

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

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

**MOTION TO COMPEL IMMEDIATE FILING
OF AMENDED APPLICATION AND RELATED RELIEF**

Pursuant to OZAH Rule 3.9 opposition parties Vivian Riefberg and Bradley Boulevard Citizens Association file this motion to compel the Applicant Holton Arms School, Inc. (“Holton Arms” or “Holton”), to file with the Office of Zoning and Administrative Hearings (“OZAH”) the revised plans and other documents/material to amend its Major Modification application to comply with the requirements and standards of the Montgomery County Zoning Ordinance no later than March 2, 2026. Those plans and other documents/material were required to be filed with OZAH on Friday, February 13, 2026. They were not filed and as a consequence this motion is filed.

Because of the failure to file those revised plans and other documents/material, the schedule for filing pre-hearing submissions by the parties has been completely disrupted and, therefore, this motion also seeks relief related to the schedule for processing the subject Major Modification application.

Facts

This case involves the pending application of the Holton Arms School, Inc., for a Major Modification of its special exception for an “Educational Institution, Private (Over 40 students)”. The application was scheduled for a two day hearing on Monday,

November 17, 2025, and Thursday, November 20. On Wednesday, November 12, the Hearing Examiner transmitted a 2.5 page email to legal counsel for Holton Arms, Soo Lee Cho, Esq., that identified substantive deficiencies in the application. **Exhibit A.**

On the first day of hearing, Monday, November 17, the deficiencies in the Holton Arms application were addressed as a preliminary matter. Attached as **Exhibit B** are excerpts from the transcript of the hearing with pertinent testimony/statements highlighted.¹ The excerpted testimony/statements plainly, clearly, and unambiguously reveal that Holton Arms had to file revised plans and other documents/material to amend its application for its requested special exception Major Modification that complied with the requirements and standards of the Zoning Ordinance. In particular, Holton's engineer, Patrick LaVay, had an extensive exchange with the Hearing Examiner about the required new/revised plans that his engineering firm were to prepare to file with OZAH. *See, Exhibit B*, pp. 45-53.²

At the conclusion of the colloquy with the Examiner Mr. LaVay stated: "We'll certainly prepare something that's civil engineering." **Exhibit B**, p. 53.

There then was a break in the hearing "to let Mr. Chen and Ms. Lee-Cho duke it

¹ It is understood that a transcript of the entire OZAH hearing of November 17, 2025, is in the record of this case. **Exhibit B** are excerpts from that transcript to facilitate consideration of the portions of the record that are pertinent to this motion. Nonetheless, as noted, the entire transcript is in the OZAH record and available.

² Two days after the November 17 OZAH hearing, on November 19 the undersigned attorney sent attorney Lee-Cho a letter requesting copies of any oversized material/drawings, particularly scaled drawings, from Macris Hendrick with an offer to pay for such material. **Exhibit D.** By reply email attorney Lee Cho offered to provide electronic files to a printer service. **Exhibit E.** Thus far, no such electronic files have been provided.

out as to time frames.” **Exhibit B**, p. 54. And, after the break the hearing commenced with the following:

HEARING EXAMINER: It is 11:05 and we’re back on the record .
Do we have dates?

MS. LEE-CHO: Yes. In consultation with our engineer and . . . understanding and request, we think we can - - we will provide the plans by mid-February. So February 13th is a Friday. February 13th.

MR. LA VAY: Sure

MS. LEE-CHO: And then so Mr. Chen has requested 30 days for review, putting us after mid-March or mid-March or thereafter for a hearing date.

HEARING EXAMINER: Okay.

Exhibit B, pp. 56-57.

Plainly, clearly, and unambiguously Holton Arms was required to file its plans and other documents/material to amend its Major Modification application by February 13, 2026. In fact, as to that date Ms. Lee-Cho noted that “Mr. Chen has requested 30 days for review, putting us after mid-March or mid-March or thereafter for hearing date.”

Exhibit B, p. 57.

On Friday, February 13, 2026, Holton Arms did not file any revised plans or other documents/material to amend its application. As a result, on Monday, February 16, the undersigned counsel sent an email to attorney Lee-Cho inquiring about that circumstance. In response, attorney Lee-Cho asserted that the due date for filing the Holton Arms revised plans and other documents/material *to amend the application* is March 6, the date by which her client would file its OZAH Rule 3.4 pre-hearing

submission. That response triggered multiple email exchanges between the lawyers which are submitted herewith as **Exhibit C**.

The emails speak for themselves, particularly those sent by attorney Lee-Cho. On this point, the on-the-record discussion during the November 17 hearing never changed the due date of February 13, 2026, for filing the plans and other documents/material to amend the Holton Arms application. There was discussion about the new dates for the OZAH hearing which settled on April 7-10 (**Exhibit B**, pp. 57-66) and the due dates for filing the pre-hearing submissions required by OZAH Rules 3.4 and 3.5. **Exhibit B**, pp. 68-70. But, there was no further discussion about the February 13 date by which Holton Arms was required to file its revised plans and other documents/material to amend its Major Modification application to make it compliant with the requirements of the Zoning Ordinance.

In one email attorney Lee-Cho states: "The production date was always to give you 30 days in advance of the first date of hearings, which you will have." **Exhibit C**, Cho email of February 16, 2026, 2:53 p.m. Counsel's slight-of-hand in this email statement is a maneuver to change the due date to file plans and other documents/material to amend the Holton application from February 13 to March 6. **Exhibit C**, email of February 16, 2026, 1:14 p.m. The March 6 date, however, was the due date by which attorney Lee-Cho stated that Holton would file its OZAH Rule 3.4 pre-hearing submission. *See*, **Exhibit B**, p. 69. Counsel's maneuver to shift the due date for amending the Holton application would mean that the opposition would have only ten

(10) days to review the new Holton Arms amended application before the opposition would have to file its OZAH Rule 3.5 pre-hearing submission. The opposition due date for pre-hearing submissions required by OZAH Rule 3.5 is March 17 which is 20 days before the OZAH hearing scheduled to begin on April 7. *See, Exhibit B*, p. 66. That also means that the opposition would be barred at the OZAH hearing from filing or using any opposition information or documentation developed/discovered after March 17.

Counsel's maneuver and failure to comply with the February 13 filing deadline to amend the Holton Arms application is clearly intended to disadvantage the opposition.

In response to an email request by attorney Chen for the "statements/words" that attorney Lee -Cho relies upon to not comply with the February 13 deadline (*Exhibit C*, Chen email of February 16, 2026, 5:08 p.m.) attorney Lee-Cho sent two email replies. The first states: "The very next thing that I state at the top of page 57...the February 13 date was premised on meeting your request for **30 days** review in advance of mid-March hearing dates." *Exhibit C*, email of February 16, 2026, 5:27 p.m. (emphasis not added). The aforesaid statement is flat wrong. At the time of the November 17 hearing break when submission dates for application revised plans and other documents/material were discussed by the attorneys, opposition counsel stated that his clients needed thirty (30) days to review the new application material. This is corroborated by attorney Lee-Cho's reference to that point. *Exhibit C*, Cho email of February 16, 2026, 5:27 p.m. Further, contrary to attorney Lee-Cho's email *no* "mid-March hearing dates" were mentioned at that time. Indeed, no new hearing dates were discussed until *after* the February 13 date

was reported to the Hearing Examiner when the hearing resumed. *See Exhibit B*, pp. 57-66. Contrary to counsel's assertions, *there never were any mid-March hearing dates*.

Attorney Lee-Cho's second email reply was "Also my exchange with Lynn at bottom of page 68 and top of page 69 when I asked for clarification as a result of the shift in the initial mid-March hearing dates."³ *Exhibit C*, email of February 16, 2026, 5:30 p.m. The discussion referenced on pages 68 and 69 was about the filing date for Holton's "pre-hearing submission" (*see, Exhibit B*, p. 69, line 1) that is required by OZAH Rule 3.4, and *not* the deadline for filing the revised plans and documents/material to amend Holton's Major Modification application to make it compliant with the Zoning Ordinance. The pre-hearing submission discussion was as follow:

MS. LEE-CHO: Just one point of clarification. Now that the date is shifted, just so I understand, *I assume that the 30-day prehearing submission that the applicant makes*, that's when I will - - that's the no later than day for submission.

HEARING EXAMINER: Yes. So that would be - - if we do 4/7 through 4/10, it would be 30 days in front of - -

MS. LEE-CHO: So March 6th.

HEARING EXAMINER: And then the opposition I think is ten days before the hearing. But that would be the operative date, yes.

MR. CHEN: When is the operative date?

MS. LEE-CHO: *March 6th would be the 30-day prehearing submission.*

HEARING EXAMINER: The operative date to count back from - -

³ Contrary to the email, there was no "initial mid-March hearing dates".

MR. CHEN: Yeah.

HEARING EXAMINER: - - is 4/7.

MS. LEE-CHO: 4/7.

MR. CHEN: What's the date for the opposition, did you say?

HEARING EXAMINER: This is terrible. I can't remember the rules. I want to say it's ten days - -

MR. CHEN: No. 20.

HEARING EXAMINER: 20.

MR. CHEN: Okay. So I just want to be on the same page.

HEARING EXAMINER: Yeah.

Exhibit B, pp. 68-70 (emphasis added).

Clearly, the pre-hearing submission discussion had nothing to do with the February 13 due date for amending the Holton application.⁴ The reference to "Now that the date is shifted..." means the OZAH hearing date and that is why the subsequent discussion addressed the pre-hearing submissions of OZAH Rule 3.4 and their due dates relative to the new April 7 OZAH hearing.

The emails sent by attorney Lee-Cho reveal that either she still does not understand the Zoning Ordinance requirements/standards for her client's Major Modification application and the OZAH rules. Alternatively, she is simply prevaricating.

The undeniable and undisputable facts of record plainly, clearly, and

⁴ It may be that attorney Lee-Cho does not know the difference between the filing of application plans and documents/plans and filing a pre-hearing submission.

unambiguously establish that Holton Arms has intentionally failed to comply with the due date for filing its revised plans and other documents/material to amend its application to satisfy the requirements and standards of the Zoning Ordinance. And, the emails of its legal counsel reveal that this pernicious machination was intentional to disadvantage the opposition.

Relief Requested

This motion is filed on Wednesday, February 18, and by OZAH Rule 3.9 Holton Arms has ten (10) days to file a response. That deadline would be Saturday, February 28, which automatically extends to the first work day; being, Monday, March 1.

In an effort to “save” the OZAH hearing dates of April 7, 8, 9, and 10 these opposition parties request that, without a hearing, on Tuesday, March 2, the Hearing Examiner render the following orders:

ORDER, that Holton Arms shall file all plans and other documents/material to amend its Major Modification application no later than March 2; and

ORDER, that Holton Arms shall file its Rule 3.4 pre-hearing submission no later than March 7, 2026⁵; and

ORDER, that all parties in opposition to the Holton Arms Major Modification application may file their pre-hearing submissions, if required of them, on or before Wednesday, April 1.

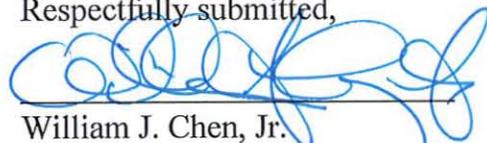
⁵ As noted, Holton Arms must file its pre-hearing submission 30 days before the OZAH hearing. Thirty (30) days before April 7 is Sunday, March 8, which automatically shifts the filing date to the next business day which is Monday, March 9,

This relief does *not* allow all opposition parties, including Vivian Riefberg and the Bradley Boulevard Citizens Association, the full thirty (30) days to review the Holton Arms amended application, particularly review by their expert witnesses, before the due date for filing their pre-hearing submissions, but does save the April 7 OZAH hearing date.

Alternative Relief

If the Examiner declines to grant this motion on March 2, it is requested that the OZAH hearing scheduled for April 7 through 10 be cancelled and that April 7 be converted to a hearing on this motion.

Respectfully submitted,



William J. Chen, Jr.
200A Monroe Street, Suite 300
Rockville, Maryland 20850
(301) 279-9500
wjc@cwtm.net

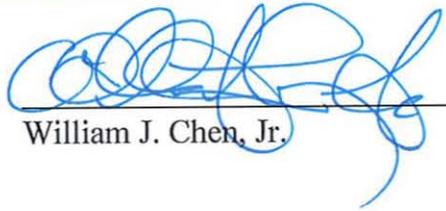
CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 18th day of February, 2026, a copy of the foregoing "Motion to Compel Immediate Filing of Amended Application and Related Relief" was transmitted by email and hand delivered, to:

Office of Zoning and Administrative Hearings
ozah@montgomerycountymd.gov
Stella B. Warner Council Office Building
100 Maryland Avenue, Room 200
Rockville, Maryland 20850

and transmitted by email, to:

Soo-Lee Cho, Esq. (sleecho@bregmanlaw.com)
Vivian Riefberg (vivianriefberg@gmail.com)
Meg VanDeWeghe (meg.vandeweghe@gmail.com)
Kim Brinkman (ksbrinkman@gmail.com)
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John Harris (john-harris1@verizon.net)
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William J. Chen, Jr.

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EXHIBIT A

Hearing Examiner email of Wednesday, November 12, 2025, 1:32 p.m.,
to
Attorney Soo Lee-Cho

Bil Chen

From: Robeson Hannan, Lynn <Lynn.RobesonHannan@montgomerycountymd.gov>
Sent: Wednesday, November 12, 2025 1:32 PM
To: sleecho@bregmanlaw.com; grace.bogdan@montgomeryplanning.org
Cc: almarahhoa@gmail.com; Bil Chen; ellen@singer.net; kathyjames7437@gmail.com; Ksbrinkman@gmail.com; michael@huttonstrategies.com; michael@singer.net; MLamech@gmail.com; mlongoswiek@gmail.com; Seancahill58@gmail.com; sleecho@bregmanlaw.com; swkauf@aol.com; vivianriefberg@gmail.com; wwkauf@aol.com
Subject: CBA 1174-E/Questions and Missing Information

Good afternoon everyone. I hope this finds everyone well.

I have completed a preliminary review of the record of this case and believe that some items are missing in the application. I also have some questions about the use, the analysis, and Staff's recommended conditions. These are as follows:

1. Criteria for approval in 59-G-1.22 is missing: Neither the Applicant's Statement of Justification (SOJ) or the Staff Report contain any analysis of the general standards for approval in 59-G-1.22, including an analysis of inherent and non-inherent characteristics. *I cannot make a recommendation without these.*
2. Other findings not fully addressed (59-G-2.19):
 - a. 59-G-2.19 (noise, topo, nuisance, information on buffer for athletic fields)
3. Deferred approval of Forest Conservation Plan: The Board of Appeals may not approve a special exception *until the Planning Board approves a Forest Conservation Plan*. Therefore, this may not be deferred to preliminary plan. *Montgomery County Code, Section 22A-11(c)(2)*. Please submit an approved amendment to the Forest Conservation Plan along with the Planning Board's resolution of approval.
4. Please update site plan to include following mandatory information. 59-A-4.22; 59-G-2.19. While some improvements may be grandfathered, they are still a requirement and necessary to support statements in the SOJ regarding the impact of the operational changes.
 - a. Lighting: Specifically required in site plan and necessary to assess impact and safety of proposed operational changes. Are any of the outdoor fields lit?
 - b. Landscaping, fencing, screening, including vegetation, type, width and length; required by site plan and necessary to assess impact of operational changes as, for instance, noise impact is justified by existing landscaping and screening.
 - c. Location of bus stop
 - d. Topography
 - e. Setbacks
 - f. Location of sidewalks on and abutting the site and pedestrian crosswalks.
 - g. Location of R-200 and R-90 Zones

- h. Show all vehicular and bicycle parking spaces on the site and their locations. Include designated ADA spaces.
 - i. Chart of development standards, including setbacks and parking spaces, zone, lot area, lot coverage, minimum front side and rear setbacks, height, parking and bicycle requirements and spaces, density per student
 - j. Please show proposed improvements to access at River Road.
5. Other Required items missing from application:
- a. No analysis of Thrive
6. Provide information on:
- a. directional vehicular movements for the internal roadway network.
 - b. location of bus stops adjacent to the subject property.
 - c. Explain the difference between the before and after school care programs and the existing day care on site.
 - d. location of existing Category 1 Forest Conservation Easements on the site.
 - e. the frequency of food waste pick-up and deliveries changing with the additional enrollment? How will any increase be mitigated. Is there any change in loading spaces.
 - f. Will the rental facilities including weddings, parties or receptions?
 - g. There is no analysis of why the increase in activities will not generate undue noise.
 - h. Staff Report, p. 25: finding of minimal impact does not address increased intensity of on-site activities.
7. I am unclear whether the Staff Report and attachments include all prior approvals. The Staff Report adds some not submitted by the Petitioner and states that the original SE was approved in 1961. Are there approvals before the oldest one in this record? The resolutions are submitted randomly and consist of over 200 pages. Please summarize each approval and identify the conditions you deem applicable.
8. Was the Community Liaison Committee disbanded when the position of People's Counsel was not funded? Are there any formal or informal regular meetings established between the school and the community?
9. Development conditions:
- a. Shouldn't there be numerical caps on the number of participants in the ancillary activities and rentals. Without caps, could it possibly change the peak hours? Is the cap 200 persons? What about additional Staff?
 - b. Condition No. 1 in Staff Report: Does the 870 students and 236 staff include the daycare?
 - c. Please incorporate the hours of operation of the school, the existing day care, the before and after school programs during the school year and the summary camp into the recommended conditions of approval.
 - d. Please incorporate the maximum number of staff associated with the summer camps into the conditions of approval.
 - e. Should there be a maximum number of participants in the swimming program.
 - f. Does the 250-participant camp for some of the activities include visitors?
 - g. Are there any development conditions from prior approvals that pertain to this site?

h. I assume that you propose to eliminate the non-Holton limitations for school arts? Please confirm.

10. Criteria for Approval:

- a. Add analysis of 59-G-1.22
- b. Noise/Nuisance: Does the 200 person cap on students participating in field events/tournaments remain? Does this include visitors and participants. How many attend for the teams?
- c. Analysis of Thrive

11. LATR: Wouldn't the HE/BOA make the determination of adequate public facilities under Section 59-G-1.21, as the property is not currently in compliance with the preliminary plan?

12. What is the plan for enforcing the TMP? Are there no enforcement mechanisms? Should a representative of the community be included in updated TMPs?

Thank you and have a wonderful day.

Best,

Lynn Robeson Hannan
Hearing Examiner



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EXHIBIT B

Excerpts of OZAH hearing of November 17, 2025



Planet Depos[®]
We Make It Happen™

Transcript of Hearing - Day 1

Date: November 17, 2025
Case: Holton Arms Inc., In Re:

Planet Depos
Phone: 888.433.3767
Email: transcripts@planetdepos.com
www.planetdepos.com

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OFFICE OF ZONING AND ADMINISTRATIVE HEARINGS
FOR MONTGOMERY COUNTY, MARYLAND

-----x
In Re: : Case No.:
Holton-Arms, Inc. : CBA 1174-E

-----x

HEARING
Before Hearing Examiner Lynn Robeson Hannan
Rockville, Maryland
Monday, November 17, 2025
9:34 a.m.

Job No.: 609626
Pages: 1 - 80
Transcribed by: Debra McCostlin

1 just -- it is not prepared. There is -- I mean,
2 we weren't asked to prepare it. This is a
3 concept. The application, planning department,
4 forest conservation review, it was not required
5 prior to the special exception proceeding.

6 HEARING EXAMINER: But it's in the
7 code. I mean, there's a lot of things that are
8 required that aren't in this application. It's
9 like nobody -- I don't know. I don't know. But
10 there's a lot of things that are explicitly
11 required that are not in this application. So
12 whether -- I don't know what to say about that.
13 It just is the way -- it is what it is.

14 Now, one thing we could do, I do agree
15 with Mr. Chen, if you have to come in for a
16 modification, you can do that at the time you
17 hard engineer the improvements. And it would be,
18 my guess is, an administrative -- I think the
19 board would say this is an administrative
20 modification.

21 But the other thing is, the site -- I
22 guess there's so many issues that haven't been
23 addressed. The site plan doesn't show anything.
24 I'm not sure -- it doesn't show everything. I'm
25 not sure the setbacks that you submitted are

1 MS. LEE-CHO: Everything that's
2 required was filed.

3 HEARING EXAMINER: No, it --

4 MS. LEE-CHO: Well, there are issues
5 outstanding that remain to be resolved and we
6 have witnesses to resolve them. If this
7 application was accepted, Madam Examiner --

8 HEARING EXAMINER: We don't do the
9 acceptance. Okay.

10 MS. LEE-CHO: Yeah. It was accepted by
11 the planning --

12 HEARING EXAMINER: By the board.

13 MS. LEE-CHO: Correct.

14 HEARING EXAMINER: The planning
15 department.

16 MS. LEE-CHO: Correct.

17 HEARING EXAMINER: And, you know --

18 MS. LEE-CHO: And because it was --

19 HEARING EXAMINER: -- that's not my
20 job. My job -- the only real thing I do is to
21 make sure that we have -- we complied with the
22 zoning ordinance and that we have enough
23 information to assess the impact of the use and
24 decide whether it meets the standard. Now, I
25 disagree with Mr. Chen. I don't think you have

1 to file a brand new application.

2 MR. CHEN: No, I'm not saying that.

3 Pardon me. I'm not saying -- excuse me for

4 interrupting. I'm not saying that. Just file

5 whatever has to be filed in accordance with the

6 zoning ordinance and the rules and by a certain

7 date. That's all I'm asking.

8 MS. LEE-CHO: What Mr. Chen did say is

9 he's not going to accept a statement of

10 justification that everything is hunky-dory,

11 which I am going to say everything is hunky-dory.

12 MR. CHEN: Well, that's fine.

13 HEARING EXAMINER: Well, that's -- I

14 don't think that's what he was saying.

15 MS. LEE-CHO: Well, but that's the

16 applicant's --

17 HEARING EXAMINER: I understand. I

18 don't think he was saying that.

19 MS. LEE-CHO: I'm not going to litigate

20 myself, is what I'm saying.

21 HEARING EXAMINER: I get that. I get

22 that. And I think he was saying you have to back

23 up some of the findings. That's what I think he

24 was saying.

25 MS. LEE-CHO: And those findings can be

1 made at the hearing. This is --

2 HEARING EXAMINER: I am not going
3 through a hearing when I don't even know
4 what -- don't feel like I know and I don't feel
5 the citizens know exactly and fully what you're
6 requesting --

7 MR. CHEN: Right.

8 HEARING EXAMINER: -- because the stuff
9 isn't here. And the whole process is setup so
10 all this stuff is fleshed out at the planning
11 board, addressed by the -- even if I had not
12 written that thing the day before, they said I
13 wrote it the day before the hearing, but even if
14 I had not written that, the planning board
15 hearing was less than the required time before
16 this hearing.

17 MS. LEE-CHO: I'm saying --

18 HEARING EXAMINER: I don't want to hear
19 more. Well, go ahead.

20 MS. LEE-CHO: There wasn't supposed to
21 be a planning board hearing.

22 HEARING EXAMINER: Well, that caught me
23 by surprise too.

24 MS. LEE-CHO: It caught us by surprise
25 as well. So --

1 previous hearing examiner assigned to this case,
2 it took almost over two weeks of emails back and
3 forth to identify these two dates this week.

4 HEARING EXAMINER: Well, I'm not going
5 to do that. If people can't testify on a
6 particular date, you know, I can't accommodate 60
7 people in scheduling.

8 MS. LEE-CHO: It was only the three
9 initial parties that we couldn't get dates.

10 HEARING EXAMINER: Well, can you guys
11 work that out? Can you try?

12 MS. LEE-CHO: We can provide additional
13 dates, yes.

14 HEARING EXAMINER: Huh? Try to work it
15 out. And I think if we can just take a moment
16 and back up, I'm asking the citizens -- you're
17 going to be heard, but I encourage you to try to
18 work with the school about your concerns.
19 What -- there's finger pointing going on.

20 MS. LEE-CHO: Yeah. I just want to
21 make sure my -- the person that's going to be
22 responsible for preparing certain things, I need
23 to understand.

24 HEARING EXAMINER: Mr. La Vay?

25 MR. LA VAY: Yes.

1 COURT REPORTER: For the record.

2 MR. LA VAY: For the record, Patrick La
3 Vay with MHG.

4 HEARING EXAMINER: And MSG is what?

5 MR. LA VAY: MHG. We're a civil
6 engineering firm.

7 HEARING EXAMINER: Okay. And why
8 didn't -- is he going to testify?

9 MS. LEE-CHO: You know, just timing in
10 terms of preparing the site plan.

11 HEARING EXAMINER: Well, if he's going
12 to say -- then we go off the record --

13 MS. LEE-CHO: We can go off the record.

14 HEARING EXAMINER: -- and then you guys
15 have that conversation. I can go off until 11:00
16 and give you some flexibility. If you need more
17 time, you can tell Nana Johnson of our office.
18 So with that, I'm going to go off the record
19 until 11:00 and we'll come back on the record.

20 MR. LA VAY: Can I make just one
21 comment?

22 MS. LEE-CHO: One question. Well,
23 yeah.

24 HEARING EXAMINER: Yeah.

25 MR. LA VAY: One question for the

1 examiner.

2 HEARING EXAMINER: Yeah.

3 MR. LA VAY: I think one thing we need
4 to clarify with your involvement is what needs to
5 be submitted. This application is not -- it's a
6 modification. It's not a traditional new special
7 exception application, so some things like site
8 plans, and you mentioned lighting and things,
9 that are not being modified but may be missing
10 from the record of previous cases, we need to
11 clarify exactly those things we need to prepare
12 because that will fall on the timing.

13 HEARING EXAMINER: But a major -- if
14 you read the code, a major modification follows
15 the same procedures as an original modification.
16 So yes, you need all that stuff. And I think
17 that's what's kind of caught you in a bind
18 here --

19 MR. LA VAY: Right.

20 HEARING EXAMINER: -- because you were
21 assuming that we have to put together, you know,
22 multiple site plans and exhibits, like the topos
23 on one plan and the --

24 MR. LA VAY: Right. Well, for example,
25 like for landscaping we'll say for example. Do

1 you need a plan that shares all of the existing
2 landscape with all of the existing species of
3 trees that are, you know, affected by this
4 application?

5 MS. LEE-CHO: Yes, I'm sure.

6 MR. LA VAY: Like all the --

7 HEARING EXAMINER: I need something
8 because you rely on landscaping or the school
9 relies on landscaping to mitigate noise. You
10 rely on --

11 MR. LA VAY: Landscaping isn't
12 mitigating noise.

13 HEARING EXAMINER: What?

14 MR. LA VAY: The landscaping doesn't
15 mitigate noise.

16 HEARING EXAMINER: I know that. I have
17 had enough testimony in my -- that's why when I
18 read it -- I don't want to be the expert here,
19 but I know enough to know that's what you said.

20 MR. LA VAY: Right.

21 HEARING EXAMINER: So you need to re-
22 read your application. You also said -- now topo
23 can, but I'm trying to look at the topo plan and
24 this, and I can't do it. And I think it would
25 benefit. So, yeah, put the land -- just if you

1 have to do blurbs of where the landscaping is and
2 say mix of, you know, I don't know.

3 MR. LA VAY: Well, I don't think we
4 want to be caught in a situation where we're back
5 here and being told that the information is
6 inadequate.

7 HEARING EXAMINER: I understand.

8 MR. LA VAY: So, I think --

9 HEARING EXAMINER: I just haven't had
10 a -- I just know it says landscaping. So if you
11 have the landscaping -- do you know what
12 landscaping is on there?

13 MR. LA VAY: Well, the historical plans
14 I'm sure show landscaping, but there's no new
15 landscaping proposed because --

16 HEARING EXAMINER: I thought I saw
17 green stuff on a plan.

18 MS. LEE-CHO: Aerials?

19 HEARING EXAMINER: No, no, no.

20 MS. LEE-CHO: The architect site plan
21 has some trees on it.

22 MR. LA VAY: Right, but they're not
23 new. They're all existing.

24 MS. LEE-CHO: They're existing.

25 HEARING EXAMINER: Well, that's not the

1 point.

2 MR. LA VAY: Yes.

3 HEARING EXAMINER: This is what -- I
4 don't want to go through this again. The point
5 is you relied on landscaping and topo to mitigate
6 noise. I don't know. There's nothing in the
7 record on where the landscaping is and it's
8 required. So I just -- I think there was a
9 sense, what I'm gathering, that if you're just
10 increasing the enrollment and not changing any
11 physical sites that nothing else -- it's like,
12 yeah, that's grandfathered but it didn't
13 disappear. And to the extent that you rely on
14 it, you better show it because nobody can assess.

15 MR. CHEN: If I may, and I sincerely
16 apologize. These folk are trying to get you to
17 agree to something and, quite frankly, I object
18 to that. The zoning ordinance applies. The
19 zoning ordinance has been enforced for decades.

20 HEARING EXAMINER: Especially this one.

21 MR. CHEN: Yes, exactly. If they don't
22 know what the zoning ordinance requires and can't
23 give it to you then maybe the application should
24 be withdrawn or a different engineer or whatever,
25 but it's laid out in the zoning ordinance.

1 Macris, Hendricks, and Glascock is a very fine
2 engineering firm. They do this type of work
3 almost every day I would expect. They know the
4 zoning ordinance. And, you know, the law is the
5 law. I don't understand why we're talking around
6 what does the law mean. It's there.

7 HEARING EXAMINER: Ms. Lee-Cho?

8 MR. LA VAY: And Mr. Chen is correct,
9 we do modify plan -- work on these kind of plans
10 all the time. When you're talking about a
11 modification to a case, it is a little bit
12 different and so --

13 HEARING EXAMINER: No, it is not.

14 MR. LA VAY: With regards to the plans,
15 there are always specifics that are addressed in
16 the modification and we don't always go back and
17 revisit all of the campus features that are in
18 the previous record. Now, we can do that. I
19 just want to -- that's why I was asking the
20 question. I want to make sure that we provide
21 what you need to review this.

22 HEARING EXAMINER: I didn't even say
23 anything about an NRIFSD, which is also required.

24 MR. LA VAY: There's a forest --

25 HEARING EXAMINER: I am saying to

1 you -- I know that there's a forest conservation easement.
2 So I am saying to you, I don't understand quite
3 this mindset where because we're not changing
4 anything on site, nothing on site matters.

5 I see you rolling your eyes, Ms. Lee-
6 Cho.

7 MS. LEE-CHO: No, I'm not rolling my
8 eyes. I'm just having a cough attack due to
9 allergies.

10 HEARING EXAMINER: So I really don't
11 want to argue about it anymore.

12 MS. LEE-CHO: We're just trying to get
13 a sense of how long it's going to take to prepare
14 plans that you are asking for. So I think --

15 HEARING EXAMINER: And that's --

16 MS. LEE-CHO: -- we've got a good
17 sense.

18 MR. LA VAY: I think we'll
19 just -- yeah, I think fair enough.

20 HEARING EXAMINER: There's a provision
21 in some of the ordinance -- now I'm getting my
22 2014 and 2004 ordinance mixed up, but there are
23 some provisions -- I can't remember them now so I
24 don't want to say it, but I guess the bottom line
25 is, if you rely on something in your statement of

1 justification, and here this -- you just told me,
2 which I knew, that landscaping doesn't mitigate
3 noise, but that's what you say in your statement
4 of justification. So what am I supposed to do
5 with that?

6 MS. LEE-CHO: It doesn't fully, but --

7 HEARING EXAMINER: It doesn't
8 mitigate -- I've heard a lot of -- well, I would
9 like the site plan to show what's on the site.
10 You can blurb out the forest con. Just
11 say -- oh, and the split zoning, I don't think
12 that's shown on the plan.

13 MS. LEE-CHO: It's on the certified
14 zoning map.

15 HEARING EXAMINER: Yeah, but it would
16 be -- that's the thing. I go from one thing to
17 another thing and the topo is over here. I sound
18 like I'm coming down hard on you, but it's the
19 pushback that I'm getting that is --

20 MS. LEE-CHO: We understand.

21 HEARING EXAMINER: I understand your
22 position. So, you know, I would like the split
23 zone shown on -- I want the setbacks, and when
24 you do the setbacks, I did look at that thing you
25 submitted and for instance --

1 MR. LA VAY: Those were not intended to
2 be setbacks for the school. Those are
3 setbacks -- just miscellaneous ones of those
4 adjoining houses to the various features on
5 campus. So we will --

6 HEARING EXAMINER: No, but I'm saying
7 that one of the setbacks -- well, I can't find it
8 now -- doesn't pick the shortest distance between
9 the field and the closest house that's angled.

10 MR. LA VAY: We'll double check that.
11 I think that was a markup on the architectural
12 site plan. We'll certainly prepare something
13 that's civil engineering.

14 HEARING EXAMINER: And school, are you
15 the representative of the school?

16 MS. LEE-CHO: No. This is my
17 associate.

18 HEARING EXAMINER: Oh. I don't know
19 you. That's because he's young.

20 MS. LEE-CHO: He's new.

21 HEARING EXAMINER: And I'm old. It's
22 nice to meet you. Who is here from the school?

23 MS. LEE-CHO: We have the head of
24 school here.

25 HEARING EXAMINER: Head of school.

1 Head of -- I see your name in the record. I just
2 want you to know that we -- this is not a pre-
3 decision on the application by any means. It's
4 just trying -- and I read the supplemental
5 statement about how badly you need the increase
6 of enrollment. It is just to get to the bottom
7 of what kind of impact all these changes are
8 going to have. Okay. So it's not a
9 predetermination.

10 MS. LEE-CHO: I understand. Thank you.

11 HEARING EXAMINER: Now with that, I'm
12 going to let Mr. Chen and Ms. Lee-Cho duke it out
13 as to time frames. Okay. And we will take a
14 break until 11:15. And is there another
15 question?

16 MR. LA VAY: I'm sorry. Is the forest
17 conservation plan something that needs to
18 be -- we didn't address that.

19 HEARING EXAMINER: Well, my thought is
20 this, two things on the forest con. Depending on
21 when you could do -- yes, it is.

22 MS. LEE-CHO: So I think what we could
23 do is work up a forest conservation draft with a
24 tentative LOD that if then -- to show you the
25 plan.

1 HEARING EXAMINER: That. And
2 then -- no, I need an approved one.

3 MS. LEE-CHO: Yes.

4 HEARING EXAMINER: But I think what Mr.
5 Chen is saying is correct. You can come
6 back -- if the engineering shifts it a little,
7 you can come back for a minor modification.

8 MR. LA VAY: You mentioned you needed
9 an approved one prior to the hearing or --

10 HEARING EXAMINER: The Board of
11 Appeals. No, not prior to the hearing.

12 MR. LA VAY: Okay. Okay.

13 HEARING EXAMINER: But it has to be in
14 my record. So I guess however long it takes, you
15 can get -- you know, I can keep the record open
16 and we'll proceed with the case and then --

17 MS. LEE-CHO: That case I think is the
18 easiest case.

19 HEARING EXAMINER: Yeah.

20 MS. LEE-CHO: You know, it was the
21 chicken and the egg, as you know, and --

22 HEARING EXAMINER: I under --

23 MS. LEE-CHO: But we do have planning
24 department -- I guess they have agreed on a
25 process if that is the case. If you ask for that

1 then we've already sort of --

2 HEARING EXAMINER: Good.

3 MS. LEE-CHO: -- gotten some guidance
4 on how that would work.

5 HEARING EXAMINER: Good news.

6 MS. LEE-CHO: Yeah. So that's the
7 easiest part.

8 HEARING EXAMINER: Okay.

9 MS. LEE-CHO: This is a timing issue.

10 HEARING EXAMINER: Okay. Well, as I
11 said, I can leave the record open until I
12 actually, you know, issue the decision and so we
13 can do something. Okay. Now we have more
14 minutes, so I'm going to let you confer until
15 11:15 and we'll be back.

16 MR. CHEN: Thank you.

17 (Off the record.)

18 HEARING EXAMINER: It is 11:05 and
19 we're back on the record. Do we have dates?

20 MS. LEE-CHO: Yes. In consultation
21 with our engineer and understanding the request,
22 we think we can -- we will provide the plans by
23 mid-February. So February 13th is a Friday.
24 February 13th.

25 MR. LA VAY: Sure.

1 MS. LEE-CHO: And then so Mr. Chen has
2 requested 30 days for review, putting us after
3 mid-March or mid-March or thereafter for a
4 hearing date.

5 HEARING EXAMINER: Okay.

6 MS. LEE-CHO: We have -- the week of
7 the 16th is available for the school, but the
8 following week is spring break and a lot of the
9 folks who need to testify will not be in town.
10 And so then, alternatively, we would be looking
11 at the week of the 30th into April.

12 MR. BOWE: Madam Commissioner, may I
13 speak for a moment?

14 MR. CHEN: Identify yourself.

15 MR. BOWE: My name is Richard Bowe.
16 I'm one of the residents of Al Marah.

17 HEARING EXAMINER: No. State your name
18 and address for the record.

19 MR. BOWE: My name is Richard Bowe. My
20 address is 7713 Zulima Court, Bethesda.

21 HEARING EXAMINER: Okay.

22 MR. BOWE: I'm a resident of Al Marah.

23 HEARING EXAMINER: Okay. And are you
24 going to tell me something?

25 MR. BOWE: Yes, I want --

1 HEARING EXAMINER: Please raise -- just
2 a second. Please raise your right hand.

3 (Witness sworn.)

4 HEARING EXAMINER: Go ahead.

5 MR. BOWE: Excuse me. With respect to
6 the dates of the hearing, as you may -- as I'm
7 sure you know, we've been very much involved in
8 this proceeding, and as residents, and we're not
9 the only residents involved, but we would -- the
10 date of -- the week of March 30 through April 4
11 would be very difficult for us to attend. We'll
12 be out of the country. The week of the 23rd we
13 would be fine, or the week of the 16th would be
14 fine of April, or excuse me, of March for the
15 hearing, or the first week I guess in April. But
16 we would ask if we could accommodate that request
17 that March 30th through April 3rd not be used for
18 the hearing.

19 HEARING EXAMINER: Okay. So March 16th
20 though -- the week of March 16th --

21 MR. BOWE: March 16 is fine for us.
22 And obviously I'm not speaking on behalf of all
23 the residents, just some of us who were --

24 HEARING EXAMINER: But was that one of
25 the weeks that was okay with you?

1 MS. LEE-CHO: March 16th?

2 HEARING EXAMINER: Yeah.

3 MS. LEE-CHO: The week of March 16th is
4 available.

5 HEARING EXAMINER: Okay. So we can
6 shoot for that.

7 MS. LEE-CHO: The 23rd is not available
8 for the school, the week of the 23rd.

9 HEARING EXAMINER: Right. That's the
10 spring break, right?

11 MS. LEE-CHO: Correct.

12 HEARING EXAMINER: So we have -- well,
13 to give you the most time to do the plan, we have
14 March 19th which is a Friday.

15 MS. LEE-CHO: It's a Thursday, I
16 believe.

17 HEARING EXAMINER: Oh, you're right.
18 We have Thursday and Friday. Wait. Let me go to
19 the OZA schedule. I apologize. Okay. They
20 don't have anything scheduled right now. So that
21 week looks good. We could do the 19th or the
22 20th.

23 MS. LEE-CHO: I would suggest that we
24 block off three days of hearings.

25 HEARING EXAMINER: Okay. We can do the

1 17th, 19th, and 20th.

2 MS. LEE-CHO: That would be fine with
3 the applicant.

4 HEARING EXAMINER: Does that work for
5 you, Mr. Chen, and your witnesses?

6 MR. CHEN: Yes.

7 MS. RIEFBERG: Yeah. I would like to
8 just --

9 HEARING EXAMINER: I can't see who is
10 speaking. Hi.

11 MS. RIEFBERG: Hi.

12 HEARING EXAMINER: Please state your
13 name and address for the record.

14 MS. RIEFBERG: Vivian Riefberg, 8504
15 Beech Tree Court, Bethesda, Maryland. Mr. Chen
16 is representing me. I wanted to just point out
17 that week I would be making a massive
18 accommodation to the school. I would be missing
19 public company board meetings in order to
20 accommodate the school. I am willing to do that,
21 but I would prefer that we actually move to the
22 first week after the second week of April if that
23 is at all possible for all parties considered.

24 HEARING EXAMINER: The second week of
25 April would be April 13th?

1 MS. RIEFBERG: April --

2 MS. LEE-CHO: No. It would be April
3 6th.

4 MS. RIEFBERG: April 6th. April 6th.
5 That's correct. Thank you.

6 HEARING EXAMINER: Okay. And the
7 school, do you have a comment on that?

8 MS. EVINS: If you could give me just a
9 moment to look.

10 HEARING EXAMINER: That's fine.

11 MS. RIEFBERG: And I realize that you
12 can't accommodate every calendar, so I'm making
13 the request, if possible. And Bill, you're okay
14 with that week?

15 MR. CHEN: It's before May.

16 MS. RIEFBERG: It's before May, right.
17 He has a wife who will not allow some things.

18 HEARING EXAMINER: And are Mr. Chen's
19 witnesses okay with that? And I'm going to wait
20 and see if --

21 MS. EVINS: It's Easter. It's Easter
22 Monday and Passover is that week in terms of our
23 community.

24 HEARING EXAMINER: I'm sorry. Could
25 you --

1 MS. EVINS: It's Easter.

2 HEARING EXAMINER: You have to come
3 forward.

4 MS. RIEFBERG: Easter is on Sunday.

5 HEARING EXAMINER: Stop talking.
6 Sorry. I have to get you on the mic.

7 MS. EVINS: Okay.

8 HEARING EXAMINER: So please come up
9 and get on the mic. The court reporter is going.

10 MS. EVINS: Sorry.

11 HEARING EXAMINER: So please state your
12 name and business address for the record, please.

13 MS. EVINS: My name is Penny Evins and
14 I'm head of school at Holton-Arms, 7303 River
15 Road, Bethesda, Maryland 20817.

16 HEARING EXAMINER: Okay. So do
17 you -- I just do this out of -- even though we're
18 not getting into substantive testimony, just to
19 protect the record. Can you raise your right
20 hand, you and Ms. Riefberg.

21 (Witnesses sworn.)

22 HEARING EXAMINER: Okay. Now you can
23 say what you want to say.

24 MS. EVINS: I was just answering Sue's
25 question.

1 HEARING EXAMINER: I didn't hear the
2 exchange. So do you mind?

3 MS. EVINS: Of course. She was asking
4 about dates and I was expressing that Monday is
5 Easter Monday and the week is Passover, and I
6 will make anything work.

7 HEARING EXAMINER: Oh. You're okay
8 with that week?

9 MS. EVINS: Yes. I was just pointing
10 out that Monday is Easter Monday because --

11 HEARING EXAMINER: Oh, for everyone
12 else. Did everyone hear that? Is it -- they
13 did.

14 MS. LEE-CHO: So I believe we should
15 avoid Monday.

16 HEARING EXAMINER: Okay. I have the
17 7th, 9th, and 10th of that week. Let me just
18 check the OZA. They didn't have anything until
19 after February. Okay.

20 MR. CHEN: Can you check on -- pardon
21 me, Madam Examiner. Could you check also, if
22 we're doing that, the room?

23 HEARING EXAMINER: Yeah. The only
24 problem with the room is that that's budget
25 season.

1 MR. CHEN: Oh.

2 HEARING EXAMINER: I will try to get
3 the room, but it's a little hard. So I will try
4 to get the 7th floor, but during the budget, the
5 council tends to appropriate a lot of the rooms.

6 MR. CHEN: If I may, the old
7 auditorium, I came in through that way.

8 HEARING EXAMINER: Yeah.

9 MR. CHEN: They now call it a lecture
10 room.

11 HEARING EXAMINER: Yeah, lecture hall.

12 MR. CHEN: Thank you.

13 HEARING EXAMINER: We can use that if
14 it's available.

15 MS. LEE-CHO: I would object. That
16 room is not capable of presenting a case
17 properly.

18 MR. CHEN: Oh. You can't do Zoom in
19 there?

20 MS. LEE-CHO: The last time I checked,
21 I did not see a screen in there.

22 HEARING EXAMINER: When was that, just
23 out of --

24 MS. LEE-CHO: That was where they used
25 to hold the sign review board hearings, I believe

1 is what you're talking about.

2 HEARING EXAMINER: Yeah, but they just
3 did --

4 MS. LEE-CHO: They re-did it?

5 HEARING EXAMINER: I think before I
6 retired, I think it was in 2020 maybe, they did a
7 huge renovation. So it's got all the tech now, I
8 believe.

9 MS. LEE-CHO: If that's the case then
10 that's fine.

11 HEARING EXAMINER: I tell you what, if
12 you want to check it out on the way back, but I
13 can -- well, I have to set a location now or we
14 have to send out notice. So what I'll do is
15 this. I'll say it will be in room 200 and then
16 we can amend it later if we need to.

17 MR. CHEN: What are those dates again?

18 HEARING EXAMINER: Well, I have the
19 6th, 7th, 9th, and 10th.

20 MS. LEE-CHO: Not the 6th.

21 HEARING EXAMINER: Not the 6th. So
22 7th --

23 MS. RIEFBERG: The request by the
24 school, not the 6th.

25 HEARING EXAMINER: I could actually do

1 7, 8, 9, or 10.

2 MR. CHEN: Why don't we do all four?

3 HEARING EXAMINER: Okay.

4 MR. CHEN: Just in case.

5 HEARING EXAMINER: So it will be 4/7
6 through 4/10. Did I get that correctly?

7 MS. LEE-CHO: Yes.

8 HEARING EXAMINER: One thing I also
9 failed to mention before when you were asking,
10 you know, what information you might want to
11 provide, in the past when we have done these
12 schools, we have had information on the number of
13 children. I mean, you can take a look at the
14 French school special exception that gives you an
15 idea of what aspects we've looked at. That was a
16 modification. But we asked for the number of
17 people outside so we can assess the noise and the
18 proximity to residences and things like that. So
19 I'm just trying to -- I don't want this to
20 be -- anybody to be upset about the application
21 is not complete again.

22 MS. LEE-CHO: No, we understand.

23 HEARING EXAMINER: So we -- that is a
24 typical request. And the Bullis school was an
25 issue too. I remember that. So the playground

1 and the (indiscernible). And we're not going to
2 argue about it, but -- so I forgot that in my
3 list of things.

4 So does anyone else have anything they
5 want to say? Yes, sir, Mr. Bowe.

6 MR. BOWE: I would like to confirm what
7 is necessary at this point for parties to be
8 added to become parties of record. If
9 individuals have signed the sign-up sheet that is
10 outside this meeting room for this meeting, does
11 that automatically make them parties of record?

12 HEARING EXAMINER: Under OZA's
13 rules -- well, you're a party of record since
14 you've shown up under OZA's rules. And part of
15 this is just logistic notice -- logistics of us
16 getting out notice because we've had cases with
17 300 people, 400 people dragged in. So you are
18 now a party of record because you've appeared at
19 the hearing.

20 Under OZA's rules, you don't become a
21 party unless you're pre-certified by the hearing
22 examiner as a party, but there's a requirement
23 for that, and the requirement is that you have to
24 get -- to become a party in advance, you have to
25 have an injury that's not represented by anybody

1 else. So you become a party when you actually
2 testify at the public hearing and then you're a
3 party of record. So you are a party of record.

4 Now, I know that there's a lot of
5 people that are interested in this case. The
6 hard part about a party of record is you have to
7 notify everybody else every time you communicate.
8 So we have Mr. Chen who is representing the
9 Bradley Boulevard Civic Association.

10 MS. RIEFBERG: Citizens Association.

11 HEARING EXAMINER: He will get all the
12 notices. You will now get notices. But unless
13 you're -- and of course the school will get
14 notices, and there were a couple of people that
15 earlier became parties of record. But unless
16 that criteria is going to apply to you, I -- and
17 we do post things on the website, so you can
18 follow along. But I recommend that you work
19 through Mr. Chen unless for some reason you do
20 have some situation that's different from
21 everybody else.

22 MR. BOWE: Thank you.

23 MS. LEE-CHO: Just one point of
24 clarification. Now that the date is shifted,
25 just so I understand, I assume that the 30-day

1 prehearing submission that the applicant makes,
2 that's when I will -- that's the no later than
3 day for submission.

4 HEARING EXAMINER: Yes. So that would
5 be -- if we do 4/7 through 4/10, it would be 30
6 days in front of --

7 MS. LEE-CHO: So March 6th.

8 HEARING EXAMINER: And then the
9 opposition I think is ten days before the
10 hearing. But that would be the operative date,
11 yes.

12 MR. CHEN: When is the operative date?

13 MS. LEE-CHO: March 6th would be the
14 30-day prehearing submission.

15 HEARING EXAMINER: The operative date
16 to count back from --

17 MR. CHEN: Yeah.

18 HEARING EXAMINER: -- is 4/7.

19 MS. LEE-CHO: 4/7.

20 MR. CHEN: What's the date for the
21 opposition, did you say?

22 HEARING EXAMINER: This is terrible. I
23 can't remember the rules. I want to say it's ten
24 days --

25 MR. CHEN: No. 20.

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HEARING EXAMINER: 20.

MR. CHEN: Okay. So I just want to be
on the same page.

HEARING EXAMINER: Yeah.

MS. RIEFBERG: Organized represented
opposition.

MR. CHEN: Yes. I'm sorry. That's
correct.

HEARING EXAMINER: Yes. Unless
you -- if somebody is calling their own expert,
you would have to do a --

MS. RIEFBERG: But if someone is just
speaking --

HEARING EXAMINER: But if somebody
just -- they don't have to file something.

MS. RIEFBERG: Right.

HEARING EXAMINER: Now, we have a lady
here. Can you come --

MS. SOLOMON: I could just say my name
and address to properly --

HEARING EXAMINER: Yes.

MS. SOLOMON: I guess I should probably
become a party. Is it complicated?

MS. RIEFBERG: No.

MS. SOLOMON: Okay. Hi. I'm Jennifer

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

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

**MOTION TO COMPEL IMMEDIATE FILING
OF AMENDED APPLICATION AND RELATED RELIEF**

EXHIBIT C

Email exchanges of Monday, February 16, 2026,
between attorneys Chen and Lee-Cho

Bil Chen

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Monday, February 16, 2026 5:39 PM
To: Bil Chen
Subject: RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Also my exchange with Lynn at bottom of page 68 and top of page 69 when I asked for clarification as a result of the shift in the initial mid-March hearing dates.

Soo



Soo Lee-Cho
BREGMAN, BERBERT, SCHWARTZ & GILDAY, LLC
7315 Wisconsin Avenue, Suite 800 West
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301-656-2707 x5902 **PHONE** | 301-961-6525 **FAX** | 301-318-3884 **MOBILE**
Email: sleecho@bregmanlaw.com
www.bregmanlaw.com

From: Soo Lee-Cho
Sent: Monday, February 16, 2026 5:27 PM
To: Bil Chen <>wjc@cwtm.net>
Subject: RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

The very next thing that I state at the top of page 57... the Feb 13 date was premised on meeting your request for **30 days** review in advance of mid-March hearing dates.

Soo



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From: Bil Chen <wjc@cwtm.net>
Sent: Monday, February 16, 2026 5:08 PM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

I have read the transcript pages. What statements/words do you reply upon to claim that the revised plans do not have to be filed with OZAH until March 6? Bil.

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Monday, February 16, 2026 2:52 PM
To: Bil Chen <wjc@cwtm.net>
Subject: RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

I did check the transcript. I would advise you to do the same and continue reading the transcript beyond the page with the initial date. The production date was always to give you 30 days in advance of the first date of hearings, which you will have.

Soo



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From: Bil Chen <wjc@cwtm.net>
Sent: Monday, February 16, 2026 2:48 PM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Soo: Check the transcript. You stated on the record that the revised plans would be provided February 13. Bil.

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Monday, February 16, 2026 2:36 PM
To: Bil Chen <wjc@cwtm.net>
Subject: Re: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Bil,
Any statements made outside or in the hearing room relative to a Feb 13th production of plans related to the initial mid-March hearing dates, which subsequently turned out would not work for your client, Ms.

Riefberg, see pages 57-59 in the transcript. As a result, the hearing dates slipped into April and the resulting March 6th date by which the plans will be provided.

Soo

Soo Lee-Cho
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From: Bil Chen <wjc@cwtm.net>
Sent: Monday, February 16, 2026 2:26:46 PM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Soo: During the OZAH November 17 hearing break we expressly talked about the revised plans and I said, and you agreed, that my clients needed 30 days to review the new material. That is why you said that you would "... we will provide the plans by mid-February. So February 13th is a Friday. February 13th." And, you said March 6 was for the pre-hearing submission.

Please produce your client's revised plans immediately.

Bil.

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Monday, February 16, 2026 2:12 PM
To: Bil Chen <wjc@cwtm.net>
Subject: RE: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Bil,
The February 13th date was when we were discussing hearing dates in mid-March... see top of page 57.

Soo

BBS&G
Attorneys

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From: Bil Chen <wjc@cwtm.net>
Sent: Monday, February 16, 2026 1:55 PM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Soo: March 6 is the date of your pre-hearing submission, not the due date for the revised plans which is February 13. See, p.56 of November 17 OZAH hearing attached. As you, yourself, noted March 6 is the due date for your pre-hearing submission per the OZAH rule. See, p.69 attached.

Bil.

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Monday, February 16, 2026 1:14 PM
To: Bil Chen <wjc@cwtm.net>
Subject: RE: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Bil,
We have the due date as March 6th.

Soo



Soo Lee-Cho
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From: Bil Chen <wjc@cwtm.net>
Sent: Monday, February 16, 2026 11:40 AM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]Holton Arms, OZAH Case Nos. CBA-1174-E, S-2467-A, S-2503-B, S-516 & S-729

Soo: The due date for Holton Arms to file revised plans was last Friday, February 13. However, I am not aware of any such filing. What is happening? Bil.

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

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

**MOTION TO COMPEL IMMEDIATE FILING
OF AMENDED APPLICATION AND RELATED RELIEF**

EXHIBIT D

Chen letter of November 19, 2025,
to attorney Lee-Cho

THE LAW OFFICE OF WILLIAM J. CHEN, JR., LLC
ATTORNEY AT LAW

200A MONROE STREET
SUITE 233

ROCKVILLE, MARYLAND 20850

(301) 279-9500

WILLIAM JAMES CHEN, JR.*

wjc@cwfm.net

EXTENSION 0

*ALSO ADMITTED IN THE
DISTRICT OF COLUMBIA

November 19, 2025

Via Email and Regular Mail

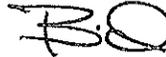
Soo-Lee Cho, Esq.
Bregman, Berbert, Schwartz & Gilday, LLC
7315 Wisconsin Avenue, Suite 800 West
Bethesda, MD 20814

Re: Petition of Holton Arms School, Inc., Case Nos. CBA-
1174-E, S-2467-A, S-2503-B, S-516, and S-729, before
the Office of Zoning and Administrative Hearings for
Montgomery County

Soo:

When you file the new material for the Holton Arms application, if you are submitting any oversized material/drawings, particularly scaled drawings from Macris Hendricks, please provide me with full size copies of any such material/drawings. My client will pay the reasonable charge for oversized materials/drawings

Sincerely,



William J. Chen, Jr.

WJC:mml

NABII Chen\RIEFBERG\SOO-LEE CHO LTR - 11-19-25.wpd

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

**IN THE MATTER OF THE APPLICATION :
OF HOLTON ARMS SCHOOL, INC. FOR A : Conditional Use Application
MAJOR MODIFICATION OF SPECIAL : Nos. CBA-1174-E, S-2467-A
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EDUCATIONAL INSTITUTION :**

**MOTION TO COMPEL IMMEDIATE FILING
OF AMENDED APPLICATION AND RELATED RELIEF**

EXHIBIT E

Email exchange between attorneys Lee-Cho
and Chen of November 19, 2025

Bil Chen

From: Bil Chen <wjc@cwtm.net>
Sent: Wednesday, November 19, 2025 1:57 PM
To: 'Soo Lee-Cho'
Cc: 'William Rogers'
Subject: RE: [EXTERNAL]Oversized material/drawings

Soo: I have no objection to trying that. So long as I can get the full sized material/drawings, that is all that I care about. I will call you if there is any hitches. Bil.

From: Soo Lee-Cho <sleecho@bregmanlaw.com>
Sent: Wednesday, November 19, 2025 1:38 PM
To: Bil Chen <wjc@cwtm.net>
Cc: William Rogers <wrogers@bregmanlaw.com>
Subject: RE: [EXTERNAL]Oversized material/drawings

Hi Bil,

We can easily provide electronic files to a printer service that should be able to have a billing account set up for you/your client and send out the oversized prints directly from there... that way we can avoid reimbursement of costs, etc.

Would that work for you?

Soo

BBS&G
Attorneys

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Email: sleecho@bregmanlaw.com
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From: Bil Chen <wjc@cwtm.net>
Sent: Wednesday, November 19, 2025 1:31 PM
To: Soo Lee-Cho <sleecho@bregmanlaw.com>
Subject: [EXTERNAL]Oversized material/drawings

Soo: Please see the attached letter. Bil.

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