# IN RE: DEVELOPMENT PLAN HEARING & PETITIONS FOR SPECIAL HEARING -

N/End Bluestone Road, S of Greenhouse Lane, E of Chapman Road & N of Redstone Road (Fischer Property – Bluestone Road) 11<sup>th</sup> Election District – 3<sup>rd</sup> Council District

Henry J. Fischer, et al, Owners; Kingsmill, LLC, Developer \* BEFORE THE

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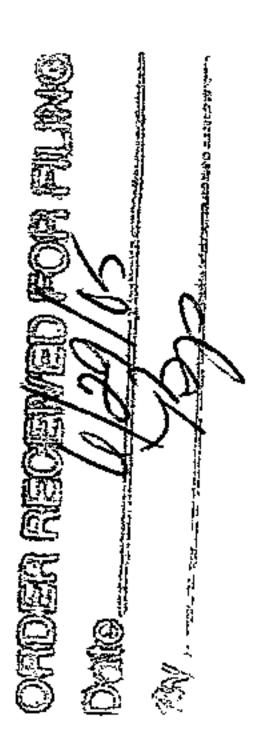
- \* ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* Cases Nos. XI-956, 05-314-SPH, 05-315-SPH

## AMENDED DEVELOPMENT PLAN ORDER

WHEREAS, this matter came before this Hearing Officer/Zoning Commissioner for a combined public hearing, pursuant to Section 32-4-230 of the Baltimore County Code (BCC). The Owners/Developers sought approval of a four-page, redlined development plan for the proposed residential development of the subject property with 14 single-family detached dwelling units, one of which is existing. In addition, Petitions for Special Hearing were filed in companion cases Nos. 05-314-SPH and 05-315-SPH, requesting amendments to previously approved Final Development Plans (FDPs) for the "Lands of Mr. Henry Fischer" and "Jerusalem Mills," as more particularly described within the respective Petitions.

By Opinion and Order dated May 27, 2005, the undersigned Zoning Commissioner approved the development plan and the Petitions for Special Hearing, contingent upon the Petitioners closing the proposed roadway extension of Bluestone Road. In the event the roadway could not be closed, the approval allowed the development plan and the FDPs to be revised accordingly.

Subsequent to the issuance of said Order, a timely Motion for Reconsideration was filed by Counsel for the Owners/Developers, citing an omission of two of the requested amendments with respect to the FDP for Jerusalem Mills in Case No. 05-315-SPH. One item requested an amendment to allow "labeling the roadway extension as part of the HOA Common Area and Private Ingress and Egress Easement of the Property" and the second item, an amendment "including the remainder of Parcel A within the boundaries of the adjoining proposed Lot 1 of the Property." So that the Development Plan, the amended FDP for the Lands of Mr. Henry Fischer, and the amended FDP for Jerusalem Mills are consistent with one another, the



Owner/Developer requests an amendment of the Development Plan Order to include those two items as set forth above.

In addition, this Zoning Commissioner's approval did not specifically state that those parts of the development plan and amendments that do not relate to the proposed extension of Bluestone Road extension are approved, regardless of the outcome of the road closing proceedings. Thus, the Owners/Developers request that the Order be amended to specifically provide such approval, regardless of the outcome of the road closing proceedings. It is further requested that the Order be amended to reflect that if the proposed extension of Bluestone Road is not closed, then the development plan as submitted is approved, with the condition that the extended portion of Bluestone Road shall be designated as a public road. Finally, if the proposed road extension is not approved to be a private road, then the Owners/Developers seek approval of certain amendments as set forth below to the respective FDPs for the Lands of Mr. Henry Fischer and Jerusalem Mills.

In addition to the above amendments, the Owners/Developers request that the language in the Order regarding the storm water management facilities be clarified to reflect that the water flows to either the first or second facility. The first facility is west of the access road prior to the point where the proposed road crosses the stream. Storm water is funneled through gutters, inlets, and storm drains to this facility where water quality management is performed using a sand filter. Channel protection volume management is then performed and the water is finally released over a 12-hour period. The second facility is an existing pond that will function in a similar manner to the first facility, but has also been designed to manage the required 2-, 10-, and 100-year storms.

Upon due consideration of the relief requested within the Motion, I find that the Order issued on May 27, 2005 should be amended to incorporate the additional approvals and clarifying language as set forth above.

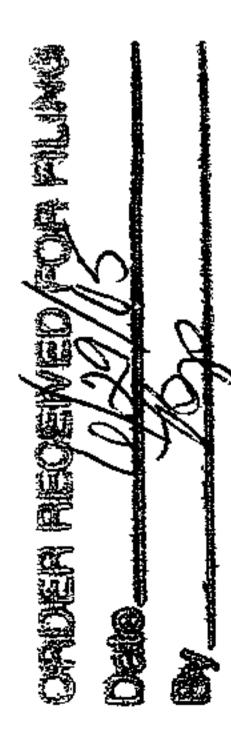
THEREFORE, IT IS ORDERED by the Zoning Commissioner/Hearing Officer for Baltimore County this 29 day of June 2005 that the Hearing Officer's Opinion and Development Plan Order issued on May 27, 2005 granting approval of the four-page redlined

development plan for the Fisher Property, submitted into evidence and marked as Developer's Exhibits 7A through 7D, be and the same is hereby AMENDED to add the following additional approvals and amendments, contingent upon the Developer obtaining approval of its petition to close the road in Case No. RC2005-002;

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 05-314-SPH, pursuant to Section 1B01.3.A.7.b of the B.C.Z.R., seeking approval of amendments to the Final Development Plan for the Lands of Mr. Henry Fischer, in accordance with the plan marked into evidence as Petitioner's Exhibit 2, be and is hereby GRANTED to include the following:

- 1) Adding a private roadway extension and associated storm drain utilities within the area labeled as "Highway R/W for Future Road" which runs through Parcel A and serves as an access road to the property;
- 2) Labeling the roadway area and associated right-of-way as part of the HOA Common Area and Private Ingress and Egress Easement of the Property;
- 3) Including the remainder of Parcel A within the boundaries of the adjoining proposed Lot 1 of the Property;
- 4) Adding a storm water management device to comply with current regulations, which will control runoff from the impervious surface of the new road;
- 5) Adding a development sign;
- 6) Adding a 100-year floodplain, drainage and utility easement and forest conservation easement;
- 7) Revising the location of wetlands and a forest buffer; and,
- 8) Adding standard notes prohibiting the disturbance of the Forest Buffer Easements and Forest Conservation Easements without express permission from DEPRM.

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 05-315-SPH, pursuant to Section 1B01.3.A.7.b of the B.C.Z.R., seeking approval of amendments



to the Final Development Plan for "Jerusalem Mills," in accordance with Petitioner's Exhibits 2A through 2C, be and is hereby GRANTED to including the following:

- 1) Identifying the change in ownership of Parcel A;
- 2) Adding a private roadway extension that runs through Parcel A, which serves as an access road to the property;
- 3) Labeling the roadway extension as part of the HOA Common Area and Private Ingress and Egress Easement of the Property;
- 4) Including the remainder of Parcel A within the boundaries of the adjoining proposed Lot 1 of the Property;
- 5) Adding a 100-year floodplain, drainage and utility easement and forest conservation easement to be within a portion of Parcel A;
- 6) Adding wetlands and a forest buffer to Parcel A; and,
- 7) Adding standard notes prohibiting the disturbance of the Forest Buffer Easements and Forest Conservation Easements without express permission from DEPRM.

IT IS FURTHER ORDERED that those parts of the development plan and the FDPs for the Lands of Mr. Henry Fischer and Jerusalem Mills which do not relate to the proposed road extension, be and are hereby APPROVED, regardless of the outcome of the road closing proceeding. If the road is not closed and it shall be a public road, Petitioners will submit a revised Development Plan and revised FDPs to reflect a public road extension.

IT IS FURTHER ORDERED but for the amendments/changes set forth above, all other terms and conditions of the Order issued May 27, 2005 shall remain in full force and effect.

Any appeal of this decision must be taken in accordance with Articles 32-4-229(B)

and 32-4-281 of the Baltimore County Code.

WIŁLIAM J. WISEMAN, III

Zoning Commissioner/Hearing Officer

for Baltimore County

WJW:bjs

## Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

June 28, 2005

Jeffrey H. Scherr, Esquire Mindy Caplan, Esquire One South Street, 26<sup>th</sup> Floor Baltimore, Maryland 21202

RE: Amended Development Plan Hearing & Petitions for Special Hearing (Fischer Property)

Cases Nos. XI-956 & 05-314-SPH & 05-315-SPH

Dear Counsel:

Enclosed please find a copy of the Amended Order issued in the above-captioned matter.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

Very trudy yours,

WILLIAM J. WISEMAN, III Zoning Commissioner

for Baltimore County

WJW:bjs

Mr. & Mrs. Henry J. Fischer, 8215 Greenhouse Lane, Kingsville, Md. 21087
Mr. Jeffrey Deegan, 2309 Belair Road, Suite A, Fallston, Md. 21047
J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Md. 21286
Mr. Rob Loskot, Office of Law; Mr. Walt Smith, DPDM; DEPRM; OP; DPW; R&P; People's Counsel; Case File



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# IN RE: DEVELOPMENT PLAN HEARING & PETITIONS FOR SPECIAL HEARING

N/End Bluestone Road, S of Greenhouse Lane, E of Chapman Rd. & N of Redstone Rd. (Fischer Property – Bluestone Road) 11<sup>th</sup> Election District – 3<sup>rd</sup> Council District

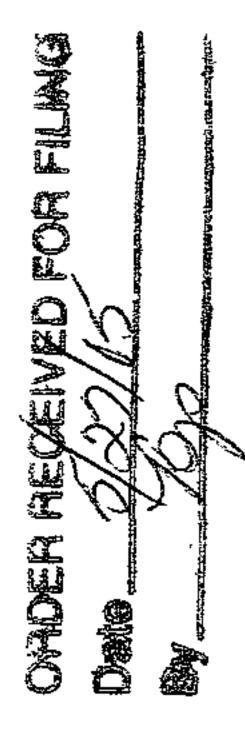
Henry J. Fischer, et al, Owners; Kingsmill, LLC, Developer

- \* BEFORE THE
- \* ZONING COMMISSIONER
- \* OF BALTIMORE COUNTY
- \* Cases Nos. XI-956, 05-314-SPH, 05-315-SPH

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## HEARING OFFICER'S OPINION AND DEVELOPMENT PLAN ORDER

This matter comes before this Hearing Officer/Zoning Commissioner for a combined public hearing, pursuant to Section 32-4-230 of the Baltimore County Code (BCC). That Section permits an applicant to request development plan approval and zoning relief through a single public hearing. Pursuant to the development review regulations codified in Article 32, Title 4 thereof, the Owners/Developers seek approval of a four-page, redlined development plan, prepared by Wilson Deegan & Associates, Inc., for the proposed residential development of the subject property with 14 single-family detached dwelling units, one of which is existing. In addition to development plan approval, the Owners/Developers filed two Petitions for Special Hearing seeking certain zoning relief, pursuant to Sections 500.7 and 1B01.3(A)(7)(b) of the Baltimore County Zoning Regulations (B.C.Z.R.). Specifically, in Case No. 05-314-SPH, the Owners/Developers seek approval of amendments to the Final Development Plan (FDP) for the "Lands of Mr. Henry Fischer" as follows: 1) to reflect a private roadway extension within a portion of the remaining lands, known as Parcel "A" and labeled as "Highway R/W for Future Road" to facilitate a more perpendicular crossing of an existing stream, which road will access the proposed Fischer Property development; to show the roadway area and associated R/W as part of the "HOA Common Area and Private Ingress and Egress Easement" of the Fischer Property; and, to show the remainder of Parcel "A" to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property; 2) to add a storm water management device to treat and control the newly proposed impervious surfaces; 3) to amend the forest buffer so that it will be 25 feet from the 100-year floodplain and to relocate a portion of the forest buffer and wetlands; 4) to add a 100-year floodplain, drainage and utility easement and forest conservation



easement, as required by the Department of Environmental Protection and Resource Management (DEPRM); and, 5) to add a sign at the entrance of the Fischer Property Development. Similar relief is requested under Case No. 05-315-SPH for approval of amendments to the Final Development Plan for "Jerusalem Mills." In that case, relief is requested: 1) to reflect a private roadway extension within a portion of the remaining lands labeled Parcel "A" of Jerusalem Mills, which was recently conveyed to Developers, and to reflect the change in ownership of that parcel; 2) to add a 100-year floodplain, drainage and utility easement, and forest conservation easement within a portion of Parcel "A;" and, 3) to add wetlands and a forest buffer to Parcel "A."

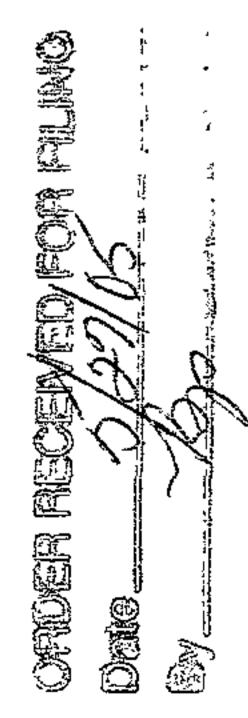
In summary, the purpose of the requested relief is to move the proposed extension of Bluestone Road so that it disturbs less of the attendant stream, to make Bluestone Bridge Road a private road, and to add updated environmental information. The subject property and proposed subdivision are more particularly described on the four-page, redlined development plan submitted and marked into evidence as Developer's Exhibits 7A through 7D, and collectively Petitioner's Exhibits 1 and 2, (Case No. 05-314-SPH), and Petitioner's Exhibits 1A-1C and 2A-2C, (Case No. 05-315-SPH).

This proposal has been reviewed in accordance with the development review regulations codified in Article 32 of the Baltimore County Code. Those regulations establish a process by which development is reviewed through a series of steps or stages. The first step of the process requires that the Developer submit a Concept Plan, which as the name suggests, is a schematic representation of the proposed development. The concept plan is submitted for review at a conference held by and between representatives of the Developer and the County at a Concept Plan Conference (CPC), which in this case was conducted on December 29, 2003. The second step of the process requires a Community Input Meeting (CIM), which is conducted during evening hours at a public facility in the vicinity of the proposed development. The CIM provides an opportunity for residents of the locale to review and offer comment on the proposal. The CIM for this project was held on January 22, 2004 at the Kingsville Volunteer Fire Department. Subsequently, a development plan is submitted for review and comment at a

conference held again between the Developer and County agency representatives. Often the development plan has been revised to incorporate changes suggested at the CPC and/or CIM. The Development Plan Conference (DPC) in this case was held on January 26, 2005. The fourth and final phase of the review process requires a Hearing Officer's Hearing (HOH). The HOH is a public hearing before the Zoning Commissioner/Deputy Zoning Commissioner, and is conducted in accordance with the rules governing administrative hearings in this State. In this case, the Hearing Officer's Hearing was conducted over three days, namely, February 17, 2005, March 25, 2005, and May 13, 2005. As was done in this case, the Hearing Officer's Hearing may be combined with the public hearing required for the requested zoning relief. The Hearing Officer solicits testimony from the Developer, representatives of reviewing County agencies, and neighbors and interested individuals from the community. Issues and concerns are initially identified during an informal phase of the hearing, after which testimony on those issues is then presented in detail. The Hearing Officer is required to issue a written decision within 15 days of the closing date of proceedings. As required, this decision follows.

Appearing on one or more hearing dates in support of the project were Henry J. Fischer and his wife, Shirley M. Fischer; Joseph M. Moran on behalf of Kingsmill, LLC Contract Purchasers/Developers; and Jeffrey Scherr, Esquire, and Mindy L. Caplan, Esquire attorneys for the Owners/Developers. The Developer produced as an expert witness, Jeffrey J. Deegen, a Professional Engineer, who prepared the development plan(s); Donald M. Mitten, Chief Engineer with Richardson Engineering, LLC; Mickey Cornelius, a traffic engineer; and Henry Leskinen, an ecologist.

The requested approval of the proposed development plan was contested. The opponents are generally residents of the neighborhood and include Samuel Talbot, Leigh Keller, Tom and Marilyn Shipley, Vaughn and Candace Cronauer, Dennis & Lisa Bolt, Ronald and Cynthia Tyszko, Robert Hester, Timothy and Lisa Winter, Edward and Marie McBride, Dinah Buck, William and Teresa Albright, John Josenhans, Nick Thrappas, David Williams, John Earnshaw, Mitch Butta, Steven Schulte, Charlotte Pine, John Hannan, Drew Mize, and Anne



Cottone. J. Carroll Holzer, Esquire represented the Greater Kingsville Civic Association and Laverne Laubach. Numerous representatives of the various Baltimore County agencies who reviewed the plan appeared and or testified at the hearing. They included the following individuals from the Department of Permits and Development Management (DPDM): Donald Rascoe, Deputy Director of DPDM and Walt Smith, Project Manager; Bob Bowling and Rahee Famili, Development Plans Review; Eric Rockel and Don Stires, Land Acquisition; and, Donna Thompson, Zoning Review. Also appearing on behalf of the County were Mark Cunningham, Office of Planning (OP); Lt. Frank Cook, Baltimore County Fire Department; R. Bruce Seeley and John Oltman, Department of Environmental Protection and Resource Management (DEPRM); and Jan Cook, Department of Recreation and Parks (R&P). In addition, written Development Plan Comments are contained within the case file from those agencies.

The subject property under consideration is an irregularly shaped parcel located at the north end of Bluestone Road, south of Greenhouse Lane and Jericho Road near Gunpowder Falls State Park in Kingsville. The Fischers have owned the subject property for many years and used the northernmost portion of the site for their commercial florist business and agricultural operations. The property contains a gross area of 38.38 acres, more or less, zoned R.C.5, and is improved with a single-family dwelling wherein the Petitioners' son, David Fischer, resides, known as 8211 Greenhouse Lane, which will remain as Lot 12. The property contains significant environmental constraints, including floodplains, a stream, wetlands, and steep slopes. Although the acreage of the property and zoning classification would permit up to 20 homes, the Developer proposes only 14, including the one existing. The lots will range in size from a minimum of 1.06 acres (Lot 9) to 6.92 acres (Lot 1). Each lot will be served by private well and septic system. Development of the property will primarily occur in the central and northern portions of the site, owing to the environmental constraints in the southern portion of the tract. Vehicular access to the new lots is proposed by way of a planned extension of Bluestone Road through the Lands of Henry Fischer (Parcel A), which will cross over a stream via a bridge and enter the west side of the property. At that point, a private road, to be known as Bluestone

Bridge Road, will be constructed which will lead into the interior of the site and terminate as a cul-de-sac. A smaller road, to be known as Fischer Court, will be constructed to provide access to the interior lots on the north side of Bluestone Bridge Road.

An extensive volume of testimony and evidence was offered in this case over the three hearing dates. Due to limitations of time and space, it is impossible to repeat all of the testimony offered herein. Additionally, there were numerous documents, photographs, plats, written memoranda, and other exhibits entered into the record of this case. Testimony and evidence offered by both sides as well as the issues raised and arguments advanced were recorded by Esquire Deposition Services.

## STANDARD OF REVIEW

A brief comment is in order about the standard of review that the Hearing Officer must apply in this case. As noted in a prior opinion issued by this Office, the development review regulations establish the "rules of the game" insofar as development in Baltimore County. The Developer may argue that these rules are too strict, while the Community may contend that they are not strict enough. Regardless, they are what they are. If the Developer meets the regulations, approval of the plan must follow. Moreover, if the Community can show that the plan should be changed to appropriately mitigate an anticipated negative impact upon the locale, then a restriction/condition to the plan can be imposed.

Pursuant to Sections 32-4-227 and 228 of the Baltimore County Code which regulates the conduct of the Hearing Officer's Hearing, I am first required to identify any outstanding issues or agency comments. The issues and concerns raised at the hearing and in written memorandum are addressed as follows:

## **DEVELOPER'S ISSUES**

At the first Hearing Officer's Hearing on February 17, 2005, the only issue raised by Developer's Counsel was a technical one, dealing with the proposed amendment to designate the now public paper road (Bluestone Road) to one designated and held as a private road. This issue will be dealt with later in this opinion; however, suffice it to say that the previously approved

Final Development Plan for the Lands of Henry Fischer, recorded some 10 years ago, designated Bluestone Road as a public paper road. The Owners/Developers propose to amend that plan to extend Bluestone Road as a private road (Bluestone Bridge Road) which is a scenario that is supported by the homeowners who currently reside within the remainder of Parcel A of the Lands of Mr. Henry Fischer. The Opponents, on the other hand, believe the road should be extended through Parcel A as a public road.

## **COUNTY ISSUES**

With the exception of the Department of Environmental Protection and Resource Management (DEPRM) and the Office of Planning (OP), the County agency representatives who were present identified no outstanding or unresolved comments and recommended plan approval. On behalf of DEPRM, Bruce Seeley appeared and identified two issues raised by the Groundwater and Stormwater Management Divisions that would require resolution and plan revisions before his Department would recommend approval. Mark Cunningham on behalf of the Office of Planning requested the reorientation of the homes on Lots 6 and 7 and the relocation of trash collection and mailboxes on the panhandle lots.

The issue of whether to extend Bluestone Road as a public or private road was also raised by Don Stires of the Bureau of Land Acquisition. He noted that while the plan complies with all the requirements for development, his office has taken the position that the prior recorded Final Development Plan for the Lands of Henry Fischer created an irrevocable offer of dedication for this road. Thus, they will not consent to an amendment of the plan to now reflect the extension of Bluestone Road as a private road. On the contrary, Robert Bowling, as Chief of the Bureau of Development Plans Review and on behalf of the Department of Public Works, stated that they had no objections to the proposed amendment, given the fact that the road will be constructed in accordance with County requirements.

Prior to receiving testimony on the issues raised by the Protestants/citizens who were present, J. Carroll Holzer, Esquire filed a Motion that the hearing be continued. He stated that the hearing should be continued until such time as the Developer submits a revised development

plan addressing the issues raised by DEPRM and a final determination of the public versus private access road is made. Counsel for the Owners/Developers objected to the request for continuance and for reasons stated in open hearing, Mr. Holzer's Motion was denied. Specifically, the undersigned Hearing Officer noted the lengthy history of the project to date and the fact that a second date had been pre-arranged for the hearing's continuance. In my view, this 30-day, plus, time period would provide adequate time for the Developer's engineer to address DEPRM's concerns and the opportunity for Counsel to submit memorandum on their respective positions on the road closing issue.

## PROTESTANTS' ISSUES

Regarding the development plan, most of the issues raised by the attending community members revolved around the idea that there was no need for another housing development in the area. Their cumulative concerns can be summarized into two categories; public safety and environmental. Public safety issues concerned perceived increases in traffic and pedestrian safety risks through the existing residential neighborhoods bordering Redstone and Bluestone Roads; a potential for short cuts through the new development to access Greenhouse Lane and Jericho Road to the north; and, the heavy equipment needed to fill in portions of the floodplain area and construct a 60-foot span bridge over the stream and new road placing undue stress on existing roads and infrastructure. The second area of concern with significant testimony and evidence offered by both sides related to storm water management and environmental issues. As noted above, this is an environmentally sensitive site with significant storm water runoff and flooding conditions occurring at the outfall or culvert positioned under Jericho Road. Other neighbors questioned if there would be adverse impacts to their existing wells, the wildlife, septic runoff, and whether perc tests were properly conducted, and finally, whether the plan involved property on the Landmarks Preservation Commission list.

## 1) Groundwater and Stormwater Runoff

As a result of deficiencies raised by DEPRM, a second redlined plan was submitted at the hearing on March 25, 2005 addressing comments received from the Stormwater

Management Division of DEPRM. The plan shows two stormwater management facilities. The first is a pre-treatment segment located west of the access road prior to the point where the proposed road crosses the stream. Storm water is funneled through storm drains and swales to this facility and through sand filters. It is then released over a 12-hour period where it flows to the second facility, an existing pond that will function as a detention facility. Mr. Deegan testified that the facility has been designed to manage the required 2-, 10-, and 100-year flood protection volumes. The Protestants argue that stormwater runoff will likely increase placing further burden in the area of the concrete culvert under Jericho Road near the Talbot and Laubach properties. Ms. Laubach submitted photographic evidence showing the impact that existing flooding conditions have had on her property over a 10-year period. Mr. Deegan testified that the proposed storm water management system would actually decrease the amount of water runoff she is currently experiencing on her property by 25%.

Robert Hester, who resides at the end of Bluestone Road, expressed concern about the amount of stormwater runoff that now flows onto his property and complained that the existing T-turnaround was never completed. Mr. Deegan addressed Mr. Hester's concerns and explained how the T-Turnaround would be improved so that water will be taken to the storm water management facility instead of running onto Mr. Hester's property. He testified that the proposed extension of Bluestone Road will be curbed so that water will be contained and directed to fall into inlets on both sides of the road and then taken to the detention facility.

In addressing the concerns regarding potential impacts on existing wells in the area, Mr. Seeley explained the geological formation of the area and that groundwater is stored in cracks and fishers beneath the ground surface. Because the groundwater in this area is drawn from pockets that, usually, have no extensive connection to each other, there are general minimal impacts to other wells in the area. The significant amount of floodplain space and other areas that will not be developed assures sufficient recharge for the number of wells proposed.

The issue of stormwater management is a frequent concern in development plan cases. DEPRM's Stormwater Management Division maintains and enforces stringent

regulations regarding this issue. I am confident that their review of the proposal in this case was thorough. Although appreciative of Ms. Laubach's and others concerns, I believe that the plan adequately provides for stormwater protection.

# 2) Septic Reserve Areas

Another issue raised by the Protestants relates to the septic reserve areas for this property and assertions that the percolation tests conducted were not appropriately performed. The resolution of this issue is similar to that relating to wells. Baltimore County has in place regulations regarding the required size of septic reserve areas, the capacity thereof, the distance from adjacent wells, and other septic reserve areas, etc. These regulations have all been applied to this development plan and the plan complies with those regulations in all respects. There is no credible evidence in the record that the septic reserve systems proposed for the lots in this case will cause detrimental impacts to adjacent properties.

Despite Ms. Laubach's testimony that the tests were not properly performed, the septic reserve areas have been determined to be appropriate through percolation tests. I decline to deny the plan on this issue.

# 3) Traffic/Vehicular Access/Public Safety

As noted above, the existing Bluestone Road will be extended with a new road leading into the interior northern portion of the site. It is also significant to observe that the road will traverse across a portion of this site that contains a stream and steep slopes. Nonetheless, whether ultimately determined to be a public or private road, it will be engineered, designed and constructed in accordance with all appropriate County standards for road and bridge design and construction. The proposed development of 13 additional homes will generate minimal traffic. According to accepted authorities in the transportation industry, each of the single family dwelling units proposed will generate 10 "average daily trips" (ADTs) per day. That is, there will be 5 "out" movements from the site and 5 "in" movements for returning traffic on a daily basis for each dwelling. All told, the ADTs anticipated for the houses on Bluestone Bridge Road and Fischer Court will be 140. Moreover, the number of ADTs is not to be misunderstood to

mean that there will be 140 cars exiting Bluestone Bridge Road onto Chapman Road each morning. Rather, one resident may go to work in the morning and return home at night. This "in" and "out" traffic movement constitutes two ADTs. There are anticipated to be 140 ADTs interspersed throughout a 24-hour day. It cannot be seriously contended that the introduction of this volume of traffic will create congestion or overburden Bluestone, Redstone, or Chapman Roads.

Another area of contention relative to this issue relates to the private road running from Lot 12, owned by the Owner's son, David Fischer, to Greenhouse Lane. To prevent this access road from being used as a public thoroughfare, the Developer has agreed to plant a landscape barrier and has amended the site plan to reflect a chain barrier or a gate to prevent all unauthorized access.

# 4) Alleged Lack of Due Process

On April 13, 2005, Richard Klein, of Community and Environmental Defense Services, wrote a letter to Dennis Kennedy with the Bureau of Development Plans Review, a division of DPDM, alerting him that there were over 100 homes along Redstone Road and the intersecting dead-end roads in the community. In view of this, he pointed out that the Bureau of Development Plans Review Policy Manual requires more than one means of access to the community (Petitioner's Exhibit 9). Based on these findings, Mr. Holzer contended that the introduction of the amended redlined plan should be denied due to an alleged lack of due process and asserted that another community input meeting (CIM) is warranted to consider the alternative means of access. It should be noted that the Protestants retained Mr. Klein's services following the close of the Developer's case on March 25, 2005.

In response thereto, the Developer submitted to Baltimore County three alternative means of access. Rahee Famili testified on behalf of Development Plans Review that the policy only requires that an alternative means of access be shown as feasible; or, physically possible, when there are over 100 but less than 150 homes using a single means of access. Mr. Famili reviewed the three alternatives proposed by the Developer and approved two of them. He

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testified that the actual construction of a second means of access is not required, unless there are over 150 homes using one means of access. Because the proposed development of the subject property would not increase the total units using the current means of access to more than 150 homes, the Developer is not required, nor do they intend, to construct a second means of access.

As has been stated frequently in prior development plan decisions rendered by this office, the development review process in Baltimore County is evolutionary in nature. The process is designed to identify, address and resolve issues as they become apparent. This approach has been endorsed repeatedly by the Hearing Officers for Baltimore County, the Board of Appeals, and the appellate Courts that review these cases. The record of this case will show that the hearing was spread over the course of several months and that no County agency raised any objection as to the timing of any submittals. I do not find anything in the process of this case that caused undue prejudice to the Protestants or to their ability to understanding the plan and raise objections thereto. I believe that due process was afforded all parties so as to give them an opportunity to understand the proposal and present their respective positions relating thereto. Thus, the plan shall not be denied on that basis.

### 5) Landmarks Preservation List

Mr. John Earnshaw, a resident of historic Franklinville, which is southeast of the subject site and extends into Harford County east of Jericho Road, appeared and offered testimony at the May 13, 2005 hearing. He testified that Jericho Road connects to historic landmark properties; Jerusalem Mills, which is northwest of the property, and Franklinville. He further testified that Jericho Road experiences flooding problems, especially at the culvert that is located near Ms. Laubach's property. He joined the others in expressing concern about additional water runoff being directed to Jericho Road and opined that should the road be washed out, access to the historic sites would be impaired. Mr. Deegan, however, testified that because the 2-, 10- and 100-year storms would be managed, the actual runoff from the subject property in its developed state would be less than it is now. He further testified that the water runoff from the subject property would not run to Franklinville, which is uphill, or that the

Franklinville floodplain would drain down into the culvert at Ms. Laubach's property, as suggested by Mr. Earnshaw. Another valley exists between Ms. Laubach's property and historic Franklinville, which would prevent water from travelling from one location to the other.

Although he does not represent Mr. Earnshaw, Protestant's Counsel made a Motion, pursuant to Section 32-4-231 of the B.C.Z.R., that the plan be referred to the Planning Board because it involved a building, structure or site included on the Landmarks Preservation Commission list. The plan, however, does not involve in any respect whatsoever any portion of historic Franklinville or any historic properties. Thus, this Zoning Commissioner declined to seriously consider a referral of this matter to the Planning Board.

While I am appreciative of the fact that the neighbors who actually reside in the area are no doubt familiar with existing conditions on their own properties, I am not persuaded by the conclusions that they draw with regard to the proposed development. Simply stated, I am not convinced that their allegations are meritorious and that development of the subject property as proposed will adversely impact adjacent properties or aggravate off-site conditions. For example, the argument presented that the Developer's storm water management proposal "would only exacerbate the already present flooding conditions" on the Laubach and Talbot properties is unsupported by any competent and reliable evidence presented. Having considered all the testimony and evidence offered on the issues identified, I am persuaded that the development plan meets all requirements, regulations and standards for development in Baltimore County. Thus, the four-page redlined development plan for the Fischer Property shall be approved, subject to the ongoing review process mandated by Phase 2 of the review process and the conditions attached below relative to the access road.

## ZONING RELIEF

As noted above, the Owners/Developers also seek approval of certain amendments to two previously approved FDPs to reflect a private roadway extension in lieu of the previously shown public paper road to provide access to the proposed development. In this regard, the Developer proposes a private roadway extension within a portion of the remaining Lands of Mr.

Henry Fischer, known as Parcel "A" and labeled on the previously approved FDP as "Highway R/W for Future Road." In addition, the road will also extend through "Parcel A" of Jerusalem Mills, which was recently conveyed to the Developer. In this regard, it is to be noted that initial plans for this private road did not involve the Jerusalem Mills' property; however, at DEPRM's request, the road was reconfigured to cross the stream at a more perpendicular angle. Thus, the Petitioners acquired Parcel A of Jerusalem Mills for this purpose and therefore, an amendment to reflect both the change in ownership of Parcel A of Jerusalem Mills and the use of that portion of the property for the private road extension is necessary. Both the amended FDPs and the development plan will reflect the extension of Bluestone Road as a private road to be known as Bluestone Bridge Road to access the subject property, and the acquisition of Parcel A of Jerusalem Mills. In addition, the environmental amendments are a direct result of more current information regarding the location of the floodplain and other environmental conditions and delineations of natural resources, as well as updated environmental rules and regulations.

With regard to the access road, the Baltimore County Bureau of Land Acquisition contends that, per the record plat for the Lands of Mr. Henry Fischer, which was recorded in 1995 (see County's Exhibit 4), Mr. Fischer offered for dedication the future roadway to the County as a public road. Because the County considers the offer of dedication to be irrevocable, it will not consent to amending the FDPs to reflect a private road or approving the Plan if a private road is reflected.

Contrary to the County's contention, however, the Owners/Developers are not proposing to withdraw the offer of dedication. Instead, they argue that the County did not accept, and in fact, rejected the offer of dedication. Thus, the proposed roadway may be a private road.

Section 32-4-271 of the Baltimore County Code ("BCC") provides that irrevocable offers of dedication to the public of all public improvements shall accompany the plat and shall be in a form approved of by the County Attorney. (Section 32-4-271(b), BCC). Only the County Executive may accept formal offers of dedication. (Section 32-4-271(d)(1), BCC).

The recording of a plat, however, "does not constitute or imply the acceptance by the county of any public improvement . . . shown on the plat." (Section 32-4-271(d)(2), BCC). Indeed, a plat must contain, *inter alia*, the following notations:

- a. That the recording of the plat does not constitute or imply acceptance by the County of any public improvement shown on the plat;
- b. That the recording of the plat does not guarantee construction of streets or utilities by the county; and
- c. That the information shown may be superceded by a subsequent or amended plat.

Section 32-4-271(f)(1), (3) and (4), BCC (emphasis added).

Acceptance by the County of a dedicated road is conditioned upon the road meeting various construction requirements. (See Section 18-3-307(b), BCC). Because a road must meet certain physical requirements before the County may accept an offer of dedication, the County cannot accept a road that has not yet been built.

The Developer argues that for a dedication of a public road to be complete, there must be an offer and an acceptance. <u>United Finance Corp. v. Royal Realty Corp.</u>, 172 Md. 138, 191 A. 81, 86 (1937). In addition, "[s]uch an offer must be accepted within a reasonable time." <u>United Finance Corp.</u>, 172 Md. 138, 191 A. at 86. The method of acceptance by the County of a dedicated road shall be by endorsing the deed of conveyance, which must be recorded. (Section 18-3-307(c), BCC). Because the requirements for a dedication have not been met, there is no reason why the road cannot be private.

Further testimony and evidence offered by the Owners/Developers is more fully set forth in the two well prepared Memoranda submitted during the hearing, and the Post-Hearing Memoranda submitted at its conclusion. They address, among other things, the bridge and road construction standards, maintenance responsibilities, etc. As the record reflects, I received conflicting testimony and positions while conducting the hearing. A review of relevant authority raised a question as to whether I, as Zoning Commissioner, have the authority to supercede

Section 18-3-302 of the BCC dealing with the mechanism for closing County roads. A request for legal guidance from the Office of Law disclosed that the Developer would have to proceed pursuant to Section 18-3-302 and petition for a road closing through the Department of Permits and Development Management (DPDM). If the County approves the closure of the road, the Developer would be able to amend the prior FDPs, accordingly.

Notwithstanding Developer's arguments that the Zoning Commissioner has the authority to make such a ruling, the Developers filed a Petition to close the road extension of Bluestone Road under Case No. R.C.2005-002. A hearing in that matter was held before Donald T. Rascoe, Deputy Director of the Department of Permits and Development Management (DPDM) on May 4, 2005 and a decision in that matter is still pending.

Regardless of whether the road extension is ultimately deemed to be public or private, the remaining changes to the FDPs for both The Lands of Mr. Henry Fischer and Jerusalem Mills should be approved. There is no compelling reason, legal or otherwise, to deny it. Therefore, I shall approve the plan and Petitions for Special Hearing, pending a decision on the road closing issue. If the County approves the road closure, then the development plan as submitted and the amendments shall be approved. If the County denies the road closure, then a revised development plan reflecting the road as a public road must be submitted and the FDPs for the Lands of Mr. Henry Fischer and Jerusalem Mills revised accordingly.

#### **CONCLUSION**

After due consideration of all of the testimony and evidence presented, I am persuaded to approve the development plan, as submitted, and the Petitions for Special Hearing filed in Cases Nos. 05-314-SPH and 05-315-SPH, subject to the resolution of the road closing issue. Regardless of whether the road is designated a public or private road, the proposed extension and bridge will be constructed in accordance with public standards. All issues raised by the County and by the Protestants were adequately addressed by the plan. All wells and septic reserve areas have been configured to meet the appropriate setback requirements, percolation tests were properly performed, and all environmental issues and concerns have been addressed. In this

regard, a note will be added to the plan prohibiting the disturbance of the forest buffer easements and forest conservation easements, without express permission from DEPRM. Finally, the plan does not involve buildings, sites or structures on the Landmarks Preservation Commission's Lists. I am persuaded that the plan as submitted meets all County rules, regulations and standards and that the proposed amendments are appropriate. Moreover, I find that there will be no detrimental impacts to adjacent properties or the surrounding locale.

Pursuant to the zoning and development plan regulations of Baltimore County as contained within the B.C.Z.R. and Article 32, Title 4 of the Baltimore County Code, the development plan shall be approved consistent with the comments contained herein and the Petitions for Special Hearing filed in Case Nos. 05-314-SPH and 05-315-SPH shall be granted, in part, consistent with the comments contained herein and the restrictions set forth hereinafter.

THEREFORE, IT IS ORDERED by the Zoning Commissioner/Hearing Officer for Baltimore County this 21 day of May 2005 that the four-page, redlined development plan for the Fischer Property, identified as Developer's Exhibits 7A through 7D, be and is hereby APPROVED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 05-314-SPH seeking approval of amendments to the Final Development Plan (FDP) for the "Lands of Mr. Henry Fischer" as follows: 1) to reflect a private roadway extension within a portion of the remaining lands, known as Parcel "A" and labeled as "Highway R/W for Future Road" to facilitate a more perpendicular crossing of an existing stream, which road will access the proposed Fischer Property development; to show the roadway area and associated R/W as part of the "HOA Common Area and Private Ingress and Egress Easement" of the Fischer Property; and, to show the remainder of Parcel "A" to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property; 2) to add a storm water management device to treat and control the newly proposed impervious surfaces; 3) to amend the forest buffer so that it will be 25 feet from the 100-year floodplain and to relocate a portion of the forest buffer and wetlands; 4) to add a 100-year floodplain, drainage and utility easement and forest conservation

 easement, as required by the Department of Environmental Protection and Resource Management (DEPRM); and, 5) to add a sign at the entrance of the Fischer Property Development, in accordance with Petitioner's Exhibits 1 and 2; be and is hereby GRANTED; and,

IT IS FURTHER ORDERED that the Petition for Special Hearing filed in Case No. 05-315-SPH seeking approval of amendments to the Final Development Plan for "Jerusalem Mills" as follows: 1) to reflect a private roadway extension within a portion of the remaining lands, labeled as Parcel "A" of Jerusalem Mills, which was recently conveyed to Developers, and to reflect the change in ownership of that parcel; 2) to add a 100-year floodplain, drainage and utility easement, and forest conservation easement within a portion of Parcel "A;" and, 3) to add wetlands and a forest buffer to Parcel "A," in accordance with Petitioner's Exhibits 1A through 1C, and 2A through 2C, be and is hereby GRANTED, subject to the following restriction:

- 1) The relief granted herein is contingent upon the Developer obtaining approval of its Petition to close the road in Case No. R.C.2005-002. In the event the Developer is denied the road closure, then a revised plan reflecting the extension of the road as a public road must be submitted prior to record plat. In addition, the FDPs for the Lands of Mr. Henry Fischer and Jerusalem Mills shall be revised accordingly.
- 2) A standard note shall be added to the plan prohibiting the disturbance of the forest buffer easements and forest conservation easements, without express permission from DEPRM.

Any appeal of this decision must be taken in accordance with Articles 32-4-229(B)

and 32-4-281 of the Baltimore County Code.

ILMAM / WISEMAN, III

Zoning Commissioner/Hearing Officer

for Baltimore County

WJW:bjs

# Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# Baltimore County

James T. Smith, Jr., County Executive
William J. Wiseman III, Zoning Commissioner

May 27, 2005

Jeffrey H. Scherr, Esquire Mindy Caplan, Esquire One South Street, 26<sup>th</sup> Floor Baltimore, Maryland 21202

RE: Development Plan Hearing & Petitions for Special Hearing

(Fischer Property)

Cases Nos. XI-956 & 05-314-SPH & 05-315-SPH

Dear Counsel:

Enclosed please find a copy of the decision rendered in the above-captioned matter. The development plan has been approved, in accordance with the attached Order.

In the event any party finds the decision rendered is unfavorable, any party may file an appeal to the County Board of Appeals within thirty (30) days of the date of this Order. For further information on filing an appeal, please contact the Department of Permits and Development Management office at 887-3391.

WILLIAM IXWISEMAN, III
Zoning Commissioner

for Baltimore County

WJW:bjs

cc: Mr. & Mrs. Henry J. Fischer, 8215 Greenhouse Lane, Kingsville, Md. 21087

Mr. Jeffrey Deegan, 2309 Belair Road, Suite A, Fallston, Md. 21047

Mr. Henry Leskinen, P.O. Box 5006, Glen Arm, Md. 21057

Mr. Joseph M. Moran, 309 W. Chesapeake Avenue, Suite 208, Towson, Md. 21204

Mr. Don Mitten, 110 Old Padonia Road, Suite LC, Cockeysville, Md. 21030

J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Md. 21286

Ms. Anne S. Cottone, 8005 Redstone Road, Kingsville, Md. 21087

Mr. Robert Hester, 11911 Bluestone Road, Kingsville, Md. 21087

Mr. Drew Mize, 7902 Redstone Road, Kingsville, Md. 21087

Ms. Dinah Buck, 11905 Bluestone Road, Kingsville, Md. 21087 Mr. Mitch Butta, 11902 Bluestone Road, Kingsville, Md. 21087

Mr. Sam Talbot, 11924 Jericho Road, Upper Falls, Md. 21156

Mr. Rob Loskot, Office of Law; Mr. Walt Smith, DPDM; DEPRM; OP; DPW; R&P;

People's Counsel; Case File



Visit the County's Website at www.baltimorecountyonline.info





# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County

North end of Bluestone Road, North of Redstone Road

for the property located at and East of Chapman Road

which is presently zoned \_\_R.C. 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve pursuant to Section 1B01.3(A)(7)(b) of the Baltimore County Zoning Regulations, the amendment of the Final Development Plan for the Lands of Mr. Henry Fischer. See attached.

Property is to be posted and advertised as prescribed by the zoning regulations.

I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

### Contract Purchaser/Lessee:

### Legal Owner(s):

See attached sig	inature page		<u>See attached</u>	signature page	
Name - Type or Print		Nar -	ne - Type or Print		
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Address		Telephone No.	Name - Type or Print	<u></u>	<del></del>
City	State	Zip Code	Signature	<u> </u>	<del></del>
<u>Attorney For Petition</u> Mindy L. Caplan	oner:	y vol	Address		Telephone No.
Varne - Type or Print	agle	Cîty	Representative t		Lip Code
ignature Kramon & Graha	am, P.A.	<u></u>	Jeffrey J. Deeg	gan, Wilson Deeg	jan & Associa
	et, Suite 2600 (4		Name	Road, Suite A (41	
<sup>ddress</sup> Batimore	MD	Telephone No. 21202	Address Fallston	MD	Telephone No. 21047
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# PROPOSED AMENDMENTS TO FINAL DEVELOPMENT PLAN OF "LANDS OF MR. HENRY FISCHER"

In compliance with § 1B01.3(A)(7)(b), Petitioners request that the following changes be made to the Final Development Plan for the "Lands of Mr. Henry Fischer."

#### Amendment No. 1

A change is proposed to reflect a private roadway extension within a portion of the remaining lands, known as Parcel "A", and labeled as "Highway R/W for Future Road," in order to access the Fischer Property, which is currently being developed. Final design considerations for the roadway, as well as comments from the Department of Environmental Protection and Resource Management ("DEPRM"), demanded a more perpendicular crossing of the existing stream system. The roadway area and associated R/W will also be shown to be part of the "HOA Common Area and Private Ingress and Egress Easement" of the Fischer Property. The remainder of Parcel "A" will be shown to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property Development.

### Amendment No. 2

A change is proposed to add a storm water management device to treat and control the newly proposed impervious surfaces.

## Amendment No. 3

A change is proposed to amend the forest buffer so that it will be 25 feet away from the one hundred year floodplain. This amendment is made at the suggestion of DEPRM, and is based on a more recent study of the location of the floodplain than what existed when the original Final Development Plan was approved. The location of a portion of the forest buffer and the wetlands will be changed to reflect the findings of Eco-Science Professionals, Inc.

#### Amendment No. 4

A change is proposed to add a one hundred (100) year floodplain, drainage and utility easement, and forest conservation easement, as required by DEPRM.

### Amendment No. 5

POR FILMO

A change is proposed to add a sign at the entrance of the Fischer Property Development.

314

03320/0/00120842.WPDv2

We solemnly declare and affirm, under the penalties of perjury, that we are the legal owners of the property which is the subject of this Petition.

Legal Owners:

### HENRY J. FISCHER

8215 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-9310

SHIRLEY M. FISCHER

8215 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-9310

Contract Purchaser/Lessee:

KINGSMILL, LLC

By: Joseph Moran, Managing Member

11619/Philadelphia Road

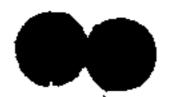
White Marsh, Maryland 21162

(410) 256-8650

314

03320/0/00121617.WPDv1







# Petition for Special Hearing

to the Zoning Commissioner of Baltimore County (Lands of Mr. Henry Fischer)

for the property located at 8223 Greenhouse Lane which is presently zoned R.C. 5

This Petition shall be filed with the Department of Permits and Development Management. The undersigned, legal owner(s) of the property situate in Baltimore County and which is described in the description and plat attached hereto and made a part hereof, hereby petition for a Special Hearing under Section 500.7 of the Zoning Regulations of Baltimore County, to determine whether or not the Zoning Commissioner should approve pursuant to Section 1B01.7(b) of the Baltimore County Zoning Regulations, the amendment of the Final Development Plan for the Lands of Mr. Henry Fischer. The property is shown on the attached Record Plat, which Plat was recorded among the Plat Records of Baltimore County in Plat Book SM 67, folio 111. See attached.

Property is to be posted and advertised as prescribed by the zoning regulations. I, or we, agree to pay expenses of above Special Hearing, advertising, posting, etc. and further agree to and are to be bounded by the zoning regulations and restrictions of Baltimore County adopted pursuant to the zoning law for Baltimore County.

> I/We do solemnly declare and affirm, under the penalties of perjury, that I/we are the legal owner(s) of the property which is the subject of this Petition.

#### Contract Durchaser/Lesses

Contract Purchaser	<u>/Lessee:</u>		<u>Legal Owner(s):</u>		
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Address	· · · · · · · · · · · · · · · · · · ·	Telephone No.	Name - Type or Print		
City	State	Zip Code	Signature		<del></del>
Attorney For Petition	ner:		Address		Telephone No.
Jeffrey H. Scherr, Name - Type of Print	<i></i>	City	,	State	Zip Code
Signature	10-		Representative to	be Contacted:	
Kramon & Grahar	n, P.A.		Jeffrey J. Deega	n, Wilson Deeg	gan & Associate
One South Street	, Suite 2600 (			ad, Suite A (4	10) 893-3700
Address Baltimore	MD	Telephone No. 21202	Address Fallston	MD	Telephone No. 21047
City	State	Zip Code	City	State	Zip Code
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Case No. 05-31	4-SPH		UNAVAILABLE FOR HEARI		
		Revi	ewed By MOT JN	P Date 12-2	2-04
REV 9/15/98				<del></del>	



We solemnly declare and affirm, under the penalties of perjury, that we are the legal owners of the property which is the subject of this Petition.

Legal Owners:

HENRY J. FISCHER

8215 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-9310

JOHN D. FISCHER

8211 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-2352

SHIRLEY M. FISCHER

8215 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-9310

KAREN D. FISCHER

8211 Greenhouse Lane

Kingsville, Maryland 21087

(410) 592-2352

Contract Purchaser/Lessee:

KINGSMILL, LLC

By: Joseph Moran, Managing Member

116/19 Philadelphia Road

White Marsh, Maryland 21162

(410) 256-8650

314



In compliance with § 1B01.7(b), Petitioners request that the following changes be made to the Final Development Plan for the "Lands of Mr. Henry Fischer."

#### Amendment No. 1

A change is proposed to reflect a private roadway extension within a portion of the remaining lands, known as Parcel "A", and labeled as "Highway R/W for Future Road," in order to access the Fischer Property, which is currently being developed. Final design considerations for the roadway, as well as comments from the Department of Environmental Protection and Resource Management ("DEPRM"), demanded a more perpendicular crossing of the existing stream system. The roadway area and associated R/W will also be shown to be part of the "HOA Common Area and Private Ingress and Egress Easement" of the Fischer Property. The remainder of Parcel "A" will be shown to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property Development.

#### Amendment No. 2

A change is proposed to add a storm water management device to treat and control the newly proposed impervious surfaces.

### Amendment No. 3

A change is proposed to amend the forest buffer so that it will be 25 feet away from the one hundred year floodplain. This amendment is made at the suggestion of DEPRM, and is based on a more recent study of the location of the floodplain than what existed when the original Final Development Plan was approved. The location of a portion of the forest buffer and the wetlands will be changed to reflect the findings of Eco-Science Professionals, Inc.

#### Amendment No. 4

A change is proposed to add a one hundred (100) year floodplain, drainage and utility easement, and forest conservation easement, as required by DEPRM.

#### Amendment No. 5

A change is proposed to add a sign at the entrance of the Fischer Property Development.

314

#### NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County will hold a public hearing in Towson, Maryland on the property identified herein as follows:

Case: #05-314-SPH

N/end of Bluestone Road, north of Redstone and east of Chapman Road

N/end of Bluestone Road, north of Redstone and east of Chapman Road

11th Election District - 5th Councilmanic District Legal Owner(s): Henry J. & Shirley M. Fischer

Contract Purchaser: Kingsmill, LLC

Special Hearing: to amend the Final Development Plan for the lands of Mr. Henry Fischer. To reflect a private roadway extension within a portion of the remaining lands, known as Parcel A, and lands, known as Parcel "A", and labeled as "Highway R/W for Future Road." The roadway area and associated R/W will also be shown to be part of the 'HOA Common Area and Private Ingress & Egress Easement' of the Fischer Property. The remainder of Parcel "A" will be shown to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property Development. To add a storm water management device to treat and control the newly proposed impervious surfaces. To amend the forest buffer so that it will be 25 feet away from the one hundred year floodplain. The location of a portion of the forest buffer and the wetlands will be changed. To add a one hundred (100) year floodplain, drainage and utility easement, and forest conservation easement; to add a sign at the entrance of the Fischer Property. Hearing: Thursday, February 17, 2005 at 9:00 a.m. in

WILLIAM WISEMAN

Avanue, Towson 21204.

Zoning Commissioner for Baltimore County

NOTES: (1) Hearings are Handicapped Accessible; for special accommodations Please Contact the Zoning Commissioner's Office at (410) 887-4386.

Room 106, County Office Building, 111 W. Chesapeake

(2) For information concerning the File and/or Hearing, Contact the Zoning Review Office at (410) 887-3391.

JT 2/601 February 1 37683

## CERTIFICATE OF PUBLICATION

24,2005
THIS IS TO CERTIFY, that the annexed advertisement was published
n the following weekly newspaper published in Baltimore County, Md.,
once in each ofsuccessive weeks, the first publication appearing
n 211,20 <u>05.</u>
The Jeffersonian
The Jeffersonian  Arbutus Times
☐ Catonsville Times
☐ Towson Times
Owings Mills Times
☐ NE Booster/Reporter
☐ North County News
S. Wilkings

LEGAL ADVERTISING

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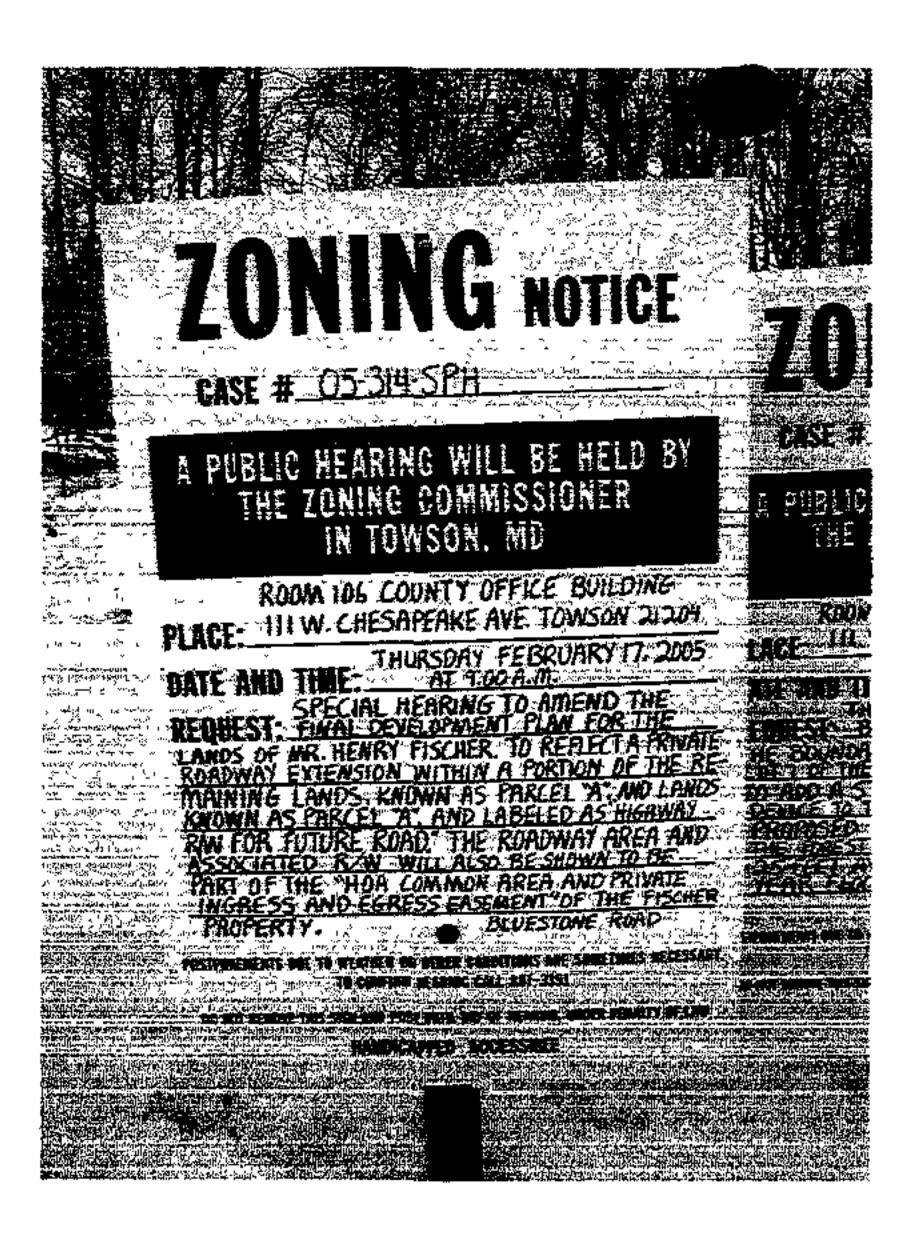
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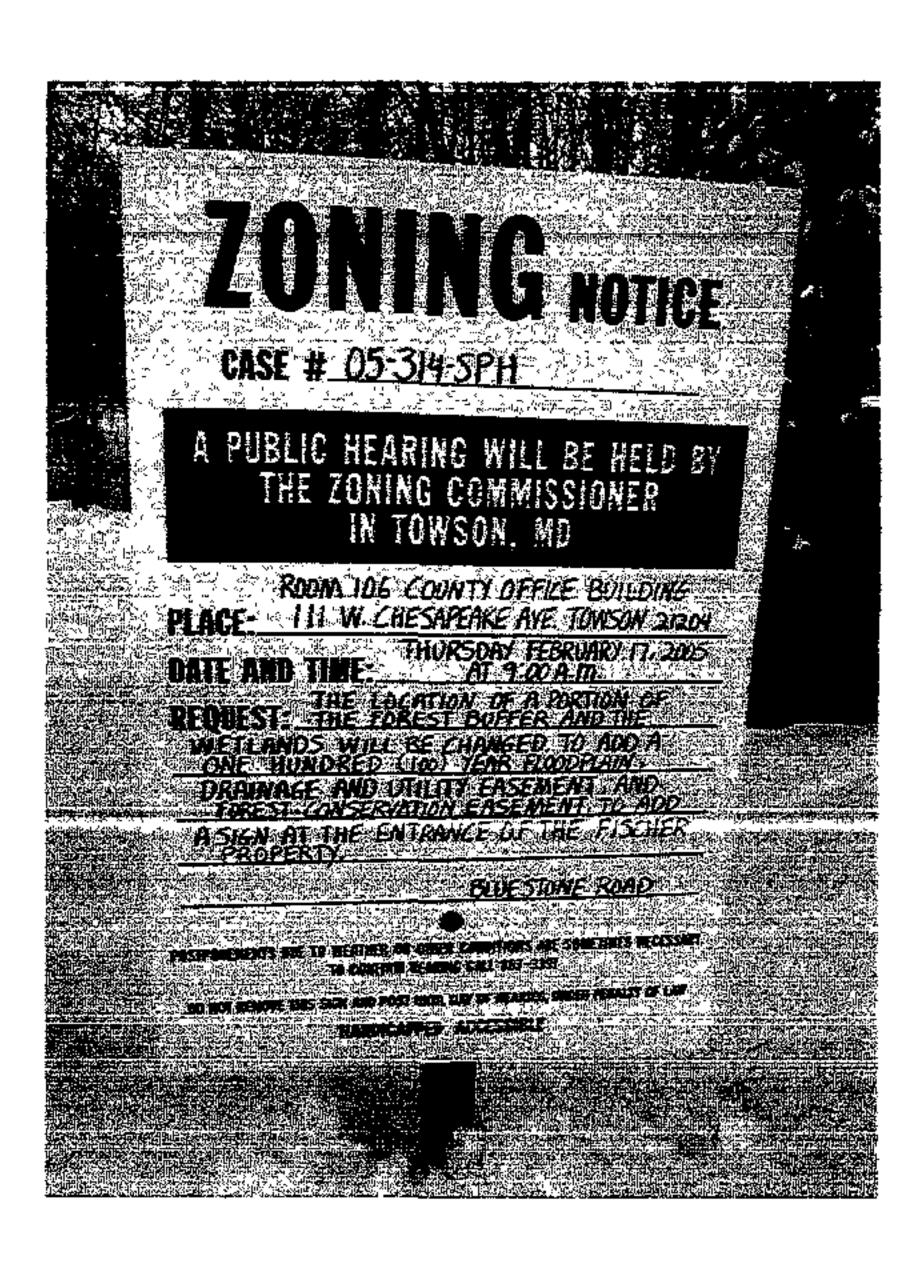
PINK - AGENCY

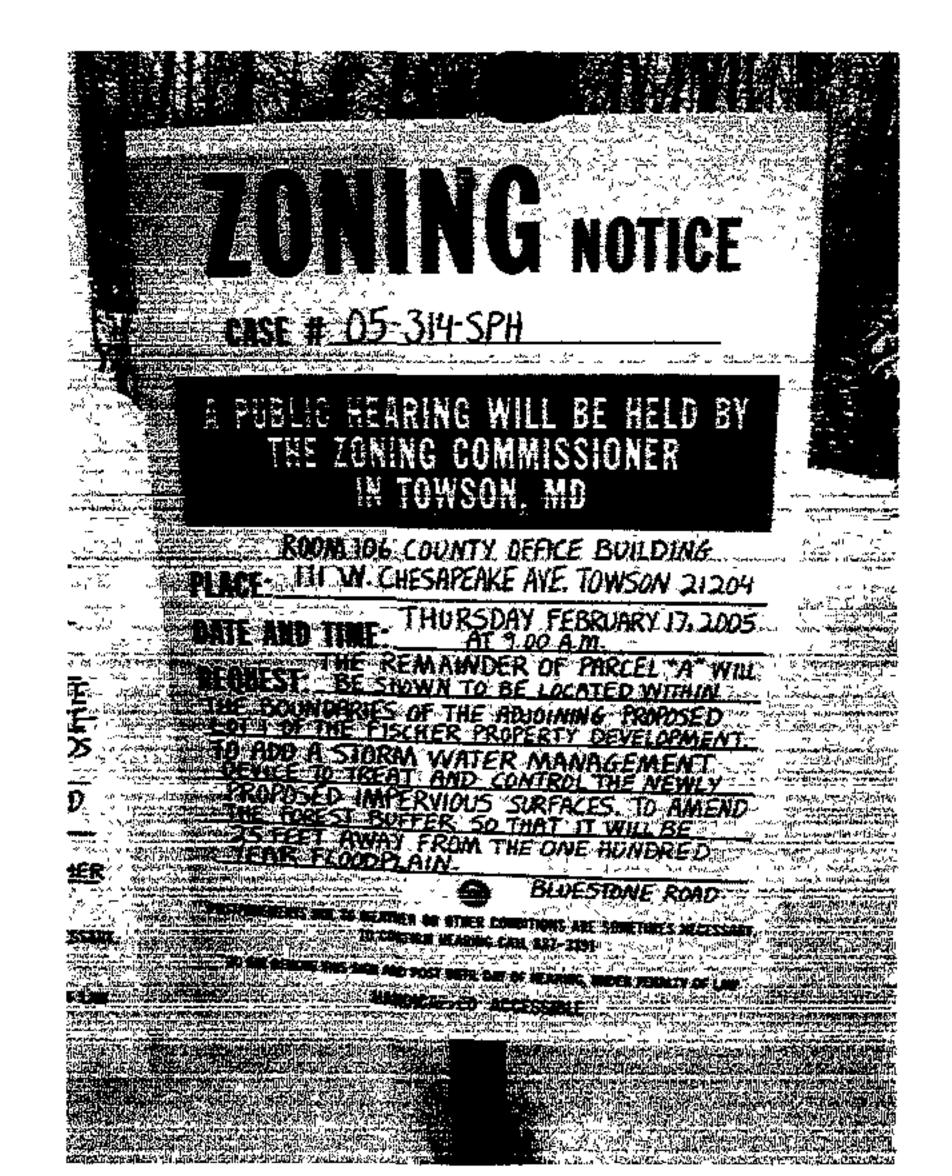
YELLOW - CUSTOMER

# CERTICATE OF POSTING

1776	ENTION: KRISTEN MATTHEWS	$\wedge$
		Date January 30, 2005
RE:	Case Number 05-314-5PH	
	Petitioner/Developer KRAMW AND GR	PAHAM, P.AJEFFREY SCHERRESQ. / ETAL.
	Date of Hearing/Closing Aubruary	17,2005
were	This is to certify under the penalties of perposted conspicuously on the property locat	erjury that the necessary sign(s) required by law ed at END OF BLUESTUNE ROAD  ( ON-SITE)
	The sign(s) were posted on $\int \mathcal{M}$	mary 30, 2005
		(Signature of Sign Poster)
		Linda O'Keefe (Printed Name of Sign Poster)
		523 Penny Lane
		(Street Address of Sign Poster)
		Hunt Valley Maryland 21030
	See Attachment	(City, State. Zip Code of Sign Poster)
	Photos	410-666-5366
		(Telephone Number of Sign Poster)







# DEPARTMENT OF PERMITS AND DEVELOPMENT MANAGEMENT ZONING REVIEW

#### ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING HEARINGS

The <u>Baltimore County Zoning Regulations</u> (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning hearing. For those petitions which require a public hearing, this notice is accomplished by posting a sign on the property (responsibility of the petitioner) and placement of a notice in a newspaper of general circulation in the County, both at least fifteen (15) days before the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

#### OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

Item Numb	er or Case Number: 05_314 SPH
	Kingsmill, LLC; Henry J. Fischer; Shirley M. Fischer
Address of	Location: North end of Bluestone Rd., north of Redstone Roa and east of Chapman Rd.
PLEASE F	ORWARD ADVERTISING BILL TO:
Name:	Jeffrey H. Scherr
Address: _	Kramon & Graham, P.A.
	One South Street, Suite 2600
	Baltimore, Maryland 21202
_ Felephone	Number:410-752-6030

## Zoning Commissioner

Suite 405, County Courts Building 401 Bosley Avenue Towson, Maryland 21204 Tel: 410-887-3868 • Fax: 410-887-3468



# Baltimore County

James T. Smith, Jr., County Executive
William J Wiseman III, Zoning Commissioner

April 12, 2005

Jeffrey H. Scherr, Esquire Mindy Caplan, Esquire One South Street, 26<sup>th</sup> Floor Baltimore, Maryland 21202

RE: Development Plan Hearing & Petitions for Special Hearing

(Fischer Property)

Cases Nos. XI-956 & 05-314-SPH & 05-315-SPH

#### Dear Counsel:

This letter is to confirm that the hearing in the above-captioned matter, which was postponed on Friday, April 8, 2005, has been rescheduled by agreement of all parties, to Friday, May 13, 2005 at 9:00 AM in Room 407 of the Circuit Courts Building.

Thank you for your cooperation in this matter and should anyone have any questions on the subject, please do not hesitate to call me.

Very truly yours,

WILLIAM J. WISEMAN, III Zoning Commissioner

for Baltimore County

#### WJW:bjs

cc: Mr. & Mrs. Henry J. Fischer, 8215 Greenhouse Lane, Kingsville, Md. 21087

Mr. Jeffrey Deegan, 2309 Belair Road, Suite A, Fallston, Md. 21047

Mr. Henry Leskinen, P.O. Box 5006, Glen Arm, Md. 21057

Mr. Joseph M. Moran, 309 W. Chesapeake Avenue, Suite 208, Towson, Md. 21204

Mr. Don Mitten, 110 Old Padonia Road, Suite LC, Cockeysville, Md. 21030

J. Carroll Holzer, Esquire, 508 Fairmount Avenue, Towson, Md. 21286

Ms. Anne S. Cotlone, 8005 Redstone Road, Kingsville, Md. 21087

Mr. Robert Hester, 11911 Bluestone Road, Kingsville, Md. 21087

Mr. Drew Mize, 7902 Redstone Road, Kingsville, Md. 21087

Ms. Dinah Buck, 11905 Bluestone Road, Kingsville, Md. 21087

Mr. Mitch Butta, 11902 Bluestone Road, Kingsville, Md. 21087

Mr. Sam Talbot, 11924 Jericho Road, Upper Falls, Md. 21156

Mr. Walt Smith, DPDM; DEPRM; OP; DPW;

Mr. Rob Loskot, Office of Law; People's Counsel; Case File

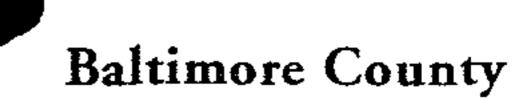


Visit the County's Website at www.baltimorecountyonline.info

# Department of Permits and Development Management

Director's Office County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204 Tel: 410-887-3353 • Fax: 410-887-5708





James T. Smith, Jr, County Executive Timothy M Kotroco, Director

January 27, 2005

#### CORRECTED NOTICE OF ZONING HEARING

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-314-SPH

N/end of Bluestone Road, north of Redstone and east of Chapman Road N/end of Bluestone Road, north of Redstone and east of Chapman Road

11th Election District – 5th Councilmanic District Legal Owners: Henry J. & Shirley M. Fischer

Contract Purchaser: Kingsmill, LLC

Special Hearing to amend the Final Development Plan for the lands of Mr. Henry Fischer. To reflect a private roadway extension within a portion of the remaining lands, known as Parcel "A", and lands, known as Parcel "A", and labeled as "Highway R/W for Future Road." The roadway area and associated R/W will also be shown to be part of the "HOA Common Area and Private Ingress & Egress Easement" of the Fischer Property. The remainder of Parcel "A" will be shown to be located within the boundaries of the adjoining proposed Lot 1 of the Fischer Property Development. To add a storm water management device to treat and control the newly proposed impervious surfaces. To amend the forest buffer so that it will be 25 feet away from the one hundred year floodplain. The location of a portion of the forest buffer and the wetlands will be changed. To add a one hundred (100) year floodplain, drainage and utility easement, and forest conservation easement; to add a sign at the entrance of the Fischer Property.

Hearing: Thursday, February 17, 2005 at 9:00 a.m. in Room 106, County Office Building,

111 W. Chesapeake Avenue, Towson 21204

huffy Kotroco Timothy Kotrocc

Director

Printed on Recycled Paper

TK:klm

C: Jeffrey Scherr, Kramon & Graham, One South Street, Ste. 2600, Baltimore 21202 Mr. & Mrs. Henry Fischer, 8215 Greenhouse Lane, Kingsville 21087 Mr. & Mrs. John Fischer, 8211 Greenhouse Lane, Kingsville 21087 Joseph Moran, Kingsmill, LLC, 11619 Philadelphia Rd., White Marsh 21162 Jeffrey Deegan, 2309 Bel Air Road, Ste. A, Fallston 21047

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, FEBRUARY 2, 2005.
  - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
  - (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Visit the County's Website at www.baltimorecountyonline.info

TO: PATUXENT PUBLISHING COMPANY

Tuesday, February 1, 2005 Issue - Jeffersonian

Please forward billing to:

Jeffrey Scherr, Esq. Kramon & Graham One South Street, Ste. 2600 Baltimore, MD 21202

410-752-6030

# **CORRECTED NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-314-SPH

N/end of Bluestone Road, north of Redstone and east of Chapman Road N/end of Bluestone Road, north of Redstone and east of Chapman Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District Legal Owners: Henry J. & Shirley M. Fischer

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Hearing: Thursday, February 17, 2005 at 9:00 a.m. in Room 106, County Office Building,

111 W. Chesapeake Avenue, Towson 21204

WILLIAM WISEMAN

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.

# Department of Permits and Development Management

Director's Office
County Office Building
111 W. Chesapeake Avenue
Towson, Maryland 21204
Tel: 410-887-3353 • Fax: 410-887-5708





James T. Smith, Jr., County Executive Timothy M. Kotroco, Director

January 5, 2005

#### **NOTICE OF ZONING HEARING**

The Zoning Commissioner of Baltimore County, by authority of the Zoning Act and Regulations of Baltimore County, will hold a public hearing in Towson, Maryland on the property identified herein as follows:

CASE NUMBER: 05-314-SPH

8223 Greenhouse Lane

N/end of Bluestone Road, north of Redstone and east of Chapman Road

11<sup>th</sup> Election District – 5<sup>th</sup> Councilmanic District

Legal Owners: Henry J., Shirley M., John D. and Karen D. Fischer

Contract Purchaser: Kingsmill, LLC

Special Hearing to approve the amendment of the Final Development Plan for the lands of Mr. Henry Fischer. The property is shown on attached Record Plan, which Plat was recorded among the Plat records of Baltimore County in Plat Book SM 67, Folio 111.

Hearing: Thursday, February 17, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson 21204

Timothy Katroco
Director

TK:klm

C: Jeffrey Scherr, Kramon & Graham, One South Street, Ste. 2600, Baltimore 21202 Mr. & Mrs. Henry Fischer, 8215 Greenhouse Lane, Kingsville 21087 Mr. & Mrs. John Fischer, 8211 Greenhouse Lane, Kingsville 21087 Joseph Moran, Kingsmill, LLC, 11619 Philadelphia Rd., White Marsh 21162 Jeffrey Deegan, 2309 Bel Air Road, Ste. A, Fallston 21047

- NOTES: (1) THE PETITIONER MUST HAVE THE ZONING NOTICE SIGN POSTED BY AN APPROVED POSTER ON THE PROPERTY BY WEDNESDAY, FEBRUARY 2, 2005.
  - (2) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMMODATIONS PLEASE CALL THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.
  - (3) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



Visit the County's Website at www.baltimorecountyonline.info

TO: PATUXENT PUBLISHING COMPANY

Tuesday, February 1, 2005 Issue - Jeffersonian

Please forward billing to:

Jeffrey Scherr, Esq. Kramon & Graham One South Street, Ste. 2600 Baltimore, MD 21202

410-752-6030

### **NOTICE OF ZONING HEARING**

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Hearing: Thursday, February 17, 2005 at 9:00 a.m. in Room 106, County Office Building, 111 W. Chesapeake Avenue, Towson 21204

WILLIAM WISEMAN

ZONING COMMISSIONER FOR BALTIMORE COUNTY

NOTES: (1) HEARINGS ARE HANDICAPPED ACCESSIBLE; FOR SPECIAL ACCOMODATIONS, PLEASE CONTACT THE ZONING COMMISSIONER'S OFFICE AT 410-887-4386.

(2) FOR INFORMATION CONCERNING THE FILE AND/OR HEARING, CONTACT THE ZONING REVIEW OFFICE AT 410-887-3391.



# ADVERTISING REQUIREMENTS AND PROCEDURES FOR ZONING RECLASSIFICATION HEARINGS

The Baltimore County Zoning Regulations (BCZR) require that notice be given to the general public/neighboring property owners relative to property which is the subject of an upcoming zoning reclassification hearing. This is accomplished by Baltimore County posting a sign on the property at least fifteen (15) days before the hearing and advertising in local newspapers. The advertising consists of a list and map of all reclassification petitions (cost evenly distributed between all petitioners), as well as individual advertising in local newspapers. The list and map must be published in two newspapers for three different weeks and the individual advertisements must be published in two newspapers fifteen (15) days prior to the hearing.

Zoning Review will ensure that the legal requirements for advertising are satisfied. However, the petitioner is responsible for the costs associated with these requirements. The newspaper will bill the person listed below for the advertising. This advertising is due upon receipt and should be remitted directly to the newspaper.

# OPINIONS MAY NOT BE ISSUED UNTIL ALL ADVERTISING COSTS ARE PAID.

For Newspaper Advertising:
Item Number or Case Number: 05-314-SPH
Petitioner: Lingmill, U.C., Henry J. Fischer, Shirley M. Fischer, John D. Fischer, Karen D. Fischer
Address or Location: 8223 Greenhause Lane
PLEASE FORWARD ADVERTISING BILL TO:  Name: Jeffrey H. Scherr, Esquire Kramon + Graham, P.A.  Address: One South Street, Suite 2600  Baltimore MD 21202  Telephone Number: (412) 752-6030

# Department of Permits a Development Management

Development Processing County Office Building 111 W. Chesapeake Avenue Towson, Maryland 21204



# Baltimore County

James T. Smith, Jr, County Executive Timothy M Kotroco, Director

February 8, 2005

Mindy Caplan Kramon & Graham, P.A. One South Street, Suite 2600 Baltimore, Maryland 21202

Dear Ms. Caplan:

RE: Case Number: 05-314-SPH

The above referenced petition was accepted for processing by the Bureau of Zoning Review, Department of Permits and Development Management (PDM) on January 26, 2005.

The Zoning Advisory Committee (ZAC), which consists of representatives from several approval agencies, has reviewed the plans that were submitted with your petition. All comments submitted thus far from the members of the ZAC are attached. These comments are not intended to indicate the appropriateness of the zoning action requested, but to ensure that all parties (zoning commissioner, attorney, petitioner, etc.) are made aware of plans or problems with regard to the proposed improvements that may have a bearing on this case. All comments will be placed in the permanent case file.

If you need further information or have any questions, please do not hesitate to contact the commenting agency.

Very truly yours, Callabally

W. Carl Richards, Jr. Supervisor, Zoning Review

WCR: clb

**Enclosures** 

People's Counsel C: Jeffrey Deegan, Wilson Deegan & Assoc. 2309 Bel Air Road, Ste. A. Fallston 21047 Henry and Shirley Fischer 8215 Greenhouse Lane Kingsville 21087 Kingsmill, LLC. Joseph Moran 11619 Philadelphia Road White Marsh 21162



Visit the County's Website at www.baltimorecountyonline.info

# Fire Department



700 East Joppa Road Towson, Maryland 21286-5500 Tel 410-887-4500



# Baltimore County

James T Smith, Jr., County Executive John J. Hohman, Chief

County Office Building, Room 111 Mail Stop #1105 111 West Chesapeake Avenue Towson, Maryland 21204

January 4, 2005

ATTENTION: Zoning Review planners

Distribution Meeting of: January 10, 2005

Item No.:

305,306,308-309,3<del>11-</del>318

Pursuant to your request, the referenced plan(s) have been reviewed by this Bureau and the comments below are applicable and required to be corrected or incorporated into the final plans for the property.

The Fire Marshal's Office has no comments at this time.

Lieutenant Franklin J. Cook Fire Marshal's Office (O)410-887-4881 (C)443-829-2946 MS-1102F

cc: File



Visit the County's Website at www.baltimorecountyonline.info

Robert L. Ehrlich, Jr., Governor Michael S. Steele, Lt. Governor Administration

Robert L. Flanagan, Secretary Neil J. Pedersen, Administrator

Date: 1.3-65

Ms. Kristen Matthews
Baltimore County Office of
Permits and Development Management
County Office Building, Room 109
Towson, Maryland 21204

RE:

**Baltimore County** 

Item No. 314

772

Dear. Ms. Matthews:

This office has reviewed the referenced item and we have no objection to approval as it does not access a State roadway and is not affected by any State Highway Administration projects.

Should you have any questions regarding this matter, please contact Larry Gredlein at 410-545-5606 or by E-mail at (lgredlein@sha.state.md.us).

Very truly yours,

Steven D. Foster, Chief

J. J. Doell

Engineering Access Permits Division

Byln

# BALTIMORE COUNTY, MARYLAND

## INTER-OFFICE CORRESPONDENCE

TO:

Timothy M. Kotroco, Director

Department of Permits and Development Management DATE: January 27, 2005

FEB - 1 2005

FROM:

Arnold F. 'Pat' Keller, III

Director, Office of Planning

ZONNO CONNECTOR

SUBJECT: Zoning Advisory Petition(s): Case(s) 5-314

The Office of Planning has reviewed the above referenced case(s) and has no comments to offer. For further questions or additional information concerning the matters stated herein, please contact Mark Cunningham in the Office of Planning at 410-887-3480.

Prepared By:

**Division Chief** 

MAC/LL

#### BALTIMORE COUNTY, MARYLAND

#### INTEROFFICE CORRESPONDENCE

**DATE:** January 21, 2005

TO:

Timothy M. Kotroco, Director

Department of Permits &

Development Management

FROM:

Robert W. Bowling, Supervisor Bureau of Development Plans

Review

**SUBJECT:** 

Zoning Advisory Committee Meeting

For January 10, 2005

Item Nos. 305, 306, 308, 309, 310, 311, 313 (314, 315, 316, 317, and

318

The Bureau of Development Plans Review has reviewed the subject-zoning items, and we have no comments.

RWB:CEN:jrb

cc: File



8223 Greenhouse Lane; N/end Bluestone Rd,

N Redstone & E of Chapman Rd

11th Election & 5th Councilmanic Districts

Legal Owner(s): Henry, John, Shirley,

and Karen Fischer

Contract Purchaser(s): Joseph Moran,

Managing Member, Kingsmill, LLC

Petitioner(s)

BEFORE THE

**ZONING COMMISSIONER** 

FOR

**BALTIMORE COUNTY** 

\* 05-314-SPH

### ENTRY OF APPEARANCE

Please enter the appearance of People's Counsel in the above-captioned matter. Notice should be sent of any hearing dates or other proceedings in this matter and the passage of any preliminary or final Order. All parties should copy People's Counsel on all correspondence and documentation filed in the case.

PETER MAX ZÍMMERMAN

People's Counsel for Baltimore County

RECEIVED

Per.

CAROLE S. DEMILIO
Deputy People's Counsel
Old Courthouse, Room 47

400 Washington Avenue

Towson, MD 21204

(410) 887-2188

# CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 7<sup>th</sup> day of Janaury, 2005, a copy of the foregoing Entry of Appearance was mailed to Jeffrey Deegan, William Deegan & Associates, Inc, 2309 Belair Road, Suite A, Fallston, MD 21047 and Jeffrey Scherr, Esquire, Kramon & Graham, P.A., One South Street, St. 2600, Baltimore, MD 21202, Attorney for Petitioner(s).

PETER MAX ZIMMERMAN

People's Counsel for Baltimore County





### Law Offices

### KRAMON & GRAHAM, P.A.

ONE SOUTH STREET
SUITE 2600

BALTIMORE, MARYLAND 21202-3201

TELEPHONE. (410) 752-6030 FACSIMILE (410) 539-1269

www.kramonandgraham.com

E-MAIL mcaplan@kg-law.com

December 22, 2004

# 314 574

## VIA HAND DELIVERY

MINDY CAPLAN

DIRECT DIAL

(410) 347-7419

DIRECT FACSIMILE

(410) 361-8207

Mr. Carl Richards
County Office Building
Room 111
111 West Chesapeake Avenue
Towson, Maryland 21204

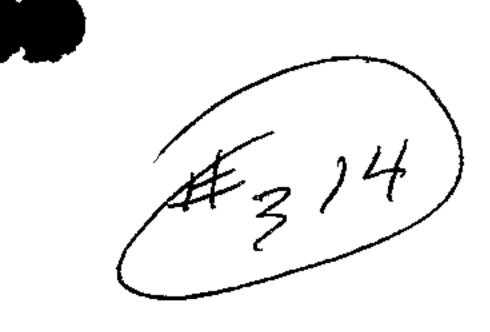
Re: Fischer Property (8223 Greenhouse Lane)

Dear Mr. Richards:

Enclosed for filing are two Petitions for Special Hearing that request approval of two amended Final Development Plans. Because the Development Plan for the Fischer Property must be filed and notice posted within 12 months of the conclusion of the final community input meeting, *i.e.*, by January 22, 2004, time is of the essence. We are proposing to file the Development Plan and these two Petitions for Special Hearing at one time so that we may have one consolidated hearing regarding all issues concerning the Fischer Property and the adjacent properties for which the Final Development Plans will be amended. A Hearing Officer's Hearing has been set for February 17, therefore, we request that the special hearings to amend the Final Development Plans be conducted on February 17 as well.

Please call if you have any questions or concerns.

Mr. Carl Richards December 22, 2004 Page 2




Sincerely,


Minde L. Copa


Mindy L. Caplan


MLC/clm Enclosures

cc: Kingsmill, LLC (with all enclosures except for the plans)









NE 15 K

