

From: [Sokoni, Khandikile Mvunga](#)
To: [Guisao-Ospina, Jony](#); [Johnson, Nana](#)
Subject: FW: LMA H-159 - Objections filed by Applicant
Date: Thursday, November 6, 2025 9:24:11 AM
Attachments: [image001.png](#)
[image002.png](#)



Khandikile Mvunga Sokoni
Hearing Examiner
Office of Zoning & Administrative Hearings
Phone: 240-777-6664
100 Maryland Ave, Rockville MD 20850

From: Sokoni, Khandikile Mvunga
Sent: Monday, November 3, 2025 5:06 PM
To: 'Rogers, Elizabeth C.' <erogers@lercheearly.com>; Michele Rosenfeld <michele@marylandpropertylaw.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com
Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>
Subject: RE: LMA H-159 - Objections filed by Applicant

Ms. Rogers,

Thank you for sending the stand-alone pdf of the amended application. That has been posted to the website as Exhibit 3(a).

Scheduling: Arrangements are in place for a full day hearing on Thursday with compressed breaks if needed. However, for all the reasons you cited as well as the upcoming holidays, and the fact that Ms. Rosenfeld anticipates needing one and a half days to present the opposition's case one full day is likely not going to be enough to conclude this hearing. If a continuation to January poses a hardship to your client, I can accommodate additional hearings on November 12th and/or 13th on condition that the Hearing Examiner's deadline to issue a report/recommendation to the Council be extended by at least 2 weeks. I have long standing plans for international travel the last two weeks of December to attend a memorial for my mother-in-law. Given the staffing changes at OZAH and the deadlines associated with other cases on our calendar if we cannot continue on November 12 and/or 13 we would need to reconvene in January.

Applicant's case: Please be prepared to present testimony on the following issues:

Exhibit 73
OZAH Case: LMA H-159

1. Square footage noted on the Floating Zone Plan. What is the exact square footage of the project? What is the basis for the calculation of such square footage? Is the applicant taking a density bonus for the MPDUs, and if so what are the details of such bonus?
2. What are the two pre-requisites outlined in Section 59.5.1.3.D that applicant is relying on and how exactly are these met. In particular given the Planning staff analysis at pages 8-9 of Exhibit 53 and the loss of the driveway access on New Hampshire Ave.

Kind regards,
Khandikile



Khandikile Mvunga Sokoni
Hearing Examiner
Office of Zoning & Administrative Hearings
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100 Maryland Ave, Rockville MD 20850

From: Rogers, Elizabeth C. <ecrogers@lercheearly.com>

Sent: Saturday, November 1, 2025 9:10 AM

To: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Michele Rosenfeld <michele@marylandpropertylaw.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com

Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>

Subject: RE: LMA H-159 - Objections filed by Applicant

[EXTERNAL EMAIL]

Ms. Sokoni,

As requested below, please find attached the amended application form, as a stand-alone PDF. Please let us know if you need anything further.

Also, we appreciate you being proactive regarding the anticipated time needed for this application. I know in the past we have run into issues with the contractual limitations of the IT personnel needing to leave early/by a specific time. So if it would be possible to make arrangements to ensure we have the benefit of a full day on Thursday, that would be greatly appreciated. We are also happy to take a very compressed lunch break, if amenable to

others, to get through as much of the application on Thursday as possible. If a second hearing is still required, despite these efforts, we would very much appreciate your consideration of a second date before January. We certainly understand you have a full hearing calendar and appreciate the challenges you are facing in having to assume Ms. Byrne's matters, but a two-month delay in the proceedings would present a serious challenge for the Applicant. We appreciate your consideration of this request.

I hope you have a nice weekend.

Thank you,
Liz

Elizabeth C. Rogers, Attorney

Lerch, Early & Brewer, Chtd. rising to every challenge for 75 years
7600 Wisconsin Ave | Suite 700 | Bethesda, MD 20814
T [301-841-3845](tel:301-841-3845) | F [301-347-1784](tel:301-347-1784) | Main 301-986-1300
ecrogers@lercheearly.com | [Bio](#)

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From: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>
Sent: Thursday, October 30, 2025 12:32 PM
To: Michele Rosenfeld <michele@marylandpropertylaw.com>; Rogers, Elizabeth C. <ecrogers@lercheearly.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com
Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eggirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>; Guisao-Ospina, Jony <Jony.Guisao@montgomerycountymd.gov>
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Ms. Rosenfeld, yes, that is fine.

Ms. Rogers, please send us a stand-alone pdf of the amended LMA application which is currently only in the record as an attachment to your request for the amend the application (Exhibit 53). OZAH needs the amended application so we can add it to the record as Exhibit 3.a.

I also wish to remind everyone that generally, as stated on the OZAH website, "All materials must be received at ozah@montgomerycountymd.gov by noon on the Wednesday of the week before the scheduled proceedings for inclusion in the meeting."

<https://www.montgomerycountymd.gov/OZAH/hearings/virtual-meeting.html> . However, in this

case we will accept and post to the website's hearing page any documents submitted no later than close of business on Monday, November 3, 2025. As you know, the Planning Board which typically hears zoning cases at least 10 days before the OZAH hearing is only hearing this matter today. This warrants some flexibility on the document posting deadline above.

A reminder that any electronic submissions must also be submitted in hard copy, although I will allow hard copies to be brought to the hearing provided that the electronic submission is timely received by OZAH.

The above deadline does not apply to motions which are governed by a separate provision in the Rules of Procedure:

3.9 Motions.

a) Procedural motions must be made promptly and, if possible, before the public hearing; however, nothing will preclude the Hearing Examiner from reaching a determination on any preliminary or procedural matter as the interests of justice may require, without a hearing. If made before the public hearing begins, motions must be sent to all parties of record and must include a certification of the date mailed. Responses to motions must be made within 10 days of the date of mailing certified on the motion.

b) **Motion for Summary Disposition.** Any party of record may file a motion to summarily address any issue in a case on the grounds that the application and other supporting documentation establish that there is no genuine issue of material fact to be resolved at a fact-finding hearing regarding that issue. The motion must be supported by documents, affidavits, applicable precedent, or other appropriate materials. Any such motion must be made at least 30 days before the scheduled hearing date, and any opposition must be made within 10 days of the date of mailing certified on the motion. Any party of record may request to have argument before the Hearing Examiner on the merits of the motion. In the case of any matter that requires Council action, the Hearing Examiner will issue a recommendation regarding disposition of the issue in question as part of the final report and recommendation to the Council.

For objections/motions that were made on October 28, 2025 parties that wish to take full advantage of the 10 days allowed for responses to motions would have until **November 7, 2025** to respond. Please note that I will proceed with the hearing on the 6th but may reserve ruling on certain preliminary matters until the time of my report. Now, as a practical matter it appears that we may need more than one day for this hearing so I am asking all attorneys and parties to bring dates in January and beyond in case we need to schedule an additional hearing date. The objections/motions will still be argued on November 6th notwithstanding later written submissions.

Sincerely,
Khandikile



Khandikile Mvunga Sokoni
Hearing Examiner
Office of Zoning & Administrative Hearings
Phone: 240-777-6664
100 Maryland Ave, Rockville MD 20850

From: Michele Rosenfeld <michele@marylandpropertylaw.com>
Sent: Thursday, October 30, 2025 11:42 AM
To: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Elizabeth Rogers <ecrogers@lercheearly.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com
Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>
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[EXTERNAL EMAIL]

Ms. Sokoni:

In light of the fact that you will take up these objections on November 6, with your OK I will submit a written response by close of business tomorrow, rather than today.

Respectfully, Michele.

Michele Rosenfeld
The Law Office of Michele Rosenfeld LLC
1 Research Court, Suite 450
Rockville MD 20850
michele@marylandpropertylaw.com
240-403-2653 (main office)
301-204-0913 (direct)
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Office Hours: M-F 8:30 - 5:00



From: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>
Sent: Tuesday, October 28, 2025 3:11 PM
To: Michele Rosenfeld <michele@marylandpropertylaw.com>; Elizabeth Rogers <ecrogers@lercheearly.com>; djwilhelm@verizon.net <djwilhelm@verizon.net>; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com <alfred.carr@gmail.com>
Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Mencarini, Katherine <katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>
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Good Afternoon,

This response addresses the objections presented by Ms. Rogers, and the reply emails by Ms. Rosenfeld (below) as well as an earlier one by Mr. Keith Nusbaum. The latter two have both requested an opportunity to respond to the objections.

Please be advised that I will reserve ruling on these objections to grant all parties the opportunity to make written submissions. The first hour of the hearing on November 6th will be reserved for oral argument on the objections, and related written submissions. I will plan to rule on the objections after hearing oral argument on the 6th. All parties must be prepared to proceed with the substance of the case following the ruling.

Sincerely,
Khandikile



Khandikile Mvunga Sokoni
Hearing Examiner
Office of Zoning & Administrative Hearings
Phone: 240-777-6664
100 Maryland Ave, Rockville MD 20850

From: Michele Rosenfeld <michele@marylandpropertylaw.com>

Sent: Tuesday, October 28, 2025 9:00 AM

To: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Elizabeth Rogers <ecrogers@lercheearly.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com

Cc: Leftwich, Troy <Troy.Leftwich@montgomeryplanning.org>; Menclarini, Katherine <katherine.menclarini@montgomeryplanning.org>; Sanders, Carrie <carrie.sanders@montgomeryplanning.org>; Biase, Vincent G. <vgbiase@lercheearly.com>; Girard, Erin E. <eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne, Kathleen <Kathleen.Byrne@montgomerycountymd.gov>

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[EXTERNAL EMAIL]

Hearing Examiner Sokoni:

On behalf of my clients, please be advised that I intend to respond to the objection submitted yesterday in connection with Mr. Wilhelm's expert witness designation no later than close of business Thursday, October 30. I would ask that you defer your response pending an opportunity to consider my submission.

Respectfully,

Michele Rosenfeld
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From: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>
Sent: Tuesday, October 28, 2025 7:40 AM
To: Elizabeth Rogers <ecrogers@lercheearly.com>; Michele Rosenfeld <michele@marylandpropertylaw.com>; djwilhelm@verizon.net <djwilhelm@verizon.net>; Kyle Smiddie <ksmiddie2@gmail.com>; Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com <alfred.carr@gmail.com>
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Good Morning Ms. Rogers,

I wish to acknowledge receipt of your two letters of objection transmitted via email (below), which I will review and respond to shortly.

Regards,
Khandikile



Khandikile Mvunga Sokoni
Hearing Examiner
Office of Zoning & Administrative Hearings
Phone: 240-777-6664
100 Maryland Ave, Rockville MD 20850

From: Rogers, Elizabeth C. <ecrogers@lercheearly.com>
Sent: Monday, October 27, 2025 5:37 PM
To: Sokoni, Khandikile Mvunga <Khandikile.Sokoni@montgomerycountymd.gov>; Michele Rosenfeld

<michele@marylandpropertylaw.com>; djwilhelm@verizon.net; Kyle Smiddie <ksmiddie2@gmail.com>;
Keith C Nusbaum <knusbaum@gmail.com>; alfred.carr@gmail.com

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<katherine.mencarini@montgomeryplanning.org>; Sanders, Carrie
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<eegirard@lercheearly.com>; Johnson, Nana <Nana.Johnson@montgomerycountymd.gov>; Byrne,
Kathleen <Kathleen.Byrne@montgomerycountymd.gov>

Subject: LMA H-159 - Objections filed by Applicant

[EXTERNAL EMAIL]

Hearing Examiner Sokoni,

In connection with the above-referenced Local Map Amendment application, please find attached two objections submitted on behalf of the Applicant.

Thanks,
Liz Rogers
Erin Girard

Elizabeth C. Rogers, Attorney

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