



Re: Next Hearings April 13 and 17 2026 - Notley Road LMA H-159

From Keith C Nusbaum <knusbaum@gmail.com>

Date Thu 4/9/2026 12:11 PM

To Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>

Cc Elizabeth Rogers <ecrogers@lercheary.com>; Michele Rosenfeld <michele@marylandpropertylaw.com>; Alfred Carr <alfred.carr@gmail.com>; Lindsey, Amy <amy.lindsey@montgomeryplanning.org>; Ann Link <keldlink@yahoo.com>; Austin Holloway-Jones <austinhollowayjones@gmail.com>; Ayana Machen <ayanacm8@yahoo.com>; Beth Hook <Beth.hook@icloud.com>; Bill Backof <billbackof@gmail.com>; Bob Eller <bobeller123@gmail.com>; Candace Anderson <candacesmanderson@gmail.com>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Christine Bergeron <cbergero@vt.edu>; clay.e.nuquist@gmail.com <clay.e.nuquist@gmail.com>; Clifford Laufer <claufer@mindspring.com>; Craig Grunewald <craig.grunewald4@gmail.com>; D Phan <dgphanmore@gmail.com>; Dan Wilhelm <djwilhelm@verizon.net>; davidd15@verizon.net <davidd15@verizon.net>; David Muller <dmuller@ryansdev.com>; Deb Gonski <djgonski@yahoo.com>; Debra Tipton <debratipton515@gmail.com>; Destiny Kibalama <destinykibalama@gmail.com>; Edmond B French <edbonfrench2000@yahoo.com>; Vaias, Emily <Emily.Vaias@mncppc.org>; Girard, Erin E. <eegirard@lercheary.com>; Fleit Family <mmkwmail-family@yahoo.com>; James Touhey <touheyfamily@outlook.com>; Gilda Linton <gilda24@verizon.net>; Greg Golden <aaaggolden@msn.com>; Heidi Otradovec <mattandheidi99@gmail.com>; Hubert Johnson <hughrjohnson@gmail.com>; Ivonne C. Lindley <ILindley@steinsperling.com>; Jeffrey Grunewald <jeff.grunewald@verizon.net>; Joshua Sloan <josh.sloan@vikamd.com>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Katie Wagner <kwagner@goroveslade.com>; Kyle Smiddie <ksmiddie2@gmail.com>; Larry Checco <larry.checco@gmail.com>; Lars Larson <Larslarson508@gmail.com>; Laura Danette <ladansette@aol.com>; Laura Denion <Inesterdenion@gmail.com>; Laurie Checco <lauriechecco@gmail.com>; Logan Kelso <logan.kelso@vikamd.com>; Lorraine Nacson <lnacson@yahoo.com>; Mark Pankow <mpankow1951@gmail.com>; Natalie Walker <natalielynnwalker@gmail.com>; Oscar Navarrete <oscar.navarrete6984@gmail.com>; Pat Baldini <pbaldini1819@gmail.com>; Patrick Corey <patrick.corey2@verizon.net>; Paula A. Lincoln <pals307@aol.com>; Peter Garvin <pfgarvin3@gmail.com>; Regina Ottaviani <ctcwash@verizon.net>; S. Rathbun <brathbun1@verizon.net>; Susan Biddle <susanbiddle@gmail.com>; Toni Deboeck <tfdeboeck@gmail.com>; Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheary.com>; William Kassman <bill@kassman.net>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>

[EXTERNAL EMAIL]

My objection is that this exhibit and the expected testimony are outside the scope of rebuttal evidence. I will provide case law support and a full objection at the hearing when the applicant brings these items forth. Thank you.

On Thu, Apr 9, 2026 at 9:22 AM Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov> wrote:

Good Morning Mr. Nusbaum,

What is the basis of your objection? You can state it now but whether or not this rebuttal evidence will be admitted into the record can be addressed at the hearing.

For reference I draw everyone's attention to the relevant OZAH rules:

4.7 Order of Presentation, Public Hearings.

The ordinary, but not mandatory, order or procedure for the conduct of the hearing and the presentation of evidence is as follows, unless waived or changed by the Hearing Examiner or by law:

- a) Disposition of all outstanding preliminary motions and preliminary matters.
- b) Opening statement of parties.
- c) Presentation of factual case of appellant: cross-examination of all witnesses thereof.
- d) Presentation of factual case of responding party: cross-examination of those witnesses.
- e) Presentation of factual case of other interested persons: cross- examination of those witnesses.
- f) Rebuttal evidence of appellant: cross-examination of those witnesses.
- g) If permitted by the Hearing Examiner under the circumstances of the particular case, surrebuttal evidence of a responding party: cross-examination of those witnesses.
- h) Closing arguments.

Kind regards,



Khandikile Mvunga Sokoni
Director/Hearing Examiner
Office of Zoning & Administrative Hearings
100 Maryland Ave
Suite 200
Rockville MD 20850
Telephone: 240-777-6664

From: Keith C Nusbaum <knusbaum@gmail.com>

Sent: Wednesday, April 8, 2026 6:21 PM

To: Elizabeth Rogers <ecrogers@lercheearly.com>

Cc: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Michele Rosenfeld <michele@marylandpropertylaw.com>; Alfred Carr <alfred.carr@gmail.com>; Lindsey, Amy <amy.lindsey@montgomeryplanning.org>; Ann Link <keldlink@yahoo.com>; Austin Holloway-Jones <austinhollowayjones@gmail.com>; Ayana Machen <ayanacm8@yahoo.com>; Beth Hook <Beth.hook@icloud.com>; Bill Backof <billbackof@gmail.com>; Bob Eller <bobeller123@gmail.com>; Candace Anderson <candacesmanderson@gmail.com>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Christine Bergeron <cbergero@vt.edu>; clay.e.nuquist@gmail.com; Clifford Laufer <claufer@mindspring.com>; Craig Grunewald <craig.grunewald4@gmail.com>; D Phan <dgphanmore@gmail.com>; Dan Wilhelm <djwilhelm@verizon.net>; davidd15@verizon.net; David Muller <dmuller@ryansdev.com>; Deb Gonski <djgonski@yahoo.com>; Debra Tipton <debratipton515@gmail.com>; Destiny Kibalama <destinykibalama@gmail.com>; Edmond B French <edbonfrench2000@yahoo.com>; Vaias, Emily <Emily.Vaias@mncppc.org>; Girard, Erin E. <eegirard@lercheearly.com>; Fleit Family <mmkwmail-family@yahoo.com>; James Touhey <touheyfamily@outlook.com>; Gilda Linton <gilda24@verizon.net>; Greg Golden <aaaggolden@msn.com>; Heidi Otradovec <mattandheidi99@gmail.com>; Hubert Johnson <hughrjohnson@gmail.com>; Ivonne C. Lindley <ILindley@steinsperling.com>; Jeffrey Grunewald <jeff.grunewald@verizon.net>; Joshua Sloan <josh.sloan@vikamd.com>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Katie Wagner <kwagner@goroveslade.com>; Kyle Smiddie <ksmiddie2@gmail.com>; Larry Checco <larry.checco@gmail.com>; Lars Larson <Larslarson508@gmail.com>; Laura Danette <ladansette@aol.com>; Laura Denion <lnesterdenion@gmail.com>; Laurie Checco <lauriechecco@gmail.com>; Logan Kelso <logan.kelso@vikamd.com>; Lorraine Nacson <lnacson@yahoo.com>; Mark Pankow <mpankow1951@gmail.com>; Natalie Walker <natalielynnwalker@gmail.com>; Oscar Navarrete <oscar.navarrete6984@gmail.com>; Pat Baldini <pbaldini1819@gmail.com>; Patrick Corey <patrick.corey2@verizon.net>; Paula A. Lincoln <pals307@aol.com>; Peter Garvin <pfgarvin3@gmail.com>; Regina Ottaviani <ctcwash@verizon.net>; S. Rathbun <brathbun1@verizon.net>; Susan Biddle <susanbiddle@gmail.com>; Toni Deboeck <tfdeboeck@gmail.com>; Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; William Kassman <bill@kassman.net>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>

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[EXTERNAL EMAIL]

Hearing Examiner Sokoni,

I expect to object to this exhibit and any related testimony. Should I raise those as a preliminary matter or at the time it's introduced in testimony? Thank you.

On Wed, Apr 8, 2026 at 4:10 PM Rogers, Elizabeth C. <ecrogers@lercheearly.com> wrote:

Hearing Examiner Sokoni,

Please find attached a supplemental exhibit that the Applicant will request to introduce during their rebuttal testimony, which I understand will not occur next week but during a future hearing, based on the continuance granted. However, we wanted to submit this well in advance.

We will come prepared to discuss scheduling at the April 13th hearing.

Thank you,

Liz

Elizabeth C. Rogers, Attorney

Lerch, Early & Brewer, Chtd. rising to every challenge for 75 years

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From: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>
Sent: Tuesday, April 7, 2026 2:54 PM
To: Michele Rosenfeld <michele@marylandpropertylaw.com>; Rogers, Elizabeth C. <ecrogers@lercheearly.com>; Keith C Nusbaum <knusbaum@gmail.com>
Cc: Alfred Carr <alfred.carr@gmail.com>; Lindsey, Amy <amy.lindsey@montgomeryplanning.org>; Ann Link <keldlink@yahoo.com>; Austin Holloway-Jones <austinhollowayjones@gmail.com>; Ayana Machen <ayanacm8@yahoo.com>; Beth Hook <Beth.hook@icloud.com>; Bill Backof <billbackof@gmail.com>; Bob Eller <bobeller123@gmail.com>; Candace Anderson <candacesmanderson@gmail.com>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Christine Bergeron <cbergero@vt.edu>; clay.e.nuquist@gmail.com; Clifford Laufer <claufer@mindspring.com>; Craig Grunewald <craig.grunewald4@gmail.com>; D Phan <dgphanmore@gmail.com>; Dan Wilhelm <djwilhelm@verizon.net>; davidd15@verizon.net; David Muller <dmuller@ryansdev.com>; Deb Gonski <djgonski@yahoo.com>; Debra Tipton <debratipton515@gmail.com>; Destiny Kibalama <destinykibalama@gmail.com>; Edmond B French <edbonfrench2000@yahoo.com>; Vaias, Emily <Emily.Vaias@mncppc.org>; Girard, Erin E. <eegirard@lercheearly.com>; Fleit Family <mmkwmail-family@yahoo.com>; James Touhey <touheyfamily@outlook.com>; Gilda Linton <gilda24@verizon.net>; Greg Golden <aaaggolden@msn.com>; Heidi Otradovec <mattandheidi99@gmail.com>; Hubert Johnson <hughrjohnson@gmail.com>; Ivonne C. Lindley <ILindley@steinsperling.com>; Jeffrey Grunewald <jeff.grunewald@verizon.net>; Joshua Sloan <josh.sloan@vikamd.com>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Katie Wagner <kwagner@goroveslade.com>; Kyle Smiddie <ksmiddie2@gmail.com>; Larry Checco <larry.checco@gmail.com>; Lars Larson <Larslarson508@gmail.com>; Laura Danette <ladansette@aol.com>; Laura Denion <lnesterdenion@gmail.com>; Laurie Checco <lauriechecco@gmail.com>; Logan Kelso <logan.kelso@vikamd.com>; Lorraine Nacson <lnacson@yahoo.com>; Mark Pankow <mpankow1951@gmail.com>; Natalie Walker <natalielynnwalker@gmail.com>; Oscar Navarrete <oscar.navarrete6984@gmail.com>; Pat Baldini <pbaldini1819@gmail.com>; Patrick Corey <patrick.corey2@verizon.net>; Paula A. Lincoln <pals307@aol.com>; Peter Garvin <pfgarvin3@gmail.com>; Regina Ottaviani <ctcwash@verizon.net>; S. Rathbun <brathbun1@verizon.net>; Susan Biddle <susanbiddle@gmail.com>; Toni Deboeck <tfdeboeck@gmail.com>; Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; William Kassman <bill@kassman.net>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>
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Good Afternoon Ms. Rosenfeld,

I was out of the office until today and am only now seeing your message. I am sorry to hear about your witness's medical emergency and wish them a speedy recovery. Your request for a continuance is granted to a date to be finalized during the hearing on April 13th. I am asking that you and Ms. Rogers review the OZAH case calendar online as well as your own calendars and come to the April 13 hearing prepared with proposed dates in May and June that do not conflict with the OZAH in person hearing calendar.

Kind regards,

Khandikile



Khandikile Mvunga Sokoni

Director/Hearing Examiner

Office of Zoning & Administrative Hearings

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Rockville MD 20850

Telephone: 240-777-6664

From: Michele Rosenfeld <michele@marylandpropertylaw.com>

Sent: Friday, April 3, 2026 10:09 AM

To: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Elizabeth Rogers <ecrogers@lercheary.com>; Keith C Nusbaum <knusbaum@gmail.com>

Cc: Alfred Carr <alfred.carr@gmail.com>; Lindsey, Amy <amy.lindsey@montgomeryplanning.org>; Ann Link <keldlink@yahoo.com>; Austin Holloway-Jones <austinhollowayjones@gmail.com>; Ayana Machen <ayanacm8@yahoo.com>; Beth Hook <Beth.hook@icloud.com>; Bill Backof <billbackof@gmail.com>; Bob Eller <bobeller123@gmail.com>; Candace Anderson <candacesmanderson@gmail.com>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Christine Bergeron <cbergero@vt.edu>; clay.e.nuquist@gmail.com; Clifford Laufer <claufer@mindspring.com>; Craig Grunewald <craig.grunewald4@gmail.com>; D Phan <dgphanmore@gmail.com>; Dan Wilhelm <djwilhelm@verizon.net>; davidd15@verizon.net; David Muller <dmuller@ryansdev.com>; Deb Gonski <djgonski@yahoo.com>; Debra Tipton <debratipton515@gmail.com>; Destiny Kibalama <destinykibalama@gmail.com>; Edmond B French <edbonfrench2000@yahoo.com>; Vaias, Emily <Emily.Vaias@mncppc.org>; Girard, Erin E. <eegirard@lercheary.com>; Fleit Family <mmkwmail-family@yahoo.com>; James Touhey <touheyfamily@outlook.com>; Gilda Linton <gilda24@verizon.net>; Greg Golden <aaaggolden@msn.com>; Heidi Otradovec <mattandheidi99@gmail.com>; Hubert Johnson <hughrjohnson@gmail.com>; Ivonne C. Lindley <ILindley@steinsperling.com>; Jeffrey Grunewald <jeff.grunewald@verizon.net>; Joshua Sloan <josh.sloan@vikamd.com>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Katie Wagner <kwagner@goroveslade.com>; Kyle Smiddie <ksmiddie2@gmail.com>; Larry Checco <larry.checco@gmail.com>; Lars Larson <Larslarson508@gmail.com>; Laura Danette <ladansette@aol.com>; Laura Denion <lnesterdenion@gmail.com>; Laurie Checco <lauriechecco@gmail.com>; Logan Kelso <logan.kelso@vikamd.com>; Lorraine Nacson <lnacson@yahoo.com>; Mark Pankow <mpankow1951@gmail.com>; Natalie Walker <natalielynnwalker@gmail.com>; Oscar Navarrete

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[EXTERNAL EMAIL]

Hearing Examiner Sokoni,

I learned that one of my scheduled witnesses had a serious medical emergency on March 25 that required hospitalization. The witness is now out of the hospital and recovering but will not be able to testify, as planned, the week of April 13th.

Because of the seriousness of the medical issues, on behalf of my clients I kindly request a 2-week continuance of item 7 (the presentation of our case in chief) until sometime in May. While I am hopeful that the witness will be able to testify at that time, it remains unclear. In the meantime, we are looking into an alternate witness if needed, and we will need a reasonable amount of time to prepare any replacement.

We see no reason why item 6 (Mr. Nusbaum's testimony) could not move forward on April 13.

If necessary, I can provide additional information to you and opposing counsel in a separate confidential email, but am not authorized to share more at this time with the extensive email distribution list in this case.

Thank you in advance for your consideration of this request.

Respectfully,

Michele Rosenfeld

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From: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>

Sent: Monday, March 16, 2026 4:27 PM

To: Elizabeth Rogers <ecrogers@lercheearly.com>; Michele Rosenfeld <michele@marylandpropertylaw.com>; Keith C Nusbaum <knusbaum@gmail.com>

Cc: Alfred Carr <alfred.carr@gmail.com>; Lindsey, Amy <amy.lindsey@montgomeryplanning.org>; Ann Link <keldlink@yahoo.com>; Austin Holloway-Jones <austinhollowayjones@gmail.com>; Ayana Machen <ayanacm8@yahoo.com>; Beth Hook <Beth.hook@icloud.com>; Bill Backof <billbackof@gmail.com>; Bob Eller <bobeller123@gmail.com>; Candace Anderson <candacesmanderson@gmail.com>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Christine Bergeron <cbergero@vt.edu>; clay.e.nuquist@gmail.com <clay.e.nuquist@gmail.com>; Clifford Laufer <claufer@mindspring.com>; Craig Grunewald <craig.grunewald4@gmail.com>; D Phan <dgphanmore@gmail.com>; Dan Wilhelm <djwilhelm@verizon.net>; davidd15@verizon.net <davidd15@verizon.net>; David Muller <dmuller@ryansdev.com>; Deb Gonski <djgonski@yahoo.com>; Debra Tipton <debratipton515@gmail.com>; Destiny Kibalama <destinykibalama@gmail.com>; Edmond B French <edbonfrench2000@yahoo.com>; Vaias, Emily <Emily.Vaias@mncppc.org>; Girard, Erin E. <eegirard@lercheearly.com>; Fleit Family <mmkwmail-family@yahoo.com>; James Touhey <touheyfamily@outlook.com>; Gilda Linton <gilda24@verizon.net>; Greg Golden <aaaggolden@msn.com>; Heidi Otradovec <mattandheidi99@gmail.com>; Hubert Johnson <hughrjohnson@gmail.com>; Ivonne C. Lindley <ILindley@steinsperling.com>; Jeffrey Grunewald <jeff.grunewald@verizon.net>; Joshua Sloan <josh.sloan@vikamd.com>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Katie Wagner <kwagner@groveslade.com>; Kyle Smiddie <ksmiddie2@gmail.com>; Larry Checco <larry.checco@gmail.com>; Lars Larson <Larslarson508@gmail.com>; Laura Danette <ladansette@aol.com>; Laura Denion <lnesterdenion@gmail.com>; Laurie Checco <lauriechecco@gmail.com>; Logan Kelso <logan.kelso@vikamd.com>; Lorraine Nacson <lnacson@yahoo.com>; Mark Pankow <mpankow1951@gmail.com>; Natalie Walker <natalielynnwalker@gmail.com>; Oscar Navarrete <oscar.navarrete6984@gmail.com>; Pat Baldini <pbaldini1819@gmail.com>; Patrick Corey <patrick.corey2@verizon.net>; Paula A. Lincoln <pals307@aol.com>; Peter Garvin <pfgarvin3@gmail.com>; Regina Ottaviani <ctcwash@verizon.net>; S. Rathbun <brathbun1@verizon.net>; Susan Biddle

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Good Afternoon All,

Thank you for your cooperation at today's hearing and with getting additional dates to reconvene considering the weather disruption today.

Confirming that the next two dates on the calendar for hearings are **Monday April 13th and Friday April 17th, 2026**. Time on both dates is 9:30 AM in the Davison Hearing Room, in the Council Office Building at 100 Maryland Ave., Rockville, MD 20850.

Exhibits: All exhibits through Exhibit 113 as posted on the OZAH hearing page as of today were officially entered into the record with one caveat: Toni Deboeck must provide a signed copy of the letter that is Exhibit 88.

Having disposed of the first five items on the schedule for today, when we reconvene, we shall proceed as follows:

Opposition's Case in Chief

6. Mr. Nusbaum will kick-off the opposition's case in Chief. Note: Mr. Nusbaum stated below "...*I expect my testimony to run slightly over 2.5 hours. While my pre-hearing statement previously indicated 1 hour of testimony, because of additional factual allegations made by Applicant during their case in chief that were not in their land use report or their pre-hearing statement, my testimony will exceed my original expectation*".

7. Ms. Rosenfeld's presentation of her case in chief, including *voire dire* of Daniel L. Wilhem in connection with seeking to be qualified as an expert witness.

As a general matter any witnesses who testify and present evidence must expect reasonable cross-examination by the other side.

8. Applicant's (Optional) Rebuttal (subject to cross-examination)

9. Pursuant to OZAH Rule 4.7(h) Ms. Rogers, Ms. Rosenfeld and Mr. Nusbaum will be given the opportunity to present closing arguments. As agreed by the parties closing arguments, if any will be presented in writing after the conclusion of the hearing.

Sincerely,



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