

IN THE MATTER OF	:	BEFORE THE
Friendship	:	HOWARD COUNTY
Baptist Church	:	BOARD OF APPEALS
Petitioner	:	HEARING EXAMINER
	:	BA Case No. 25-023C

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DECISION AND ORDER

On April 7, 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 Friendship Baptist Church (Petitioner) for a Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities Conditional Use in a RR (Residential: Single) DEO (Density Exchange Option) 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. Sang Oh, Esq. represented the Petitioner. Thomas McKee (congregant), Joseph Caloggero (traffic engineer) and Patrick Sweeney (engineer) testified in support of the Petition. No one appeared in opposition.

Petitioner submitted the following evidence into the record:

- Ex. 1. Caloggero CV
- Ex. 2. 2007 roadway aerial
- Ex. 3. 2011 roadway aerial
- Ex. 4. Proposed use trip generation
- Ex. 5. Existing use trip generation
- Ex. 6. Church trip generation
- Ex. 7. Traffic accident report 2016-2025

FINDINGS OF FACT

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

1. Property Identification. The Property is located on the east side of Sykesville Road (MD Rt 32), north of I-70 and MD Rt. 40, and south of River Road. The Property consists of 5.06 acres of land located at Tax Map 9, Grid 12, Parcel 178, Council District 5 and identified as 1391 Sykesville Road, Sykesville. The Property is developed as a religious facility and includes an existing church that was constructed in 1990 with a child day care approved with BA-02-052C. The site has 170 parking spaces located behind the church building.

There is an existing fenced playground on site for the day care that is also located behind the church building. Ingress and egress to the site is provided by Sykesville Road (MD Rt. 32) via a 24-foot paved driveway. The property has three approved Site Development Plans (SDP-89-161, SDP-95-022 & SDP-98-128).

2. Vicinal Properties.

Direction	Zoning	Land Use
North	RR-DEO	Single-Family Residential
South	RR-DEO	Emory Farm Road
East	RR-DEO	Single-Family Residential
West	RC-DEO	Sykesville Road

3. Roads. Sykesville Road has two-travel lanes with a center turn lane for left turning vehicles. The speed limit is 50 miles per hour. Annual Average Daily Traffic (AADT) from the Maryland Department of Transportation reports a 24,580 AADT for this portion of MD Rt. 32 north of Old Frederick Road.

4. Water and Sewer Service. The Property is not within the Planned Service Area for water/sewer services. The Property is currently served by private water and septic.

5. The General Plan. The Property is designated Rural Living on the Future Land Use Map of HoCo by Design. Sykesville Road is State owned and is designated as an intermediate arterial road.

6. Reported Agency Comments. The Department of Inspections, Licenses and Permits was the only Agency or Department with comments in objection to the Petition.

The Department of Inspections, Licenses and Permits found "Not Approved. With the increase of students the petitioner must show the building can comply with the building code for having the proper number of toilets etc plumbing code, ventilation-Mechanical code, Electrical code and the life safety code"

The Division of Land Development has reviewed the conditional use petition, BA-

25-023C and offers the following comments. Since there is no proposed expansion to the existing facility, no subsequent subdivision or site development plan review is required. If it is found that an expansion to the existing facility is necessary to accommodate the increase in child day care capacity, the expansion should be processed as a redline revision and will be reviewed for compliance with technical requirements at that stage. There is no evidence that the existing landscaping on the site hinders or discourages the development or use of adjacent properties. Since there is no proposed building expansion, the number of required parking spaces remains the same. The proposed child day care capacity increase does not adversely impact environmentally sensitive features since no development is proposed. This property does not fall within the Design Advisory Panel review area.

The Office of the Fire Marshal stated “Any increase in child occupancy shall be subject to review and approval from the MSDE Division of Early Childhood. Areas used for child care shall meet all requirements of the Howard County and State of Maryland Fire Prevention Codes including, but not limited to, fire protection systems and caretaker-to-child staffing ratios.”

State Highway Administration stated -No objection to the request. The SHA recommends the applicant evaluate providing acceleration and deceleration lanes along MD 32 to ensure safe and efficient site access. We request these improvements be considered as the project moves forward.

Maryland Department of Transportation has No objection to the request subject to providing adequate acceleration and deceleration lanes as appropriate per SHA access manual.

The Resource Conservation Division has no objections to the proposed Conditional Use. The proposal to increase the student capacity at the daycare facility will not have a greater potential for diminishing the character and significance of historic sites in the vicinity than elsewhere.

The Development Engineering Division takes NO EXCEPTION to the request to

increase the student occupancy allowance for the existing daycare facility without altering the structure of the building based on justification presented in the application. This is subject to meeting the APFO traffic requirements for the increase in student allowance or the daycare facility.

7. Zoning History.

Case No: BA-86-003E

Request: Special exception for a religious facility

Action: Approved, November 13, 1986

Case No: BA-93-057V

Request: Variance for setback reduction to parking lot

Action: Approved, May 24, 1994

Case No: BA-97-30E

Request: Expansion of religious facilities

Action: Approved, October 16, 1997

Case No: BA-02-052C

Request: Conditional use for a child day care

Action: Approved, February 19, 2003

Churches, convents and monasteries were permitted as a matter of right in the R-R zoning district until 1977, when it changed to a special exception. Child day care centers and nurse schools are a permitted conditional use in the RR zoning district. The Decision and Order for BA-97-30E was for the expansion of the religious facility to construct a two-story addition. The religious facility was originally approved in 1986 with BA-89-003E. The Decision and Order for BA-02-052C was for an expansion for the child day care. The D&O further states the day care use and religious facility are often not in use at the same times,

“The (day care) proposed hours of operation would be Monday-Friday, 9 A.M.- 3:30 P.M.” with sessions two and a half hours in length and “The religious facility currently holds church services and programs primarily on Sunday mornings and evenings, Wednesday evenings...”.

8. Conditional Use Proposal. The Property is developed with an existing religious facility, Friendship Baptist Church. The Petitioner is proposing to expand the child day care by increasing the capacity to 110 students, originally approved for thirty-nine children per morning session and thirty-nine children per afternoon session. The Petitioner is also proposing to modify the operating hours to Monday-Friday 9 A.M.- 3 P.M. The original child day care was approved in February 2003 under BA-02-052C. No expansion to the existing structure is proposed.

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 child day care center will be located within the existing religious facility and will utilize an existing outdoor play area. The Property is 5.06 acres, which exceeds the three-acre lot size requirement. The religious facility's parking lot contains 170 spaces, the majority of which will be available during the daytime for drop-off/pick up of children. Sykesville Road is appropriate for the type and number of vehicles associated with the increase in students.

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-R 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 RR 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 proposed use is unlikely to result in adverse effects at the Property greater than it would generally be elsewhere in the RR-DEO 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 behind the church and is separated from adjacent residential properties by Sykesville Road, Emory Farm Lane, structure and use setbacks, existing vegetation, and an existing wetland and wetland buffer. 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 RR-DEO 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 170 parking spaces are provided 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.

There are currently no acceleration or deceleration lanes on this portion of Sykesville Road. The project was previously approved with acceleration and deceleration lanes on Sykesville Road which were removed by Maryland State Highway Administration (MD SHA) in 2016. MD SHA recommends the applicant provide acceleration and deceleration lanes along Sykesville Road but Petitioner testified that this would not be economically feasible due to the limited size of the child care enrollment, the need to relocate 3 utility poles, and the costs of the pavement to replace acceleration/deceleration lanes recently removed by SHA. 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 is an existing wetland located on the Property. The Plan indicates the limits of the wetland and all structures are outside the wetland buffer. Therefore, the proposed use will not have a greater potential for adversely impacting environmentally sensitive areas in the vicinity than elsewhere in the RR-DEO 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-868) the Richard Burgess Farmhouse,

is located over 0.25 miles northwest of the Property and is separated by Sykesville Road. 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 RR-DEO 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**

Access to the site leads to a covered drop-off area and crosswalk in front of the church, to be used by attendees for the church and children in the day care. The Plan indicates via arrows the traffic circulation in the parking lot. The parking lot also has directional arrows painted on-site to control traffic flow.

- 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 RR-DEO zoning district and is 5.06 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 200 feet from Sykesville Road.

- 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-98-128. 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 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 Sykesville Road which is designated as an intermediate arterial.

- (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 and outdoor activity areas are at least 50 feet from adjoining residential properties. A portion of the parking lot is 21 feet from an adjoining residentially zoned property, and this encroachment was approved in BA-02-052C.

- (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.**

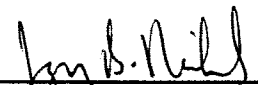
The Property is not changing from the previously approved Site Development Plan, and no additional structures are being proposed.

There is at least 36% of open space available on the Property.

ORDER

Based upon the foregoing, it is this 8th day of April, 2026, by the Howard County Board of Appeals Hearing Examiner, **ORDERED**:

That the Petition of Friendship Baptist Church, for a Conditional Use for Child Day Care Centers and Nursery Schools, Day Treatment and Care Facilities, for a total of 110 child care students, in a RR (Residential: Single) DEO (Density Exchange Option) Zoning District, Tax Map 9, Grid 12, Parcel 178, Council District 5, identified as 1391 Sykesville Road, Sykesville, 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.