

TOWN OF HAYMARKET, VIRGINIA

Chartered 1799

County of Prince William

HAYMARKET PLANNING COMMISSION - MARCH 25, 1996

PUBLIC HEARING

SUBJECT: PAYNE PROPERTY REZONING R-1 TO B-2

CHAIRMAN

Lyssa Whitfield

STAFF PLANNER

Elizabeth Weller

COMMISSIONERS

John Duckett, Vice Chairman

Mary Lou Scarbrough, Council Liaison

Mark Branca

Bob Seffinga (absent)

Chairwoman Whitfield opened the public hearing at 7:02 p.m.

Ms. Weller opened with a statement (copy attached) in response to the revised proffers by Able Properties. She states at the conclusion staff is recommending approval as applicant as proffered has mitigated concerns originally discussed. The original application of B-2 high use is now more akin to town center feel. She states they must look at balancing comprehensive plan intent with the "by right" uses.

Mr. Contrucci went over the revisions of the March 14 proffers.

Chairwoman Whitfield asked for those who would like to speak for the rezoning.

Richard Johnson, Gainesville resident, spoke to the human element. He states he suggested to Don Costello he move his Century Stair from Gainesville to the current Haymarket location. Further he states some businesses can not live up to the proffers they make. Donald Costello has fulfilled his commitments to his fellow business men, residents and civic organizations. When Donald Costello gives his word he will live up to it.

Linda Thompson, First Virginia Bank, as a banker she states Mr. Costello has made a true commitment to the town. He has turned down opportunities to purchase property out of town as he preferred to stay in town. Don is a committed, honest man.

Fred Price, resident, in regard to the comprehensive plan some numbers in town, we have 40-50 acres undeveloped property that has been planned one way or another adds up to 200 family residences with no proffers attached to them. There is 20-25 acres undeveloped property which will provide another 100 single family homes, which is 300-400 homes total which would almost double present residences. That will bring increased demands and the increased taxes will not cover expenses. There is 20-25 acres business property not developed and a small amount of industrial property not developed with no immediate plans. The town needs additional commercial development to boost the tax base. We have a business man who has proven himself willing to start development the town sorely needs. He believes the Planning Commission should

vote favorably.

Dave Schauss, resident - works for Century Stair. He states he moved here to be closer to work. Century Stair was his first job, he bought his first car working there, his first house while working for Don and married and had three children. Don has always stood by his employees and he cares about Haymarket. He thinks the idea to restore the Payne house is a good idea.

Chairwoman Whitfield asked for those who wished to speak against the rezoning.

B. J. Santangelo states she doesn't know Don Costello although most everyone does seem to know him. She has had conversations and a meeting with Mr. Contrucci. She states quite frankly she doesn't want to live next to a business. She wants to live in a residential area. She has looked at the project in regard to whether it is good for the town. She told Mr. Contrucci she wanted buffer protection and the proffer states opaque fence. She states she doesn't know what that is. The proffer is 25' no build from her property line, she asked for 100'. He said no. She asked for 8' brick wall. She wanted to walk the property with owner and it never happened. She called him stating she would drop the opposition for an 8' brick wall beginning with 4' at front of property graduating to 6' then to 8' as she wants to build a pool on her property. The proffer is 50' from property line to first structure. 50' did not say retail, guest lodging, office. New proffer is making ARB a courtesy call. ARB can not change it, applicant can change all the proffers, ARB can not change. She states the project is good for the town but not as a blanket project but as a special permit. Mayor Kapp stated to her on her second day in town the property would stay R-1 that the zoning would not change as it is in the historic district.

Mark Moorstein, attorney practicing in Gainesville area - he states he was asked to review the project in view of rezoning question and the possibility of a law suit. It could be approved or disapproved without legal repercussions. In his opinion the authority of the Planning Commission and Town Council, there is nothing to restrict to look at with detail as long as there is a fair hearing there is no requirement to pass or fail. This rezoning would change this area. Just because of the proximity of the industrial area does not affect this property. There is no "right" to rezoning, no inverse condemnation. Reasonable expectation at the time person purchase it, what was reasonable under the circumstances, there was clear knowledge of the Payne house and the zoning, particularly knowing the towns preservation efforts and ordinances protecting the house. The town can condemn the house and land but would have to pay fair market value for it. The town could proffer to allow development of the remainder of the property. Involuntary proffers can be struck down. If the town feels strongly enough about the house they could condemn the house and land.

Lynda Farr, Hairmarket owner, resident - she is against having a shopping center across the street from her residence. If the town allows B-2 zoning it will change the complexity of the town. B-1 is appropriate, B-2 is not.

Chairwoman Whitfield made the last call for speaking against.

Chairwoman Whitfield opened the floor for the Planning Commission and citizens for questions.

Commissioner Branca asked Mr. Moorstein if he is objecting to the rezoning. He states he is responding to a Planning Commission members question if there is authority to reject the application of Planning Commission and Town Council without fear of legal retaliation.

Commissioner Duckett asked Ms. Santangelo what would she think fair as a buffer. As she stated 50' on Payne house side with no building, 8' brick wall. She is concerned there are plans within 25-50' of the property line. On March 7 she didn't receive this information as being in the proffer.

Chairwoman Whitfield asked Mr. Moorstein in regard to town having the right to condemn the property, would that only be in the event property to be razed. You can not condemn unless for public purpose, for cultural, artistic use, etc. Also you have the right under historic preservation for government to purchase in event it would be razed, that is a mechanism for negotiating. In regard to proffers 8' brick wall, building set back, would the town be powerless to demand these. He states that is correct. Mandatory proffers are illegal.

Linda Thompson - asking Ms. Santangelo what is the difference in 8' wood or brick fence. Ms. Santangelo states wood fences are liable to fall down and are very scalable. Ms. Santangelo asks what is an opaque fence? With what the attorney states she can not require a brick 8' fence.

Public Hearing closed at 7:55 p.m.

Ms. Weller states she has nothing to add.

Mr. Contrucci summarized the applicants position.

Commissioner Branca states applicant has made all effort to address issues raised. Commissioner Branca moved to recommend approval of application as proffered, seconded by Vice Chairman Duckett. Chairwoman Whitfield states she would not recommend approval at this time as there are too many questions - the town does not have the authority to mitigate.

Councilwoman Scarbrough had no comment.

Motion carried by a 3/1 vote, Chairwoman Whitfield voting against.

Chairwoman Whitfield called regular meeting to order at 8:30 p.m.

Sign Permit

Ryan Homes - at sales trailer, Lot 3, Section 1, location until model is built. Commissioner Branca moved to approve as amended by applicant with the condition the sign be moved out of the right of way at the trailer site and that the site at the model home is as indicated on the sketch submitted with the ARB form for the model home located on Lot 4 and passed on to Gary Eddy, seconded by Councilwoman Scarbrough. Motion carried by unanimous vote.

Building Permit

Ryan Homes, single family model, Lot 4, Section 1 - letter from BD&E approving grading plans was read. Councilwoman Scarbrough recommended approval of Lot 4, Section 1, seconded by

was read. Councilwoman Scarbrough recommended approval of Lot 4, Section 1, seconded by Commissioner Branca. Motion carried by unanimous vote.

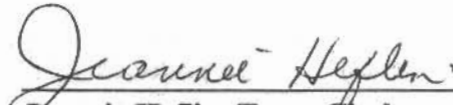
Comprehensive Plan

Any last minute notes or comments, action can be to approve with changes, additions, deletions at the April 1 meeting.

Ms. Weller states she has no further comment.

Commissioner Branca moved to adjourn meeting, seconded by Councilwoman Scarbrough. Meeting adjourned at 9:24 p.m.

RESPECTFULLY SUBMITTED:


Jeannie Heflin, Town Clerk

APPROVED:


Lyssa Whitfield, Chairman

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