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## A G E N D A

**Planning Commission  
Regular Meeting**

**June 1, 2015  
6:30 p.m.**

**A. Changes to the Agenda**

**B. Minutes of the April 6, 2015 Planning Commission meeting.**

**C. Citizen Comments**

**Citizens who have comments on items that do not appear on the agenda are asked to make their comments at this time. Comments on an agenda item will be taken at the time that item is under discussion.**

**D. Zoning Amendment/Rezone Request for 791 15.50 Road from A-1 (Agriculture) to R-1A (Low Density Residential)**

- **Open the Public Hearing**
- **Staff Report and Recommendations**
- **Applicant Presentation**
- **Public Comment**
- **Close Public Hearing**
- **Planning Commission Recommendation**

**E. Commissioner Comments**

**F. Staff Comments**



A regular meeting of the City of Delta Planning Commission was held on Monday, April 6, 2015 at 6:30 p.m. in the City Council Chambers of City Hall at 360 Main Street, Delta, Colorado. Said meeting was posted in accordance with the Sunshine Law.

**PRESENT:** Lynn Williams, Commissioner; Carl Jahn, Commissioner; Tish Oelke, Commissioner; Gerald Roberts, Commissioner; Glen Black, Director of Community Development; Sharleen Walker, Planning Technician.

**ABSENT:** Ginni Selby, Commissioner; two vacant commissioners

**GUESTS:** Orval Proctor, George Auclair, Marvin Cox.

### **CHANGES TO THE AGENDA**

Glen Black, Community Development Director, informed the Planning Commission that an amended agenda has been provided to all of the Planning Commission members and the public. Mr. Black explained that the zoning amendment item had been expanded to include the steps of the public hearing process.

### **ELECTION OF CHAIRMAN AND VICE-CHAIRMAN**

Commissioner Gerald Roberts introduced the agenda item. Commissioner Jahn nominated Gerald Roberts as the Chairman of the Planning Commission.

A motion was made by Carl Jahn, seconded by Tish Oelke to appoint Gerald Roberts as Chairman of the Planning Commission. All voted yes. Motion passed.

Commissioner Jahn nominated Tish Oelke as Vice-Chairman of the Planning Commission.

A motion was made by Carl Jahn, seconded by Lynn Williams to appoint Tish Oelke as Vice-Chairman of the Planning Commission. All voted yes. Motion passed.

### **MINUTES**

A motion was made by Lynn Williams, seconded by Carl Jahn to approve the minutes of the Planning Commission held on Monday, December 1, 2014 as written. All voted yes. Motion passed.

### **CITIZEN COMMENTS**

Marvin Cox requested that everyone speak into the microphones.



**PUBLIC HEARING ZONING AMENDMENT (REZONE) LOTS 19-26, BLOCK 7 TOWN OF DELTA (632, 640 & 654 MAIN STREET)**

Chairman Roberts introduced the agenda item and opened the public hearing regarding the zoning amendment request from the applicant to change the zone for Lots 19-26, Block 7, Town of Delta, also known as 632, 640 & 654 Main Street (two of the lots are not addressed) from B-1 to B-2.

Glen Black, Community Development Director, reviewed the staff report and recommendations. Mr. Black reminded the Planning Commission that zoning amendments must meet the criteria for rezoning as set forth in the Delta Municipal Code. Additionally, Mr. Black informed the Planning Commission that in considering a rezone, if the zone is changed, then all uses allowed in that zone are then allowed; zoning changes are not specific to one application.

Below is a copy of the staff report and recommendations:

**Request:**

The applicant is requesting that the above property's zoning designation be amended (rezoned) from B-1 to B-2. The B-2 zone is intended for a large variety of uses to conveniently serve customers. Delta Municipal Code 17.04.150.

**Criteria for Rezoning:**

According to section 17.04.270 of the City Municipal Code, amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed **only** upon findings as follows:

1. The amendment is not adverse to the public health, safety, and welfare; **and**
2.
  - a. The amendment is in substantial conformity with the Master Plan; **or**
  - b. The existing zoning is erroneous; **or**
  - c. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.

**Petitions:** There were 14 petitions mailed out and currently there have been 2 petitions turned in approving of the rezone, 1 objecting to the rezone and 1 returned with no response.

**Staff Recommendations:**

The Planning Commission should carefully consider the following regarding this rezone request. When considering a rezone request always look at all of the uses that are allowed in the zone, not the implied proposed use of the current property owner.

The future land use map shows the area on the east side of Main Street from the 100 Block to 7<sup>th</sup> Street as B-1.

The Master Comprehensive Plan states that the Desired Future Condition as "Growth and development are managed to preserve and enhance the quality of life that makes Delta an attractive place to live and visit. The downtown core is revitalized as a walk-able village center

with a well designed mix of residential and commercial uses that serve both residents and visitors. Edges of the community are clearly defined by surrounding agricultural land and future growth is concentrated within the present City boundaries.”

Policy 4 from the Master Comprehensive Plan states “Downtown should become a mixed use area with single family and multifamily residences, offices and retail establishments that serve the needs of residents and tourists.”

Policy 5 from the Master Comprehensive Plan states “Improve the appearance of downtown.”

Staff and Planning Commission also reviewed the zoning and aerial map. It was noted that there are a couple of properties that are zoned B-2 north of 7<sup>th</sup> Street.

Orval Proctor, applicant, informed the Planning Commission that when he purchased the property because he wanted to expand his current location’s building to allow storage of more part and allow the car inventory to overflow from the current lot to the new property across the street. Additionally, Mr. Proctor stated that he was under the impression that a car lot would be allowed on the property because Consolidated Finance, at 620 Main had a car lot on it. Mr. Proctor stated that 620 Main was used as a car lot from 1997 to 2012.

Mr. Proctor informed the Planning Commission that three other business owner’s had contacted him and stated that they were in favor the rezone request.

Additionally, Mr. Proctor stated that he had blocked the entrances to the property for liability reasons and that he plans on bringing in dirt and gravel to level the lot and repair the sidewalk and possibly installing a chain link fence on the backside parallel to the alley. Mr. Proctor stated that there are a lot of people who are interested in car history and that people from all over the world stop to look at the current lot with the old cars on it; however he does acknowledge that there are some people who do not like the old cars.

The Planning Commission questioned Mr. Proctor how the rezone request meets the criteria in part b, was the zoning erroneous? Zoning Ordinance 25-1979 (this Ordinance was inadvertently labeled as Ordinance 25-1975 in the packet) was discussed and it does not appear that a car lot was a use by right in the B-1 zone in 1979 and that 620 Main was zoned B-1 at that time and was further zoned B-1 in 1999 when the comprehensive zoning Ordinance was adopted.

Marvin Cox, property owner at 7<sup>th</sup> and Meeker Street questioned the applicant why he was requesting a rezone. Mr. Proctor stated that the B-1 zone does not allow car lots, and he would like to put a car lot on the property. Mr. Cox expressed concerns over access to his property from the alley; however he stated that he had no real objection to the zoning change. Mr. Cox stated that he would like the appearance of the lots to be improved.

George Auclair, property owner at 660 Main Street, informed the Planning Commission that he purchased his property 16 years ago and the adjacent properties had three Victorian houses that were very attractive, which were subsequently purchased by a bank and demolished to make way for a new bank on the property, but that the new bank was never built. Mr. Auclair stated that he lives in the same place as his business and that is protests to the zoning change, however is in favor of shops, multi-family dwellings etc.



Mr. Black informed the Planning Commission that the lots would have to meet site development requirements standards, such as landscaping and possibly paving, when a business is located on the lots, but zone changes cannot have conditions applied.

The Planning Commission expressed concerns that there would be one B-1 property left on the block. Staff stated that the Planning Commission can enlarge the zoning area to be changed on its own motion, with proper notice.

Chairman Roberts closed the public hearing.

The Planning Commission discussed the criteria needed for a rezone and the consensus was that the application does not meet the criteria. Additionally, there were concerns that the B-2 zone opens up the area to uses that are not compatible with the downtown area.

A motion was made by Tish Oelke, seconded by Carl Jahn to not recommend approval of the proposed zoning change from B-1 to B-2 for Lots 19-26, Block 7, Town of Delta, also known as 632, 640 & 654 Main Street (two of the lots are not addressed) to the City Council. All in favor. Motion passed.

Mr. Black informed the applicant that the recommendation of the Planning Commission will go to City Council on April 21<sup>st</sup>.

### **THREE MILE PLAN**

Mr. Black reviewed the three-mile plan with the Planning Commission. Mr. Black stated that the three-mile plan is a requirement of the State and that the plan is the same as it was in 2014.

A motion was made by Lynn Williams, seconded by Tish Oelke to approve three-mile plan. All voted yes. Motion passed.

### **MUNICIPAL CODE BOOK UPDATES**

The Planning Commission will update their code books or drop their books off for Sharleen to update.

### **COMMISSIONER COMMENTS**

None.

### **STAFF COMMENTS**

Mr. Black congratulated Chairman Roberts and Vice-Chair Oelke on election to the positions.

Additionally, Mr. Black stated that there are two openings on the Planning Commission and that staff will continue to advertise.



**ADJOURNMENT**

A motion was made by Carl Jahn, seconded by Tish Oelke to adjourn the regular Planning Commission meeting. All voted yes. Motion passed. The meeting was adjourned at 7:26 p.m. with no further action taken.

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Sharleen R. Walker, Planning Technician



### 791 15.50 Road Rezone Request

**Interim City Manager:** Glen L. Black

**Date:** June 1, 2015

<b>Owners:</b> Paul VanRyzin	<b>Applicants:</b> Paul VanRyzin
<b>Location:</b> 791 15.50 Road	<b>Parcels #:</b> 345712103001

**Zone District:** A-1

**Parcel Size:** 2.4 acre

**Request:**

The applicant is requesting that the above property’s zoning designation be amended (rezoned) from A-1 to R-1A. The R-1A zone is intended to provide a quiet, low-density development for single family residences, site built or factory built homes. Delta Municipal Code 17.04.070.

**Criteria for Rezoning:**

According to section 17.04.270 of the City Municipal Code, amendments to the Zoning Map involving any change in the boundaries of an existing district or changing the district designation of an area shall be allowed **only** upon findings as follows:

1. The amendment is not adverse to the public health, safety, and welfare; **and**
2. a. The amendment is in substantial conformity with the Master Plan; **or**
- b. The existing zoning is erroneous; **or**
- c. Conditions in the area affected or adjacent areas have changed materially since the area was last zoned.

**Petitions:** There were 9 petitions mailed out and currently there has been 1 petition turned in approving of the rezone.

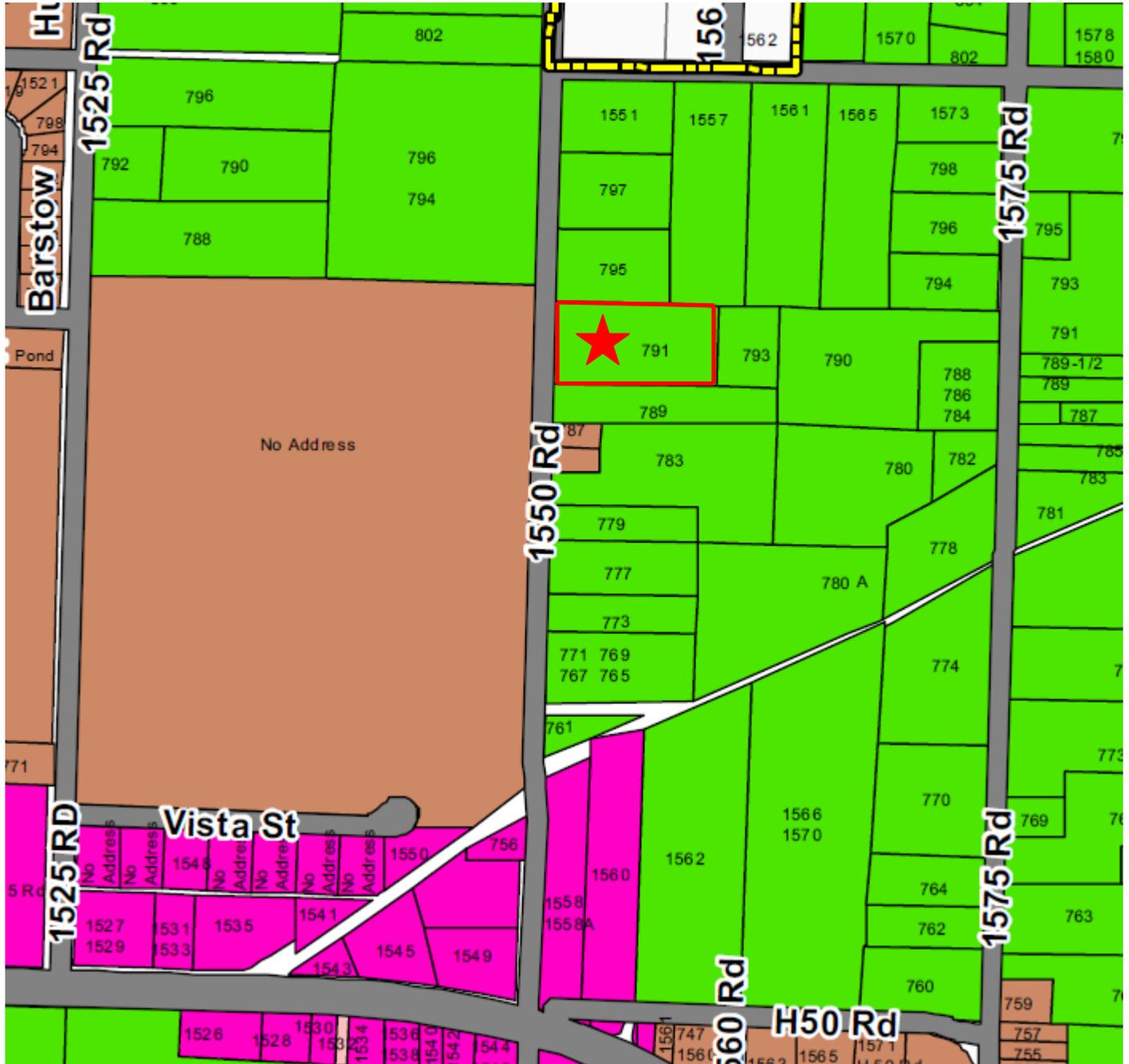
**Staff Recommendations:**

Staff is in support of the rezone. The 2008 Comprehensive Master Plan Future Land Use Map shows the area to be zoned Medium Density Residential, which includes the current zoning designations of R1, R-1A and R2. There is a 46.4 acre piece of property across the road and a .26 acre piece of property located to the south of the property (not adjacent) that are currently zoned R-1A. Both of these properties were initially zoned R-1A at the time of annexation.

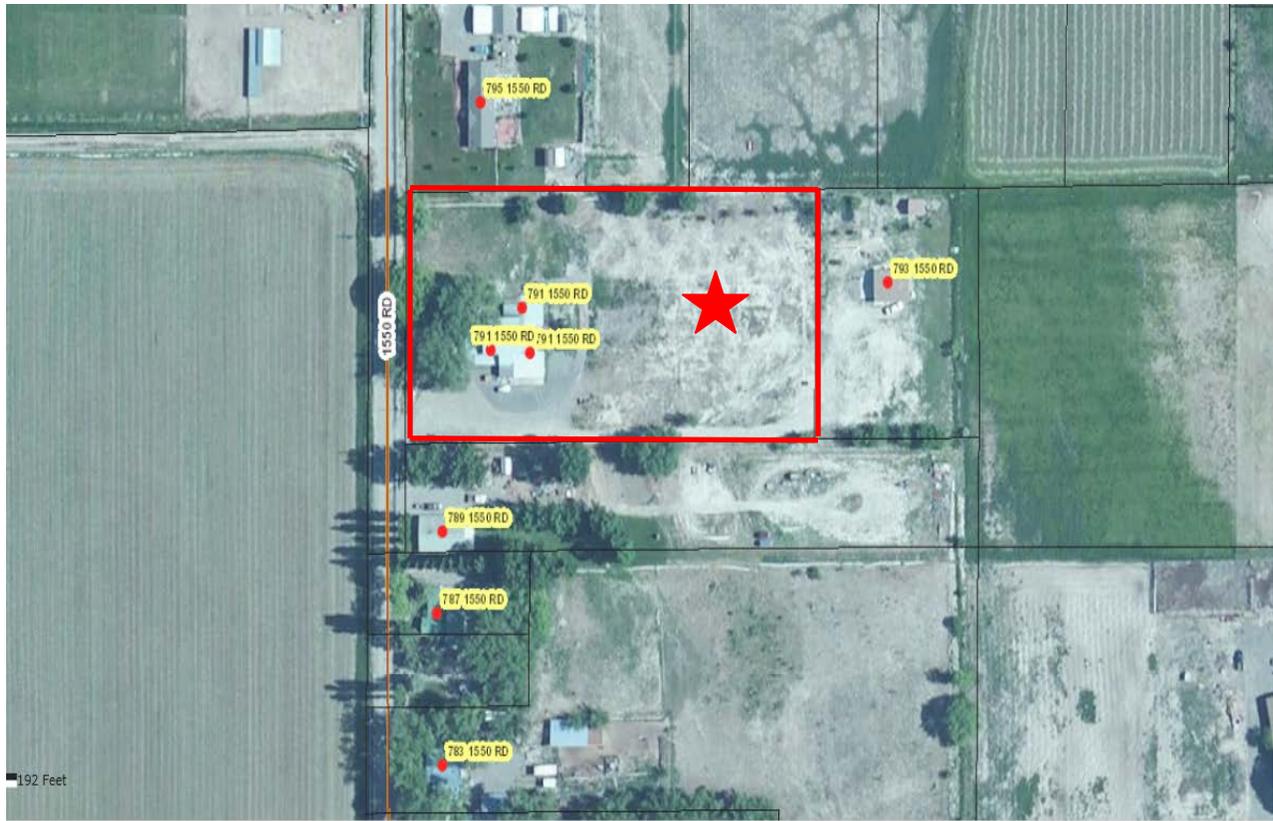
**Example Motion:**

I move that Planning Commission **recommend/not recommend** approval to City Council the request to change the zone district of 791 15.50 Road from A-1 to R-1A.

**Zone Map**



### Aerial Photo



## **NARRATIVE**

4/27/2015

FROM: PAUL VAN RYZIN, OWNER, LOWER GUNNISON VALLEY HOUSING LLC

TO: CITY OF DELTA PLANNING COMMISSION

RE: RE-ZONING PROPERTY AT 791 1550 ROAD, DELTA CO.

### **INTRODUCTION:**

The owner of the subject property respectfully submits this detailed narrative in application for rezoning the property at 791 1550 Road in Delta from current zoning of A-1 (Agriculture) to R-1A (Residential 1A).

### **BACKGROUND:**

The owner's goal is to construct one single family dwelling on the subject property. The building would be situated behind the current fourplex unit (791 1550 Rd), equidistant between the fourplex and the western property line of the property immediately adjacent to the east (owned by Leobardo Hernandez, 793 1550 Rd).

The building would be a 2-bedroom, 1-bath stick-built home which would be constructed on site and permanently affixed to a monolithic slab foundation.

The current zoning on the subject property requires ½ acre per dwelling. Since the subject property is 2.4 acres, this classification (A-1) prevents the owner from utilizing the estimated 330'x230' area behind the existing fourplex, amounting to more than an acre of usable land.

The owner is seeking a change to R-1A Residential, consistent with adjacent properties and others nearby. The proposed dwelling would be initially owner-built and –occupied, and thereafter would provide affordable housing in a desirable location for a small family.

### **ARGUMENT:**

The proposed rezoning is not averse to the public health, safety or welfare. Construction of the dwelling would conform to all City codes. It would provide work for a local builder. The addition of a single family dwelling would not significantly increase traffic congestion or safety, since 1550 Road is a lightly-traveled, semi-rural road.

Since the subject property was last zoned as A-1 Agriculture, conditions in adjacent areas have changed materially. For example, the property immediately adjacent to the subject property across 1550 Rd. has been rezoned to R-1A, to accommodate higher-density residential development, as have other properties on 1550 Road to the south. It would seem inconsistent to grant a rezone allowing increased density development to an adjacent, vacant property while denying a zoning change that would potentially result in a lower-density development (addition of a single family dwelling on an area of some 60,000 square feet).

The proposed zoning change to the subject property is consistent with the City's Master Plan, which would allow higher density, single-family residential development in North Delta. North Delta is no longer an agricultural area primarily, but is transitioning to residential housing. It could be argued that the current zoning on the subject property (A-1) would allow uses that are inconsistent with residential development, or that might represent activities averse to public health, safety or welfare (such as agricultural use of pesticides). Modification of the zoning to residential status (R-1A) would conceivably provide neighboring landowners with a higher degree of safety, certainty, and consistency with existing land use trends in this part of the City.

**NOTICE TO PROPERTY OWNERS**

Conditional Use/Change in Non-Conforming Use

Variance

Zoning Amendment/Addition

Other: \_\_\_\_\_

Description of action to be considered: Rezone request/zoning amendment to the official zoning map of the City of Delta . The zone is requested to be changed from A-1 to R1A

Address of property under consideration: 791 15.50 Rd., Delta, Colorado

Date of Public Hearing: June 1, 2015 Time: **6:30 p.m.**

This letter is addressed to you as an adjacent property owner, within 100 feet of the area under consideration, to inform you that the City of Delta Planning Commission will review the above application on the date and time shown. You are invited to attend and comment at the public hearing, which will be held at the City Council Chambers at 360 Main Street, Delta Colorado.

I as a property owner within 100 feet of the area under consideration have been informed the above request as described in this application and hereby:

Approve

Object

**SIGNATURE**

**NAME (print)**

**STREET ADDRESS**

Ken Swearingin      KEN SWEARINGIN      795 1550 Road, Delta, CO.

COMMENTS: Please, do not grade drainage onto my lot;  
(Lot 1, Jess' Place Sub.)

**\*Please return this form to the City of Delta Planning Department at 360 Main St before the date of the hearing.**

874-7566  
874-7903