



Planet Depos[®]
We Make It *Happen*[™]

Transcript of Hearing

Date: November 6, 2025

Case: Notley Road

Planet Depos

Phone: 888.433.3767

Email: transcripts@planetdepos.com

www.planetdepos.com

Transcript of Hearing
Conducted on November 6, 2025

15 (57 to 60)

<p>57</p> <p>1 Mr. Wilhelm as an expert, and we respectfully 2 request the Hearing Examiner issue a ruling 3 appropriately limiting the scope of Mr. Nusbaum's 4 participation to what the rules would allow of an 5 individual not represented by counsel. We'll 6 address each of these in turn.</p> <p>7 We object to the qualification of 8 Mr. Dan Wilhelm as an expert on the basis that he 9 does not have the requisite knowledge, skill, 10 experience, training, or education to qualify as 11 an expert in this land use proceeding. The 12 Opposition's prehearing statement states that 13 Michele Rosenfeld intends to present him as an 14 expert, but it does not identify the field in 15 which he's being offered as an expert.</p> <p>16 Rather, Ms. Rosenfeld indicates an 17 intention to have Mr. Wilhelm testify as an expert 18 on five topics. In doing so, it appears the 19 Opposition tends -- intends to broadly classify 20 him as an expert in multiple areas of expertise, 21 including both issues related to land use planning 22 and transportation planning. These are two very 23 different technical and highly specialized areas.</p> <p>24 And in my career, I have not seen an 25 individual before this body qualified as an expert</p>	<p>59</p> <p>1 education in land use, transportation, civil 2 engineering, architecture, or related field. 3 Mr. Wilhelm's education and training and 4 employment history are in electrical engineering 5 and program management. We would argue there's 6 really no skill involved in this land use 7 proceeding under which Mr. Wilhelm could seek to 8 qualify as an expert, so that leaves knowledge or 9 experience.</p> <p>10 Maryland courts have consistently held 11 that expert qualification under Rule 5-7.0.2 12 requires a witness to possess specialized and 13 sufficient knowledge, more than just a casual 14 familiarity. To be qualified as an expert in land 15 use of transportation planning, one must hold some 16 specialized technical competency in the subject, 17 not familiarity or general involvement as a 18 citizen advocate in the planning process.</p> <p>19 Mr. Wilhelm possesses no specialized 20 knowledge or experience that would allow him to 21 render an expert opinion on the topics that 22 Opposition seeks to qualify him in. While 23 Mr. Wilhelm's civic involvement and participation 24 in committees and task force is commendable, it 25 does not confer that specialized knowledge or</p>
<p>58</p> <p>1 in both of those. For that very reason, this, in 2 and of itself, is a red herring and a thinly 3 veiled attempt to make the opinions of Mr. Wilhelm 4 carry additional weight, which is not the 5 intention of the rules.</p> <p>6 The qualification as an expert is 7 intended to be reserved for those select 8 individuals that truly possess the requisite 9 skill, knowledge, training, or experience to opine 10 on land use issues with credibility to assist the 11 fact finder. The bar is set high, given the 12 weight that is afforded to expert testimony.</p> <p>13 To suggest that Mr. Wilhelm's testimony 14 should be given the same weight as someone who has 15 formal educational training, professional 16 certifications, and has spent years, if not 17 decades, working on land use matters and 18 participating in administrative land use hearings 19 over the course of their career would be directly 20 at odds with the intent of such a qualification.</p> <p>21 Under Maryland Rule 5-7.0.2, expert qualification 22 requires specialized knowledge, skill, experience, 23 training, or education.</p> <p>24 We'll start with the easier of the two. 25 Mr. Wilhelm's CV includes no relevant training or</p>	<p>60</p> <p>1 experience required to interpret Master Plans or 2 draw technical planning conclusions, like 3 compatibility, in this proceeding.</p> <p>4 The advisory committees listed on 5 Mr. Wilhelm's resum and those task forces are 6 really simply more formalized mechanisms to gather 7 public input. They confer no specialized 8 knowledge.</p> <p>9 For example, based on the guidelines on 10 the County's websites for the MCDOT Citizens 11 Advisory Committees, those were specifically 12 convened, I quote, to provide opportunities for 13 community members to learn about and provide input 14 on Flash BRT projects, end quote. The stated 15 purpose on the County's website for the CACs 16 included community engagement, involvement, and 17 information sharing among stakeholders.</p> <p>18 We would note that Mr. Wilhelm's 19 designated role in these committees and task force 20 is almost exclusively through his role at the 21 Great -- with the Greater Colesville Citizens 22 Association or as a resident. For example, the 23 White Oak Science Gateway Master Plan Citizen 24 Advisory Committee notes that he represented GCCA 25 and clarifies that the CAC members -- this is</p>

Transcript of Hearing
Conducted on November 6, 2025

16 (61 to 64)

<p>61</p> <p>1 from -- a quote from the White Oak Master Plan, 2 the 2014 one, Members provide input during the 3 planning process on the issues and concerns of 4 organizations and associations they represent. 5 This comports with Mr. Wilhelm's own 6 admission on his CV that the experience in these 7 committees and task forces is rooted in advocacy. 8 We would note that the word advocacy is used to 9 describe all five of his roles listed under his 10 current involvement section on his CV, and several 11 listed under his civic involvement. 12 And as Mr. Wilhelm's resum expressly 13 notes, his role in GCCA under -- the umbrella 14 under which he participated in many of these 15 committees and task forces, was, quote, advocate 16 for local citizens in land use and zoning matters. 17 Experts are not advocates. Rather, they provide 18 objective unbiased information based on their 19 professional analysis of fact. 20 The test is not whether Mr. Wilhelm has 21 general knowledge about land use process, but 22 whether he is sufficiently familiar with the 23 subject to render an expert opinion. 24 Participation in land use proceedings via his role 25 through GCCA does not afford him with that</p>	<p>63</p> <p>1 that a transportation consultant or engineer would 2 typically speak to. Mr. Wilhelm certainly may 3 testify as a layperson, in fact, if he plans to 4 testify as to transportation offerings that are 5 currently available. That's something a layperson 6 can understand and does not require expert 7 testimony. 8 But if he intends to go beyond those lay 9 observations, he lacks the necessary 10 qualifications to do so. He should also not be 11 able to testify as an expert in Master Plan 12 conformance compatibility or these technical 13 transportation issues without the requisite 14 knowledge or experience to draw those conclusions. 15 As such, we respectfully request the Hearing 16 Examiner decline to qualify Mr. Wilhelm as an 17 expert and make clear that his testimony is 18 limited to that of a lay opinion. 19 The second issue we raised an objection 20 to was with respect to Mr. Keith Nusbaum. The 21 Applicant respectfully requests that the Hearing 22 Examiner eliminate his -- limit his participation 23 to that permitted of an individual member of the 24 public. 25 Pursuant to his prehearing statement and</p>
<p>62</p> <p>1 knowledge needed to render expert opinion. 2 Advocating for special interests of a 3 community is completely different than objectively 4 analyzing how a specific application conforms to 5 the County's policy and regulations. To qualify 6 him as an expert based on his participation would 7 be a slippery slope that would open the floodgates 8 for other active members of the community to 9 testify as experts. 10 We would also note he has no expertise 11 to speak about the consistency of this application 12 to previously zone CRNF applications. To our 13 knowledge, Mr. Wilhelm nor GCCA -- to our 14 knowledge, neither of them offered any testimony 15 on those prior CRNF zone applications. And so he 16 would have no more experience or knowledge than a 17 layperson to opine on that issue. 18 Similarly, transportation planning is a 19 highly specialized area of expertise. We see 20 nothing in Mr. Wilhelm's experience that would 21 afford him with the specialized knowledge or 22 experience needed to opine on these issues beyond 23 his lay observations. 24 As the Hearing Examiner is aware, 25 transportation adequacy is a very technical issue</p>	<p>64</p> <p>1 subsequent email correspondence, Mr. Nusbaum is 2 appearing pro se in his own capacity as an 3 individual party of record. His prehearing 4 statement indicates an intention to participate in 5 the hearing in a role that is reserved for counsel 6 representing organized opposition, which is not 7 permitted by the rules. 8 Being a party of record does not afford 9 Mr. Nusbaum with additional rights to call 10 witnesses and present evidence, as all individuals 11 that testify before OZAH are deemed parties of 12 record, pursuant to Rule 3.1.A, allowing all 13 parties of record to call witnesses or present 14 evidence would be contrary to the order that the 15 rules are intending to create. 16 By email dated September 4th, 2025, 17 Hearing Examiner Byrne confirmed the only rule 18 that would apply to Mr. Nusbaum is Rule 3.5. 19 While Rule 3.5 would allow Mr. Nusbaum to testify 20 as an individual member of the public and submit 21 written pertinent material, Mr. Nusbaum does not 22 fall within one of the other three categories 23 under that rule. 24 He's confirmed he is not being 25 represented by counsel. Second, he is not</p>