



October 31, 2025

Via Electronic Delivery And US Mail

Ms. Khandikile Sokoni
Office of Zoning and Administrative Hearings
100 Maryland Avenue, Suite 200
Rockville, Maryland 20850

Re: Response to Applicant's Objections to Qualification of Mr. Daniel Wilhelm as an Expert
Notley Road – Local Map Amendment No. H-159 (the "Application")

Hearing Examiner Sokoni:

On behalf of the Greater Colesville Citizens Association ("GCCA") and Kyle Smiddie ("Clients"), I submit this response to the letter, dated October 27, 2025, in which Notley Assemblage LLC (the "Applicant") states its objection to the qualification of Mr. Daniel Wilhelm as an expert for purposes of testifying at the OZAH hearing on the above-referenced Application (the "Applicant's Letter"). In its letter, the Applicant contends that, based upon his CV, Mr. Wilhelm "does not appear to have any necessary qualifications, specialized training or experience necessary to qualify as an expert in this land use proceeding." My Clients assert that based on the governing expert witness standards, he does have the required qualifications.

For purposes of determining whether to admit expert testimony, Maryland Rule 5-702 asks "whether the witness is qualified as an expert by knowledge, skill, experience, training, or education." Emphasis added. Caselaw clearly establishes that in judicial proceedings, the court has "wide latitude in deciding whether to qualify a witness as an expert or to admit or exclude particular expert testimony." *Massie v. State*, 349 Md. 834, 850-851 (1998). In making a determination as to whether a witness qualifies as an expert, the tribunal is free to consider the entirety of a witness's background in deciding whether that witness may opine as an expert. *Id.* at 851 ("The trial court is free to consider any aspect of a witness's background in determining whether the witness is sufficiently familiar with the subject to render an expert opinion, including the witness's formal education, professional training, personal observations, and actual experience."). This latitude is even broader in administrative proceedings, where evidentiary rules are more relaxed than those governing judicial matters.

The Applicant argues that Mr. Wilhelm lacks the educational or professional credentials to qualify as an expert on master plan recommendations and other land use topics as they relate to the pending LMA. In this way, the Applicant invites the Hearing Examiner to disregard Mr. Wilhelm's deep and extensive knowledge and experience in matters pertaining to land use matters, and in particular governing master plan recommendations, resulting from his decades of participation in land use proceedings through, *inter alia*, his role as President of the GCCA (a position that Mr. Wilhelm has occupied for various periods since 1981). As detailed in his CV, Mr. Wilhelm has extensive experience in land use and zoning matters including county master plans, subdivision and site plans, conditional use applications, rezoning cases and in subdivision and zoning text amendment, and county/state legislative proceedings. As a result, over this period of time he has gained a thorough working knowledge of the master plans that

are at issue in this case, as well as other issues related to the project including local transit service and compatibility issues.

Mr. Wilhelm's current roles also include membership on the Fairland/Briggs Chaney Master Plan Implementation Advisory Committee, a role that involves working with and understanding the implementation of the 2023 Master Plan in that community; and Secretary for the East County Citizens Advisory Board, a role that involves working with various Montgomery County bodies including the County Executive, Planning Board, and Council. In 2023, the Maryland Planning Commissioners Association recognized Mr. Wilhelm's extensive work as a citizen planner by awarding him one of three statewide Maryland Citizen Planner Awards.

As noted in my Clients' Pre-Hearing Submission, Mr. Wilhelm has been designated as an expert on the topics of (a) the project's lack of master plan conformance; (b) the Application's inconsistency with previously approved CRNF zone approvals; (c) the lack of public transit within the neighborhood and larger surrounding area; (d) general inadequacy of the road network in the neighborhood and general public safety issues at the Notley Road/New Hampshire Avenue intersection; and (e) the Application's lack of compatibility with and adverse impacts to the neighborhood ("neighborhood" both as delineated in the Rezoning materials and as submitted by the Clients).

For the foregoing reasons, my Clients respectfully request that the Hearing Examiner accept Mr. Wilhelm as an expert witness in the foregoing topics based on his knowledge and experience. We further ask that we be allowed to voir dire Mr. Wilhelm on the record in order to further establish his knowledge and experience at oral argument so that we may establish a clear record on this issue prior to a ruling.

Thank you for your consideration in this matter.

Respectfully submitted,

Michele McDaniel Rosenfeld

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