

From: [Office of Zoning and Administrative Hearings](#)
To: [Keith C Nusbaum](#); [Office of Zoning and Administrative Hearings](#); [Elizabeth Rogers](#)
Subject: RE: Land Use Rules of Procedure 3.4/3.5
Date: Thursday, September 4, 2025 12:08:34 PM

Mr. Nusbaum,

The term “report” used in Rule 3.4 refers to any document created that “reports” on a particular subject matter related to the Application such as a traffic study, land use report, etc. Those reports are generally created by expert witnesses for the Applicant or the Opposition concerning the subject matter before the Hearing Examiner. Rule 3.4 sets forth the Applicant’s requirements for a pre-hearing statement. Since you are appearing in opposition only Rule 3.5 would apply to you. Rule 3.5 requires a prehearing statement be submitted by the opposition only in the following situations: 1) persons or associations represented by counsel, 2) person intending to appear in organized opposition or 3) persons intending to introduce expert testimony. If none of these 3 situations describes your circumstance regarding your opposition, then you do not need to submit a prehearing statement referencing the information contained in Rule 3.4.

With that said, if you intend to rely on documents or other demonstrative evidence such as photos at the hearing you MUST submit that evidence in both paper and electronic format (either WORD or PDF) no later than the Wednesday prior to the scheduled hearing date. For the November 6, 2025 hearing, any documents you wish the Hearing Examiner to review or for you to refer do during the hearing must be received by OZAH no later NOON on Wednesday, October 29, 2025. Because the hearing is held in a hybrid format, all documents must be uploaded on the website in a timely manner so that during the hearing everyone participating whether in person or remote can see the exhibit being referred to by the witness.

Katy Byrne

Director/Hearing Examiner

OZAH

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From: Keith C Nusbaum <knusbaum@gmail.com>
Sent: Wednesday, August 27, 2025 9:13 PM
To: Office of Zoning and Administrative Hearings <OZAH@montgomerycountymd.gov>; Elizabeth Rogers <ecrogers@lercheearly.com>
Subject: Land Use Rules of Procedure 3.4/3.5

[EXTERNAL EMAIL]

Good evening, I am requesting clarification on Rules of Procedure 3.4 and 3.5. I am

copying counsel for Applicant on this message to avoid any issues of ex parte communications.

Rule 3.4(b) indicates that "copies of all reports intended to be introduced at the hearing" need to be provided with pre-hearing submissions. As I intend to submit pre-hearing submission pursuant to Rule 3.5, my question is what constitutes a report. I do not intend to introduce any reports or documents prepared by third parties and I will not be calling any expert witnesses. But I do intend to introduce exhibits such as photos, maps, etc. Do these constitute a report that needs to be produced with the pre-hearing submission or can they be introduced as exhibits at the hearing? Likewise, I intend to utilize a presentation of demonstrative evidence during my factual case under Rule 4.7(d). Does this presentation constitute a report that needs to be included in my pre-hearing submission?

Thank you for your response.

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Keith C. Nusbaum

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