

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

Stella B. Werner Council Office Building
100 Maryland Avenue
Rockville, Maryland 20850
www.montgomerycountymd.gov/boa/
(240) 777-6600

**Case No. CBA-1174-D
PETITION OF THE HOLTON ARMS SCHOOL**

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolution Adopted April 9, 2025)
(Effective Date of Resolution: April 25, 2025)

Case No. CBA-1174 is a special exception granted to the Holton Arms School on November 29, 1961. The special exception has been modified on numerous occasions since that time, as Case Nos. CBA-1174, -A, -B, -C, and -D. Case No. CBA-1174-D was most recently modified on August 4, 2023, to permit renovations to the School's Granger House, which formerly housed its Head of School, and to allow use of the renovated Granger House for educational and ancillary office purposes during the construction of the School's Marriott Library/Learning Commons.¹

The Board of Appeals has received a letter, dated March 27, 2025, from Patrick O'Neil, Esquire, on behalf of The Holton Arms School. Mr. O'Neil's letter states that the construction of the Marriott Library/Learning Commons "has been completed and the School has a continuing need to keep Granger House in service to the School's educational mission." His letter details the improvements that were made to the Granger House in connection with the approved 2023 modification, and states that "[w]hile the long term use of Granger House is undecided, the School would like to capitalize on its conversion investment and continue the use of the space for educational purposes." Mr. O'Neil's letter states that "the School has a continuing need to use Granger House for auxiliary classroom and administrative spaces," noting that these uses "complement the functions of the main School building and also provide discreet administrative and meeting spaces apart from other active School areas." His letter requests "a five-year extension of the educational use of Granger House," and notes that "[a]ll other terms and conditions of the Board's Resolution dated August 4, 2023 would remain in effect." Mr. O'Neil's letter states that the requested modification "will not substantially change the nature, character or intensity of the School's special exception use, will not negatively impact traffic in any way, will not otherwise adversely affect the surrounding

¹ A major modification of this special exception (Case No. CBA-1174-E), which is unrelated to the instant request, is currently pending at the Office of Zoning and Administrative Hearings for a hearing and the issuance of a report and recommendation to the Board.

neighborhood, and as such, this request can be approved by the Board administratively without the necessity of a public hearing.”

The subject property is Parcel N624, Par Four Burning Tree Valley Holton-Arms School Subdivision, located at 7303 River Road in Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the modification request at a Worksession held on April 9, 2025. Mr. O’Neil was present at the Worksession on behalf of the School, along with Tracy Fudge, the School’s Chief Financial Officer. Mr. O’Neil explained that the Board had previously approved the temporary use of the School’s Granger House for educational purposes during the construction of the Marriott Library/Learning Commons. Mr. O’Neil stated that the construction is now complete, and that the School is seeking to continue the previously approved temporary use of the Granger House for a period of five years, while the School determines what to do with this building. Mr. O’Neil stated that it would be premature to make the requested change of use permanent. He noted that the request is for use of the main floor only, and that the School is not proposing to use the basement or second floor of the Granger House. Mr. O’Neil stated that in the past, the Granger House had served as a residence for the Head of School, but is no longer used for that purpose. He stated that the requested modification does not involve any change to the School’s current enrollment or staffing. Ms. Fudge stated that the new Library was completed in November 2024, and that the Granger House is currently vacant. She stated that this is not good for the building or for insurance liability. Ms. Fudge stated that there are five rooms and a kitchen on the main floor of the Granger House, and that she would anticipate two offices being located in that space, for use by five people.

Because Case No. CBA-1174-D was approved prior to October 30, 2014, under Section 59.7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

Based on the record before it, the Board finds that the proposed extension to the time during which the Granger House can be used for educational and ancillary office uses, as described herein and in Mr. O’Neil’s letter, will not substantially change the nature, character, or intensity of the use or its effect on traffic or on the immediate neighborhood, and thus can be granted on a year to year basis, for a period of up to five years, contingent on the School providing an annual update to the Board on the use of the space. In support of this, the Board notes that this use was previously approved by the Board on a temporary basis. In addition, the Board notes that the Granger House is

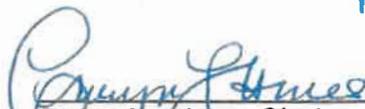
interior to the School's campus. The Board finds that no operational changes or increases to enrollment or staffing have been requested (or approved) as part of this modification, and thus finds that granting this modification will have little, if any, outward impact.² Finally, the Board finds that the proposed continued use of the Granger House in a manner consistent with its use over the past two years will have no effect on the other existing operations at the School.

On a motion by Caryn L. Hines, Chair, seconded by Richard Melnick, Vice Chair, with Alan Sternstein, Amit Sharma, and Donald Silverstein in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Mr. O'Neil's March 27, 2025, letter, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception to allow an extension of the time during which the School's Granger House may be use for educational and ancillary business/office purposes is granted on a year to year basis, contingent on the annual submission of an update regarding the use of the Granger House building, to be provided to the Board with the School's Annual Report; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Caryn L. Hines, Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 25th day of April, 2025.



Barbara Jay
Executive Director

² The Board notes that an increase to the School's enrollment cap is currently under consideration as part of pending major modification Case No. CBA-1174-E, but has not been approved (or denied) as of the issuance of this Resolution.

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

RESOLUTION TO RE-OPEN THE RECORD
(Resolution Adopted September 11, 2024)
(Effective Date September 26, 2024)

The Board of Appeals has received a letter, dated August 30, 2024, from Patrick L. O'Neil, Esquire, enclosing Head of School Penny Evins' letter dated August 30, 2024, submitting the summary of the School's Annual Report, which includes the student enrollment and the Transportation Management Plan. In her letter, Ms. Evins provides the online link to the School's master calendar, which is maintained on the School website.

In his letter, Mr. O'Neil further informs the Board that:

In addition, the School would like to alert you to an unexpected enrollment surge above the current cap of 665 students for the 2024-25 academic year. This year's student body will be comprised of 681 girls due to historically high yield rates for incoming students. The School's administrators make admissions decisions based on yield and attrition information from the previous three years. The yield rate for the 2024-25 school year is 67%, which is the highest yield rate experienced by the School in the last ten years and includes yield rates of over 90% in grades 4, 7, and 8 - with the average yield over the last three years being 61 %. Attrition rates remained level at around 4%. The School has reached out to representatives of the Bradley Boulevard Citizens Association to advise them of the anticipated enrollment for this school year. We are pleased to report that the response has been supportive and understanding.

In the past, an enrollment overage was addressed via a mitigation plan to bring enrollment back down to the cap within two years by implementing adjustments to admissions criteria. Rather than propose a mitigation strategy, the School intends to seek enrollment cap and

other modifications in order to modernize campus use. Increasing enrollment is crucial to meet the growing market demand, stay competitive with schools who can adapt to market demands more effectively, and ensure the continued excellence of the Holton-Arms program.

Over the next few months, the School intends to evaluate growth options and impacts and return to the Board with a Special Exception amendment that will both accommodate School needs and respect its residential neighbors. We have already begun discussing potential modifications with our neighbors and look forward to presenting them to the Board well in advance of next year's admissions decisions.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

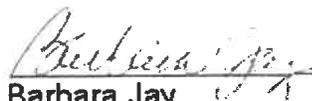
The Board of Appeals considered the correspondence from Mr. O'Neil and Ms. Evins at a Worksession held on September 11, 2024. The Board notes that the submission of the Annual Report is in order. Thus, on a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines, Alan Sternstein and Amit Sharma in agreement.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Mr. O'Neil's letter dated August 30, 2024, and Ms. Evins' letter dated August 30, 2024, with attachments.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 26th day of September, 2024.



Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

RESOLUTION TO RE-OPEN THE RECORD

(Resolution Adopted October 4, 2023)

(Effective Date October 13, 2023)

The Board of Appeals has received a letter, dated September 5, 2023, from Soo Lee-Cho, Esquire, enclosing Head of School Penny Evins' letter dated August 30, 2023, submitting the summary of the School's Annual Report, which includes the student enrollment and the Transportation Management Plan. In her letter, Ms. Evins provides the online link to the School's master calendar which is maintained on the School website.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

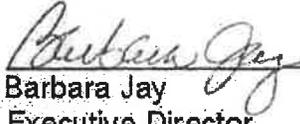
The Board of Appeals considered Ms. Lee-Cho's and Ms. Evins' correspondence at a Worksession held on October 4, 2023. The Board notes that the submission of the annual report is in order, and on a motion by Richard Melnick, Vice Chair, seconded by Caryn Hines, with Laura Seminario-Thornton and Alan Sternstein in agreement, and John H. Pentecost, Chair, necessarily absent.

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's letter dated September 5, 2023, and Penny Evins' letter dated August 30, 2023, with attachments.



Richard Melnick, Vice Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 13th day of October 2023.


Barbara Jay
Executive Director

NOTE:

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Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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**Case No. CBA-1174-D
PETITION OF THE HOLTON ARMS SCHOOL**

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolution Adopted July 26, 2023)
(Effective Date of Resolution: August 4, 2023)

The Board of Appeals has received a letter, dated July 18, 2023, from Soo Lee-Cho, Esquire, on behalf of The Holton Arms School. Ms. Lee-Cho requests an administrative modification of the School's special exception to allow "renovation and use of the former Head of School's on-campus residence, known as the Granger House." Ms. Lee-Cho states in her letters that "[t]he School seeks to renovate the first floor with classrooms and conference rooms as well as incorporate required ADA access improvements needed to be able to use the Granger House as a temporary library and associated staff office facility" while the School finishes the improvements to the Marriott Library and Learning Commons addition that were approved by the Board on June 8, 2022.

Ms. Lee-Cho's letter details the proposed changes to the Granger House, as follows:

... the 1st floor of the house will be converted into temporary business offices and two classrooms. The existing basement and 2nd floor will be unoccupied. The existing 1st floor full bathroom will be renovated into an ADA compliant bathroom. The interior stairs will be closed off to render the floors above and below not accessible. On the exterior, an ADA ramp will be built to allow for access to the front entrance. The existing range in the existing kitchen will be removed. The existing living, dining, and library will be converted to classroom and conference room spaces. A more detailed Site Plan (**Exhibit C**) and architectural floor plans (**Exhibit D**) are also provided in support of this modification request.

As noted above, she includes a Site Plan and architectural plans with her request.

Ms. Lee-Cho's letter states that because the Granger House was previously used as a residence for the Head of School, the proposed changes constitute a "change of use" for this building, which her letter states had "continued to be identified as 'residential' despite its location on a private educational institution site." Because of this, Ms. Lee-Cho's letter states that the Department of Permitting Service is requiring that the use and

occupancy of the Granger House "be revised to educational use, with ancillary business/office use." Her letter states that this change in the use of the Granger House will not result in any "increased occupancy on the school site" because the people in the Granger House will all have been "relocated from elsewhere on the School's campus, i.e., Marriott Library."

Ms. Lee-Cho states in her letter that the "requested renovation of the Granger House to provide limited and temporary Library space and associated staff office facilities while the Marriott Library renovation/Learning Commons addition...is completed, will not substantially change the nature, character or intensity of the School's special exception use, will not negatively impact traffic in any way, will not otherwise adversely affect the surrounding neighborhood." Thus she asserts that the requested modification can be granted administratively.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road in Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the modification request at a Worksession held on July 26, 2023. Ms. Lee-Cho was present at the Worksession on behalf of the School, along with William Spack, AIA, of cox graae + spack architects. Ms. Lee-Cho explained that in seeking building permits for the previously granted modification involving the School's Marriott Library renovation and Learning Commons addition,¹ the School was informed by the County's Department of Permitting Services that the proposed relocation of library resources and staff to the School's Granger House would require a modification of the special exception because of the change in the use of the Granger House building (residential to educational). She stated that the Granger House was previously used as a residence by the Head of School. Ms. Lee-Cho stated that the incoming Head of School will reside elsewhere for the duration of the Marriott Library/Learning Commons construction, and that when that construction is completed and these renovated/new School facilities are operational, the Granger House will once again be used as a residence for the Head of School. Thus she noted that the requested modification is for interim use of the Granger House while the Marriott Library facility and Learning Commons space are under construction.

Mr. Spack stated that the entrance to the Granger House and its first floor bathroom were being made ADA-compliant. He stated that the School plans to block access to the upper level of the house. In response to a Board question, Mr. Spack stated that the footprint of the Granger House is not changing. He estimated that the Marriott Library/Learning Commons construction would take about a year.

Because Case No. CBA-1174-D was approved prior to October 30, 2014, under Section 59.7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides:

¹ This construction was authorized by the Board's June 8, 2022, modification of this special exception.

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

Based on the record before it, the Board finds that the proposed changes to the Granger House, as described herein and in Ms. Lee-Cho's letter, and as shown on the attachments to that letter, will not substantially change the nature, character, or intensity of the use or its effect on traffic or on the immediate neighborhood, and thus can be granted. The Board notes that the proposed renovations to the Granger House are modest in scope, and that the Granger House is interior to the School's campus. The Board further notes that the anticipated use of the Granger House for educational (and office) purposes is only for the duration of the Marriott Library/Learning Commons construction, that the anticipated use of the Granger House will be by persons who would already be on the School grounds but have been displaced by that construction, and that this use will therefore not increase the number of people who would otherwise be on campus. Finally, the Board finds that the proposed modification will have no effect on the other existing operations at the School.

On a motion by John H. Pentecost, Chair, seconded by Richard Melnick, Vice Chair, with Caryn Hines, Laura Seminario-Thornton, and Alan Sternstein in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's July 18, 2023, letter, with attachments; and

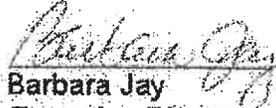
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted on the condition that this modification shall only be effective for such time as is necessary for the School to complete the construction on the Marriott Library and Learning Commons space and place the renovated Library and new Learning Commons space into service for the School; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


John H. Pentecost, Chair
Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland

this 4th day of August, 2023.


Barbara Jay
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

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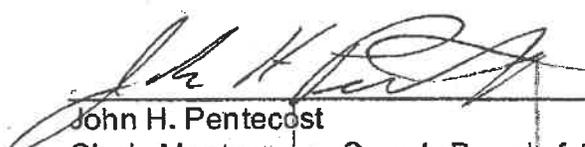
RESOLUTION TO RE-OPEN THE RECORD
(Resolution Adopted September 21, 2022)
(Effective Date October 7, 2022)

The Board of Appeals has received a letter, dated September 9, 2022, from Soo Lee-Cho, Esquire, enclosing Head of School Susanna Jones' letter dated August 30, 2022, submitting the summary of the School's Annual Report, which includes the student enrollment and the Transportation Management Plan. Ms. Jones notes in her letter that the School's master calendar is maintained on the School website.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

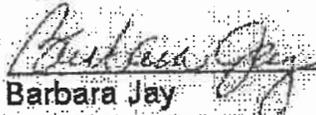
Due to COVID-19, the Board of Appeals considered Ms. Lee-Cho and Ms. Jones' correspondence using Microsoft Teams at a remote Worksession held on September 21, 2022. On a motion by John H. Pentecost, Chair, seconded by Caryn Hines, with Richard Melnick, Vice Chair, and Roberto Pinero in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's letter dated September 9, 2022, and Susanna Jones' letter dated August 30, 2022, with attachments.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 7th day of October 2022.



Barbara Jay
Executive Director

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Case No. CBA-1174-D

PETITION OF THE HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted May 25, 2022)

(Effective Date of Resolution: June 8, 2022)

The Board of Appeals has received a letter, dated May 17, 2022, from Soo Lee-Cho, Esquire, on behalf of The Holton Arms School. Ms. Lee-Cho requests an administrative modification of the School's special exception to allow the School to add indoor and outdoor space in connection with the School's renovation of its existing Marriott Library building. Ms. Lee-Cho's letter explains that the "corridor" that currently connects the library and classroom building will be removed, and the space between those two buildings will be "reconfigured to create a larger enclosed area that will serve as a casual gathering space for the girls to congregate and interact, build social relationships and engage in group study." Ms. Lee-Cho states in her letter that the new area, which she refers to as the "Learning Commons," has been "designed to work with the existing grade of the site, utilizing the space between the library and classroom building seamlessly." Her letter states that the new Learning Commons will have no more than 2,500 square feet of floor area, and will be no taller than 21 feet in height. She includes proposed floor plans and elevations of the proposed new space with her letter. In addition to the proposed enclosed space, Ms. Lee-Cho indicates in her letter that the School is also seeking to add new hardscape/outdoor space around the library, stating that "the outdoor areas surrounding the Marriott Library will be enhanced with hardscape, connecting stairs and landscaping to create outdoor areas where teachers/students can engage." Again, Ms. Lee-Cho includes proposed floor plans showing those areas with her submission. Ms. Lee-Cho's letter states that the proposed changes "will not substantially change the nature, character or intensity of the School's special exception use, will not negatively impact traffic in any way, [and] will not otherwise adversely affect the surrounding neighborhood." She includes an aerial photograph, marked to show the area of the proposed changes, with her request, as well as floor plans and elevations showing the proposed changes.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road in Bethesda, Maryland, in the R-90 and R-200 Zones.

Due to COVID-19, the Board of Appeals considered the modification request at a remote Worksession held on May 25, 2022, using Microsoft Teams. Ms. Lee-Cho participated on behalf of the School, in support of the proposed modification. She explained that the requested modification is referred to by the School as the "Learning Commons" project, and that the School would like to undertake this project in connection with the renovation of the interior of the existing Marriott Library. Referring to the aerial photograph she submitted, Ms. Lee-Cho oriented the Board to the campus and the area of proposed construction. She stated that the proposed Learning Commons would be in the area between the School's main academic building and the existing Marriott Library, which are currently connected by a corridor that would be demolished. Ms. Lee-Cho stated that the Learning Commons addition would be approximately 2,500 square feet in size, and would be used for group study, gathering, and social interaction.

Referring to the elevations, Ms. Lee-Cho stated that the addition would not be visible to the closest neighbors because it would be "tucked" between the existing library and academic building. She stated that the School held a "virtual" neighborhood meeting on March 17, 2022, to discuss the proposed project, and that the primary concern raised regarding the modification was whether trucks associated with the proposed construction would use neighborhood streets to access the site.¹ In response to a Board question, Ms. Lee-Cho stated that there had been no changes to the concept for the proposed project since that meeting. In response to additional Board questions, she stated that the proposed Learning Commons was intended for use by the School's existing students, and that the School was not requesting an enrollment increase. In addition, she stated that there would be no significant noise impact from the proposed modification once the construction is finished.

Because Case No. CBA-1174-D was approved prior to October 30, 2014, under Section 59-7.7.1.B of the current Zoning Ordinance, this modification request must be reviewed under the standards and procedures in effect on October 29, 2014, unless the applicant elects otherwise. Section 59-G-1.3(c)(1) of the 2004 Zoning Ordinance provides:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the board, without convening a public hearing to consider the proposed change, may modify the term or condition.

Based on the record before it, the Board finds that the proposed addition between the existing classroom building and library, and the proposed outdoor spaces between those buildings and around the library, as described herein and in Ms. Lee-Cho's letter,

¹ Ms. Lee-Cho stated at this juncture that trucks would enter the property from River Road.

and as shown on the attachments to that letter, will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood, and thus can be granted. The Board notes that the proposed construction is in an area of the School's campus that is already occupied by School buildings, and per Ms. Lee-Cho's letter and statements at the Worksession, will not impact adjoining properties. In addition, the Board notes that the requested modification will not increase the number of students on the campus, or the hours of the School's operation, and thus will not change the nature, character, or intensity of the use, or the effect of the use on traffic.

On a motion by John H. Pentecost, Chair, seconded by Caryn Hines, with Richard Melnick, Vice Chair, and Roberto Pinero in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's May 17, 2022, letter, with attachments; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



John H. Pentecost, Chair
Montgomery County Board of Appeals

Entered In the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 8th day of June, 2022.



Barbara Jay
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections

and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

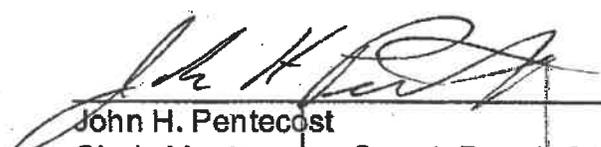
RESOLUTION TO RE-OPEN THE RECORD
(Resolution Adopted September 21, 2022)
(Effective Date October 7, 2022)

The Board of Appeals has received a letter, dated September 9, 2022, from Soo Lee-Cho, Esquire, enclosing Head of School Susanna Jones' letter dated August 30, 2022, submitting the summary of the School's Annual Report, which includes the student enrollment and the Transportation Management Plan. Ms. Jones notes in her letter that the School's master calendar is maintained on the School website.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

Due to COVID-19, the Board of Appeals considered Ms. Lee-Cho and Ms. Jones' correspondence using Microsoft Teams at a remote Worksession held on September 21, 2022. On a motion by John H. Pentecost, Chair, seconded by Caryn Hines, with Richard Melnick, Vice Chair, and Roberto Pinero in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Soo Lee-Cho's letter dated September 9, 2022, and Susanna Jones' letter dated August 30, 2022, with attachments.



John H. Pentecost
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 7th day of October 2022.


Barbara Jay
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book. Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PETITION OF HOLTON-ARMS SCHOOL

RESOLUTION TO CONSOLIDATE CASES
(Resolution Adopted September 10, 2003)
(Effective Date of Resolution: March 23, 2004)

The Board of Appeals has received a letter, dated July 24, 2003, from Elsie Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests that consideration of modification Case Nos. CBA-1174-D, S-2467-A and S-2503-A, three special exceptions held by Holton Arms, be consolidated, and that the special exception holder be allowed to pay the highest applicable fee.

The subject property is located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's request at its Worksession on September 10, 2003. Rule 1.7 of the Board of Appeals Rules of Procedure gives the Board authority to grant consolidation of multiple cases pertaining to one property, as well as payment of the highest applicable fee. Therefore, on a motion by Allison Ishihara Fultz, seconded by Angelo M. Caputo, with Louise L. Mayer and Donald H. Spence, Jr., Chairman in agreement and Donna L. Barron necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to consolidate the pending modifications in Case Nos. CBA-1174-D, S-2467-A and S-2503-A is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the special exception holder will pay the highest applicable filing fee of \$1250.00; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the other two filing fees of \$625. and \$225. shall be refunded.



Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of March, 2004.



Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. CBA-1174-D

PETITION OF THE HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted April 18, 2012)

(Effective Date of Resolution: May 21, 2012)

The Board of Appeals has received a letter, dated March 27, 2012, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow "enclosure of the existing entry portico at the school's front entrance to include the extension of a cantilevered roof from the enlarged reception area out onto the front sidewalk." Ms. Reid encloses Architectural Drawings and a General View of the Campus to illustrate the request. Ms. Reid advises that the front entrance is not visible from nearby residences, and that the school will undertake interior remodeling of the lobby as well as repair and interior work to the dining room area at the same time as the enlargement of the portico. Ms. Reid informs the Board that all members of the Neighborhood Liaison Council received copies of the Architectural Drawings, and that school representatives have spoken with representatives of the Bradley Boulevard Citizens' Association and the Burning Tree Civic Association, which have no objection to the requested change.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the modification request at its Worksession on April 18, 2012. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board,

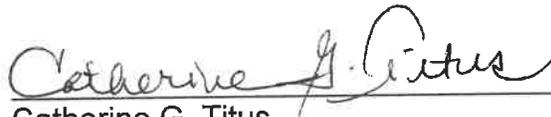
without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that enclosure of the school's entrance, not visible to nearby residences, will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Carolyn J. Shawaker, seconded by David K. Perdue, Vice-Chair, with Walter S. Booth, Stanley B. Boyd and Catherine G. Titus, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Elsie L. Reid's March 27, 2012 letter, with attachments; and

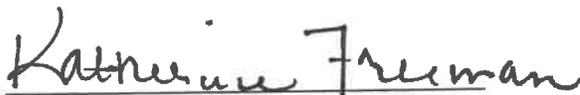
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 21st day of May 2012.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PEITITION OF THE HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted March 23, 2011)

(Effective Date of Resolution: May 24, 2011)

The Board of Appeals has received a letter, dated March 3, 2011, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit a short-term use of the parking facilities on the school's campus by the U.S. Golf Association (USGA) during the U.S. Open Tournament being held at Congressional Country Club in Potomac, which is close to Holton Arms. Ms. Reid states that USGA has requested to use about 175 spaces from June 13th to June 19th 2011, after the close of the academic year, but before the start of camp programs at the school. She states that during this period, faculty and staff will park either at Primary Day or St. Marks Church and be bused to and from school. Ms. Reid informs the Board that Mrs. Susanna Jones, Head of School, spoke individually with representatives from Bradley Boulevard Citizens' Association and Burning Tree Civic Association about this event and reports that the associations do not object to this use of the school's parking.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's request at its Worksession on March 23, 2011. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the temporary use of the school's parking facility, at a time when neither the school's academic nor summer programs are in session, and with faculty and staff parking off-site, will not substantially change the impact of the special exception or its effect on traffic or the immediate neighborhood. Therefore, on a motion by Stanley B. Boyd, seconded by David K. Perdue, Vice-Chair, with Carolyn J. Shawaker, Walter S. Booth and Catherine G. Titus, Chair, in agreement:

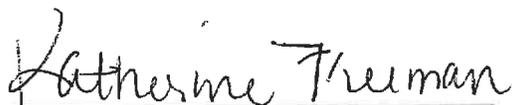
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elise Reid's letter dated March 3, 2011; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.


Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 24th day of May, 2011.


Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is

received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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**BOARD OF APPEALS
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Case No. CBA-1174-D

PETITION OF THE HOLTON-ARMS SCHOOL

RESOLUTION TO ALLOW EVENT ON A TRIAL BASIS

(Resolution Adopted December 17, 2008)

(Effective Date of Resolution: May 14, 2009)

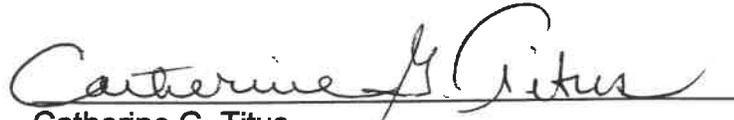
The Board of Appeals has received a letter, dated December 9, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests the Board's approval for the school to host a track and field championship event at the request of the Independent School League (ISL) athletic conference. Ms. Reid informs the Board that through the neighborhood Liaison Council process, Holton asked the Bradley Boulevard Citizens Association (BBCA) and the Burning Tree Civic Association (BTCA) to consider ISL's request for Holton to host this event, and that the associations expressed their willingness for Holton to host the event in 2009 "on a trial basis".

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Holton Arms' request at its Worksession on December 17, 2008. The Board finds, with the concurrence of the members of the Neighborhood Liaison Council, that it can grant the school's request to host the championship track and field event on a one-time, trial basis.

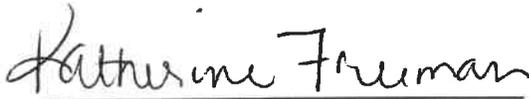
On a motion by David K. Perdue, seconded by Allison Ishihara Fultz, Chair, with Catherine G. Titus, Vice-Chair and Walter S. Booth in agreement, and Carolyn J. Shawaker necessarily absent the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Catherine G. Titus
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 14th day of May, 2009.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case Nos. CBA-1174-D, S-2467-A and S-2503-A

PETITION OF THE HOLTON ARMS SCHOOL, INC.

CORRECTED RESOLUTION UPON REVIEW OF TRAFFIC IMPACT STUDY

(Resolution Adopted May 7, 2008)
(Effective Date of Resolution: July 29, 2008)

BACKGROUND

On March 23, 2004 the Board of Appeals granted modification Case Nos. **CBA-1174-D, S-2467-A, and S-2503-A**, to permit continuation of existing after-school programs, initiation of other after-school programs, and an increase in the permitted general enrollment of the school from 650 to 665, with the possible addition of another 5 students if circumstances warrant; an increase in day care enrollment from 15 to 20, with permission to have children of other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff; and an increase in enrollment of the summer camp from 650 to 665. The March 23, 2004 Opinion contained, at Condition No. 5, a requirement for Holton Arms to conduct a traffic impact study to evaluate the traffic impacts of the modifications with provisions for prior consultation as to the parameters of the study with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC), and for comments by those same parties and with the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission on the completed study.

On June 29, 2005 Holton Arms submitted the required traffic study [Exhibit 81]. The Board also received comments from BBCA and BTCA that the study was too narrow. In a Resolution dated March 16, 2006, the Board of Appeals referred the matter to the Hearing Examiner to review the adequacy of the traffic study. On November 9, 2006 the Hearing Examiner issued a Report and Recommendation that the submitted traffic study had too narrowly interpreted Condition No. 5 of the Board's March 23, 2004 Opinion. The Hearing Examiner

recommended that the school conduct another traffic study, pursuant to a revised Condition No. 5.

Effective January 5, 2007 the Board of Appeals issued a Resolution which revised Condition No. 5 of its March 23, 2004 Opinion to state:

5. Petitioner shall conduct a traffic study, as follows:

No later than June 1, 2007, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), the Office of the People's Counsel (OPC) and Transportation Planning staff as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing, delays and turning movements arising from Holton generated traffic at all affected intersections and roadways. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved in its March 23, 2004 Opinion and Resolution; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

The Board subsequently extended the time for submission of the traffic study to allow until September 15, 2007.

The Holton Arms School Community Liaison Council (CLC) considered how to process such issues as the parameters of the traffic study, the traffic analysis study and findings, the analyses and comments on the study by the Transportation Planning Division of the Maryland National Capital Park and Planning Commission and the analyses and comments by the Holton Arms School, the Bradley Boulevard Citizens Association, the Burning Tree Civic Association and the Office of the Peoples' Counsel. The CLC decided that all

analyses and comments should be submitted to the Peoples Counsel, who would, in turn, forward all the documents to the Board of Appeals in one submission.

In a letter dated December 13, 2007, Martin Klauber, Peoples' Counsel, forwarded 19 documents to the Board of Appeals. These documents included the CLC's agreed timeline for Traffic Study, comments from the parties on the scope of the traffic study, the Gorove Slade Traffic Impact Study of July 2, 2007, the Gorove Slade Traffic Impact Study Appendix, the Gorove Slade Supplement to Traffic Impact Study, Comments from Burning Tree Civic Association and Bradley Boulevard Citizens Association on the Traffic Impact Study, Comments of Shariar Etemadi, Transportation Planning Division, MNCPPC, on the Traffic Impact Study, comments from the parties on Shariar Etemadi's comments on the Traffic Impact Study.

The Board of Appeals considered Mr. Klauber's December 13, 2007 letter and the 19 attached documents at its Worksession on January 23, 2008. On February 13, 2008, the Board of Appeals issued a Notice of Public Hearing, for a hearing on May 7, 2008, pursuant to Condition No. 5, as revised in its Resolution of January 5, 2007 on the subject of AM and PM queuing and trip generation rates.

The Board of Appeals convened the hearing, as scheduled, on May 7, 2008. Elsie L. Reid, Esquire appeared on behalf of the Holton Arms School. She called Louis Slade, of Gorove Slade Traffic Associates, as a witness. George Springston appeared on behalf of the Burning Tree Civic Association. Norman Knopf, Esquire appeared on behalf of Bradley Boulevard Citizens Association. Linda Kauskay and Joseph Cutro, Professional Traffic Engineer, testified on behalf of Bradley Boulevard Citizens Association.

SUMMARY OF TESTIMONY

Ms. Reid stated the school's position that the Gorove Slade Traffic Impact Study is a comprehensive response to the requirements of Condition No.5, and that the study found no evidence that the modifications had any undue traffic impact, and that therefore there is no basis to justify modification of the conditions of approval for the modifications granted March 23, 2004. Ms. Reid further stated that the school is willing to look at its trip generation rate, and to revisit its Transportation Management Plan and to see if it can devise more effective ways to reduce vehicular trips on campus. Ms. Reid stated that the Traffic Impact Study was challenging to perform because the school did not have the comparative data for two of the three intersections that the school was asked to analyze retrospectively, and did not have some of the data for the full 16-hour day they were asked to analyze. She stated that the study utilized a simulation

approach in response to the lack of that data, but that such simulation has not be applied retrospectively before, which may have led to limitations and certain inconsistencies in the queue data. Ms. Reid stated that between October 2003, the time of the first traffic counts, and March 2007, when the second counts were made, school enrollment increased by 14, "a meaningful increase which allowed the study to answer the question about the impact of the modification." [Transcript, May 7, 2008, p. 11].

Mr. Slade stated that two traffic studies were considered: one in 2005 and one in 2007. He stated Gorove Slade's conclusion that the change in enrollment (from the modifications) did not have an impact on traffic in the neighborhood and on River Road. Mr. Slade submitted a chart into the record as Exhibit No. 124, containing three lines, which he said depict total traffic on River Road on the survey day in March, 2007, Holton Arms traffic over a 16-hour period, and traffic not related to Holton Arms, passing by. Mr. Slade pointed out the peaks in Holton Arms traffic and stated that Holton Arms generates the most trips, 807, during the morning peak hour. He stated that the increase in enrollment from 2003 to 2007, of 14 students, generated a differential of 8 trips in the morning peak hour. Mr. Slade noted an increase from 2003 to 2007 of 62 trips making a left turn into Holton Arms, coming from the west, resulting in longer queues for westbound traffic. He stated that these longer queues were not as a result of the increase in eight trips related to the modifications, but to the increase in left turns at Holton Arms. Mr. Slade also pointed out 57 additional trips during the afternoon peak hour due to a change in the middle school curriculum, which resulted in additional left turns into and out of the school, which in turn increased queuing. He attributed a small part of that impact to the increase of eight in enrollment. Mr. Slade also mentioned three events that occurred at the school on the day of the traffic survey in March, 2007, which may have contributed to increased queuing. Mr. Slade submitted information about the trip generation rates of six independent schools. In response to a Board question, Mr. Slade stated that use of the Local Area Transportation Rate (LATR) standard for trip generation by schools of .92, in comparison to Holton Arms' trip generation rate of 1.3, may not be useful because he does not know the source of the LATR rate. He stated that the LATR standard of .92 (trips per student) happens to coincide with the Institute of Transportation Engineers average trip rate.

George Springston testified on behalf of the Burning Tree Civic Association (BTCA), and referred to his letter of December 7, 2007. Mr. Springston stated BTCA's position that the traffic study should evaluate the traffic generated by the increased enrollment, by the after hours non-school activities in combination with all other approved activities of the special exception site. Mr. Springston stated that the current traffic study data just doesn't fit with the previous data. He stated that, using critical lane volume analysis, Holton Arms' traffic has reduced the level of service on River Road by 1 to 2 grades, which

BTCA sees as an adverse effect. Mr. Springston also stated BTCA's position that the school's trip generation rate of 1.3, as compared to the LATR standard of .92 is an adverse effect.

Linda Kauskay testified on behalf of Bradley Boulevard Citizens Association (BBCA). She expressed BBCA's "serious concerns about the reliability and usefulness" of the most recent Traffic Impact Study, and about "the kind of precedent it would set if it is accepted at face value." Ms. Kauskay stated that the association consistently receives complaints and evidence about queues of cars approaching the entrance to Holton Arms, the difficulty of exiting Burning Tree Road to turn onto River Road, and concerns regarding the adequacy of the left turn lane on the eastbound approach to the school on River Road. She expressed BBCA's surprise and disagreement about the study's conclusion that there were no queues in the right turn lane approaching the school. She stated that in viewing a portion of the video tape of the traffic counts, BBCA observed numerous queues, and numerous cars that activated right turn signals in the through lane that were trapped there, and that were unable to get into the right turn lane because they had not yet entered the through lane and moved out to the point where the right turn lane was available to them and that turn lane is relatively short. She reiterated BBCA's request that Holton Arms produce the video tape of the traffic counts. Ms. Kauskay stated that there is no question that the Holton Arms traffic, at 18% of the according to the Traffic Impact Study, is a significant component of the traffic in the through lanes on River Road, nearly one in five cars. Ms. Kauskay also said that the through lane queuing was not accurately reported in the traffic study. The video camera faced east, that is looking at the cars approaching the school entrance, from the entrance itself. Referring to BBCA's letter of August 20, 2007, Ms. Kauskay disputed the study's reported maximum queue of 56 cars and said BBCA calculated that both through lanes would contain a total of 186 cars. Ms. Kauskay stated that the queue lengths give rise to undue delays which have an adverse impact on the neighborhood. Ms. Kauskay said that it is not unreasonable to assume that queues will occasionally exceed the stacking capacity of the left turn lane on the eastbound approach to the school, which was recently expanded and is not capable of further expansion. Ms. Kauskay expressed BBCA's view that Holton Arms' current trip generation rate warrants looking at mitigation measures now. As examples she cited extension of the right turn lane and review by the school of its transportation management plan, particularly with an eye to increase carpooling.

Joseph Cutro, a transportation engineer, testified on behalf of BBCA. Mr. Cutro stated that critical lane volume (CLV) analysis of the performance of intersections begins to break down when the current capacity ratio of an intersection approaches 100 percent. Mr. Cutro stated that the intersection of River Road and the Holton Arms driveway is key to any examination of Holton

Arms' traffic. He stated that CLV analysis of this intersection has not been effective because the typical morning peak hour volume there approaches capacity. Mr. Cutro stated that computing delay, the lost time vehicles take getting through an intersection, is an alternative way to evaluate intersection performance. Delay is typically computed on the basis of the preserved light duration of queues waiting at the intersection. Mr. Cutro stated BBKA's disagreement with the Gorove Slade study that there were no queues at the intersection of the westbound right turn lane at the river Road/ Holton Arms intersection. He said that observation of the video tape from the study supports this disagreement. He stated that the video tape also shows exceedingly long queues in the adjacent through lanes that sometimes stretch back beyond the intersection of Beech Tree Road. Mr. Cutro stated that the a.m. peak hour delay of 58.3 seconds per vehicle in the study appears to be understated, and may exceed 80 seconds. Mr. Cutro stated that the current 1640 CLV rating of the Holton and River Road intersection, together with the understated delay assessment, indicate an F level of service. He further stated that that condition and any intrusion of further traffic demand into the intersection will have to be regarded as an impact, and that the modification should be mitigated at the level of allowing no net traffic increase at the intersection in the a.m. peak hour. Mr. Cutro stated that conditions at the intersection can't be expected to improve. Mr. Cutro stated that mitigation measures can either expand existing capacity such as adding turn lanes and providing longer turn bays, or reduce traffic demand, by for example, increased carpooling.

Mr. Knopf pointed out the provisions of Section 59-G-2.19(b) and 59-A.21 of the Zoning Ordinance, which he said give the Board "more than enough" authority to require some mitigation here. Mr. Knopf said the trip generation rate and the size of the school are non-inherent adverse effects.

Ms. Reid stated that the Hearing Examiner's November 2006 Report and Recommendation, which the Board of Appeals adopted, rejected the argument that Holton Arms' trip generation rate is a non-inherent adverse effect.

Mr. Slade stated that he thought Gorove Slade's definition of queue is different from BBKA's. He said the industry standard for defining queue lengths are caused by an interruption in the flow of traffic by the traffic signal by spotting the last car that is stopped just before the light turns green, and counting the cars as they cross the stop bar and enter the intersection. Mr. Slade stated that on River Road, traffic approaches the standing queue at the intersection at Holton Arms. He stated that cars which approach a standing queue and are delayed as that queue begins to move through the intersection are in a "penalty queue", and that Gorove Slade did not count that as the queue. He stated Gorove Slade cut off cars counted in the queue at the last car in the line when the light turns green, and did not count the penalty queue. In the right turn lane into Holton Arms, Mr.

Slade said Gorove Slade found that there was no queue because there were much fewer cars making the turn in '07 than in '03, and that there is a great deal of time: The signal is 180 seconds long, with 45 seconds for left turns from the opposite direction, leaving 135 seconds for right turns into the school. Mr. Slade said that the fact that Holton traffic might be delayed in the adjacent through lane, waiting to enter the turn lane and turn right into the school, is not a sin, it's just a matter of fact.

Ms. Reid stated that the school is not asserting this traffic impact study as a baseline for future expansion, but rather that it responds to the requirement to evaluate the specific traffic impact of the modifications approved in March, 2004. She reiterated that the school does not believe that an adverse traffic impact flows from the modifications, that the trip generation rate has not changed and that the number of trips has increased by only 8 between 2003 and 2007, and that the school is willing to form a transportation committee to review its transportation management plan.

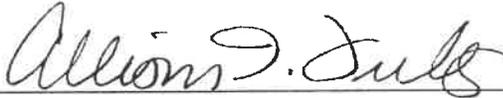
Mr. Knopf stated that based on the traffic impact study, any future expansion of the school should be traffic neutral, and that even a very small expansion could cause major problems.

FINDINGS OF THE BOARD

Based upon the Traffic Impact Study, together with the evidence and testimony of all of the parties, the Board finds that the Traffic Impact Study submitted July 2, 2007 satisfies the requirements of Revised Condition No. 5 of its March 23, 2004 opinion granting the special exception modifications. The Board further finds that the traffic associated with the special exceptions as modified is not a non-inherent adverse effect. **Furthermore, the Board notes that since 2003 enrollment has increased by 14, including both school and daycare, but remains below the allowed combined maximum enrollment of 680, so that the traffic conditions described in the Traffic Impact Study submitted on July 2, 2007 will provide a baseline against which to measure future traffic analysis.** However, the Board finds that the Traffic Impact Study indicates other conditions of concern related to traffic generated by the school, particularly in connection with trip generation rates. Therefore, the Board directs the school to include information in its September 2008 annual report to the Board about the measures it has taken or intends to take within the coming year to study and address mitigation strategies for the school's trip generation rate.

On a motion by David K. Perdue, seconded by Catherine G. Titus, Vice Chair, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 29th day of July, 2008.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

**BOARD OF APPEALS
for
MONTGOMERY COUNTY**

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(240) 777-6600

Case Nos. CBA-1174-D, S-2467-A and S-2503-A

PETITION OF THE HOLTON ARMS SCHOOL, INC.

RESOLUTION UPON REVIEW OF TRAFFIC IMPACT STUDY

(Resolution Adopted May 7, 2008)

(Effective Date of Resolution: June 26, 2008)

BACKGROUND

On March 23, 2004 the Board of Appeals granted modification Case Nos. **CBA-1174-D, S-2467-A, and S-2503-A**, to permit continuation of existing after-school programs, initiation of other after-school programs, and an increase in the permitted general enrollment of the school from 650 to 665, with the possible addition of another 5 students if circumstances warrant; an increase in day care enrollment from 15 to 20, with permission to have children of other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff; and an increase in enrollment of the summer camp from 650 to 665. The March 23, 2004 Opinion contained, at Condition No. 5, a requirement for Holton Arms to conduct a traffic impact study to evaluate the traffic impacts of the modifications with provisions for prior consultation as to the parameters of the study with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC), and for comments by those same parties and with the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission on the completed study.

On June 29, 2005 Holton Arms submitted the required traffic study [Exhibit 81]. The Board also received comments from BBCA and BTCA that the study was too narrow. In a Resolution dated March 16, 2006, the Board of Appeals referred the matter to the Hearing Examiner to review the adequacy of the traffic study. On November 9, 2006 the Hearing Examiner issued a Report and Recommendation that the submitted traffic study had too narrowly interpreted Condition No. 5 of the Board's March 23, 2004 Opinion. The Hearing Examiner

recommended that the school conduct another traffic study, pursuant to a revised Condition No. 5.

Effective January 5, 2007 the Board of Appeals issued a Resolution which revised Condition No. 5 of its March 23, 2004 Opinion to state:

5. Petitioner shall conduct a traffic study, as follows:

No later than June 1, 2007, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), the Office of the People's Counsel (OPC) and Transportation Planning staff as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing, delays and turning movements arising from Holton generated traffic at all affected intersections and roadways. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved in its March 23, 2004 Opinion and Resolution; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

The Board subsequently extended the time for submission of the traffic study to allow until September 15, 2007.

The Holton Arms School Community Liaison Council (CLC) considered how to process such issues as the parameters of the traffic study, the traffic analysis study and findings, the analyses and comments on the study by the Transportation Planning Division of the Maryland National Capital Park and Planning Commission and the analyses and comments by the Holton Arms School, the Bradley Boulevard Citizens Association, the Burning Tree Civic Association and the Office of the Peoples' Counsel. The CLC decided that all

analyses and comments should be submitted to the Peoples Counsel, who would, in turn, forward all the documents to the Board of Appeals in one submission.

In a letter dated December 13, 2007, Martin Klauber, Peoples' Counsel, forwarded 19 documents to the Board of Appeals. These documents included the CLC's agreed timeline for Traffic Study, comments from the parties on the scope of the traffic study, the Gorove Slade Traffic Impact Study of July 2, 2007, the Gorove Slade Traffic Impact Study Appendix, the Gorove Slade Supplement to Traffic Impact Study, Comments from Burning Tree Civic Association and Bradley Boulevard Citizens Association on the Traffic Impact Study, Comments of Shariar Etemadi, Transportation Planning Division, MNCPPC, on the Traffic Impact Study, comments from the parties on Shariar Etemadi's comments on the Traffic Impact Study.

The Board of Appeals considered Mr. Klauber's December 13, 2007 letter and the 19 attached documents at its Worksession on January 23, 2008. On February 13, 2008, the Board of Appeals issued a Notice of Public Hearing, for a hearing on May 7, 2008, pursuant to Condition No. 5, as revised in its Resolution of January 5, 2007 on the subject of AM and PM queuing and trip generation rates.

The Board of Appeals convened the hearing, as scheduled, on May 7, 2008. Elsie L. Reid, Esquire appeared on behalf of the Holton Arms School. She called Louis Slade, of Gorove Slade Traffic Associates, as a witness. George Springston appeared on behalf of the Burning Tree Civic Association. Norman Knopf, Esquire appeared on behalf of Bradley Boulevard Citizens Association. Linda Kauskay and Joseph Cutro, Professional Traffic Engineer, testified on behalf of Bradley Boulevard Citizens Association.

SUMMARY OF TESTIMONY

Ms. Reid stated the school's position that the Gorove Slade Traffic Impact Study is a comprehensive response to the requirements of Condition No.5, and that the study found no evidence that the modifications had any undue traffic impact, and that therefore there is no basis to justify modification of the conditions of approval for the modifications granted March 23, 2004. Ms. Reid further stated that the school is willing to look at its trip generation rate, and to revisit its Transportation Management Plan and to see if it can devise more effective ways to reduce vehicular trips on campus. Ms. Reid stated that the Traffic Impact Study was challenging to perform because the school did not have the comparative data for two of the three intersections that the school was asked to analyze retrospectively, and did not have some of the data for the full 16-hour day they were asked to analyze. She stated that the study utilized a simulation

approach in response to the lack of that data, but that such simulation has not been applied retrospectively before, which may have led to limitations and certain inconsistencies in the queue data. Ms. Reid stated that between October 2003, the time of the first traffic counts, and March 2007, when the second counts were made, school enrollment increased by 14, "a meaningful increase which allowed the study to answer the question about the impact of the modification." [Transcript, May 7, 2008, p. 11].

Mr. Slade stated that two traffic studies were considered: one in 2005 and one in 2007. He stated that his conclusion was that the change in enrollment (from the modifications) did not have an impact on traffic in the neighborhood and on River Road. Mr. Slade submitted a chart into the record as Exhibit No. 124, containing three lines, which he said depict total traffic on River Road on the survey day in March, 2007, Holton Arms traffic over a 16-hour period, and traffic not related to Holton Arms, passing by. Mr. Slade pointed out the peaks in Holton Arms traffic and stated that Holton Arms generates the most trips, 807, during the morning peak hour. He stated that the increase in enrollment from 2003 to 2007, of 14 students, generated a differential of 8 trips in the morning peak hour. Mr. Slade noted an increase from 2003 to 2007 of 62 trips making a left turn into Holton Arms, coming from the west, resulting in longer queues for westbound traffic. He stated that these longer queues were not as a result of the increase in eight trips related to the modifications, but to the increase in left turns at Holton Arms. Mr. Slade also pointed out 57 additional trips during the afternoon peak hour due to a change in the middle school curriculum, which resulted in additional left turns into and out of the school, which in turn increased queuing. He attributed a small part of that impact to the increase of eight in enrollment. Mr. Slade also mentioned three events that occurred at the school on the day of the traffic survey in March, 2007, which may have contributed to increased queuing. Mr. Slade submitted information about the trip generation rates of six independent schools. In response to a Board question, Mr. Slade stated that use of the Local Area Transportation Rate (LATR) standard for trip generation by schools of .92, in comparison to Holton Arms' trip generation rate of 1.3, may not be useful because he does not know the source of the LATR rate. He stated that the LATR standard of .92 (trips per student) happens to coincide with the Institute of Transportation Engineers average trip rate.

George Springston testified on behalf of the Burning Tree Civic Association (BTCA), and referred to his letter of December 7, 2007. Mr. Springston stated BTCA's position that the traffic study should evaluate the traffic generated by the increased enrollment, by the after hours non-school activities in combination with all other approved activities of the special exception site. Mr. Springston stated that the current traffic study data just doesn't fit with the previous data. He stated that, using critical lane volume analysis, Holton Arms' traffic has reduced the level of service on River Road by 1 to 2 grades, which

BTCA sees as an adverse effect. Mr. Springston also stated BTCA's position that the school's trip generation rate of 1.3, as compared to the LATR standard of .92 is an adverse effect.

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Arms' traffic. He stated that CLV analysis of this intersection has not been effective because the typical morning peak hour volume there approaches capacity. Mr. Cutro stated that computing delay, the lost time vehicles take getting through an intersection, is an alternative way to evaluate intersection performance. Delay is typically computed on the basis of the preserved light duration of queues waiting at the intersection. Mr. Cutro stated BBCA's disagreement with the Gorove Slade study that there were no queues at the intersection of the westbound right turn lane at the River Road/ Holton Arms intersection. He said that observation of the video tape from the study supports this disagreement. He stated that the video tape also shows exceedingly long queues in the adjacent through lanes that sometimes stretch back beyond the intersection of Beech Tree Road. Mr. Cutro stated that the a.m. peak hour delay of 58.3 seconds per vehicle in the study appears to be understated, and may exceed 80 seconds. Mr. Cutro stated that the current 1640 CLV rating of the Holton and River Road intersection, together with the understated delay assessment, indicate an F level of service. He further stated that that condition and any intrusion of further traffic demand into the intersection will have to be regarded as an impact, and that the modification should be mitigated at the level of allowing no net traffic increase at the intersection in the a.m. peak hour. Mr. Cutro stated that conditions at the intersection can't be expected to improve. Mr. Cutro stated that mitigation measures can either expand existing capacity such as adding turn lanes and providing longer turn bays, or reduce traffic demand, by for example, increased carpooling.

Mr. Knopf pointed out the provisions of Section 59-G-2.19(b) and 59-A.21 of the Zoning Ordinance, which he said give the Board "more than enough" authority to require some mitigation here. Mr. Knopf said the trip generation rate and the size of the school are non-inherent adverse effects.

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Slade said Gorove Slade found that there was no queue because there were much fewer cars making the turn in '07 than in '03, and that there is a great deal of time: The signal is 180 seconds long, with 45 seconds for left turns from the opposite direction, leaving 135 seconds for right turns into the school. Mr. Slade said that the fact that Holton traffic might be delayed in the adjacent through lane, waiting to enter the turn lane and turn right into the school, is not a sin, it's just a matter of fact.

Ms. Reid stated that the school is not asserting this traffic impact study as a baseline for future expansion, but rather that it responds to the requirement to evaluate the specific traffic impact of the modifications approved in March, 2004. She reiterated that the school does not believe that an adverse traffic impact flows from the modifications, that the trip generation rate has not changed and that the number of trips has increased by only 8 between 2003 and 2007, and that the school is willing to form a transportation committee to review its transportation management plan.

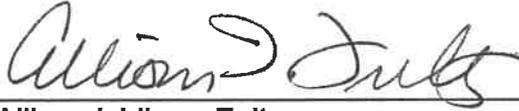
Mr. Knopf stated that based on the traffic impact study, any future expansion of the school should be traffic neutral, and that even a very small expansion could cause major problems.

FINDINGS OF THE BOARD

Based upon the Traffic Impact Study, together with the evidence and testimony of all of the parties, the Board finds that the Traffic Impact Study submitted July 2, 2007 satisfies the requirements of Revised Condition No. 5 of its March 23, 2004 opinion granting the special exception modifications. The Board further finds that the traffic associated with the special exceptions as modified is not a non-inherent adverse effect. Furthermore, the Board notes that actual enrollment has not increased since 2003, so that the traffic conditions described in the Traffic Impact Study submitted on July 2, 2007 will provide a baseline against which to measure future traffic analysis. However, the Board finds that the Traffic Impact Study indicates other conditions of concern related to traffic generated by the school, particularly in connection with trip generation rates. Therefore, the Board directs the school to include information in its September 2008 annual report to the Board about the measures it has taken or intends to take within the coming year to study and address mitigation strategies for the school's trip generation rate.

On a motion by David K. Perdue, seconded by Catherine G. Titus, Vice Chair, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 26TH day of June, 2008.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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(240) 777-6600

Case No. CBA-1174-D

PETITION OF THE HOLTON ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted May 7, 2008)

(Effective Date of Resolution: May 15, 2008)

The Board of Appeals has received a letter, dated April 18, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to allow the school to host up to four enrichment programs per year, such as lectures or discussions, to be held outside the school's normal operating hours. Holton proposes to invite residents within the Bradley Boulevard Citizens Association (BBCA) and Burning Tree Civic Association (BTCA), as well as residents of the neighboring Fox Hills Sunrise community to these events. Ms. Reid informs the Board that members of the school's Neighborhood Liaison Council discussed the proposed modification at the Council's April 8, 2008 meeting, and that representatives of BBCA and BTCA support the requested modification.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on May 7, 2008. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that for the school to hold up to four enrichment programs per year, such as lectures or discussions, outside normal operating hours, and to invite residents within the Bradley Boulevard Citizens Association (BBCA) and Burning Tree Civic Association (BTCA), as well as residents of the neighboring Fox Hills Sunrise community, to these events will not substantially change the nature, character or intensity of the use and will not substantially change its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Catherine G. Titus, Vice-Chair, seconded by Wendell M. Holloway, David K. Perdue and Allison Ishihara Fultz, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated April 18, 2008 [Exhibit No. 119]; and

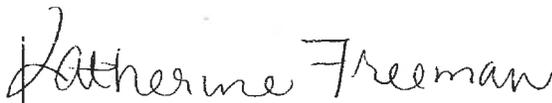
BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is granted; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 15th day of May, 2008.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PETITION OF THE HOLTON ARMS SCHOOL, INC.

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted April 16, 2008)

(Effective Date of Resolution: May 15, 2008)

The Board of Appeals has received a letter, dated April 10, 2008, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit two activities at the school: 1) extension of the school's education program through summer participation in an international exchange program with 24 tennis players from other countries, during the week of August 9-17 2008, and in future summers; 2) use of meeting space at Holton Arms by the neighboring Fox Hill Sunrise community, on Saturday April 26, from 9 a.m. to Noon. Ms. Reid informs the Board that members of the school's Neighborhood Liaison Committee discussed the proposals and viewed them favorably at an April 8, 2008 meeting.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on April 16, 2008. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

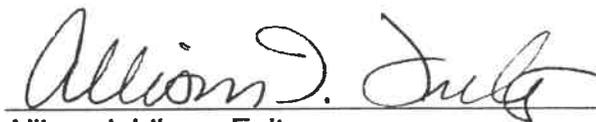
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that neither of the two requested activities will substantially change the nature, character or intensity of the special exception use or its effect on traffic or on the immediate neighborhood. The Board does note that it received somewhat short notice of the requests. Therefore, on a motion by Catherine G. Titus, Vice-Chair, seconded by David K. Perdue, with Caryn L. Hines, Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated April 10, 2008 [Exhibit No. 118]; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 15th day of May, 2008.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such

request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure. It is each party's responsibility to participate in the Circuit Court action to protect their respective interests. In short, as a party you have a right to protect your interests in this matter by participating in the Circuit Court proceedings, and this right is unaffected by any participation by the County.

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted December 19, 2007)

(Effective Date of Resolution: January 18, 2008)

The Board of Appeals has received a letter, dated December 6, 2007, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid requests administrative modification of the special exception to permit replacement of its lower school athletic field with a synthetic turf field, to slightly relocate an emergency access path, to enlarge an existing outdoor blacktop court to approximately fifty feet by seventy five feet, and to install five additional, ground-mounted lights at its main entrance. Ms. Reid encloses drawings and lighting specification information in support of the request [Exhibit Nos. 111-111(c)(iii)].

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on December 19, 2007. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

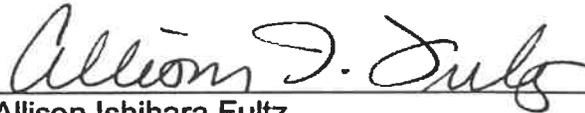
The Board finds that the requested modifications will have little outward impact and will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by

Catherine G. Titus, Vice-Chair, seconded by David K. Perdue, with Wendell M. Holloway, Caryn L. Hines and Allison Ishihara Fultz, Chair, in agreement:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elise L. Reid's letter dated December 6, 2007, with attachments [Exhibit Nos. 111-111(c)(iii)]; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 18th day of January, 2008.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is

received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

RESOLUTION TO RE-OPEN THE RECORD

(Resolution Adopted May 16, 2007)

(Effective Date of Resolution: June 14, 2007)

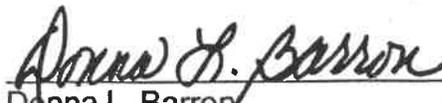
The Board of Appeals has received a letter, dated May 1, 2007, from Elsie L. Reid, Esquire, on behalf of the Holton Arms School. Ms. Reid requests an extension of time to submit the new traffic report pertaining to modifications approved in the Board's March, 2004 opinion, which the Board required in a Resolution effective January 5, 2007. Ms. Reid requests that the deadline for delivery of the report be extended from June 1, 2007 to September 15, 2007. Ms. Reid informs the Board that the study is well underway, but that additional time is needed to complete the report. She advises that she has contacted representatives of Bradley Boulevard Citizens Association, Burning Tree Civic Association, and the Neighborhood Liaison Council, and had received a telephone message from the Bradley Boulevard Citizens Association representative that that association does not object to an extension of time. Megan Wallace, Esquire appeared at the Worksession on behalf of Holton Arms, and further informed the Board that the traffic study was concluded in March, and that what remains to be accomplished, including coordination with the Community Liaison Council and the Peoples' Counsel, is finalization of the report.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on May 16, 2007. The Board finds that the request for additional time to complete the traffic report is reasonable. Therefore, on a motion by Catherine G. Titus, seconded by Caryn L. Hines, with Wendell M. Holloway and Donna L. Barron, Vice-Chair in agreement and Allison Ishihara Fultz, Chair, necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated May 1, 2007 [Exhibit No. 110]; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request for an extension of time until September 15, 2007 to submit the traffic report is **granted**.



Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 14th day of June, 2007.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. CBA-1174-D

PETITIONS OF HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION
(Resolutions Adopted February 28, 2007 and April 4, 2007)
(Effective Date of Resolution: May 8, 2007)

The Board of Appeals has received letters dated January 29, 2007 and March 21, 2007, from Elsie L. Reid, Esquire, on behalf of the Holton Arms School. Ms. Reid writes to inform the Board that the school is replacing its lower school field with a synthetic turf field. Ms. Reid recounts that the school has regularly advised the Neighborhood Liaison Committee about this proposed change. By cover of her April 4, 2007 letter, Ms. Reid forwards to the Board a revised site plan which depicts the proposed improvements, including a minor adjustment of the emergency access drive across the school's property to Burdette Road.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letters at its Worksessions on February 28, 2007 and April 4, 2007. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

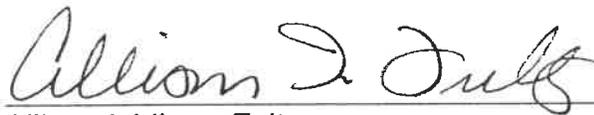
If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that neither replacement of the lower school athletic field, nor the slight adjustment to the emergency access drive will substantially change the nature, character or intensity of the use and will not substantially change its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Donna L. Barron, Vice-Chair, seconded by Catherine G. Titus, with Wendell M. Holloway, Caryn L. Hines and Allison Ishihara Fultz, Chair in agreement, and on a motion by Donna L. Barron, Vice-Chair, seconded by Caryn L. Hines, with Wendell M.

Holloway and Allison Ishihara Fultz, Chair in agreement and Catherine G. Titus necessarily absent:

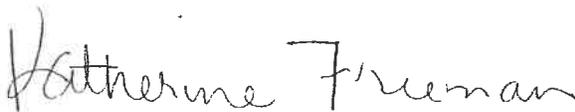
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D is re-opened to receive Elsie Reid's letters dated January 29, 2007 and March 21, 2007, with attachments, as Exhibit Nos. 107-108(b); and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 8th day of May, 2007.



Katherine Freeman
Executive Director

NOTE:

Any party may, within fifteen (15) days of the date of the Board's Resolution, request a public hearing on the particular action taken by the Board. Such request shall be in writing, and shall specify the reasons for the request and the nature of the objections and/or relief desired. In the event that such request is received, the Board shall suspend its decision and conduct a public hearing to consider the action taken.

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. CBA-1174-D

Case No. S-2503-A

Case No. S-2467-A

PETITIONS OF HOLTON ARMS SCHOOL

**RESOLUTION TO ADOPT HEARING EXAMINER'S REPORT AND
RECOMMENDATION AND TO REQUIRE AN ADDITIONAL TRAFFIC STUDY
ACCORDING TO REVISED CONDITION NO. 5**

(Resolution Adopted November 29, 2006)
(Effective Date of Resolution: January 5, 2007)

In an opinion dated March 23, 2004, the Board of Appeals approved modifications to the above captioned special exceptions, subject to conditions including the following:

5. Petitioner shall conduct a traffic study, as follows:

In May 2005, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC) as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing and turning movements arising from the River Road, Holton-Arms and Royal Dominion intersection. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved by this

Opinion; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

On June 29, 2005, Petitioners consultant, Gorove/Slade submitted a traffic study, which is Exhibit 81 in the record of the case. Transportation Planning staff of the Maryland National Capital Park and Planning Commission (MNCPPC) had approved of the parameters of the traffic study. At its January 10, 2006 Worksession, the Board of Appeals considered the traffic study, as presented by Martin Klauber, Peoples' Counsel, together with the concerns expressed by the Bradley Boulevard Citizens Association and the Burning Tree Civic Association, that the parameters of the study were too narrow. In a Resolution effective March 15, 2006, the Board of Appeals referred the matter to the Hearing Examiner to hold a public hearing to review the adequacy of the traffic study in satisfaction of Condition No. 5, and to address the following specific questions:

1. Transportation Planning staff's opinion as to whether the Gorove/Slade Traffic Analysis submitted by Holton Arms [Exhibit No. 81, Attachment 6] satisfies Condition No. 5 of the Board's March 23, 2004 opinion or whether the parameters of the Gorove/Slade Traffic Analysis must be revised to satisfy Condition No. 5;
2. More detailed findings to support its analysis of the Gorove Slade Traffic Analysis [Exhibit No. 81, Attachment 11];
3. Whether the Beech Tree/River Road and Burdette/River Road intersections should be added to the traffic analysis; and
4. As a general issue, do trip generation rates above the LATR thresholds constitute a non-inherent adverse effect, and at what point would additional mitigation be necessary?

The Hearing Examiner held a hearing on September 25, 2006, closed the record in the case on 3, 2006, and on November 9, 2006 issued a Report and Recommendation, stating that Condition No. 5 has been too narrowly interpreted by the Petitioner and MNCPPC Transportation Planning Staff. The Hearing Examiner recommends that the Board direct the Petitioner to "conduct another traffic study to determine whether traffic generated by Holton Arms has changed as a result of the modifications to enrollment and programs (including after/hours programs) so as to adversely affect the community. He further recommends that the study "should not be limited to the Holton intersection, but should extend to the surrounding intersections and roadways, to determine if increases in Holton enrollment and activities have produce traffic that adversely impacts them. It should also not be limited to use of the CLV method approved for measuring road and intersectional capacity, but should include other methodologies, such as intersection delay analysis." He recommends a revised Condition No. 5, as follows:

5. Petitioner shall conduct a traffic study, as follows:

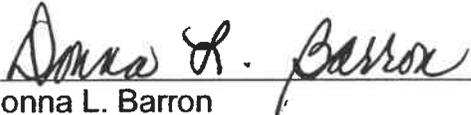
No later than February 28, 2007, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), the Office of the People's Counsel (OPC) and Transportation Planning staff as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing, delays and turning movements arising from Holton generated traffic at all affected intersections and roadways. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved in its March 23, 2004 Opinion and Resolution; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on November 29, 2006. The Board also had before it a request from Elsie L. Reid, Esquire and Megan Wallace, Esquire, on behalf of Holton Arms, to present oral argument on the Hearing Examiner's Report and Recommendation. The Board finds the Report and Recommendation thorough and persuasive as to the need for an additional traffic study with revised parameters. However, the Board amends the recommended condition to require submission of the study by no later than **June 1, 2007**. Therefore, on a motion by Catherine G. Titus, seconded by Wendell M. Holloway, with Caryn L. Hines and Donna L. Barron, Vice-Chair in agreement, and Allison Ishihara Fultz, Chair necessarily absent:

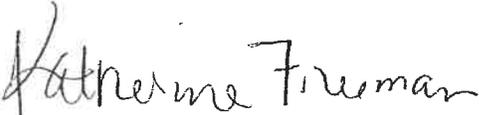
BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that Holton Arms School's request for oral argument on the Hearing Examiner's Report and Recommendation of November 9, 2006 is denied; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the Board adopts the Report and Recommendation and directs Holton Arms to conduct another traffic study as described therein, and adopts the Hearing Examiner's revised Condition No. 5 amended to reflect that the new traffic study shall be submitted no later than June 1, 2007.



Donna L. Barron
Vice-Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 5th day of January, 2007.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. CBA-1174-D

PETITION OF HOLTON ARMS SCHOOL

RESOLUTION TO MODIFY SPECIAL EXCEPTION

(Resolution Adopted September 13, 2006

(Effective Date of Resolution: October 27, 2006)

The Board of Appeals has received a letter, dated August 18, 2006, from Elsie L. Reid, Esquire, on behalf of The Holton Arms School. Ms. Reid writes to make the Board aware that the school has modified its school day slightly, changing to a six-day cycle, and closing at the same time each day. Previously, the school had closed a half-hour early on Fridays.

The subject property is Lot N-624, Parcel 2, and Part of Lots 6 and 7, Outlot A, Block B, Burning Tree Valley Subdivision, located at 7303 River Road, Bethesda, Maryland, in the R-90 and R-200 Zones.

The Board of Appeals considered Ms. Reid's letter at its Worksession on September 13, 2006. Section 59-G-1.3(c)(1) of the Montgomery County Zoning Ordinance provides, pertaining to modification of special exceptions:

If the proposed modification is such that the terms or conditions could be modified without substantially changing the nature, character or intensity of the use and without substantially changing the effect on traffic or on the immediate neighborhood, the Board, without convening a public hearing to consider the proposed change, may modify the term or condition.

The Board finds that the change in school hours on Fridays will not substantially change the nature, character or intensity of the use or its effect on traffic or on the immediate neighborhood. Therefore, on a motion by Angelo M. Caputo, seconded by Donna L. Barron, with Wendell M. Holloway and Allison Ishihara Fultz, Chair, in agreement and Caryn L. Hines necessarily absent:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the record in Case No. CBA-1174-D, Petition of The Holton Arms School, is re-opened to receive Elsie L. Reid's letter dated August 18, 2006; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that the request to modify the special exception is **granted**; and

BE IT FURTHER RESOLVED by the Board of Appeals for Montgomery County, Maryland that all terms and conditions of the original special exception, together with any modifications granted by the Board of Appeals, remain in effect.



Allison Ishihara Fultz
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 27th day of October, 2006.



Katherine Freeman
Executive Director

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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Case No. **CBA-1174-D, S-2467-A, S-2503**

PETITION OF HOLTON-ARMS SCHOOL

OPINION OF THE BOARD

(Effective Date of Opinion: March 23, 2004)

Case No. CBA-1174-D is an application for a special exception modification to permit continuation of existing after-school programs, initiation of other after-school programs, and an increase in the permitted general enrollment of the school from 650 to 665, with the possible addition of another 5 students if circumstances warrant.

Case No. S-2467-A is an application for a special exception modification to permit increase in day care enrollment from 15 to 20, with permission to have children of other specified schools fill up to 12 slots if they are not filled by children of Holton faculty and staff.

Case No. S-2503-A is an application for a special exception modification to permit an increase in enrollment of the summer camp from 650 to 665.

The Board of Appeals consolidated the cases and, pursuant to the authority in Section 59-A-4.125 of the Zoning Ordinance, referred the cases to the Hearing Examiner for Montgomery County to conduct a public hearing and submit a Report and Recommendation. The Hearing Examiner convened a public hearing on November 14, 2003, which was continued on November 25, 2003, closed the record on December 5, 2003, and on January 9, 2004, issued a Report and Recommendation for approval of the requested modifications, subject to conditions.

Decision of the Board:

Special Exception Modifications **Granted**
Subject to Conditions Enumerated Below.

The Board of Appeals considered the Hearing Examiner's Report and Recommendation at its Worksession on January 21, 2004. After careful consideration and a review of the record, the Board adopts the Report and Recommendation and grants the requested modifications subject to the following conditions:

1. The Petitioner shall be bound by all of its testimony and exhibits of record, and by the testimony of its witnesses and representations of counsel identified in the Hearing Examiner's Report and Recommendation.
2. All terms and conditions of the approved special exceptions shall remain in full force and effect, except as modified by the Board of Appeals.
3. Petitioner will continue to use its best efforts to obtain State approval for extension of the left-turn storage lane on eastbound River Road at the intersection with the Holton-Arms entrance and Royal Dominion Drive.
4. Petitioner's Transportation Management Plan, Exhibit E to Exhibit 180 in Case No. CBA-1 174-C, should be amended, as follows:

Insert as item I(C)(3):

It is expected that students under the age of 16 residing with a member of the faculty or staff will travel with that faculty or staff member to and from school.

Insert the following as Section IV:

Holton's Director of Special Events, or other designated staff member, will maintain a Master Calendar to ensure that activities approved by the Board of Appeals as additional uses of the campus (for example, college preparatory classes, Center of the Arts activities, recreational programs, and uses of the theatre) are scheduled in such a manner as to avoid traffic movements during the School's arrival and departure times to the extent reasonably possible. The Director of Special Events, or other designated staff member, will ensure there is sufficient parking for the scheduled activities. At no time will events or activities be scheduled that will overburden the School's ability to manage the anticipated traffic and to contain all parking on-site.

5. Petitioner shall conduct a traffic study, as follows:

In May 2005, the Petitioner will submit a traffic study to the Board of Appeals and the Transportation Planning staff of the Maryland-National Capital Park & Planning Commission, after consultation with the Bradley

Boulevard Citizens Association (BBCA), the Burning Tree Civic Association (BTCA), and the Office of the People's Counsel (OPC) as to the parameters of the traffic study. Copies of the study shall be provided to the BBCA, BTCA, and the OPC. In accordance with Section 59-G-2.19(b), the traffic study will evaluate the traffic generated by the increased enrollment and by the After-Hours/Non-School activities in combination with all other approved activities on the special exception site, including any adverse effects on pedestrian and vehicular traffic safety, capacity, queuing and turning movements arising from the River Road, Holton-Arms and Royal Dominion intersection. Upon receipt of the analysis and comments of the Transportation Planning staff and other interested parties, the Board of Appeals may conduct a public hearing to discuss the study and the analysis and comments of the Transportation Planning staff. Should the Board of Appeals determine that there has been an adverse traffic impact due to the modified uses, then the Board may, after a public hearing, amend the conditions of approval for the modified uses approved by this Opinion; however, every effort will be made to avoid any reduction in enrollment from the approved level of 665.

6. Petitioner's enrollment cap is increased to 665, but on rare occasions Petitioner may admit up to five additional students on the following conditions:

- Admission request received outside regular admissions process which is January- April of preceding school year.
- Student must be academically eligible.
- Any student admitted pursuant to this provision will be included in the enrollment cap in future years.
- Holton-Arms must have available classroom space and faculty to accommodate student without adding any new personnel.
- Holton-Arms will report in its Annual Report (September) its enrollment figures for the academic year just ended, including the number of students admitted outside the regular admissions process in excess of 665 students.

7. Petitioner may increase the number of children in its day care program to 20 under the following conditions:

- Enrollment capped at 20 children, ages 6 weeks to 5 years, supervised by five full-time staff members and additional student volunteers.
- Enrollment priority given to Holton-Arms Faculty/Staff.
- Open to Faculty/Staff of Burning Tree Elementary, Primary Day, Landon and Norwood Schools in order to form suitable classes for children of Holton-Arms faculty and staff.

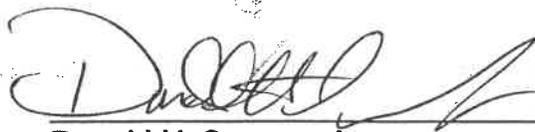
- Academic calendar only (September to June).
- Hours: 7:30 a.m. until 5 p.m. weekdays, and 4 p.m. on Fridays. No weekends.
- Holton-Arms will include, in its Annual Report to be filed in connection with the school's special exception case (Case No. CBA-I 174), enrollment data for the child day care facility, identifying the number of non-Holton children, if any, enrolled in the program for the year just ended as well as the total number of children afforded care during that same year.
- Non-Holton faculty/staff children will not exceed twelve.

8. Petitioner may increase the number of children in its summer camp to match the number of children in its approved regular enrollment, capped at 665 children under these approved modifications.

9. Petitioner may conduct the after-school and miscellaneous activities specified in the attached Exhibits 25c-1 through 25c-7, as amended, in accordance with the conditions specified in the last column of each of those exhibits.

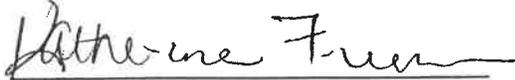
On a motion by Donna L. Barron seconded by Louise L. Mayer, with Angelo M. Caputo, Allison Ishihara Fultz and Donald H. Spence, Jr., Chairman in agreement, the Board adopted the following Resolution:

BE IT RESOLVED by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Donald H. Spence, Jr.
Chairman, Montgomery County Board of Appeals

Entered in the Opinion Book
of the Board of Appeals for
Montgomery County, Maryland
this 23rd day of March, 2004.



Katherine Freeman
Katherine Freeman
Executive Secretary to the Board

NOTE:

Any request for rehearing or reconsideration must be filed within fifteen (15) days after the date the Opinion is mailed and entered in the Opinion Book (See Section 59-A-4.63 of the County Code). Please see the Board's Rules of Procedure for specific instructions for requesting reconsideration.

Any decision by the County Board of Appeals may, within thirty (30) days after the decision is rendered, be appealed by any person aggrieved by the decision of the Board and a party to the proceeding before it, to the Circuit Court for Montgomery County, in accordance with the Maryland Rules of Procedure.

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