

On March 12, 2024, the law firm of Selzer Gurvitch Rabin, through Elizabeth J. McInturff, Esq., submitted a Letter of Appearance on behalf of Oscar Lyles in the Conditional Use matter. However, as of the date of this Motion, neither Mr. Lyles nor his counsel have filed a timely pre-hearing statement, as Rule 3.5 requires for persons represented by counsel. Thus, by application of Rule 3.5, opposing counsel's request to participate at this late hour should be denied.

At the same time, the Applicant has been a good faith participant in the Conditional Use review process and does not oppose postponing the public hearing to a later date, so that opposing counsel is afforded an opportunity to submit a timely pre-hearing statement. Such a pre-hearing statement would address the requirements of Rule 3.4 and disclose, among other things, the grounds for any opposition to the Conditional Use application; copies of all reports that are intended to be introduced at the hearing; the names of any experts that are expected to testify and their qualifications, as well as summaries of such testimony; and the names of other witnesses who are expected to testify in opposition to the Conditional Use application. Moreover, the pre-hearing statement would allow the Applicant to be prepared to address an opponent's concerns at the time of public hearing and thereby facilitate a thorough and orderly proceeding.

Because the Rules, as well as due process principles, dictate that such information must be provided by opposing counsel in a timely manner, this Motion should be granted and either opposing counsel's participation denied, or the hearing postponed to a later date.

Respectfully submitted,



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Enclosures

Exhibit 31
OZAH Case No: CU 24-10

CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of March, 2024, copies of the foregoing Motion were mailed via electronic mail and first class mail to Elizabeth J. McInturff, Esq. and by first-class mail, postage prepaid, to any parties of record.



Christopher M. Ruhlen