

**Homestead Inland Joint Planning Commission**

**Inland Township Hall**

**Bendon Michigan**

**Public Hearing**

**9 June 2009, 7:00pm**

**Approved 20 October 2009**

Meeting Called to Order: 7:00pm.

Pledge of Allegiance Recited.

Members Present: Bruce Andersen, Christy Andersen, Roger Hubbell, Fred Poynor, Jessica Wooten, Marshall Lambertson, Dan Moore, Mary Miller, Cathy Demitroff, Sharon Peregoy.

Others Present; Jerry Bush, Brian Drake, Shane Miller, Keith Scaub, Bryan Graham, Roger Williams, Carol Moore, Larry Roels, Shauna Fite, Clarence Merchant, Bob Rosa, Richard Ellis, Nancy Ellis, Lynell Singer, Mike Jisinski.

Agenda: Cathy Demitroff made the motion to accept the agenda as written. Bruce Andersen seconded the motion, All Ayes, No Nays, Motion Carried.

Open Public Hearing on Rezoning of Property Number 10-08-010-025-00: Roger Hubbell opened the Public Hearing at 7:06 and advised all persons in attendance that this hearing was not on land use issues but strictly zoning of the land. Roger Hubbell also read the Declaration of Conflict of Interest and Bruce Andersen excused himself from the board due to a Conflict of Interest.

Brian Graham (JPC Attorney): I reviewed the minutes of your last public hearing, it became apparent to me at the time I reviewed your minutes, that there was much discussion at the last public hearing concerning proposed uses of this property. That is not the issue before you. I really want to make sure that you take the time and focus your attention to the true issue that is before you, that issue is whether this property should be rezoned. It is not whether there is going to be a use on it. This particular owner may have stated intentions of what they would like to do to the property. That may or may not be true, and it may or may not happen. Based on whether the proposed use is allowed in the district, the rezoned district, or they may sell the property. They can sell the property tomorrow; the new owner may want to use the property for a totally different use, so you need to focus your attention on whether it is appropriate to rezone the property. The factors that you are going to look at are

number 1, Your Master Plan. You have spent a considerable amount of time developing your Master Plan, and this is your first opportunity to consider if you are going to begin the process of implementing that Master Plan. From a legal perspective, if you chose not to fully implement which you have elected to do, there should be some substantial reasons or you are going to have weakened the document that you have spent a lot of time preparing. You have look at the Master Plan, you have look at the neighborhood, you have look at the surrounding zoning districts to determine whether it is appropriate for the property that is being sought to be rezoned. If in fact, there is there is going to be a request for a particular land use after rezoning, then you look at the Zoning Ordinance. If it is a use authorized by right, then the Zoning Administrator will issue a permit, just like every other use by right in the Zoning Ordinance. If the use proposed is a special use permit, there will be another public hearing before this body, in which that the use will be before you and you can consider that particular use. Whatever it may be, what conditions may be appropriate if you decide to approve it, and if you even do decide to approve it. There is no guarantee that a proposed use will in fact be authorized on this land if it is a special use permit. The applicant has to prove that all the approval standards are met, if they do and you find that then they have, then you have the ability to grant it under proposed reasonable conditions on that use. So again, I want to focus the attention on the Public Hearing tonight, on the rezoning issue whether it is appropriate to rezone and consider the character of the neighborhood, the surrounding property, and your Master Plan, That is really what you are here for tonight.

Mike Jasinski (Attorney for Presidium): Yes, Mr. Chairman, I am Michael Jasinski. I am here on behalf of the applicant and the reason Presidium desires this board to rezone the property to commercial; is because of the future land use on your Master Plan anticipates that certain designated areas on US 31 corridor will likely be more suitable as general commercial property. Also, because it is deemed per Section 10.1 of your Ordinance that it is the intent that the land on US 31 be zoned commercial, and because the current zoning trend and character of the lands around US 31 have moved toward the commercial district. Presidium is requesting the rezoning of the parcel to commercial, because it desires to use the existing house as a field office, and an office is a permitted use by right in the commercial district. They are proposing no changes to the property, no new structures. Persidium is a Corporation, not a person, and Corporations cannot physically reside on the property and does not qualify therefore as a home business, so they have requested the rezoning. I would like to also address the prior recommendation from the Planning Commission, that the property be partially rezoned as to only the South half of the property. Looking at the current zoning district map of Inland Township , it appears as though the Township has consistently rezoned commercial property along US 31 to correspond to the actual length of the properties that have requested to be rezoned, and in particular the property across the road Section 10 and in the Southwest corner of Section 9. Presidium has attempted to confirm this, but apparently the Township Clerk

has been on vacation and has been unable to review this. Even though the Master Plan does not anticipate that more than a quarter mile of the property is to be rezoned, the commercial properties in Section 9 and 10 set back up to half a mile, so to rezone only the South 660 feet would be arbitrary. Main complexities also arise when a parcel straddles two district properties; you get setbacks that are lopsided, road frontage, private road permits, property taxes etc..., and the north part of the property is not really desirable as residential property. The TOPO map that I passed out shows the property to the North is significantly lower in elevation than the South half of the property and it is not likely that someone would even want to build down in the low part of the property.

Roger Williams: I submitted my Staff Report to the Planning Commission. You all have had a chance to look at it, and it does give you an evaluation of the rezoning, the surrounding zoning, the Master Plan of the surrounding area, and so I feel it gives you the required information you need to make a sound decision.

Mark Richmond: I have talked to several people. One thing I couldn't understand at the last meeting when my wife was here, for the life of me, why you did not discuss the recommendation from the County Planning Commission that was sent back to you with their opinions.

Roger Hubbell: The meeting that your wife attended was a joint meeting of the Township Boards, not of the Joint Planning Commission meeting.

Mark Richmond: The way I understand it is, that if you guys approve it then it goes back to the Township Boards, according to their recommendations the plan is flawed, the whole plan is flawed. They recommended that the commercial not be sprawled but sprinkled at the corners. Well, after you guys approve this, I will have to circulate a petition.

Brian Drake: I have the property right next door. I do have one question from what I have gathered, this is a gas and oil and company? For me it is an issue of property devalue, I live right next door. This could end up less than 100 yards from me with a little wooded area between us. I don't plan on remaining at this residence for the rest of my life, and I am worried that if the property value goes down, what is going to be my loss. The economy has already taken its value down \$20,000.00, then another \$20,000.00, and now I have lost \$40,000.00. I do enjoy the nature, and am worried about what this is going to do to the community, and I feel that this is bad business.

Douglas Gosha: With all the commercial property that is for sale in this Township, why are you trying to weaken the property values in my back yard basically? I really don't want to hear all that. I have come up here for the same reason as a lot of people, for the peace and quiet, and to get away from the commercial industry. There is plenty of commercial property out there, why here?

Clarence Merchant: I just want clarification on land use if this is zoned commercial? Is this going to allow them to store all their equipment and things like that. Like gas, chemicals, and hazardous materials with a land use permit.

Brian Graham (JPC Attorney): You cannot necessarily assume that what a property owner wants to do on the property they will be able to do. It is governed by the language in the Zoning Ordinance in the Commercial District as to what uses are allowable.

Lynell Singer: My only comment is that it makes me a little sad to hear that my low level property back there is undesirable. It is very desirable, and I understand that we have to have commercial property somewhere. But, I hope that you will consider that that is not just undesirable property, just down the hill sitting back there, but that it is peaceful, beautiful, and we love it.

Brent Nichols: I own the property to the immediate East of the property being considered. It is already zoned commercial, I personally have no objections to the rezoning of the property. I think it is consistent with the Master Plan and land use. I would sincerely hope that none of the other people in this Community, have to go through what I have gone through, with the signage along roadway, which is having a negative affect on my ability to do business at my shop. I think we all need to collectively respect each others lives, if you will. I certainly support commercial use that is what the Master Plan says. Land use is another kettle of fish that we will have to discuss if and when the time comes.

Close of Public Hearing regarding property number 10-08-010-025-00: Roger Hubbell closed the Public Hearing at 7:22pm. Request Board Members Input.

**Board Members Input:**

Mary Miller: I think there is a lot of misunderstanding between Zoning and Land Use. Everyone must understand that this is just the first step into the process of an Individual Property Owner wanting to change their property from Residential to Commercial.

Dan Moore: No Comment

Fred Poynor: The proposal is to change the entire piece of Property to Commercial, Correct?

Roger Hubbell: Just as the Petition was submitted.

Christy Andersen: I read the Letter from Mr. Neiger, and the bottom line was they cautiously approved the Board decision on rezoning. You may want to use that as an argument, on that point, but the County came back with approval.

Jessica Wooten: According to our Zoning Ordinance, General Commercial C-1, Permitted Uses (Page 105):

- Retail Sales within an enclosed Building
- Banks and Financial Services, except Drive-Through Facilities
- Business and Personal Services
- Professional Offices
- Motels and Resorts
- Restaurants without Drive-Through Facilities
- Medical, Dental, and Optical Laboratories
- Accessory Structures and Uses Customarily Incidental to the above permitted use

For light Industrial Uses, they would have to come back to the Board and have another Public Hearing with request and bring another Site Plan for Approval? So, I understand correctly, that if they want to do it different than listed, they would be permitted covered under General Commercial with a Site Plan Approval?

Brian Graham (JPC Attorney): That is the way I understand it. You're looking at Light Industrial as something that is allowed by Special Use Permit. The definition is listed in the Zoning Ordinance, or to try to think this process out and somehow coming out with another process. Again, there is no Proposal to do that and there has been no Application submitted. Again, you have to look at your Definition on Light Industrial, and then it would have to go through a Special Use Permit Process.

Cathy Demitroff: Well I think it falls within the Master Plan and I'm good with it.

Marshall Lambertson: I'm good to go.

Action on application: Roger Hubbell made the motion to approve the application as is, Cathy Demitroff seconded the motion. Board go round: All Ayes, No Nays, Motion Carried.

Correspondence: Mary Miller brought in a copy of the Michigan Citizen Planner and stated that on Page 5 there was a list of all Joint Planning Commissions in the State of Michigan and thought that it was nice to see the Homestead Inland Joint Planning Commission on the list.

Approval of Bills and Vouchers: Dan Moore stated that he has a bill from the Record Eagle for \$78.30 and one from the Record Patriot for \$53.21 for publications of the

notice of hearing totaling \$131.51. Dan Moore made the motion to pay these two bills, Roger Hubbell seconded the motion, All Ayes, No Nays, Motion Carried.

Training: Roger Hubbell stated that there is a training session 22 July 2009, from 5-9pm, in Gaylord. The Training session will be on Smart Strategies for dealing with undesirable land uses. The following board members stated that they would like to attend: Roger Hubbell, Marshall Lambertson, Mary Miller and Dan Moore.

**Open Public Discussion at 7:49pm:**

Mark Richmond: At the last meeting, you guys were talking about rezoning the South half, what made you guys decide to switch it back? Was it all the pressure from their high priced Lawyers, or what? Why are you doing it? Why not just do the half? Why didn't you take Mr. Neiger's recommendation?

Roger Hubbell: I have read the letter and he agreed with what we have decided.

Mark Richmond: You have to look at the big picture at some point.

**Closed Public Discussion at 7:51pm.**

Adjourn: Bruce Andersen made the motion to adjourn the meeting at 7:53pm. Cathy Demitroff seconded the motion, All Ayes, No Nays, Motion Carried.

Submitted by Sharon Peregoy JPC Recording Secretary

Approved by Dan Moore JPC Secretary