



# TOWN OF ELIZABETH

PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Members of the Board of Trustees  
FROM: Patrick Davidson, Town Administrator  
DATED: September 10, 2024  
SUBJECT: Amendment to the Comprehensive Plan

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## BACKGROUND

In December 2019, the Board of Trustees adopted the Town of Elizabeth Comprehensive Plan (“Comp Plan” or “Plan”). The Plan has been the topic of controversy, confusion, and debate. The adoption of the Plan triggered a series of events including recall elections, resentment and skepticism towards the Town, and a general strain on the Town and its employees. As a planning document for long-term development, it is often approached as the absolute law of the land, and by others as a mere attempt at control of the citizens of Elizabeth and surrounding properties and counties. From a practical perspective, it is none of these.

## ANALYSIS

### APPLICABILITY OF THE COMPREHENSIVE PLAN

A Comprehensive Plan, by definition, is a long-term planning tool used to determine community goals and aspirations in terms of development. Under ideal circumstances, public engagement is used to determine what the community desires for its future. In this process, it also allows elected officials, Staff, developers, and community members to determine future infrastructure needs, resource concerns, traffic issues, water and wastewater possibilities, and population growth. It also is a means of identifying what is important to a community, identifying community desires for improvement, and identifying factors and things to be protected.

The Elizabeth Comprehensive Plan is not the law. It is identified in the Town Code as one of the factors to be considered with land use, whether it be development, new construction, or revitalization. The Town Code is the law, along with Colorado’s Statutes. A specific item, idea, or concept called out within the Comp Plan does not mean it is mandated. Rather, based on public engagement, the input of the Planning Commission in creating the Plan, and the ratification by the Board of Trustees, it is a principal factor that requires consideration.

There has been considerable discussion over the past several years that the Planning Commission and the Board of Trustees are unwaveringly tied to the results of the Comp Plan. This is incorrect. There have also been discussions on social media and in other venues that Staff have required the Board of Trustees to comply with the Comp Plan. This, likewise, is incorrect.

Within the operations of both the Board of Trustees and within the Planning Commission, these bodies wear many “hats.” When engaged in legislative functions, these bodies seek to establish general rules, laws, and procedures to an open class of individuals, i.e., the entire community. On



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the other hand, both of these bodies may also be engaged in quasi-judicial functions. In these instances, both the Board of Trustees and the Planning Commission operate as a “judge” to ensure that the rules established within the Town Code are followed. More importantly, the Board and Commission wear this “hat” when making decisions related to an individual or which impact an individual property and not the entire community. These include when either body acts upon a rezone, variance, subdivision, or site plan. It is here where confusion appears to exist.

When it comes to questions of litigation, which are often mentioned on social media, they do legitimately exist. The basis for litigation against the Town arises from the failure of the Planning Commission [and the Board of Trustees] erring in applying the Development Code – including the Comp Plan – to the individual applications. In these instances, as a decision maker, the Planning Commission, or the Board of Trustees acts in a way that is arbitrary and capricious, abuses its discretion, or fails to pursue its authority in a regular way.<sup>1</sup> Conversely, by following the existing Town Code, including the Comp Plan, both the Planning Commission and the Board of Trustees act within the confines of the law in this quasi-judicial capacity.

Finally, the Plan only applies to lands within the Town of Elizabeth. As the Town may only be expanded through a willing annexation of the property owner and the Town, there is no means to expand the Town based on the Plan alone. The existing Plan made use of the maximum area of feasibility and discussion allowed under Colorado Law, which is three (3) miles of the Town’s then existing boundaries. It does not, nor can it, expand the Town’s size or boundaries.

## ERRORS IN THE EXISTING COMPREHENSIVE PLAN

Current Staff have always had concerns with the underlying assumptions within the Plan as well as the scope of the document. The Plan over-estimates the Town’s growth potential for purposes of development, considering the maximum three (3) mile boundary envisioned under the Colorado Statutes without ever considering the practicalities of the same. The Town would be restricted to what the adjacent property owners may want to do with their property, and how it might be managed. There is no means to force an annexation, nor would it be in the Town’s interest to do so. At this time, and far into the future, the Town is landlocked by ranchettes and geographic/physical boundaries that limit growth. This exists regardless of where a consultant determines a potential arbitrary boundary.

Second, the Comp Plan wildly overestimates the growth within this portion of the State of Colorado. The state demographer calculated that Elbert County would increase by 30,000 residents by the year 2040. While the demographer estimates growth as a function of job development, public infrastructure investment, and other factors, the demographer does not take into

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<sup>1</sup> This is often a point of both contention and confusion. The Board of Trustees lacks authority to simply deny say, a zoning change, if the underlying factors in the Municipal Code [the law] are met. The idea that the Board of Trustees could simply “stop” a developer because of the desires of the public is incorrect, even if the Trustees are in absolute agreement with the public.



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consideration the practical ability to sustain such growth, as well as limiting factors such as water quality/quantity, zoning, incompatibility, and physical barriers to development. Consequently, the Comp Plan took into consideration none of the realities of growth and the consultants were unwilling to question the raw data from the demographer.

## COSTS ASSOCIATED WITH THE AMENDMENT TO THE COMPREHENSIVE PLAN

In general, Comp Plans are designed to be reviewed every ten (10) years, which should also consider a twenty (20) year projection for growth. The area to be included is **up to** a three-mile radius outside the Town. Current Staff have been working with the Board of Trustees since 2022 to determine if the Comp Plan can be salvaged in its current format, or if a revision and amendment should be undertaken. In discussing these matters, the following concerns have been raised repeatedly:

- The original cost of the Comp Plan was approximately three hundred thousand dollars (\$300,000) and resulted in an erroneous document. The cost of the Plan was borne ½ by a grant from DOLA and the balance from Town funds. Because the Plan is technically not ripe for renewal, is DOLA willing to assist in funding another Comp Plan at this time?
- Recognizing the substantial concerns Staff have with the Comp Plan, would an amendment be appropriate, or would simply preparing an entirely new Comp Plan be the appropriate way to proceed?
- With the disconnection of Elizabeth West, do sufficient lands exist for development, within close proximity to the Town, to justify either an amendment or the preparation of an entirely new Comp Plan?
- Does the limited available land within the jurisdictional boundaries of Elizabeth justify the expense of a new Comp Plan at this time, or can zoning be used to direct some of the questions otherwise addressed in a workable Comp Plan?

Most recently, on February 10, 2024, these issues were again addressed with the Board of Trustees. Unfortunately, while noticed appropriately and held on a Saturday, only three (3) members of the public were in attendance. During the Workshop, the Board spent considerable time discussing these factors and how Staff should proceed. The Board directed Staff to focus more on zoning questions and concerns, rather than to expend time and money in seeking amendments to the Comprehensive Plan.

## **STAFF RECOMMENDATION**

At this time, without alternative direction during the budget discussions, Staff will continue to operate within the direction provided on February 10, 2024. In the event the current Board seeks



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to update the Comp Plan next year, funding should be appropriated for 2025. In the alternative, the new Board taking office in December 2024 may wish to undergo the process of updating, amending, or renewing the existing Comprehensive Plan.