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Council may take formal action on any item appearing on this Agenda. However, formal action WILL NOT be taken at this meeting on any item of business first identified during the course of the meeting as a change to the Agenda, other business, or Citizen, Councilmember and Staff Comments.

## **A G E N D A**

**Delta City Council  
Regular Meeting**

**April 21, 2015  
7:00 p.m.**

- A. Pledge of Allegiance**
- B. Changes to the Agenda**
- C. Minutes**
- D. Citizen Comments**
- E. Planning Commission Recognition – Richard Simmons**
- F. Three Mile Plan**
- G. Appeal of Planning Commission Decision**
- H. Arbor Day Proclamation**
- I. City Attorney Comments**
- J. City Manager Comments**
- K. Councilmember Comments**

Item A:

**Pledge of Allegiance**



Item B:

**Changes to the Agenda**

Mayor Ed Sisson called the meeting to order at 7:00 p.m. Also present were Councilmembers Bill Raley, Robert Jurca, Mary Cooper, and Ray Penick along with City Manager Justin Clifton. A meeting notice was posted in the south window at City Hall at least twenty-four hours prior to the meeting.

**Pledge of Allegiance**

The Mayor led everyone present in the Pledge of Allegiance.

**Changes to the Agenda**

There were none.

**Minutes**

It was moved by Councilmember Penick and seconded by Councilmember Jurca to approve the minutes of the March 12, 2015 special meeting and the March 17, 2015 regular meeting minutes as submitted by the Clerk. All in favor, motion carried.

**Citizen Comments**

There were none.

**Public Hearing: Hotel/Restaurant Liquor License Application; Opa's**

The Mayor recessed the regular meeting and convened a public hearing.

The Clerk explained Angela M. Lindberg has submitted a hotel and restaurant liquor license application. Staff has reviewed the application and has determined the following items:

- There has not been a denial of an application by the Liquor Licensing Authority, the City Council of the City of Delta, for a Hotel and Restaurant Liquor License at the location.
- The applicant has possession of the premises.
- Selling spirituous liquors in the manner proposed in the application is not in violation of the zoning, fire, and other applicable laws of the City of Delta, or any laws, rules or regulations of the City/County Health Department or the laws of the State of Colorado.
- The property proposed to exercise the privilege of selling liquors does not appear to be within 500 feet from any public or parochial school or the principal campus of any college, university or seminary. The location is 440 Main Street, Delta, Colorado.
- A background investigation was completed on Angela Lindberg and no records were found.
- All fees have been paid to the State as well as the City of Delta.
- A sign notifying the public was posted and a public notice was submitted to the local newspaper as required by law and no comments have been received.

Ms. Lindberg presented Council with a signed petition by various residents of the City of Delta in favor of approving the liquor license.

### **Regular Meeting, Delta City Council, April 7, 2015 (cont.)**

#### **Public Hearing: Hotel/Restaurant Liquor License Application; Opa's (cont.)**

The Mayor called for public comment and when there was none he closed the public hearing and reconvened the regular meeting.

It was moved by Councilmember Raley and seconded by Councilmember Cooper to approve the hotel and restaurant liquor license for Angela Lindberg dba Opa's. All in favor, motion carried.

#### **Retail Liquor Store Renewal; D&B Liquors**

The Clerk stated that D&B Liquor has submitted their retail liquor store renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Jurca and seconded by Councilmember Penick to approve the retail liquor store license renewal for D&B Liquors. All in favor, motion carried.

#### **Hotel/Restaurant Liquor License Renewal; Stockyards**

The clerk reported that Stockyards has submitted their hotel and restaurant liquor license renewal. The application is complete and all fees have been paid. The police department is recommending renewal.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the hotel and restaurant liquor license for Stockyards. All in favor, motion carried.

#### **Colorado Parks and Wildlife Special Event Request**

The Clerk stated that the Colorado Parks and Wildlife is requesting approval for a special event permit to use their portable trailer within City of Delta to conduct hunter safety classes. The Delta Municipal Code 9.04.100 Discharge of guns prohibited states the following "C. This section shall not apply when a permit has been granted by the City Council for a special event. No permit shall be granted unless the Council determines that no nuisance, unreasonable noise or safety hazard will be created."

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to approve the special event permit for the Colorado Parks and Wildlife for use of their portable trailer to conduct hunter safety classes and/or demonstrations. All in favor, motion carried.

#### **Upper White Ranch Grazing Lease**

City Manager Justin Clifton stated that this is the annual lease agreement for grazing rights on the Upper White Ranch. There are no changes to the lease since last year.

It was moved by Councilmember Penick and seconded by Councilmember Raley to approve the Upper White Ranch Grazing Lease. All in favor, motion carried.

## **Regular Meeting, Delta City Council, April 7, 2015 (cont.)**

### **Hawkins Indemnity Agreement**

Manager Clifton stated that staff is recommending that Council consider approving the indemnity agreement executed by the Carolyn and Jack Hawkins and prepared by City Attorney, David McConaughy indemnifying the City of Delta against any claims or demands by the West Winds Home Owner's Association or any other third party disputing the rights of the Hawkins or the public to traverse and utilize Falcon Road, or any portion thereof, to provide access from U.S. Highway 50 to Hawkins Subdivision One, Lot 1.

It was moved by Councilmember Cooper and seconded by Councilmember Raley to approve the Hawkins Indemnity Agreement. All in favor, motion carried.

### **City Attorney Comments**

There were none.

### **City Manager Comments**

Manager Clifton stated that it was a pleasure to serve the Council and the City of Delta. He also stated that it was an honor to work with the outstanding staff.

### **Councilmember Comments**

Each of the Councilmembers expressed appreciation to Justin Clifton for all his hard work with getting the City of Delta back on the right track. They all wished him the best of luck.

### **Executive Session**

It was moved by Councilmember Cooper and seconded by Councilmember Jurca to convene an Executive Session or discussion of a personnel matter under CRS Section 24-6-402(4)(f) and not involving: any specific employees who have requested discussion of the matter in open session; any member of this body or any elected official; the appointment of any person to fill an office of this body or of an elected official; or personnel policies that do not require the discussion of matters personal to particular employees.

All in favor, motion carried.

At 7:14 p.m., Mayor Sisson recessed the Regular Meeting and convened the Executive Session.

At 7:27 p.m., the Mayor reconvened the Regular Meeting and announced that the Executive Session had been concluded. He stated that in addition to himself, the participants in the Executive Session were Councilmembers Mary Cooper, Robert Jurca, Ray Penick and Bill Raley, as well as Community Development Director Glen Black., For the record, the Mayor asked any person participating in the Executive Session who believed that any substantial discussion of any matters not included in the motion to go into Executive Session occurred during the Executive Session in violation of the Open Meetings Law, to state his or her concerns for the record. No concerns were stated.

**Regular Meeting, Delta City Council, April 7, 2015 (cont.)**

**Resolution #1, 2015; Appointment of Interim City Manager**

Resolution #1, 2015

APPOINTING GLEN L. BLACK AS INTERIM CITY MANAGER

It was moved by Councilmember Penick and seconded by Councilmember Raley to adopt Resolution #1, 2015. Roll call vote: Councilmember Cooper, aye; Jurca, aye; Raley, aye; Penick, aye and Sisson aye. Motion carried.

The meeting was adjourned at 7:27 p.m.

/s/ Jolene E. Nelson  
Jolene E. Nelson, CMC, City Clerk

Item D:

Citizen Comments



# MEMO

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To: City Council, Glen L. Black, Interim City Manager  
From: Sharleen R. Walker, Community Development  
Administrative Assistant  
Date: April 21, 2015  
Subject: Planning Commissioner Recognition



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## *Community Development*

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**Background:** According to the City Charter, “There shall be a City Planning Commission consisting of seven members appointed by the Council who shall be qualified electors of the City. Members of the Planning Commission shall be appointed for staggered three-year terms with no Commissioner eligible to serve more than six consecutive years.”

**Richard Simmons:** Richard was appointed to the City of Delta Planning Commission in March 2009 and was reappointed to a second term in February 2012. Richard has faithfully served the citizens of Delta on the Planning Commission for six years; serving as the Vice-Chairman 2012 and Chairman September 2012, 2013 and 2014.

Staff would like to thank Richard for his service on the Planning Commission. During his tenure on the Planning Commission various zoning amendments, conditional uses, subdivisions and Municipal Code revisions were completed.

# MEMO

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To: City Council  
From: Glen L. Black, Community Development Director  
Date: April 21, 2015  
Subject: 3 Mile Plan (SB45 Plan)



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## *Community Development*

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**Recommendation:** City Council would approve the Three Mile Plan to define the City's planning area. Approval of the plan allows the City to annex areas in and around the current City boundaries in conformity with State Statutes.

**Background:** Statute C.R.S. 31-12-105(e)(I) requires the City to review and update annually the plan which considers areas within three miles of the City's boundaries. Planning Commission reviewed the plan at their April 6, 2015 meeting and has recommended approval to City Council. The boundary has not changed from 2012. The Allen Disconnect had no effect on the boundary.

**Cost:** There is no cost to the City of Delta.

**Alignment With Strategic Planning:** Chapter 3 Page 3-1 discusses the Surrounding Plan Area with a map on Page 3-2.

**Actions To Be Taken if Approved:** Staff will keep copies of approved plan on file.



## **Three Mile Plan**

### **Overview**

The following plan is hereby developed to comply with C.R.S. 31-12-105 (e)(I), which states the following:

(e) (I) Except as otherwise provided in this paragraph (e), no annexation may take place that would have the effect of extending a municipal boundary more than three miles in any direction from any point of such municipal boundary in any one year..... Prior to completion of any annexation within the three-mile area, the municipality shall have in place a plan for that area that generally describes the proposed location, character, and extent of streets, subways, bridges, waterways, waterfronts, parkways, playgrounds, squares, parks, aviation fields, other public ways, grounds, open spaces, public utilities, and terminals for water, light, sanitation, transportation, and power to be provided by the municipality and the proposed land uses for the area. Such plan shall be updated at least once annually.....

### **The Plan**

The City of Delta's Three Mile Plan includes the following:

1. A boundary map showing a three mile area around the City.
2. The City of Delta Comprehensive Plan, including the Future Land Use Plan map.
3. The Growth Management Agreement between the City and Delta County recorded January, 2007 in the Delta County Records.
4. The Delta County Road and Bridge Map, incorporated to the extent of the three mile area shown on the boundary map.
5. The Capital Improvement Plans.
6. The Major Street Plan.

Public utilities in the three mile area include the following:

- a. Power providers: Include the City of Delta and Delta-Montrose Electric Association within their respective service areas.
- b. Sewer: Available in and near the City from the City of Delta. City sewer is extended as per City ordinances at the cost of the applicant, or pursuant to special financial projects. Other areas are planned for agricultural or low density residential until City sewer is extended. Individual Sewage Disposal Systems (ISDS) are authorized under certain circumstances in the City.
- c. Water service: Domestic water services are provided in the area by the City of Delta and Tri-County Water Conservancy District within their respective service areas



- d. Trash collection: City trash service is provided within the City. Private collection services operate outside and within the City. Delta County operates the Delta County Landfill.
- e. Telephone: Century Link Communications and TDS as per their certified service areas.
- f. Natural Gas: Source Gas provides service available in the City, in fringe areas of the City, and along the main pipeline only.
- g. Cable TV: Available in and near the City only, pursuant to Charter CATV permit.

The proposed land uses of the area consist of public land, agricultural uses, and low-density residential uses, except to the extent specifically provided otherwise by the City's Zoning Map, Comprehensive Plan, and Future Land Use Plan map.

No transportation services are proposed to be provided by the City other than streets, alleys or bikeways, and recreation pathways.

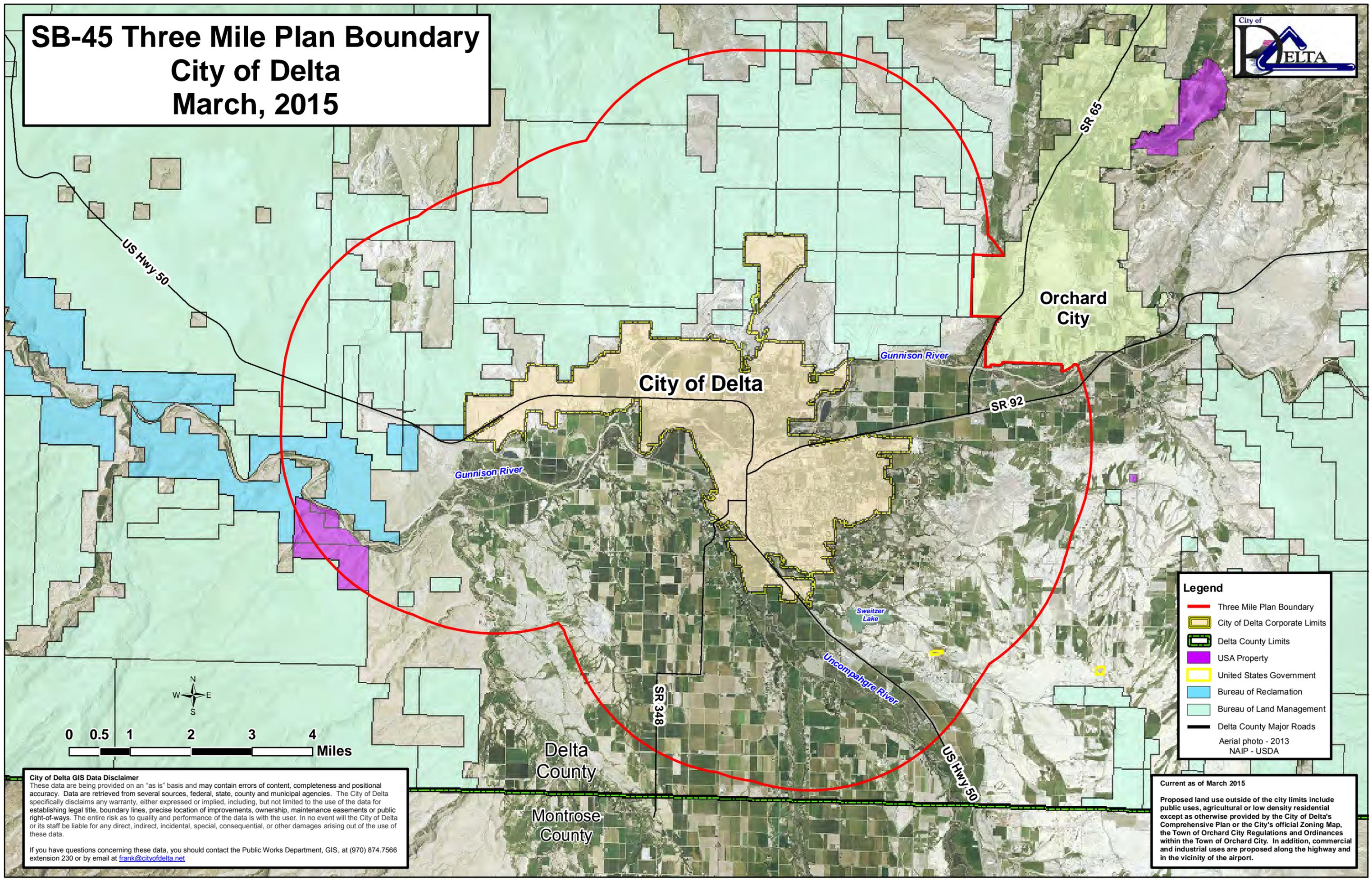
To the extent that any item mentioned in C.R.S. 31-12-105 (1) (e) is not reflected in the items of this Plan, the Plan should be construed to mean that no such facilities are contemplated to be provided.

In the event of any conflict between anything in the foregoing elements of the Three Mile Plan and City ordinances or regulations, the City ordinances and regulations shall control. The City of Delta Comprehensive Plan and other city elements of the above documents shall control with respect to any conflicts with provisions of the plan incorporated from other "non-City" entities.

# SB-45 Three Mile Plan Boundary

## City of Delta

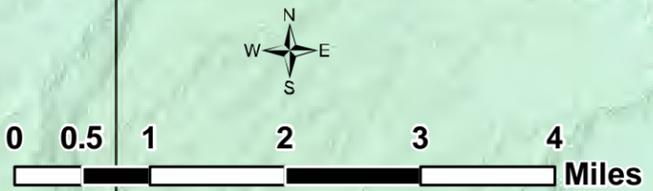
### March, 2015



**Legend**

- Three Mile Plan Boundary
- City of Delta Corporate Limits
- Delta County Limits
- USA Property
- United States Government
- Bureau of Reclamation
- Bureau of Land Management
- Delta County Major Roads

Aerial photo - 2013  
NAIP - USDA



**City of Delta GIS Data Disclaimer**  
 These data are being provided on an "as is" basis and may contain errors of content, completeness and positional accuracy. Data are retrieved from several sources, federal, state, county and municipal agencies. The City of Delta specifically disclaims any warranty, either expressed or implied, including, but not limited to the use of the data for establishing legal title, boundary lines, precise location of improvements, ownership, maintenance easements or public right-of-ways. The entire risk as to quality and performance of the data is with the user. In no event will the City of Delta or its staff be liable for any direct, indirect, incidental, special, consequential, or other damages arising out of the use of these data.

If you have questions concerning these data, you should contact the Public Works Department, GIS, at (970) 874.7566 extension 230 or by email at [frank@cityofdelta.net](mailto:frank@cityofdelta.net)

Current as of March 2015

Proposed land use outside of the city limits include public uses, agricultural or low density residential except as otherwise provided by the City of Delta's Comprehensive Plan or the City's official Zoning Map, the Town of Orchard City Regulations and Ordinances within the Town of Orchard City. In addition, commercial and industrial uses are proposed along the highway and in the vicinity of the airport.

# MEMO

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To: City Council  
From: Glen L. Black *GLB*  
Date: April 21, 2015  
Subject: Appeal of Planning Commission decision



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*Community Development*

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**Recommendation:** Council shall decide how they wish to proceed. Council has two options:

1. To hear the matter de novo by holding a new hearing or
2. To review the tape-recording of the hearing before the Planning Commission.

**Background:** On April 6, 2015, Planning Commission held a Public Hearing to review a Zoning Amendment/Rezone Request for lots 19-26, Block 7 Town of Delta, also known as 632, 640 and 654 Main Street. These lots are currently vacant land on the east side of Main Street between 6<sup>th</sup> Street and 7<sup>th</sup> Street. Planning Commission made the decision to recommend "No Change" to the zoning map to City Council.

The applicant, Orval Proctor, has filed an appeal of the Planning Commission decision with the City Clerk. City Municipal Code 17.04.290.H.3 states ... The Council shall thereafter decide the matter de novo by holding a new hearing substantially in conformity with the procedures of this section, or by review of the tape-recording or transcript and record of the hearing before the Planning Commission, as Council determines in its discretion.

**Cost:** A de novo hearing will have certain costs associated with posting notice of the Public Hearing including newspaper ad, mailing notices to adjacent property owners and posting sign. Review of the tape-recording would have no cost.

**Actions To Be Taken:** Should Council choose to hold a de novo hearing, staff would recommend scheduling for the regular City Council meeting on May 19, 2015 to allow for timely notifications. Should Council choose to review tape-recording, staff can arrange for the City Council meeting on May 5, 2015.



*Whereas,* In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

*Whereas,* this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

*Whereas,* Arbor Day is now observed throughout the nation and the world, and

*Whereas,* trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

*Whereas,* trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

*Whereas,* trees in our city increase property values, enhance the economic vitality of business areas, and beautify our community, and

*Whereas,* trees, wherever they are planted, are a source of joy and spiritual renewal.

*Now, Therefore, I,* Edward C. Sisson, Mayor of the City of  
Delta, do hereby proclaim  
April 24, 2015 as

# Arbor Day

In the City of Delta, and I urge all citizens to celebrate Arbor Day and to support efforts to protect our trees and woodlands, and

*Further,* I urge all citizens to plant trees to gladden the heart and promote the well-being of this and future generations.

*Dated this* 21st day of April, 2015  
Mayor \_\_\_\_\_

**Items: I, J & K**

**Attorney Comments**



**City Manager Comments**



**Councilmember Comments**

