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PLANNING AND ZONING MEETING
MAY 27, 1981

NOTICE AND AGENDA

DELTA CITY BUILDING 8:00 p.m.

1. APPROVAL OF MINUTES OF MAY 20, 1981
2. EVANS TAGGART ANNEXATION OF A FOUR-PLEX PUD -
NORTH EAST CORNER OF HARRISON BUNKER PROPERTY
4. KIRT OVERSON ZONE CHANGE
5. REVIEW OF ZONING MAP

And such other business as may come before said meeting.

MINUTES OF A PLANNING AND ZONING MEETING HELD MAY 27, 1981

Minutes of a Planning and Zoning Meeting held Wednesday, May 27, 1981,
at the Delta City Offices at the hour of 8:00 p.m.

PRESENT

Max Bennett	Councilman in charge
Don Dafoe	Chairman
Ray Little	Member
Sherri Lewis	Member
Austin Astle	Member
Bruce Taylor	Member
Robert Law	Member
Roland Dutson	Member

ABSENT

Rochelle Watts	Member
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OTHERS PRESENT

Leland J. Roper	Mayor
Jody Howe	Paul Nelson Associates
David Evans	Evans Taggart
Paul Taggart	Evans Taggart
Kirt Overson	Resident
Peggy Overson	Resident
Lilli Dawson	Secretary

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Chairman Dafoe being present called the meeting to order at 8:00 p.m. Lilli Dawson being present acted as secretary.

MINUTES

Minutes of a regular meeting held Wednesday, May 20, 1981 were read and approved upon a MOTION by Member Taylor, SECONDED by Member Lewis and received a unanimous affirmative vote.

PETITION TO AMEND ANNEXATION POLICY DECLARATION -- EVANS TAGGART

Mr. Evans explained to the Committee that the original 10.84 acres, which represents the first phase of a subdivision known as Meadow Park South had 10.00 acres which represents the first phase of a subdivision known as Meadow Park had perviously been approved for annexation by the Planning and Zoning Committee but had not been formally adopted by the City Council as yet. He said the approval was for a single family residential subdivision development so they would like to request an amendment to the annexation policy declaration to include a planned unit development of thirteen (13) four-plexes.

He added that a buffer zone will separate the single family dwellings from the planned unit development, the hook-ups for the planned unit development will be incorporated into the seventy (70) hook-ups already approved and if additional hook-ups are needed they will seek approval, contingent upon the Sewer and Water Study.

After a lengthy discussion Chairman Dafoe entertained the motion to recommend that the Delta City Council approve the request of Evans Taggart to amend their Annexation Policy Declaration to include a Planned Unit Development of thirteen (13) four-plexes, 4.92 acres on the North East corner of the Harrison Bunker Property to be incorporated into the seventy (70) hook-ups already approved by the Planning and Zoning Committee.

Member Lewis made the MOTION to that effect. It was SECONDED by Member Taylor and carried with a unanimous affirmative vote.

PETITION TO AMEND SECTION 9-300 CONDITINAL USES FOR R-2 ZONE OF THE PRESENT DELTA CITY ZONING ORDINANCE TO ALLOW FOR RETAIL SALES OF FABRICS AND HOME CRAFTS - MARGARET ANNE OVERSON

Chairman Dafoe explained that Mrs. Overson was operating a retail business in a metal building located in the vicinity of First West between Third and Fourth South Streets, which is in violation and not a permitted or conditional use in that zone. He read her petition to amend the permitted and conditional uses of R-2 Zone of the present Zoning Ordinance. He added that he had received a petition and application for a Conditional Use Permit but the Zoning Committee does not have the authority to grant such a permit.

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The Committee researched the draft of the new Zoning Ordinance to find a compatible zone to an R-2 but decided that future zoning dedications are too uncertain at this time.

The following conversation then took place:

Member Lewis: When the business was first zoned was it an in-home business?

Chairman Dafoe: Yes it was.

Member Lewis: Now it is a complete separate business?

Chairman Dafoe: That's my understanding. It's not attached to the home. Is that correct?

Mrs. Overson: Yes

Chairman Dafoe: What they are asking is that the Committee amend Section 9-300 under conditional uses to include the retail sales of fabrics crafts and other home related items commonly associated. Is there any discussion concerning that?

Councilman Bennett: Are you reading out of our present Ordinance?

Chairman Dafoe: Yes

Member Law: I personally don't have anything against it. It's not hurting anybody and it is a compatible use. I personally don't think there is anything wrong with it. It's kind of bad when a guy has to come and beg for his constitutional rights for a permit. That's the way I feel.

Member Dutson: Well, I don't see anything wrong with it either other than the fact that if we give them the okay it gives everybody else the same thing and that's what I'm up against. If we were staying the same as we are today in the town of Delta I could see nothing wrong with it, but in the future we are going to change and if we amend one we are going to have to amend a whole bunch and then we have lost control of everything we have done so far.

Member Law: Well, there's another problem too. That street is the only through street in Delta. Eventually it is going to be light commercial. Why not make a zone change right now to light commercial. We deleted it out of the new Zoning Ordinance but it is going to be a light commercial street. It already is.

Jody Howe: Light Commercial will probably be R-3B.

Member Little: What do you mean it is already light commercial?

Member Law: Well, there is a beauty shop and there was the Kiddy Kottage down in that country.

Member Astle: These are all permitted uses.

Jody Howe: Beauty shops are not a permitted use, but the Kiddy Kottage was.

Member Law: I don't think it is an in-home beauty shop.

Councilman Bennett: It isn't any more. It was when it opened.

Member Law: A service station would be a high volume, high traffic deal. A fabric shop is definitely not high volume, high traffic. If you are going to permit a service station down there why not a fabric shop?

Member Taylor: I'm not sure I would go for a service station down there.

Member Law: Well, it's a conditional use.

Member Astle: It is a conditional use now but I think we are moving in the new ordinance to eliminate it.

Member Dutson: If it is a conditional use in the present ordinance we probably wouldn't allow it anyway. At least I wouldn't vote for it.

Chairman Dafoe: The big question in my mind was the initial intent when the building was built. Was it built with the idea that it was going to be used as a business or was it going to be built for other intent.

Mrs. Overson: It was intended to be for a business. The building permit was bought with that intent.

Chairman Dafoe: It was my impression that the initial intent was for a two-car garage.

Mr. Overson: A sixty by eighty building for a two car garage! You better go get your drawings.

Chairman Dafoe: Well, maybe we better get what you applied for on the building permit.

Mr. Overson: A metal out-building. I asked specifically for a permit to move Mom's Crafts out of the basement onto my vacant lot right next door and that's when they gave me that Building Permit.

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Member Lewis: At that time didn't they tell you that you couldn't do that?

Mr. Overson: I asked for it specifically because I wanted to be of good intent when I asked for it. Then they sold it to me and now they have been hasseling me every since. I've heard two garage. I have heard everything.

The Mayor then brought in a copy of the building permit which had been issued to Mr. Overson and the Committee looked at it.

Chairman Dafoe: The permit shows it is for a metal out-building. It doesn't say anything about a business.

Member Astle: Is the problem with the building itself or with the retail business in the building?

Chairman Dafoe: I don't think there is any problem with the building. The problem lies with the usage, as far as it is being used as a commercial venture in a residential zone where it is not permitted, according to the present Zoning Ordinance.

Mr. Overson: Well, there is not a one of you sitting there who would spend \$120,000.00 if you thought you were in the wrong.

Member Taylor: I would be sure I was in the right if I was going to spend \$125,000.00

Mr. Overson: Well, if you ask for something specifically and they give you a permit.

Chairman Dafoe: Well, it doesn't say anything on the permit that it cost \$120,000.00. It is for \$15,000.00

Mr. Overson: I had a lot of inventory and everything else man.

Chairman Dafoe: You had that inventory in your basment before.

Mr. Overson: That's right, and it got too big down there so I moved it out. It's still a cost. I was given a permit to move it into that metal out-building. That's absolutely right.

Chairman Dafoe: Well, the rest of us can't dispute that because there is no record of what transpired between you and Neil when the permit was issued.

Councilman Bennett: I don't think Neil could have done that because it was in the wrong zone and there would have to have been a zone change for him to have been able to do it. I don't think Neil had the authority to issue a permit for a commercial.....

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Mrs. Overson: Well, how in the hell did I get the damn permit? He signed it. Excuse me.

Councilman Bennett: He gave you a building permit Peggy, I'm sure, but not for a commercial use because he don't have the permission to do that.

Mrs. Overson: I don't lie. Do what you have to do. Do it. I don't care.

Mr. Overson: If you people want a hostile environment, I'll give it to you because I cannot live with my wife under this circumstance. She can't take this mental strain. I can but she can't. Thank you.

The Oversons then left the meeting.

Member Astle: What is the schedule for moving along with the Public Hearing on the revised Ordinance and the new Zoning Map?

Jody Howe: I recommend that the Public Hearing be held on the text of the Zoning Ordinance first which would simplify the process and have the Zoning Map approved later.

Member Astle: That business can't exist under the present ordinance and if the request for a zone change is denied the city is in the process of revising the old ordinance and creating new zones, which would be going to a Public Hearing. It's possible that type of business could be allowed under future zoning, and if that zone is changed the whole problem could be resolved coincidentally.

The majority were not in favor of approving a zone change now and again in the future when the Ordinance and Zone Map are completed.

Member Law: I make a MOTION to amend Section 9-300 of the present Zoning Ordinance to permit the use of a retail sale of fabrics and home crafts as I don't see anything wrong with permitting this use in an R-2 Zone and that street will eventually be a commercial street and the City might as well continue with this business as it is.

The motion died for lack of a second.

Chairman Dafoe entertained the motion to recommend that the Delta City Council deny the petition of Margaret Anne Overson to amend Section 9-300, Conditional Uses for R-2 Zone of the present Delta Zoning Ordinance, to provide for the retail sales of fabrics and home crafts as an allowable conditional use in a Residential Zoned Two (2).

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A MOTION to deny the petition as stated by the Chairman was made by Member Dutson, SECONDED by Member Astle and carried with a majority vote. Member Law opposed.

Reasons for the action of the Committee are as listed:

1. It is not permitted as a Conditional Use in the present Zoning Ordinance.
2. A retail business is inconsistent with the intent of the R-2 Zoning that exists in the present Ordinance. Other zones being set up for that purpose and essentially Planning and Zoning are considering making residential areas even more restrictive in the new Ordinance. Planning and Zoning is in the process of revising the old Ordinance and there is a possibility that the Ordinance may be revised to include this type of venture within that zone.
3. Spot zoning is not acceptable.

The Committee expressed the fact that they did not wish to set a precedent.

NONCONFORMING STRUCTURES AND USES OF ZONING ORDINANCE NO. 77-3

The majority of the Members were in agreement to add this section to the new Zoning Ordinance 77-3. Member Law was opposed.

LAND USE AND MAJOR THOROUGHFARE MAP

Studied and revised.

There being no further business, Member Lewis made a MOTION to adjourn at 11:00 p.m. The motion was SECONDED by Member Taylor and received a unanimous affirmative vote.

Don Dafoe, Chairman



Lelli Dawson, Secretary