

**BEFORE THE OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS  
FOR MONTGOMERY COUNTY, MARYLAND**

<b>IN THE MATTER OF THE APPLICATION</b>	<b>:</b>	
<b>OF HOLTON ARMS SCHOOL, INC. FOR A</b>	<b>:</b>	<b>Conditional Use Application</b>
<b>MAJOR MODIFICATION OF SPECIAL</b>	<b>:</b>	<b>Nos. CBA-1174-E, S-2467-A</b>
<b>EXCEPTION FOR A PRIVATE</b>	<b>:</b>	<b>S-2503-B, S-516, &amp; S-729</b>
<b>EDUCATIONAL INSTITUTION</b>	<b>:</b>	

**PRE-HEARING SUBMISSION OF VIVIAN RIEFBERG  
AND BRADLEY BOULEVARD CITIZENS ASSOCIATION**

**EXHIBIT C**

Resolution of the Board of Appeals for Montgomery County,  
Case Nos. CBA-1174-D, S-2467 and S-2503-A, effective June 26, 2008

Exhibit 41(c)  
OZAH Case No: CBA-1174-E

**BOARD OF APPEALS  
for  
MONTGOMERY COUNTY**

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**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 BBBCA, 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.

Linda Kauskay testified on behalf of Bradley Boulevard Citizens Association (BBCA). She expressed BBBCA'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 BBBCA'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, BBBCA 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 BBBCA'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 BBBCA's letter of August 20, 2007, Ms. Kauskay disputed the study's reported maximum queue of 56 cars and said BBBCA 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 BBBCA'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 BBBCA. 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 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.

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 BBCA'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.

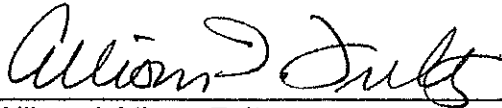
#### **FINDINGS OF THE BOARD**

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 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:

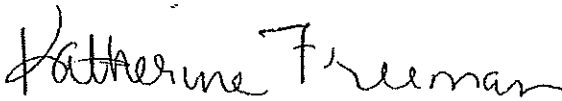


**BE IT RESOLVED** by the Board of Appeals for Montgomery County, Maryland that the opinion stated above is adopted as the Resolution required by law as its decision on the above-entitled petition.



Allison Ishihara Fultz  
Chair, Montgomery County Board of Appeals

Entered in the Opinion Book  
of the Board of Appeals for  
Montgomery County, Maryland  
this 26<sup>TH</sup> 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.