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*County Executive*

MAUREEN E. MURPHY  
*Chief Administrative Law Judge*  
ANDREW M. BELT  
*Administrative Law Judge*  
DEREK J. BAUMGARDNER  
*Administrative Law Judge*

June 15, 2026

Lawrence Schmidt, Esquire - [lschmidt@sgs-law.com](mailto:lschmidt@sgs-law.com)  
Smith, Gildea & Schmidt, LLC  
600 Washington Avenue, Suite 200  
Towson, MD 21204

Re: Petition for Special Hearing  
Case No: 2026-0061-SPH  
Address: 202 Ingleside Avenue

Dear Mr. Schmidt:

Enclosed please find a copy of the decision rendered in the above-captioned matter.

Pursuant to Baltimore County Code § 32-3-401(a), “a person aggrieved or feeling aggrieved” by this Decision and Order may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Office of Administrative Hearings at 410-887-3868.

Sincerely,

A handwritten signature in blue ink, appearing to be "Derek J. Baumgardner", is written over a light blue circular stamp.

DEREK J. BAUMGARDNER  
Administrative Law Judge  
for Baltimore County

DJB:dlm  
Enclosure  
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|--|---|-------------------------------|
| IN RE: <b>PETITION FOR SPECIAL HEARING</b> | * | BEFORE THE                    |
| <b>(202 Ingleside Avenue)</b>              |   |                               |
| 1 <sup>st</sup> Election District          | * | OFFICE OF                     |
| 1 <sup>st</sup> Council District           |   |                               |
| Christen Athletics Association, Inc.       | * | ADMINISTRATIVE HEARINGS       |
| <i>Legal Owner</i>                         | * | FOR BALTIMORE COUNTY          |
| <b>Petitioner</b>                          | * | <b>Case No. 2026-0061-SPH</b> |

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**OPINION AND ORDER**

This matter comes before the Office of Administrative Hearings (“OAH”) for consideration of a Petition for Special Hearing filed by Christian Athletics Association, Inc. (“CAA” or “the Petitioner”), owner of the property located at 202 Ingleside Avenue, Catonsville, Baltimore County, Maryland (the “Property”). The Petition for Special Hearing was filed pursuant to Baltimore County Zoning Regulations (“BCZR”) §500.7 as follows:

1. To amend the special exception and site plan approved in Case No. 2015-138-SPHXA to approve/reflect existing and proposed improvements/activities, including but not limited to outdoor music stages, related storage and amenity facilities, and proposed indoor athletic facility.
2. To approve, confirm and update the approval of a modified parking plan as granted in Case Nos. 70-92-SPH & 2015-138-SPHXA, so as to accommodate existing and proposed uses (including new parking areas) as more particularly shown on the site plan filed with the petition, and for such other and further relief as may be deemed necessary by the Administrative Law Judge (“ALJ”) for Baltimore County.

A public hearing was conducted on April 29-30, 2026. The Petition was advertised and posted as required by BCZR. Art Warshaw, an authorized representative of CAA Inc., appeared at the hearing along with Joseph Gardenghi, lessee, and President of Music City Maryland. Also testifying in support of the Petition were Joshua Sharon from Morris & Richie Associates, Inc., the professional engineer who prepared and sealed the Site Plan, Thomas Booth, Jr., a neighboring business owner, Mark Schmidt, David Tracht, and Carl Richards. Lawrence Schmidt, Esq. of

Smith, Gildea and Schmidt represented the Petitioner. Numerous community members appeared to testify in opposition to the Petition, including: [REDACTED], represented by [REDACTED], [REDACTED], Esq. of the Law Office of Macy Nelson, [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED] (collectively referred to as “[REDACTED]”). People’s Counsel noted their appearance, filed written comments for the record, and participated in the hearing.

Petitioner submitted the following exhibits into the record: (1) Site Plan; (2a-2c) Aerial Photos; (3) 2015 Zoning Case (ALJ Order and Site Plan); (4) Press Release Designating Catonsville as A&E District; (5) Concert Schedule for 2026; (6) Letters of Support; (7) Vortex at CAA Amenities; (8a-8b) Bills 44-19 and 18-21; (9a-9y) Site Photos 9A-9Y; (10) Permits. Citizen-Opponents, [REDACTED], [REDACTED], submitted the following exhibits into the record: (1) MyNeighborhood screenshot with property boundaries outlined; (2) Google EarthPro Historical Imagery of Subject Property from March 2025; (3) View of Vortex Stage from 18 Delrey Avenue; (4) Google EarthPro Distance Measurement; (5) Vortex Website; (6) Images from Vortex Website; (7) Vortex Calendar 2026; (8)Vortex Venue Map; (9) Image of Stage Construction; (10) Image of Green Room; (11) Screenshot from Permit Search (C24-00497); (12) Screenshot from Permit Search (C24-01981); (13) Sound Report. Zoning Advisory Committee (“ZAC”) comments were received from the following agencies: (1) Department of Planning (“DOP”); (2) Department of Environmental Protection & Sustainability (“DEPS”); and (3) Development Plans Review (“DPR”) on behalf of DPR/DPWT/R&P. The Office of People’s Counsel also submitted a memorandum dated April 22, 2026, providing written comments to the petition (County Exhibit 4). [REDACTED] submitted pre-marked exhibits but while these are contained in the file they were not formally admitted into the record.

## **I. Findings of Fact**

The Property is approximately 10.32 acres in land area and is split-zoned DR 5.5, BL, CCC and RO, with the majority being DR 5.5. Pet. Exh. 1. The Property was owned at one time by St. Timothy's Protestant Episcopal Church and school (approximately 13 acres) but was subdivided at some point with Petitioner, Christian Athletics Association, Inc. ("CAA"), taking title to a 10.32-acre portion of the property, with the church retaining the remaining acreage. *See generally* Pet. Exhs. 2A-2C. At some point, St. Timothy's conveyed the property to Mekane Selam Eyesus Ethiopian Orthodox Tewahdo Church which now operates the church site.

CAA currently operates a community recreational sports program, among other activities, with various sports and arts program for youth and adults. CAA proposes to modify the prior approval in Case No. 2015-138-SPHXA to approve/reflect existing and proposed improvements/activities, including but not limited to recreational fields, outdoor music stages, related storage and amenity facilities, a proposed indoor athletic facility, and surface parking areas. *See* Pet. Exh. 3.

Thomas Booth, Jr., a neighboring business owner, testified in support of the petition. Mr. Booth owns and operates multiple businesses in the Catonsville Square area. Mr. Booth described the subject property as multi-use, family-oriented, with sports activities, music, and a playground. He further stated that he observed no adverse impacts from the current use of the property. He further stated that while he owns commercial properties in the area, he resides a mile or so away from the property, and cannot hear music or noise from the property at his home.

Art Warshaw, volunteer board member and President of CAA, Inc., testified in support of CAA's petition. Mr. Warshaw testified to the history and background of CAA, Inc., with its origination in the 1980s to its present-day programs as a sports program for youth and adults. Mr.

Warshaw testified that CAA has one full-time employee, one part-time employee, with the remainder of operations managed by volunteers. CAA sports programs run seasonally on the property and the organization rents indoor facilities off-site during other seasons where appropriate. Generally, activities occur on certain weeknights in the spring/summer/fall seasons, with most programming occurring on Saturdays while no CAA directed programming runs on Sundays in observation of the Sabbath. CAA programming is open to all individuals with most participants being local to the Catonsville and surrounding communities. CAA maintains the fields and fencing on the property. Mr. Warshaw stated that the purpose of the proposed improvements was to provide year-round programming for participants (e.g. sport court, turf field, indoor field) and to upgrade existing facilities for current programming. Mr. Warshaw described a 5-year build-out plan for the improvements and amenities proposed.

The property is currently improved with several accessory buildings used for concessions, the former rectory used as housing and storage (approximately 6,000 sq ft.), and field lighting (proposed to be modified and improved). Pet. Exhs. 1 & 9 (A-Y). CAA has a shared parking arrangement with the adjoining church property, and contracts with Music City Maryland (“Music City”) to host concerts and events on the property on two stages, a tiki bar, shipping containers converted into structures, with a grass seating area and proposed adjacent parking area (collectively referred to as “The Vortex”). Pet. Exh. 11. CAA and Music City have a profit-sharing agreement wherein Music City hosts concerts and other private events unaffiliated with CAA’s sports programming. To minimize impacts from activities on site, Mr. Warshaw stated that CAA has installed fencing and planted trees to help mitigate sights and sounds from emanating onto the approximately ten neighboring residential properties.

Marc Schmidt, a local community member living in close proximity to the property, testified in support of the petition. Mr. Schmidt stated that “it’s amazing what they’ve done” to the property, the music can’t be heard from his home close by, and he hasn’t noticed any increase in trash or other adverse impacts to the community as a result of programming on the property.

Joseph Gardenghi, President and founder of Music City Maryland (“Music City”), a not-for-profit entity, testified in support of the petition. Mr. Gardenghi stated that Music City is run by volunteers and has no employees. He provided a history of the organization and that it was a proponent of the area’s eventual state designation as Baltimore County’s first (and only) “Arts & Entertainment district.” Mr. Gardenghi is a local area resident as well. Music City only hosts events in Catonsville and started the Music City Maryland festival in 2021 and moved the yearly festival to the subject property for a “more permanent presence.” Music City Maryland runs and manages “The Vortex,” described by Mr. Gardenghi as a “community-based event space.” The Vortex has been hosting events on the property for the past several years. Currently, eight (8) concert events are scheduled throughout summer 2026, with private rentals available for birthdays, graduations, corporate events, and community meetings. *See* Pet. 5. The Vortex area of the property contains two stages, food and drink service areas (with shipping containers converted into structures), and other amenities. Pet. Exh. 7.

Mr. Gardenghi stated that the upcoming concert event, scheduled for May 2, 2026, had already sold 260 presale tickets. Mr. Gardenghi stated that The Vortex is “not a concert venue” and stated that the intent was to host more private rentals than public events (“80/20”). Mr. Gardenghi acknowledged that neighboring community members have expressed concerns regarding concert events, noise, and parking. A sound engineer was retained in September 2025 to evaluate and recommend sound mitigation measures. Mr. Gardenghi testified to modifications

made to the property including vegetation, sound buffering, amplification alterations, and stage area improvements to mitigate sound impacts to the surrounding community. Pet. Exh. 7. Mr. Gardenghi was unaware of whether prior concerts or events had exceeded county decibel limits. No permanent seating is proposed. Mr. Gardenghi further acknowledged that no traffic study was performed in connection with the subject petition. During Vortex events, food and alcoholic beverages are available for sale to patrons, managed and operated by third-party food and beverage vendors with state TIPS, ServSafe Alcohol, or similar certifications.

David Tracht resides on the subject property and is CAA's sole full-time employee. Mr. Tracht manages CAA's programs and maintains the property. Mr. Tracht stated that when CAA took over the property, they completed extensive work including cleaning, landscaping, and maintenance. Mr. Tracht stated that over 130 trees were planted throughout, playing fields were revitalized and resurfaced, and the property went from poorly maintained to well-maintained. Mr. Tracht further testified to a parking arrangement between CAA and the existing parish church at the time of conveyance, as well as the new congregational church, wherein parking areas are shared during certain days and times. Pet. Exhibit 11. Mr. Tracht described the relationship between CAA and the adjacent church congregation as "bumpy." Following complaints regarding the continuing use of the property, and after CAA leadership met with Baltimore County zoning staff on site, the subject Petition was filed to formalize permitted uses and otherwise modify prior approvals to ensure BCZR compliance. In rebuttal, Mr. Tracht stated that he can hear music from his home from other sources within the community including Frederick Road Fridays, State Fair restaurant located on Frederick Road, the Lurman Theater, and other commercial businesses in the vicinity.

Joshua Sharon, P.E., of Morris & Ritchie Associates, Inc., testified in support of the Petition. Mr. Sharon testified to the history and plan preparation reflected in the Site Plan (Pet.

Exhibit 1). Mr. Sharon described the site as mostly an “open, park-like setting,” a portion of which is located in the Catonsville Commercial Revitalization District. Mr. Sharon further described the surface parking areas and improvements, zoning history, current and proposed improvements, and current and proposed uses. *Id.* Mr. Sharon stated that 210 parking spaces would be provided on site within three designated and striped parking areas improved landscape islands, surfaces, and orientation. *Id.* Mr. Sharon opined that parking access from three separate parking areas will improve access and ease congestion. Mr. Sharon further opined that BCZR parking requirements for the proposed recreational fields and outdoor music venue were undefined, and therefore subject to parking requirements mandated through this Special Hearing process. As a result of the improvements proposed in the petition, stormwater mitigation will be required and provided on site pursuant to regulatory requirements; all work will satisfy the requirements of the Baltimore County Landscape Manual; and the project qualifies for an exemption from Residential Transition Area (RTA) requirements pursuant to BCZR § 1B01.1.B.1.g (9). Mr. Sharon testified that The Vortex stage areas were approximately 150 ft. from the closest residential property line; approximately 200 ft. from the closest residential home; and there are no maximum impervious surface regulations under BCZR for this use. *See* Pet. Exh. 2A-2C.

Mr. Sharon evaluated the petition through the BCZR 502.1 factors and concluded that the proposed uses satisfy those standards. Mr. Sharon opined that noise levels themselves are not expressly listed among those factors but acknowledged that COMAR 26.02.03 and BCC §17-3-101 (Baltimore County Noise Ordinance) would apply.

Carl Richards, Petitioner’s zoning consultant, testified in support of the Petition. Mr. Richards testified that BCZR §1B01.1.C.4 is a broad catch-all provision that would permit the activities proposed on the property including the live musical entertainment hosted at The Vortex.

Mr. Richards further stated that a special exception evaluation was not required, and relief was permitted under the broad interpretation afforded under the Special Hearing provision under BCZR §500.7. Mr. Richards further opined that the proposed use was exempt from the restrictions found under BCZR §449, as the proposed use is not regular, not permanent, and constitutes a seasonal outdoor event space hosted by a not-for-profit organization. *See* BCZR §449, footnote 1 (“...this Act shall not apply to seasonal, outdoor events in which live musical entertainment is provided such as "Feet on the Street," "Music on Main Street," "Frederick Road Fridays," or similar events held by local non-profit organizations such as Chambers of Commerce, State-designated Arts and Entertainment enterprise entities...[emphasis added.]”).

██████████, an elder and member of board of trustees of adjoining Mekane Selam Eyesus Ethiopian Orthodox Tewahdo Church, testified in opposition to the Petition. ██████████ stated that events held at The Vortex can be seen and heard from within the church building, routinely interrupt church activities, patrons utilize church parking areas without permission, religious classes and administrative meetings have been moved to other locations because of these events. ██████████ stated that the church purchased the property because of the quiet nature of the community. When the church moved its congregation into the property in 2023, the sports activities at adjacent CAA were “never a problem.”

██████████, an elder and former chairman of the board of trustees of adjoining Mekane Selam Eyesus Ethiopian Orthodox Tewahdo Church, also testified in opposition to the Petition. ██████████ stated that shortly after the church purchased and moved into the adjacent lot, he witnessed construction activities on the CAA property for the stages and similar amenities for the concerts. ██████████ further stated that the church was aware of the recreational activities on the CAA lot at the time they moved in, but it was otherwise a quiet,

peaceful area. While the church conducts religious services on Sundays, it hosts religious classes, meetings, weddings, baptisms, funerals, and other activities for parishioners during the week and on Saturdays. [REDACTED] testified that concert events at The Vortex disturb activities at the church, create parking and traffic congestion issues, and generally disrupt church activities. Lastly, [REDACTED] stated that, as chairman of the board of trustees when the church authorized the purchase of the property, the church would not have purchased the property if they knew the CAA property would be used for music concerts like those hosted by The Vortex.

[REDACTED], [REDACTED], [REDACTED], [REDACTED], [REDACTED], and [REDACTED], all residential neighbors in the surrounding community, testified in opposition to the Petition. [REDACTED] stated that she enjoyed having CAA as a neighbor with their recreational programs but became aware of proposed live music events in 2022 and concerned about those events in 2024. She testified that she could not enjoy the outdoor areas of her property from 2024 until today during concert events, her children had trouble sleeping during the evening hours because of noise and disturbance, she could hear the music from inside her home, and police have been called because of late night noise. She further stated that she was not opposed to community groups using indoor amenities on the property or CAA hosting limited events like children's birthday parties.

[REDACTED], a longtime and adjacent neighbor, testified that he had no objection to sports activities continuing on CAA's property but that prior approvals for did not mention or reference outdoor concerts. While acknowledging that the community was close to a commercial corridor, [REDACTED] described the community as residential in nature with multiple single-family homes abutting the CAA property. [REDACTED] expressed concerns about structures being built beyond their permits. [REDACTED]'s Exhibits 11-12. [REDACTED] generally described detrimental

impacts to the quiet enjoyment of his property as a result of live music events because of the close proximity to The Vortex area and his home. *See* [REDACTED]'s Exhibits 3 & 4. [REDACTED] expressed concerns about stormwater runoff and the shifting parking facilities for the existing and proposed uses. [REDACTED] stated that his family had difficulty hosting friends at their home during frequent weekend concerts and other outdoor parties because of parking, noise, and patron disturbances. In response to live concert events, [REDACTED] commissioned a private noise study of a concert on October, 5, 2025, which he described as a typical concert event, to evaluate the sound impacts from his home. [REDACTED]'s Exhibit 13. [REDACTED] reiterated [REDACTED]'s comments and stated that before the concerts began in 2024, the CAA property had a small school and church, with CAA's recreational sports programs on weekends, but that it was generally quiet and functioned in character with the surrounding residential neighborhood. She stated that many of the community's families participated in CAA's sports programs and they appreciated CAA in the community. [REDACTED] stated that concert events, however, disrupt the enjoyment of her home and that she schedules hosting friends and family around The Vortex concert schedule to avoid those events. [REDACTED] described the "relentless beating of the bass," concerts that continue past the 10:00pm stop time, disruptions to sleep, and traffic concerns on St. Timothy's Lane are all adverse impacts that the community experiences now, prior to the improvements proposed under the Petition, which will exacerbate those conditions.

[REDACTED] testified that CAA's activities do not have wide support from the community and further described negative impacts including loud disruptive music, parking and traffic issues.

[REDACTED] testified to the scope of activities permitted under the prior order (that do not include live concert events), excessive noise, and environmental and safety concerns from the ongoing concerts. [REDACTED] stated that he considered the CAA activities under the prior order

when he purchased his home as well as the property's current zoning. [REDACTED] [REDACTED] further commented on the commercial nature of the concerts and affiliated activities in contrast to the residential area and the changed character of the neighborhood since 2024. [REDACTED] stated that his windows shake from the concerts, commented on excessive noise and parking issues along Urban Alley, and that his home has become "unlivable" for himself and his family because of the live music events at the property.

In contrast, nearly all residential neighbors testified favorably to CAA's youth sports programs. Their testimony was generally supportive of continuing and enhancing those programs and facilities. Opposition testimony was primarily centered around the use of the property for The Vortex and the live musical entertainment associated with that venue. With the exception of Marc Schmidt, all other residential neighbors were unified in their description of deleterious noise, traffic, and similar adverse impacts from ongoing and proposed activities and events at The Vortex. From the lack of reliable and discernable noise standards, to the lack of any meaningful evaluation of traffic impacts, to the questionable permitting history for existing structures, buildings, and licenses, to Petitioner's broad interpretation of BCZR §1B01.1.C.4 that would essentially permit any and all activities on the property without further delineation or regulation, community members highlighted varied community concerns regarding the current use of the property as well as the impact of the proposed modifications to their adjacent residential homes and religious institution.

People's Counsel challenges Petitioner's contention that live concerts fall within the purview of BCZR §§ 1B01.1.C.4 or can be approved under a modification to 2015-138-SPHXA by Special Hearing. People's Counsel argues that the existing and proposed uses have expanded beyond the permissible uses authorized under 2015-138-SPHXA; live music as exists and is

proposed at The Vortex is a prohibited use; and the live entertainment use proposed, if permitted, does not satisfy the special exception standards under BCZR §502.1.

## **II. Conclusions of Law**

### **A. Special Hearing**

A hearing to request special zoning relief is proper under BCZR §500.7 as follows:

The said Zoning Commissioner shall have the power to conduct such other hearings and pass such orders thereon as shall, in his discretion, be necessary for the proper enforcement of all zoning regulations, subject to the right of appeal to the County Board of Appeals as hereinafter provided. The power given hereunder shall include the right of any interested person to petition the Zoning Commissioner for a public hearing after advertisement and notice to determine the existence of any purported nonconforming use on any premises or to determine any rights whatsoever of such person in any property in Baltimore County insofar as they are affected by these regulations.

"A request for special hearing is, in legal effect, a request for a declaratory judgment." *Antwerpen v. Baltimore County*, 163 Md. App. 194, 877 A.2d 1166, 1175 (2005). And, "the administrative practice in Baltimore County has been to determine whether the proposed Special Hearing would be compatible with the community and generally consistent with the spirit and intent of the regulations." *Kiesling v. Long*, Unreported Opinion, No. 1485, Md. App. (Sept. Term 2016). As zoning petitions are prospective in nature, all proposed activities or structures will be treated as proposed irrespective of whether they presently exist on site or not.

#### **1. Modifications to 2015-138-SPHXA are permitted by Special Hearing under BCZR §500.7 but are evaluated pursuant to the Special Exception factors under BCZR §502.1**

Petitioner proposes to "amend the special exception and site plan approved in No. Case 2015-138-SPHXA to approve/reflect existing and proposed improvements/activities, including but not limited to outdoor music stages, related storage and amenity facilities, and proposed indoor

athletic facility,” and “to approve, confirm and update the approval of a modified parking plan as granted in Case Nos. 70-92-SPH & 2015-138-SPHXA, so as to accommodate existing and proposed uses (including new parking areas).” Modifications to previously approved special exceptions are permitted under BCZR so long as those modifications are not *materially* different than those previously approved. *See also* Zoning Policy Manual (2023) PP-1. Special Hearing relief is an appropriate vehicle to update or otherwise modify an approved Site Plan to reflect changes to things like parking, landscaping, locations of amenities, etc., as was accomplished under 2015-138-SPHXA (to a permit an accessory use, to modify a parking plan, and to confirm existing parking). Under this Petition, in part, CAA proposes to retrofit and improve recreational fields, construct an indoor athletic facility, and update existing parking facilities with a modified parking plan with new surface parking areas. These modifications do not materially differ from the permitted activities and structures on site, and therefore can be modified under special hearing relief.

Pursuant the Zoning Policy Manual (2023), Section A-4, with respect to BCZR §1B01.1.C.4 uses:

Community uses or structures rented or leased to non-residents of the community will be considered a principal use within the subdivision and will require a special exception public hearing.

The testimony offered in this hearing evidenced that CAA has a contractual, leasehold, or related interest with Music City Maryland, an entity which is not, and cannot be, a “resident of the community.” *See* Zoning Policy Manual (2023), Section A-4. Therefore, Section A-4 applies and the petition must be evaluated through the special exception factors found under BCZR §502.1.

## **B. Special Exception**

A Special Exception enjoys a presumption that it is in the interest of the general welfare, and therefore, valid. *Schultz v. Pritts*, 291 Md. 1 (1981). The *Schultz* standard was revisited in *Attar v. DMS Tollgate, LLC*, 451 Md. 272 (2017), where the Court of Appeals discussed the nature of the evidentiary presumption in special exception cases. The court again emphasized a special exception is properly denied only when there are facts and circumstances showing that the adverse impacts of the use at the particular location in question would be above and beyond those inherently associated with the special exception use. “A special exception is presumed to be in the interest of the general welfare, and therefore a special exception enjoys a presumption of validity. *Id.* at 285 (citing *Schultz*, 291 Md. at 11, 432 A.2d at 1325 (1981)). “A special exception...is merely deemed prima facie compatible in a given zone. The special exception requires a case-by-case evaluation by an administrative zoning body or officer according to legislatively-defined standards. That case-by-case evaluation is what enables special exception uses to achieve some flexibility in an otherwise semi-rigid comprehensive legislative zoning scheme.” *People's Couns. for Baltimore Cnty. v. Loyola Coll. in Maryland*, 406 Md. 54, 71–72, 956 A.2d 166, 176 (2008). It stands to reason that a modification to a previously approved special exception, evaluated under that same framework, enjoys both the presumption of validity and the same evidentiary burdens.

I find that the portion of the Petition requesting modification of 2015-138-SPHXA for improvements to recreational fields and facilities and amenities directly associated with those recreational fields and facilities as shown on Petitioner’s Site Plan (Pet. Exh. 1) satisfies state zoning law requirements. No credible or persuasive facts were submitted showing that the adverse impacts of the use of the property for recreational sports and related activities and structures built to support those uses would be above and beyond those inherently associated with this use

elsewhere in the zone. Installing artificial turf, reorganizing parking areas, providing indoor recreational facilities as well as concession stands and similar amenities are common to community buildings and facilities across Baltimore County and elsewhere. No facts were brought to light sufficient to rebut the presumption of validity for this special exception use including the modifications proposed in the Petition for planned recreational improvements. In fact, multiple community members testified in support of continued use of the premises for recreational and community purposes, including new buildings to house indoor recreational sports.

Under BCZR § 502.1, OAH is further required to make affirmative findings with respect to the following factors, that the special exception requested will not:

- A. Be detrimental to the health, safety or general welfare of the locality involved;
- B. Tend to create congestion in roads, streets or alleys therein;
- C. Create a potential hazard from fire, panic or other danger;
- D. Tend to overcrowd land and cause undue concentration of population;
- E. Interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or improvements;
- F. Interfere with adequate light and air;
- G. Be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations;
- H. Be inconsistent with the impermeable surface and vegetative retention provisions of these Zoning Regulations; nor
- I. Be detrimental to the environmental and natural resources of the site and vicinity including forests, streams, wetlands, aquifers and floodplains in an R.C.2, R.C.4, R.C.5 or R.C.7 Zone, and for consideration of a solar facility use under Article 4F, the inclusion of the R.C. 3, R.C. 6, and R.C. 8 Zones.

Based upon the evidence in this record, I find that the proposed improvements to recreational facilities at the property will not be detrimental to the health, safety or general welfare of this community; they will not tend to create congestion in roads, streets or alleys therein; will not create a potential hazard from fire, panic or other danger; will not tend to overcrowd land and cause undue concentration of population; will not interfere with adequate provisions for schools, parks, water, sewerage, transportation or other public requirements, conveniences or

improvements; will not interfere with adequate light and air; will be inconsistent with the purposes of the property's zoning classification nor in any other way inconsistent with the spirit and intent of these Zoning Regulations; and will not be inconsistent with the impermeable surface and vegetative retention provisions of BCZR. The proposed modifications are limited in scope and scale, are shared by other recreational community programs throughout Baltimore County, and contribute to the ability for CAA to provide year-round recreational sports and activities for the community. Much of the property will remain unimproved with substantial vegetation throughout will the ability to provide further buffering in conformance with requirements under the Baltimore County Landscape Manual. In summary, I find that this use will not create adverse impacts on the subject property or adjacent properties above and beyond those commonly associated with a community building or community recreational use regardless of its location within the zone, and the Petition satisfies the requirements of BCZR § 502.1.

While improvements to recreational sports fields, facilities, and parking fall within the statutory authority of BCZR §500.7 to modify a previously approved special exception, and those proposed modifications satisfy the BCZR §502.1 factors as required under local regulations and state law, the addition of what amounts to a live music venue operated by a third-party vendor falls outside of the previously approved special exception (Case No. 2015-138-SPHXA) and cannot be approved. As described more fully below, I find that the activities proposed at The Vortex constitute Live Musical Entertainment which is permitted only in commercial and industrial zones. Therefore, with respect to live entertainment, no further evaluation of the Petition through the BCZR §502.1 factors will be conducted here as Live Musical Entertainment is a prohibited use in this DR 5.5 zone.

**C. Live music proposed at The Vortex is outside the scope of the Special Exception Approved under Case No. 2015-138-SPHXA as that use is materially different in nature and character to permitted activities contemplated under the prior Order**

The portion of the petition proposing live music and all structures that support that use are not subject to approval under BCZR §500.7. As explained below, live musical entertainment, as described under this Petition, does not fall within the definition of “Community buildings, swimming pools, commercial beaches, golf courses, country clubs *or other similar civic, social, recreational or educational use*[emphasis added]...” under BCZR § 1B01.1.C.4.

In 2015, the ALJ, among other relief, found the special exception factors under BCZR §502.1 had been satisfied and granted Petitioner’s application “to allow existing recreational uses (i.e. ball fields, tennis courts, etc.) in DR 5.5 and R.O. zones” pursuant to BCZR §§ 1B01.1.C.4 & 204.3.B.1. That authorization specifically found “The athletic fields and facilities provide much-needed recreational opportunities for the community. As such, the Petition for Special Exception will be granted.” *See* Opinion & Order, Case No. 2015-0138-SPHXA, p. 4. Case No. 2015-138-SPHXA also approved an existing parking arrangement as permitted in Case No. 70-92-SPH for the existing and proposed uses. *Id.* at 3. It is undisputed that live concerts were not performed on the property when the underlying special exception was granted and only began in 2024 when Music City Maryland permanently relocated its festival and events to CAA’s property.

Petitioner contends that the scope of activities contemplated under the language of BCZR §§1B01.1.C.4, as previously approved in Case No. 2015-138-SPHXA, would permit all existing and proposed activities on the property including improvements to recreational fields, installation of turf fields, proposed indoor recreational field or indoor events center, food stands, tiki bar, live music and events stages, and accompanying amenities. Under a plain reading of BCZR §§ 1B01.1.C.4 and ALJ Beverungen’s Opinion in Case No. 2015-138-SPHXA, this is not the case.

BCZR §1B01.1.C lists uses permitted by special exception including “Community buildings, swimming pools, commercial beaches, golf courses, country clubs or *other similar civic, social, recreational or educational uses*, including tennis facilities, provided that no tennis facility in a D.R.1 or D.R.2 Zone shall comprise more than four courts and no tennis facility in a D.R.3.5, D.R.5.5, D.R.16 Zone shall comprise more than six courts (Section 406A) [emphasis added].” BCZR §1B01.1.C.4. Petitioner contends that live concerts and events fall under the broad category of “other similar civic, social, recreational or educational uses” contained within this regulation. Applying accepted canons of statutory interpretation, this contention fails.

“When we interpret a local ordinance,” such as BCZR §1B01.1.C.4, “we apply the same canons of construction to the local ordinance as we apply to the interpretation of state statutes.” *Anne Arundel Cnty. v. 808 Bestgate Realty, LLC*, 479 Md. 404, 420 (2022) (citing *Howard Rsch. & Dev. Corp. v. Concerned Citizens for Columbia Concept*, 297 Md. 357, 364 (1983)). When undertaking a statutory interpretation analysis, “our analysis begins with the normal, plain meaning of the language of the statute. In doing so, we read the plain meaning of the language of the statute ‘as a whole, so that no word, clause, sentence or phrase is rendered surplusage, superfluous, meaningless or nugatory.’” *Wheeling v. Selene Fin. LP*, 473 Md. 356, 376–77, 250 A.3d 197, 209 (2021) (quoting *Koste v. Town of Oxford*, 431 Md. 14, 25–26, 63 A.3d 582 (2013)). “[A]ll statutory interpretation begins, and usually ends, with the statutory text itself for the legislative intent of a statute primarily reveals itself through the statute's very words.” *Pete v. State*, 384 Md. 47, 57, 862 A.2d 419 (2004) (quoting *Price v. State*, 378 Md. 378, 387–88, 835 A.2d 1221 (2003)). Review of the plain language is not exclusively limited to the provision in question. *Berry v. Queen*, 469 Md. 674, 687, 233 A.3d 42 (2020) (citing *Neal v. Balt. City Bd. of Sch. Comm'rs*, 467 Md. 399, 415, 225 A.3d 66 (2020)). “Instead, ‘[t]he plain language must be viewed within the context of the

statutory scheme to which it belongs, considering the purpose, aim or policy of the Legislature in enacting the statute.” *Id.* (quoting *Johnson v. State*, 467 Md. 362, 372, 225 A.3d 44 (2020)). Additionally, “[w]e neither add nor delete language so as to reflect an intent not evidenced in the plain and unambiguous language of the statute, and we do not construe a statute ‘with forced or subtle interpretations’ that limit or extend its application.” *Id.* at 376-377 (citing *Lockshin*, 412 Md. at 275, 987 A.2d 18 (citations omitted)). “If the language of the statute is unambiguous and clearly consistent with the statute's apparent purpose, our inquiry as to legislative intent ends ordinarily and we apply the statute as written, without resorting to other rules of construction.” *Id.*

Under a plain reading of BCZR §1B01.1.C.4, live regular outdoor ticketed musical performances where food and beverages can be purchased on site with standing and grass sitting areas cannot be found. Generally accepted canons of statutory construction assist in this interpretation. Under the *ejusdem generis* canon of statutory construction, where general words follow an enumeration of two or more things, they apply only to things of the same general kind or class. Antonin Scalia & Bryan Garner, *Reading Law*, p. 199, Thomson/West (2012). Utilizing this canon, BCZR §1B01.1.C.4 lists community buildings, swimming pools, commercial beaches, golf courses, country clubs or *other similar civic, social, recreational or educational uses*. Regular, albeit seasonal, ticketed live concerts and events where food and alcohol are available for purchase with a grass seating and standing area, as described by Petitioner, are not “civic, social, recreational or educational uses” and do not fall under the same kind or class as “athletic fields and facilities” as authorized under Case No. 2015-138-SPHXA. For this reason alone, consideration of live concerts and events hosted at “The Vortex” fall outside of the categories of uses contemplated under BCZR §1B01.1.C.4, and therefore fall outside of BCZR §500.7 review. Next, we turn to

whether the activities proposed involving live music and entertainment can be permitted by any other means on the subject property.

**D. Live music, as described in this record, is neither permitted as an Accessory Use or exempt from Use Permit regulations under BCZR §449**

Petitioner claims that concerts and live events hosted at The Vortex are either accessory to the underlying recreational use, or are exempt from BCZR §449 as both CAA and Music City are charitable organizations. Petitioner points to footnote 1 under BCZR §449, which states in pertinent part:

“...this Act shall not apply to seasonal, outdoor events in which live musical entertainment is provided such as "Feet on the Street," "Music on Main Street," "Frederick Road Fridays," or similar events held by local non-profit organizations such as Chambers of Commerce, State-designated Arts and Entertainment enterprise entities, Main Street Maryland Programs, including Main Street Maryland locations and entities associated with Main Street Maryland affiliates, and in which a gathering permit and other applicable permits are obtained including street festivals in Towson on Fridays....”

Petitioner’s exemption argument fails for several reasons. First, the proposed live concerts and events hosted by The Vortex are factually distinguishable from "Feet on the Street," "Music on Main Street," "Frederick Road Fridays," or similar events. These aforementioned events are intermittent public festivals largely held on public rights-of-way along major commercial corridors. They are typically nonticketed, free of charge, open to the public, and sponsored by local charitable organizations, business associations, chambers of commerce, and local governments. Importantly, these types of public festivals are explicitly *not* regulated under BCZR §449 as they are instead regulated under Baltimore County Code (“BCC”) Section 21, Title 9, for gathering permits, parades, carnivals, street festivals, etc. For these reasons, the live concerts and events hosted at The Vortex are easily distinguishable from these types of public festivals. Further, the BCZR §449 exemption for “non-profit organizations” likely contemplates something more than

just an entity obtaining 501(3)(c) status under the Internal Revenue Code. While CAA's non-profit status is established, the record submitted in this case is insufficient to establish MCMA's *bona fides* for non-profit status for purposes of BCZR §449.

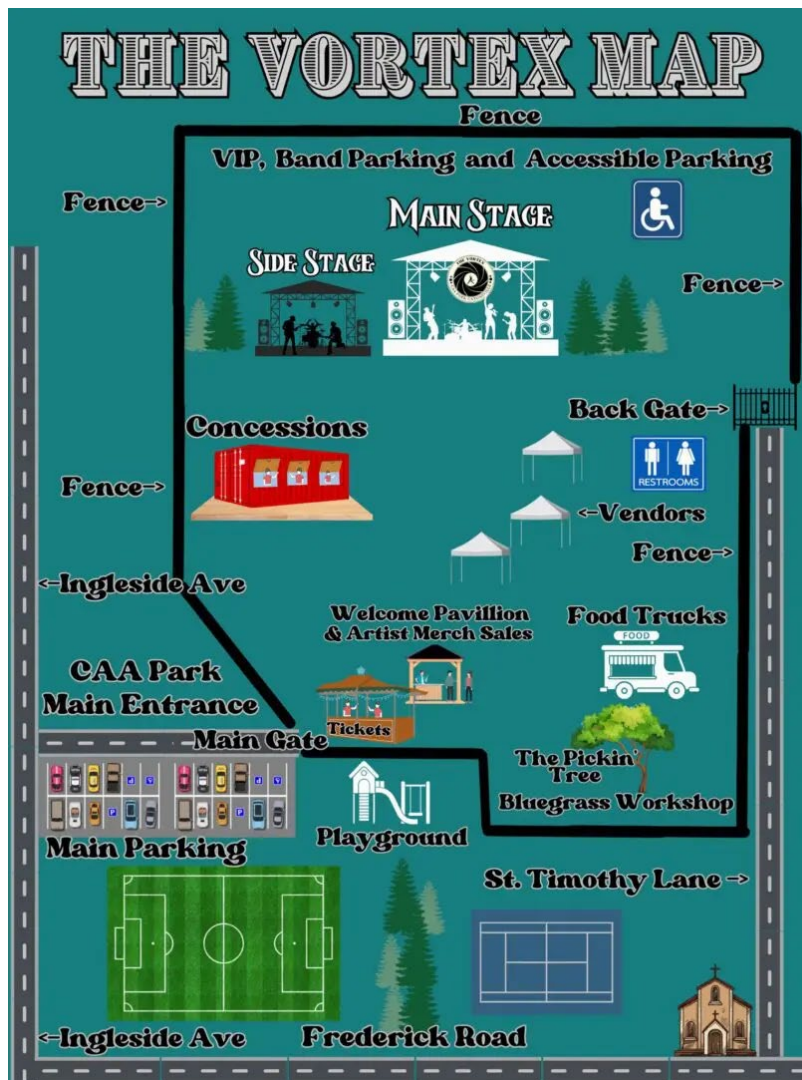
If live concerts and events at The Vortex are not of the nature and character of the previously approved special exception for "recreational uses (i.e. ball fields, tennis courts, etc.)" and therefore beyond the reach of BCZR §500.7, and are not contemplated under the definition of BCZR §1B01.1.C.4 ("Community buildings, swimming pools, commercial beaches, golf courses, country clubs or other similar civic, social, recreational or educational uses..."), and are further not exempted from BCZR §449 regulation as determined above, we are left with the conclusion by deduction that live concerts and events hosted at The Vortex as described by Petitioner are Live Musical Entertainment defined under BCZR §101.1 and regulated under BCZR §449.

#### **E. Live Concerts and Events Hosted at The Vortex Constitute Live Musical Entertainment**

BCZR §449.2 provides that "...live musical entertainment is permitted on property located in the B.L., B.L.R, C.B., B.M., B.R., B.M.M., B.M.B., B.M.Y.C., M.H., and M.L. Zones as an accessory use to a principal use in accordance with this section." Under BCZR §101.1, "live musical entertainment" is defined as:

**LIVE MUSICAL ENTERTAINMENT** — Any music playing pursuant to a live musical entertainment use permit as an accessory use to a principal use involving a recorded or live performance or delivery of music by one or more persons at a business or other commercial venue that receives in the previous 30 days more than 50 percent of its gross revenue prior to 9:00 p.m. Live musical entertainment may include but not be limited to a musical ensemble, solo performers, the presentation of music played on sound equipment operated by an owner, employee, agent, or contractor of a venue commonly known as a "disc jockey" or "DJ," and karaoke. Live musical entertainment may also include music that solely or primarily uses instruments that produce sound through acoustic means or with electric or electronic enhancement.

BCZR §449 goes on to provide a regulatory scheme by which live musical entertainment use permits are issued and regulated. The existing use of the property for concerts and live events under the venue label “The Vortex” are by every standard live musical entertainment as contemplated under BCZR. MCMA’s website reveals much. The Vortex Map (see below) identifies a main stage, side stage, concessions, welcome pavilion and merchandise sales, bluegrass workshop, vendors, and VIP/band parking areas:



█’s Exh. 8. The Vortex hosts regular ticketed concerts by bands and other musical acts, both amplified and non-amplified, during the warm weather months where alcoholic

and non-alcoholic beverages and food are available for purchase. MCMA’s website describes The Vortex as “Your Premiere Venue in Catonsville, MD” and “...a gated 12-acre parcel...remarkable setting ideal for concerts, festivals, and gatherings of all sizes.” [REDACTED]’s Exhibit 5. MCMA’s website further characterizes The Vortex as a “venue” open and available for booking community events, corporate events, weddings and graduations, and special programming. *Id.* Eight concerts or festivals are currently scheduled from May 2026 through October 2026, with concert posters advertising various bands. [REDACTED]’s Exhibit 7.

Structures are proposed under his Petition that could potentially host live concerts indoors, thereby making year-round concerts possible. This record shows that thousands of patrons attend these concerts and they are promoted as live musical events just like any other live music event venue. Music City Maryland has a contractual lease agreement with CAA to use a portion of the premises for The Vortex concert series and presumably for on-site parking as well. By its nature and character, as well as its description by Mr. Warshaw, Mr. Gardenghi, community members, and the volume of documentary evidence submitted in this record, The Vortex is precisely the type of live musical entertainment venue that BCZR §449 was intended to regulate.

Moreover, under the general/specific canon of statutory construction, if there is a conflict between a general provision and a specific provision, the specific provision prevails. Antonin Scalia & Bryan Garner, Reading Law, p. 183, Thomson/West (2012). Also see *Montgomery County v. Lindsay*, 50 Md. App. 675, 678–79, 440 A.2d 411 (1982), citing *Baltimore National Bank v. State Tax Commission of Maryland*, 297 U.S. 209, 56 S. Ct. 417, 80 L. Ed. 586 (1936) (“[I]t is well settled that specific terms covering a given subject matter prevail over general language of the same or another statute which might otherwise prove controlling.”). Petitioner claims that live music and live events can be included at least as accessory to the recreational uses

already authorized. However, Live Musical Entertainment is a recognized use under BCZR §449 and is only permitted in the “B.L., B.L.R., C.B., B.M., B.R., B.M.M., B.M.B., B.M.Y.C., and M.L. Zones in order to protect the character of the nearby neighborhoods and the public health, safety, and general welfare.” BCZR §449.1. From the plain language of the regulation as interpreted through this canon, Live Musical Entertainment is expressly excluded by omission from residentially zoned properties as it is expressly permitted in commercial and industrial zones. Had the Baltimore County Council wished to include Live Musical Entertainment in the DR zones under certain parameters it could have done so. It did not. Even if Petitioner’s interpretation could be read into the ordinance, applying a strained interpretation of BCZR §1B01.1.C.4 to include live concerts, application of this canon of construction shows that the specific use of “Live Musical Entertainment” under BCZR §449.1 remains controlling under these facts.

THEREFORE, IT IS ORDERED this 15<sup>th</sup> day of **June, 2026**, by this Administrative Law Judge, that the Petition for Special Hearing from BCZR §500.7 to amend the special exception and site plan approved in No. Case 2015-138-SPHXA to approve modifications to outdoor fields, recreational facilities, proposed indoor athletic facilities, and directly related amenities, be and is hereby **GRANTED** and;

IT IS FURTHER ORDERED, that the modified parking plan as shown on the attached Site Plan be and is hereby **GRANTED**; and

IT IS FURTHER ORDERED, that Special Hearing relief with respect to all live musical entertainment, amenities, structures, and uses related to live musical entertainment is hereby **DENIED**<sup>1</sup>; and

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<sup>1</sup> Nothing in this Opinion & Order is intended to abrogate the authority of the Director of the Department of Permits, Approvals & Inspections (PAI) to issue permits under Baltimore County Code (“BCC”) Section 21, Title 9, for gathering permits, parades, carnivals, street festivals, etc.

IT IS FURTHER ORDERED, that based upon the testimony and evidence submitted into this record, under the authority of BCZR §500.7, I find that live concerts and events that have been conducted and are proposed to be conducted on the property constitute Live Musical Entertainment which is a prohibited use in this DR 5.5 zone.

The relief granted herein shall be subject to the following:

1. Petitioner may apply for necessary permits and/or licenses upon receipt of this Order. However, Petitioner is hereby made aware that proceeding at this time is at his own risk until 30 days from the date hereof, during which time an appeal can be filed by any party. If for whatever reason this Order is reversed, Petitioner would be required to return the subject property to its original condition.
2. Petitioner's Site Plan (Pet. Exh, 1) is hereby incorporated into this Order and attached hereto.
3. All modifications to the existing special exception under Case No. 2015-138-SPHXA granted herein are valid for a period of five (5) years from the date of this Order.

Any appeal of this decision must be filed within thirty (30) days of the date of this Order.



DEREK J. BAUMGARDNER  
Administrative Law Judge  
for Baltimore County

DJB:dlm

