code and a Fire suppression system may be required."

The Department of Fire and Rescue Services has no objection to this request. Areas of the building that are subject to a Change-of-Use must comply with all requirements of the Howard County Fire Prevention Code for the appropriate new

occupancy type.

Comments were provided by the Division of Land Development, " DAP review is not required. A redline revision to SDP-94-127 will be required to document the additional use of a private kindergarten school at the location should the conditional use be approved. It is anticipated that existing on-site parking will be sufficient for the addition of a weekday school since school hours will be different from the church's peak parking needs. However the parking chart should be updated to reflect the number of parking spaces required for the school. There are no impacts to environmental features or landscaping, and the use will not hinder or discourage the use or development of adjacent properties. The plan has the potential to comply with all technical requirements."

7. Zoning History.

Case No: BA-86-054E

Request: Expansion of a Religious Facility Conditional Use

Action: Approved on April 14, 1987

Case No: BA-93-042E

Request: Expansion of a Religious Facility Conditional Use

Action: Approved on March 8, 1994

Churches, convents and monasteries were permitted as a matter of right in the R-20 zoning district until 1977, when it changed to a special exception. Child day care centers and nursery schools are a permitted conditional use in the R-20 zoning district. The Decision and Order for BA-86-054E indicates the education building is used for office space, Sunday school and a nursery school. It further states, "The nursery school enrollment is approximately 180 children from age 2 years through 4 years. Petitioner

First Korean Presbyterian Church of Maryland

offers 2-day, 3-day, 4-day nursery school sessions in the mornings or afternoons. No more than 60 children attend any one session at a time. As it currently exists, the nursery school use is accessory to the principal religious facility use."

8. Conditional Use Proposal. The Petitioner is proposing to add a child day care (kindergarten) use to the existing religious facility at the Property. The Petitioner has indicated that the total size of the child day care (kindergarten) use will be approximately 9,858 square feet and will be located within an existing structure on the Property. There will be approximately eighty (80) additional students in attendance at the child day care (kindergarten) facility.

BURDEN OF PROOF

The Court of Appeals of Maryland has frequently expressed the applicable standards for judicial review of the grant or denial of a Conditional Use. The Conditional Use is a part of the comprehensive zoning plan sharing the presumption that, as such, it is in the interest of the general welfare, and therefore, valid. The Conditional Use is a valid zoning mechanism that delegates to an administrative body a limited authority to allow enumerated uses which the legislature has determined to be permissible absent any fact or circumstance negating this presumption. The legislative body has statutorily determined that a Conditional Use is compatible in a particular zoning district absent specific facts adduced to the contrary at a particular location. The duties given the hearing body are to judge whether the neighboring properties in the general neighborhood would be adversely affected and whether the use in the particular case is in harmony with the general purpose and intent of the Zoning Plan.

The Applicant has the burden of adducing testimony which will show that his use meets the prescribed standards and requirements, he does not have the burden of establishing affirmatively that his proposed use would be a benefit to the community. These prescribed standards and requirements are conditions precedent to the approval of a conditional use. If he shows to the satisfaction of the zoning body that the conditions precedent have been met and that the proposed use would be conducted without real detriment to the neighborhood and would not actually adversely affect the public interest to a greater extent than if the proposed use were located elsewhere, he has met his burden.

The extent of any harm or disturbance to the neighboring area and uses is, of course, material. If the evidence makes the question of harm or disturbance or the question of the disruption of the harmony of the comprehensive plan of zoning fairly debatable, the matter is one for the zoning body to decide. But if there is no probative evidence of harm or disturbance in light of the nature of the zone involved or of factors causing disharmony to the operation of the comprehensive plan, a denial of an application for a Conditional Use is arbitrary, capricious, and illegal. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Rockville Fuel & Feed Co. v. Board of Appeals of Gaithersburg, 257 Md. 183, 187-88, 262 A.2d 499, 502 (1970); Montgomery County v. Merlands Club, Inc., 202 Md. 279, 287, 96 A.2d 261, 264 (1953); Anderson v. Sawyer, 23 Md. App. 612, 617, 329 A.2d 716, 720 (1974).

These standards dictate that if a requested Conditional Use is properly determined to have an adverse effect upon neighboring properties in the general area,

it must be denied. Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1325 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

The appropriate standard to be used in determining whether a requested Conditional Use would have an adverse effect and, therefore, should be denied is whether there are facts and circumstances that show that the particular use proposed and the particular location proposed would have any adverse effects above and beyond those inherently associated with such a Conditional Use irrespective of its location within the zone. Turner v. Hammond, 270 Md. 41, 54-55, 310 A.2d 543, 550-51 (1973); Deen v. Baltimore Gas & Electric Co., 240 Md. 317, 330-31; 214 A.2d 146, 153 (1965); Anderson v. Sawyer, 23 Md. App. 612, 617-18, 329 A.2d 716, 720, 724 (1974). Schultz v. Pritts, 291 Md. 1, 432 A.2d 1319, 1331 (1981). See also Mossberg v. Montgomery County, 107 Md. App. 1, 666 A.2d 1253 (1995).

CONCLUSIONS OF LAW

1. General Criteria for Conditional Uses (Section 131.0.B)

HCZR Sections 131.0.B.1-3 require the Hearing Authority to evaluate whether the proposed Conditional Use will be in harmony with the landscape uses and policies indicated in the Howard County General Plan for district in which it is located through the application of three standards: harmony with the General Plan, overall intensity and scale of use, and atypical adverse impacts.

A. Harmony and Intensity of Use

Section 131.0.B.1. The proposed Conditional Use plan will be in harmony with the land uses and policies in the Howard County General Plan which can be related to the proposed use.

While Howard County General Plan policies are not directly related to Conditional Use requests for Child Day Care Centers, properly sited facilities are considered compatible with residential areas.

Section 131.0.B.2. The nature and intensity of the use, the size of the site in relation to the use, and the location of the site with respect to streets giving access to the site are such that the overall intensity and scale of the use(s) are appropriate for the site.

The kindergarten child day care center will consist of 9,858 square feet within the existing religious facility and an outdoor play area. The Property is 3.84 acres, which exceeds the three-acre lot size requirement. The religious facility's parking lot contains 147 spaces, the majority of which will be available during the daytime for drop-off/pick up of children. Glenmar Road is a Local Road and appropriate for the type and number of vehicles associated with the proposed use. The nature and intensity of the proposed use, the size of the Property in relation to the use, and the location of the site with respect to the streets that provide access, are such that the overall intensity and scale of the use are appropriate.

B. Adverse Impacts (Section 131.0.B.3)

Unlike HCZR Section 131.0.B.1, which concerns the proposed use's harmony or compatibility with the General Plan, or Section 131.0.B.2, which concerns the on-site effects of the proposed use, compatibility of the proposed use with the neighborhood is measured under Section 131.0.B.3's six off-site, "adverse effect" criteria: (a) physical conditions; (b) structures and landscaping; (c) parking areas and loading; (d) access; (e) environmentally sensitive areas; and (f) impact on the character and significant historic sites.

Inherent in the assessment of a proposed Conditional Use under these criteria is the recognition that virtually every human activity has the potential for adverse impact. The assessment therefore accepts some level of such impact in light of the beneficial purposes the zoning body determined to be inherent in the use. Thus, the question in the matter before the Hearing Examiner is not whether the proposed use would have adverse effects in an R-20 Zoning District. The proper question is whether there are facts and circumstances showing the particular use proposed at the particular location would have any adverse effects above and beyond those inherently associated with such a special exception [conditional] use irrespective of its location within the zones. *People's Counsel for Baltimore County v. Loyola College in Maryland*, 406 Md. 54, 956 A.2d 166 (2008); *Schultz v. Pritts*, 291 Md. 1, 432 A.2d 1319 (1981); *Mossburg v. Montgomery*, 107 Md. App. 1, 666 A.2d 1253 (1995).

For the reasons stated below, Petitioner has met its burden of presenting sufficient evidence under HCZR Section 131.0.B.3 to establish the proposed use will not have adverse effects on vicinal properties beyond those ordinarily associated with a Child Day Care Center and Nursery School, Day Treatment and Care Facilities, in the R-20 Zoning District.

Section 131.0.B.3.a. The impact of adverse effects such as, but not limited to, noise, dust, fumes, odors, intensity of lighting, vibrations, hazards or other physical conditions will be greater at the proposed site than it would generally be elsewhere in the same zoning district or other similar zoning districts.

The proposed use will not generate fumes or odors, nor will it cause glare vibrations, or hazards. The use of the access driveway may generate some noise but will not be significant due to infrequent use. The proposed use is unlikely to result in

adverse effects at the Property greater than it would generally be elsewhere in the R-20 zoning district. There is no evidence of atypical adverse effects such as noise, dust, fumes, odors, vibrations, increased lighting, hazards or other physical conditions that would be greater at the subject Property than generally elsewhere in the R-20 zoning district.

Section 131.0.B.3.b. The location, nature and height of structures, walls or fences, and the nature and extent of the existing and/or proposed landscaping on the site are such that the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the same zoning district or other similar zoning districts.

The Petitioner is not proposing any new landscaping or structures. The outdoor play area is located at the rear of the Property and is separated from residential areas by distance and existing vegetation. Therefore, the use will not hinder or discourage the development and/or use of adjacent land and structures more at the subject site than it would generally elsewhere in the R-20 zoning district.

Section 131.0.B.3.c. The number of parking spaces will be appropriate to serve the particular use. Parking areas, loading areas, driveways and refuse areas will be approximately located and buffered or screened from public roads and residential uses to minimize adverse impacts on adjacent properties.

The off-street parking requirement for a religious facility is 10 spaces per 1,000 square feet of assembly areas and three (3) spaces per 1,000 square feet for a child day care center. A total of 147 parking spaces are on site and the Petitioner is not proposing to modify the square footage of the existing day care use or religious facility assembly area. No changes are proposed to the parking and refuse areas.

Section 131.0.B.3.d. The ingress and egress drives will provide safe access with adequate sight distance, based on actual conditions, and with adequate acceleration and deceleration lanes where appropriate. For proposed

Conditional Use sites which have driveway access that is shared with other residential properties, the proposed Conditional Use will not adversely impact the convenience or safety of shared use of the driveway.

The existing ingress/egress areas to the Property were approved during the construction of the existing religious facility and no changes are being proposed to this area. The Property does not share a driveway with other residential uses.

Section 131.0.B.3.e The proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere.

There are no environmental features in close proximity to the Property. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the R-20 zoning district.

Section 131.0.B.3.f. The proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The closest historic site in the vicinity (HO-867) the Thompson House, is located 545 feet to the west of the Property and is screened by existing structures, and vegetation. Therefore, the proposed use will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere in the R-20 zoning district.

2. Specific Criteria for Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities (Section 131.0.N.13.a)

A Conditional Use may be granted in the RC and RR Districts, on properties that are not ALPP purchased or dedicated easement properties, and in the R-ED,

R-20, R-12, R-SC, R-SA-8, R-H-ED, R-A-15, R-APT, R-VH, HO, or HC Districts for day treatment and care facilities, child day care centers and nursery schools provided that:

- a. On-site circulation and parking areas shall be designed to minimize vehicular/pedestrian conflicts and to provide safe areas for dropping off and picking up passengers**

There is an existing drop-off/pick-up lane that will be used by the child day care (kindergarten) center. Also, the religious facility's parking lot contains 147 parking spaces, the majority of which will be available for drop-off/pick-up of children from 7:15 am – 6:00 pm Monday through Friday.

- b. The minimum lot size in the RC and RR Districts shall be three acres and the minimum lot size in the R-ED, R-20, R-12, R-SC, R-SA-8, R-A-15, R-APT, R-VH, HO or HC Districts shall be one acre, except that uses approved prior to October 6, 2013 shall not be subject to this criteria.**

The Property is in the R-20 zoning district and is 3.84 acres.

- c. Outdoor play areas or activity areas shall be fenced, located to the side or rear of the principal structure, and buffered from adjoining residential properties by landscaping or adequate distance or both.**

The existing outdoor play area is enclosed by a fence, located to the rear of the building and buffered from adjoining properties by existing vegetation and distance. No additional landscaping is proposed for the outdoor play area.

The outdoor play area is over 108 feet from closest residential property and over 180 feet from residences on adjoining properties.

- d. Parking areas shall be located and landscaped to minimize their visibility from roads and adjacent residential properties.**

The Petitioner proposes utilizing the religious facility's parking lot which was approved through SDP-88-041. No changes are proposed.

- e. The design and massing of proposed structures or additions to existing structures shall be generally compatible in scale and character with residential properties in the vicinity of the site, as demonstrated by**

architectural elevations or renderings submitted with the petition. Additional setbacks from property lines and landscape buffering shall be required if necessary to make the appearance of the site compatible with surrounding residential properties.

The Petitioner is not constructing any new structures or additions for the proposed child day care (kindergarten) use. The existing religious facility is being utilized for the proposed use, and no other changes are being made to the structure or landscaping.

f. For facilities with a capacity of more than 30 children or adult clients at one time, the following standards apply:

(1) The site has frontage on and direct access to a collector or arterial road designated in the General Plan, except that expansions of a Conditional Use that was approved prior to July 12, 2001 are permitted.

The site has frontage on Waterloo Road which is designated as a Minor Arterial road.

(2) Buildings, parking areas and outdoor activity areas will be at least 50 feet from adjoining residentially-zoned properties other than public road right-of-ways.

All structures, parking areas and outdoor activity areas are at least 50 feet from adjoining residential properties.

(3) At least 20% of the area within the building envelope shall be green space, not used for buildings, parking area or driveways. The building envelope is formed by the required structure setbacks from property lines and public street rights-of-way.

The Property is not changing from the previously approved Site Development Plan, and no additional structures are being proposed. There is at least 45% of open space available on the Property.

ORDER

Based upon the foregoing, it is this 21st day of January, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of First Korean Presbyterian Church of Maryland, for a Conditional Use for Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities, for 80 additional child care (kindergarten) students, in a R-20 (Residential: Single) Zoning District, Tax Map 31, Grid 13, Parcel 267, Council District 1, identified as 8430 Glenmar Road, Ellicott City, Maryland, be and is hereby **GRANTED**.

HOWARD COUNTY BOARD OF APPEALS**HEARING EXAMINER**

Joyce B. Nichols

Notice: A person aggrieved by this decision may appeal it to the Howard County Board of Appeals within 30 days of the issuance of the decision. An appeal must be submitted to the Department of Planning and Zoning on a form provided by the Department. At the time the appeal petition is filed, the person filing the appeal must pay the appeal fees in accordance with the current schedule of fees. The appeal will be heard *de novo* by the Board. The person filing the appeal will bear the expense of providing notice and advertising the hearing.