



May 31, 2011

Bedford Township Board
PO Box H
Temperance, Michigan 48182

Re: Rezoning Request;

Please read this letter at your meeting.

My family has followed the advice we have received from your board on our land. Bob Schockman told my father on two different occasions the township board wanted us to sue you. We did that and you did not settle. In our second request I followed testimony to make my request. You and the citizens rejected those statements completely. Judge Costello ruled against you in our second trial. Before you are sworn statements and official board actions from the second trial. I have only followed quotes and opinions of your planners and township officials in making these requests. Yet my family is denied every time.

#1

Judge Costello gave us C-2 zoning on the middle parcel in the way you get it under Michigan law. You have hired Paul LeBlanc as your expert witness for both trials. I followed his exact statements in asking for C-2 next to senior housing. You deny his sworn statements on our land, yet you hire him. His sworn statement in his deposition on page 21 says he thinks **“taking existing C-2 and rezoning it to C-3 that, that seems reasonable to me”** I have C-2 zoning the way the courts do it and I am simply asking for what your expert says under oath is reasonable to him.

#2

Walt Wilburn, and all elected officials but Sherri Meyer, have believed for a long time C-3 zoning meets the “local commercial” designation in the master plan. Walt said so under oath, (the whole truth and nothing but the truth) in his deposition in December 2009. He also said it three times in trial testimony in January 2011. Walt and your board have approved C-3 zoning three times along Lewis Avenue prior to this request. It was approved at the old fire station site by Hidden Lakes subdivision. It was approved twice on our property at Sterns and Lewis. Whitman property that is before you now.

#3

Judge Costello ruled, and your board voted previously, to have office zoning on the south western part of our land. In January 2009 your board started an administrative rezoning of this middle parcel to offices. This was after you voted twice in December 2008 to approve C-3 zoning on our site. You wanted the zoning pattern of C-3 touching offices as the ideal. I have asked for that very zoning pattern when C-3 touches the office zoning on the south western part of the property. When you want a zoning pattern of C-3 touching offices it is good and proper. When I ask for the very same thing on the very same site, it is bad and should be denied. This is how my family is always treated.

7555 LEWIS AVE. • TEMPERANCE, MI 48182-9543 • (734) 847-3673 • FAX (734) 847-1538

#3

Your official wording in the motion on Whitman land at Sterns and Lewis is very clear about C-3 being compatible with the master plan. The exact language from your official motion of the December 2008 meeting says the rezoning to C-3 **"is consistent with the master plan and is compatible with the neighboring commercially zoned and used parcels along Lewis Ave."** Only Sherri Meyer voted against this clear endorsement of C-3 both times and she has **voted against everything** we have asked for. Judge Costello's ruling gave us C-3 zoning along Lewis in the way Michigan law allows courts to zone land. Now we sit here today with Judge Costello's ruling and your official actions and words that C-3 is acceptable on Whitman land at Sterns and Lewis. This makes it three times it was approved at Sterns and Lewis. These three actions are in addition to the rezoning to C-3 the ambulance site by Hidden Lakes subdivision. Taken together the court and your actions make **4 times C-3 has been approved on Lewis under this master plan.**

#4

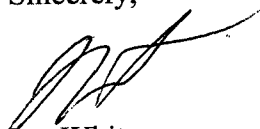
Adam Young has chosen to write an opinion different from all these facts. Sworn testimony, opinions from your planning expert, official board actions, and ideal zoning patterns using administrative means do not matter in his opinions. Your planning commission, with Gail Hurley representing you, votes to deny this request. The only thing planning has approved on this parcel is what you wanted with offices. In doing this Gail Hurley voted against her own December 2008 approvals (2 of them) which read C-3 zoning **"is consistent with the master plan and is compatible with the neighboring commercially zoned and used parcels along Lewis Ave"** Gail and your board voted C-3 touching offices is an ideal zoning pattern. Now it is not.

Monroe County Planning has issued a recommendation of this rezoning. In fact they have twice recommended commercial zoning on this parcel. You have denied their recommendation before. Judge Costello has rejected Bedford's planning commission recommendation and your vote to deny commercial zoning on this parcel in the previous trial. In fact in both previous trials Judge Costello has ruled the way county planning has recommended.

This rezoning is based upon your own words and deeds. When you turn this down, we will sue you for the third time and the cost will come from your general budget. Judge Costello in the previous two trials has ruled with the opinion of the county. The county is recommending you approve this request. Bedford planning has **never** approved anything we have requested on this parcel. Please explain to the taxpayers why it is good government to ignore your sworn statements, your official actions, the county's recommendation, and then follow a planning commission that has **never** approved anything we have requested on this parcel. When you act so inconsistently and arbitrarily you encourage legal challenges. There is a saying 'put your money where your mouth is.' Now your board by defending the coming suit, is going to put taxpayer money against what your mouth and your deeds have consistently said.

Thank you for reading this.

Sincerely,



Jon Whitman

1 Q. And I think I remember you testifying from your last
2 deposition that your advise to municipalities is
3 simply to consider all the uses that might be allowed
4 in a proposed zoning district?

5 A. Exactly. And that leads me back to the size of the
6 request, not knowing what could happen there.

7 Q. To try and make sure I've got your opinions right on
8 this; other than submitting a zoning proposal with a
9 specific use or site plan tied to it such as in a PUD,
10 would you disagree with any proposed commercial
11 rezoning of the Whitman parcel?

12 A. Any is pretty broad. I would object to this proposal.
13 If they came back with something else maybe, maybe
14 not.

#, 15 Q. Well, I appreciate that any is pretty broad. You
16 know, but we're bigger than a breadbox, smaller than a
17 house, right?

18 What size, what portion of commercial zoning
19 would you regard as being in compliance with the
20 Bedford Township Master Plan desire for compact
21 zoning?

22 A. I think any, any request that conformed to the area
23 shown as commercial on the Master Plan I'd be hard
24 pressed to argue against; or, or taking existing C-2
25 and rezoning to C-3; that, that seems reasonable to

me.

1 Q. You are currently Bedford Township Supervisor,
2 correct?

3 A. Yes.

4 Q. Is that your full-time occupation?

5 A. Yes.

6 Q. How long have you been the Bedford Township
7 Supervisor?

8 A. Five years.

9 Q. You were elected in 2004?

10 A. Yes.

11 Q. What are some of your duties as the township
12 supervisor?

13 A. Chief executive officer of the township,
14 spokesperson for the township. I run board meetings, oversee
15 planning, building, assessing, ordinance, and a lot of the
16 general day-to-day duties. Meet with different people, talk
17 to them about things that might be happening in the
18 community. Go out and do things, speak to seniors, stuff
19 like that.

20 Q. How about finances, does your job include --

21 A. Yes, I, part of, I have, we have a Budget
22 Committee, and I'm part of the Finance Committee, too.

23 Q. We were just talking before the deposition about
24 the recession. What in your estimation has been the impact
25 of the recession on Bedford Township's finances?

1 property the opportunity to serve more than just a local
2 market?

3 A. No.

4 Q. You don't believe the Master Plan prohibits that?

5 A. No.

6 Q. Would you agree with me, well, let me step back and
7 ask your level of familiarity with the commercial zoning
8 classifications. I'm not talking about the Master Plan now.
9 I'm talking just the zoning ordinance.

10 A. C-1, C-2, C-3?

11 Q. Yes.

12 A. Yes.

13 Q. Would you agree with me that any of those zoning
14 classifications might fit within the local commercial
15 designation in the Master Plan?

16 A. Yes.

17 Q. Going back to the mixed office residential
18 commercial Master Plan designation, would you agree with me
19 that Bedford Township doesn't have a single stand alone
20 zoning district that fits into that Master Plan designation?

21 A. I'm not aware of that.

22 Q. Does that mean you're not aware of any, or you just
23 don't know off the top of your head?

24 A. I don't know off the top of my head.

25 Q. Fair enough. As the Master Plan updating process

#2

Bedford Township Board
December 2, 2008

and provides a transition from single family residential zoning and uses on the west to commercial rezoning and uses on the east. Motion carried on a roll call vote as follows: Aye: Francis, O'Dell, Hauser-Hurley, Schockman, and Wilburn. Nay: Goebel, Meyer.

Motion by O'Dell, seconded by Hauser- Hurley to approve the rezoning of Parcel 3, the portion of the Whitman property presently zoned R-2A, located immediately north of the parcel rezoned in the second rezoning motion, containing approximately 4.40 acres, to RME, for the reason that it was recommended for rezoning by the Bedford Township Planning Commission, the Bedford Township Planning Consultant, the Monroe County Planning Commission and the Monroe County Planning Department staff, for all the reasons cited in the written report submitted by the Bedford Township Planning Consultant, and the reasons cited by the Bedford Township Planning Commission in its motion to recommend approval for the rezoning, and the reasons cited by the Monroe County Planning Commission in its recommendation for the rezoning, and the reasons cited by the Monroe County Planning Department in its written report recommending the rezoning, and in addition, because the rezoning is consistent with the master plan and provides a transition from single family residential zoning and uses on the west to commercial rezoning and uses on the east. Motion carried on a roll call vote as follows: Aye: Francis, O'Dell, Hauser-Hurley, Schockman, and Wilburn. Nay: Goebel, Meyer.

#3

Motion by O'Dell, seconded by Francis to approve the rezoning of Parcel 4, the portion of the Whitman property presently zoned C-2, located at the southeast corner of the Whitman property, containing approximately 3.59 acres, to C-3, for the reason that it was recommended for rezoning by the Bedford Township Planning Commission, the Bedford Township Planning Consultant, the Monroe County Planning Commission and the Monroe County Planning Department staff, and also for the reasons cited in the written report submitted by the Bedford Township Planning Consultant, and the reasons cited by the Bedford Township Planning Commission in its motion to recommend approval for the rezoning, and the reasons cited by the Monroe County Planning Commission in its recommendation for the rezoning, and the reasons cited by the Monroe County Planning Department in its written report recommending the rezoning, and in

*

6 Over

* [addition, because the rezoning is consistent with the master plan and is compatible with the neighboring commercially zoned and used parcels along Lewis Avenue.] *

Motion carried on a roll call vote as follows: Aye: Francis, Goebel, Hauser-Hurley, O'Dell, Schockman, and Wilburn. Nay: Meyer.

* [Motion by O'Dell, seconded by Hauser- Hurley to approve the rezoning of Parcel 5, the portion of the Whitman property presently zoned C-2, located at the northeast corner of the Whitman parcel, containing approximately 3.27 acres, to C-3, for the reason that it was recommended for rezoning by the Bedford Township Planning Commission, the Bedford Township Planning Consultant, the Monroe County Planning Commission and the Monroe County Planning Department staff, and also for the reasons cited in the written report submitted by the Bedford Township Planning Consultant, and the reasons cited by the Bedford Township Planning Commission in its motion to recommend approval for the rezoning, and the reasons cited by the Monroe County Planning Commission in its recommendation for the rezoning, and the reasons cited by the Monroe County Planning Department in its written report recommending the rezoning, and in addition, because the rezoning is consistent with the master plan and is compatible with the neighboring commercially zoned and used parcels along Lewis Avenue.] *

* [Motion carried on a roll call vote as follows: Aye: Francis, Goebel, Hauser-Hurley, O'Dell, and Wilburn. Nay: Meyer, Schockman.] *

Motion by O'Dell, seconded by Goebel to deny the rezoning on Parcel 6 , for the portion of the Whitman property presently zoned R-2A, located generally in the middle of the Whitman property, containing approximately 8.28 acres, to C-2, for the reason that it is inconsistent with the master plan which provides for residential use and possible mixed office or local business use and because more of a buffer and transition is needed between the residential zoning on the west to general commercial zoning and uses on the east. While it is recognized that the existing R-2A zoning classification does not provide the desired transition from residential uses to commercial uses, neither does the proposed C-2 zoning. Rezoning to a less intense transitional use would better fit this parcel.

Motion carried on a roll call vote as follows: Aye: Goebel, Hauser- Hurley, O'Dell, Meyer, Schockman and Wilburn. Nay: Francis.

STATE OF MICHIGAN

IN THE CIRCUIT COURT FOR THE COUNTY OF MONROE

WHITMAN FORD,
a Michigan corporation,

Plaintiff,

v.

File No. 09-27523-CH
Hon. Joseph A. Costello, Jr.

TOWNSHIP OF BEDFORD,
a municipal corporation,

Defendant.

Thomas M. Hanson (P62725)
DYKEMA GOSSETT PLLC
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(214) 462-6420

Philip D. Goldsmith (P37650)
LENNARD GRAHAM & GOLDSMITH, P.L.C.
Attorneys for Defendant
222 Washington Street
Monroe, Michigan 48161
(734) 242-9500

ORDER OF JUDGMENT

At a session of said Court, in the
City of Monroe, State of Michigan,
On the 28th day of January, 2011.

Present: Hon. Joseph A. Costello, Jr., Circuit Court Judge.

This matter having come before the court on the Complaint of the Plaintiff seeking relief against the Defendant, Township of Bedford; the Plaintiff, Whitman Ford, a Michigan corporation, appearing by and through its attorney, Thomas M. Hanson; the Defendant, Township of Bedford, a municipal corporation, having appeared by and

Mr. Walt Wilburn

Mr. Walt Wilburn is the Supervisor for Bedford Township. He acknowledged that Bedford Township had been "hit hard by the recession" and that "revenues were down" through the loss of businesses and little economic development. He stated that the "Local Commercial" designation is the "only stand-alone commercial designation" listed in the Master Plan. (Plaintiff's exhibit 26, page 95). He further indicated that "local commercial" within the definition of "Mixed Residential/Office/Commercial" coincides,

¹³ Although Mr. Jenkins claimed that Mr. Whitman had not objected, Defendant's Exhibit Q reflects that his attorney did lodge an objection at the public meeting on January 20, 2009. Mr. Walt Wilburn also testified that the Plaintiff did object to the Township's application for rezoning.

¹⁴ The citizens group known as "Bedford Watch" submitted an amendment to No. 44A, a zoning ordinance amendment. The Township Board did not adopt it, nor was it supported by Wade Trim. (Plaintiff's Exhibits 21, 22, and 23).

8

#4
and that "C-1, C-2, and C-3 would all fit" and permit a large scale retail store. Referring to Mr. Young's letter and report dated August 13, 2008, he disagreed with the following statement,

"The proposed rezoning would provide an effective land use transition from the existing single-family residential subdivision to the west to the more intensive commercial portions of the site along Lewis Avenue." (Plaintiff's Exhibit 7, page 5).

Mr. Wilburn indicated that he "did not want to see" any residential property next to commercial property as it "is not transitional." He still believes that the approved rezoning of the subject property is correct and that the proposed rezoning of the center parcel (parcel 6) was properly denied. He would like to see more of a buffer between the RME and RM2 lots.¹⁵ He recognized that the center parcel created an island (Plaintiff's Exhibit 11) and sought to rezone it to PBO (a "win-win" for everyone) but dropped the application (Plaintiff's Exhibits 13 and 46) in light of the expected lawsuit and the intervening referendum. He had focused on the zoning issue and not the possibility of a big box store (i.e., Wal-Mart).

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EXHIBITS:

None

1 A You know what, Tom, I don't have any right on the top of my
2 head, but I'm sure there has been one or two.

3 Q You've also been experiencing cuts in services from the Monroe
4 County Road Commission, is that right?

5 A That's true.

6 Q It's fair to say, isn't it, Mr. Wilburn, that there -- there
7 hasn't been a lot of economic development in Bedford Township
8 in the last few years?

9 A That would be true.

10 Q Mr. Wilburn, if you could turn to Exhibit 26 in the bigger
11 book. There you go.

12 A I'm there, Tom.

13 Q Okay. And if you turn to page 95 and 96.

14 A Okay.

15 Q And I think in -- in your role as supervisor, the master plan
16 is -- is not a document you look at everyday, but it's a
17 document that you have some familiarity with, correct?

18 A Yes, that would be true.

19 Q You're aware the local commercial designation that's described
20 at the top of page 95 is -- is the only standalone commercial
21 designation in Bedford Township?

22 A Yes.

23 Q In fact, you personally have some concerns about that being
24 the only commercial designation in the township --

25 A Yes, I do.

1 Q -- correct? And I'm sorry?

2 A Yes.

3 Q Okay. And I -- I know it's hard, even when you know my
4 question's coming to -- to wait for the -- the court reporter.
5 And you see down at the bottom of that page, there's the --
6 the mixed residential/office/commercial designation, do you
7 see that?

8 A Yes, I do.

#1
9 Q And -- and you would agree with me that the -- the use of the
10 phrase local commercial in that zoning designation, and it
11 pops up in a couple of different places, that corresponds to
12 the local commercial that's seen at the top of page 95,
13 correct?

14 A That would be correct.

15 Q And you would agree with me, wouldn't you, Mr. Wilburn, that
16 any of the township's commercial zoning districts,
17 C-1, C-2, or C-3 might fit within the local commercial
18 designation at the top of page 95?

19 A Yes.

20 Q And you would also agree with me, wouldn't you, Mr. Wilburn,
21 that the current zoning for the Whitman Ford property which on
22 the western portion which shows single-family residential,
23 does not comply with what the master plan is calling for on
24 that parcel?

25 A True.

(12)

7

1 A I may have.

2 Q Okay.

3 A I might've misspoke.

4 Q Do you recall also being asked -- asked that question at your
5 deposition on December 23rd, 2009?

6 A I'm sure -- I'm sure I was asked.

7 Q Okay. And do you recall at that time testifying that you
8 believed that C-1, C-2, and C-3 would all fit within the local
9 commercial designation?

10 A When you say local, Mr. Hanson, I may have interpreted that as
11 something smaller, you know, and that's why I gave you that
12 answer. You know, when I -- when -- when I -- when you say
13 local, I look at local as being like some small business type,
14 you know --

15 Q Well --

16 A -- not a retail type store.

17 Q -- let -- let's be clear, Mr. Wilburn, we're talking about
18 local commercial as it's defined in the master plan. If you
19 can look at Exhibit 26, page 95.

20 A Okay, I'm there.

21 Q That -- that's the local commercial designation that I had you
22 refer to when I asked you does C-1, C-2, and C-3 fit in there,
23 and I think your testimony was yes; are you changing that
24 testimony, sir?

25 (13) MR. GOLDSMITH: Asked and answered. 38

1 THE COURT: Well, I'm not sure. What I didn't know
2 at the time of the deposition was whether or not he was
3 presented with the master plan, that wasn't clear to me.

4 BY MR. HANSON:

5 Q Do you recall being presented with the master pl -- well, let
6 -- let's step back. You recall this morning being presented
7 with the master plan, correct?

8 A Yes.

9 Q Okay. And you recall being asked the question of whether that
10 you agree --

11 A I'm just not sure if I understood you clearly on what you were
12 asking me, Mr. Hanson, that's what I'm telling you.

13 Q Okay. Let me -- let me ask the question very clearly, and I
14 thought I asked it clearly --

15 A Okay.

16 Q -- this morning, please tell me if I did not. Do you believe
17 that C-1, C-2, and C-3 fits within the local commercial
18 designation of the master plan?

19 A Local commercial --

20 Q With the -- the master plan that's in front of you right there
21 and right now? ;

22 A Yes. According to the master plan, yes, it does.

23 Q You -- you agree with that, correct?

24 A Yes.

25 Q (14) And you also understand that C-2 or C-3 would permit a large

1 scale retail facility, correct?

2 A Right.

3 Q So you're -- okay, I think that testimony's clear. Another
4 thing that you just stated to Mr. Goldsmith with regard to the
5 -- the township initiated rezoning to PBO --

6 A Yes.

7 Q -- one of the things you stated was that you thought it would
8 be a win-win for everybody?

9 A That's what I thought, yes.

10 Q Okay. You believe that it would be a -- a win-win for the
11 property owner when the property owner stood up at the board
12 meeting, or his representative stood up at the board meeting
13 and said I don't want this?

14 A I'm not the only vote on that board, Mr. Hanson. I -- I felt
15 that what I was doing was the right thing, yes, I will say
16 that.

17 Q You believe that it was a win for the property owner when
18 --

19 A I --

20 Q -- the property was objecting to the township's initiated
21 rezoning on the property?

22 A I felt that it was a win-win for everybody considering all the
23 things that were going on, and in the community, okay?

24 Q And -- and you believed it was a win for the property owner as
25 well?

(15)

40