

From: [Office of Zoning and Administrative Hearings](#)
To: [Johnson, Nana](#); [Guisao-Ospina, Jony](#); [Sokoni, Khandikile Mvunga](#)
Subject: FW: LMA H-159 Subpoena Request
Date: Friday, August 15, 2025 10:28:02 AM

FYI

From: Office of Zoning and Administrative Hearings <OZAH@montgomerycountymd.gov>
Sent: Friday, August 15, 2025 10:27 AM
To: Keith C Nusbaum <knusbaum@gmail.com>; Office of Zoning and Administrative Hearings <OZAH@montgomerycountymd.gov>
Cc: Elizabeth Rogers <ecrogers@lercheearly.com>
Subject: RE: LMA H-159 Subpoena Request

Mr. Nusbaum,
OZAH Rule 3.8 states as follows:

3.8 Subpoena Requests.

Subpoena requests must be submitted to the Hearing Examiner at least 14 days before the scheduled public hearing and with sufficient time for the person to be served. Each subpoena request must identify the name and address of the person to be subpoenaed and identify any documents to be produced. Requests must also include a statement explaining why the witness's testimony or documents requested are relevant to the case. In the case of witnesses who are state or county employees, the Hearing Examiner will first attempt to secure their attendance on a voluntary basis. If necessary, the Hearing Examiner may issue an Order authorizing a party to apply to a court with jurisdiction to issue a subpoena for the deposition of an out-of-state witness.

This pre-hearing process rule provides the hearing examiner with the authority to compel attendance at a scheduled public hearing by a witness and order that witness bring documents in his/her possession to the hearing. Your subpoena request asks for documents to be produced to you in advance of the public hearing to prepare for that hearing. This request is outside the scope of Rule 3.8. Rule 3.7 governs Discovery, which allows the Hearing Examiner to compel the “parties” to exchange evidence to be introduced at the hearing when circumstances warrant such an exchange. However, Planning is not a party to LMA H-159, and I cannot order Planning to participate in discovery. Planning is charged with accepting local map amendments (LMA), reviewing all the documents submitted (whether by the applicant, community, or other sources), and then applying the appropriate standards to that application in light of all documents received. Planning then must produce a report and recommendation on whether the LMA should be approved. This report is first submitted to the Planning Board prior to its public hearing. After the Planning Board hearing, the Planning staff report and any recommendation from the Planning Board on the application is then submitted to OZAH prior to the scheduled public hearing. The

application is still in the early stages of review with Planning. Should any party wish to subpoena a witness to testify and bring documents to the OZAH public hearing, a subpoena request must be submitted no later than 14 days prior to the hearing date.

With that said, any citizen has a right to request and review copies of any document held by any agency through the Maryland Public Information Act (MPIA). If you have been unsuccessful in requesting a review of the documents directly from the group assigned to work on LMA H-159 at Planning, you can always submit a request to Planning through the MPIA process at [Contact Montgomery Planning - Get in Touch with Us](#)

Also please note I have copied the attorney for the Applicant on this response. As the assigned Hearing Examiner and because this is a quasi-judicial process, I cannot engage in any ex parte communications regarding the substance of this pending application.

Katy Byrne

Kathleen E. Byrne
Director/Hearing Examiner
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From: Keith C Nusbaum <knusbaum@gmail.com>
Sent: Thursday, August 14, 2025 12:48 PM
To: Office of Zoning and Administrative Hearings <OZAH@montgomerycountymd.gov>
Subject: LMA H-159 Subpoena Request

[EXTERNAL EMAIL]

Good afternoon, please see the attached subpoena request.

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Keith C. Nusbaum
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419-297-6119



For more helpful Cybersecurity Resources, visit:

<https://www.montgomerycountymd.gov/cybersecurity>