



## TOWN OF ELIZABETH

PATRICK G. DAVIDSON, TOWN ADMINISTRATOR

TO: Honorable Mayor, Mayor Pro Tem, and Board of Trustees  
FROM: Patrick Davidson, Town Administrator  
DATED: July 9, 2024  
SUBJECT: Acquisition of 349 E. Broadway Street, Elizabeth, CO.

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### BACKGROUND

The Town of Elizabeth has sought to purchase 349 E. Broadway Street from Joel Wendler on at least two (2) separate occasions. The first discussions were held in the Spring of 2022, and again in late Winter 2023. The property is estimated to be approximately 6,534.00 sq. ft. in overall size and has located upon it one single-wide mobile home. The property is otherwise unimproved, although it has electricity, and Town provided water and sewer service.

The property is surrounded by the Town of Elizabeth on three (3) sides, namely Town owned property to the immediate West, Broadway Street to the immediate South, and the Town's Gesin Lot immediately to the East.

If eminent domain is authorized, the property at 349 E. Broadway would be developed to serve as public parking for the Gesin Lot, Town Hall, and downtown businesses. The Town is already developing the lots to the immediate West for parking, thereby providing a public need and making substantial improvements to the property.

While the Town remains hopeful that a mutually beneficial transaction may be reached between the parties, it is in the Town's interest to acquire this property by either means of sale or by means of eminent domain.

### ANALYSIS

The Town of Elizabeth possesses the power of eminent domain for the purposes of constructing public parking as a "public improvement" pursuant to the provisions of C.R.S. §38-1-101, et seq., and C.R.S. §38-6-101. The acquisition of the property serves the public purpose and is necessary and essential to the Town's ability to provide public parking for the residents, businesses and visitors of the Town of Elizabeth.

The purpose of the Ordinance is to provide formal direction and intention of the Town to acquire, through purchase or through eminent domain, the described property. The Ordinance also requires and directs Town Staff, the Town Attorney, and all others to act in good faith in furtherance of the direction of the Board.

### STAFF RECOMMENDATION

Staff's recommendation is to renew negotiations with Wendler, in good faith, to reach an amicable resolution that allows the Town to purchase the property. However, for the public good the Town

should be prepared to exercise its rights of eminent domain to acquire this property for the benefit of the public and the public need.

### **BUDGET CONSIDERATIONS**

Within the Town's 2024 Annual Budget, the total sum of \$250,000 was set aside for land acquisition. [Account Number 31-80-0100.] The matter should be resolved with the allotted funds.

### **ATTACHMENTS**

Ordinance 24-09. An Ordinance Of The Board Of Trustees Of The Town Of Elizabeth, Colorado Stating The Intent Of The Town Of Elizabeth To Acquire Real Property For The Purpose Of Providing Public Parking Through The Utilization Of The Town's Power Of Eminent Domain, And Directing The Town's Staff And Town Attorney To Notify All Persons Affected Thereby Of The Above Stated Intent Of The Town And Thereafter To Comply With All Pertinent Provisions Of C.R.S. § 38-1-101, *Et Seq.*, Relating To Good Faith Negotiation

**ORDINANCE 24-09**

**AN ORDINANCE OF THE BOARD OF TRUSTEES OF THE TOWN OF ELIZABETH, COLORADO STATING THE INTENT OF THE TOWN OF ELIZABETH TO ACQUIRE REAL PROPERTY FOR THE PURPOSE OF PROVIDING PUBLIC PARKING THROUGH THE UTILIZATION OF THE TOWN'S POWER OF EMINENT DOMAIN, AND DIRECTING THE TOWN'S STAFF AND TOWN ATTORNEY TO NOTIFY ALL PERSONS AFFECTED THEREBY OF THE ABOVE STATED INTENT OF THE TOWN AND THEREAFTER TO COMPLY WITH ALL PERTINENT PROVISIONS OF C.R.S. § 38-1-101, *ET SEQ.*, RELATING TO GOOD FAITH NEGOTIATION**

WHEREAS, the Town of Elizabeth, Colorado possesses the power of eminent domain for the purposes of constructing public parking as a "public improvement" pursuant to the provisions of C.R.S. § 38-1-101, *et seq.*, and C.R.S. § 38-6-101;

WHEREAS, the Town of Elizabeth wishes to acquire the parcel of property more particularly described in **Exhibit A** (the "Subject Property"), for the purpose of constructing and maintaining public parking as a public improvement to serve Main Street area of Downtown Elizabeth; and

WHEREAS, the Board of Trustees of the Town of Elizabeth wishes to comply with all applicable provisions of C.R.S. § 38-1-101, *et seq.*, including without limitation the notice and negotiation requirements and provisions thereof.

BE IT ORDAINED BY THE BOARD OF TRUSTEES FOR THE TOWN OF ELIZABETH, COLORADO, THAT

Section 1. Notice is hereby given pursuant to C.R.S. § 38-1-121(1) that the Town of Elizabeth, Colorado, intends to acquire the parcel of property more particularly described in **Exhibit A** (the "Subject Property").

Section 2. The acquisition of the Subject Property serves a public purpose and is necessary and essential to the Town's ability to provide public parking for the residents, businesses and visitors of the Town of Elizabeth.

Section 3. The Town Attorney is hereby directed to provide a copy of this Ordinance to all persons who presently own or maintain an ownership interest in the Subject Property notifying them of the intent of the Town of Elizabeth to acquire such property through the use of the Town's power of eminent domain.

Section 4. The staff of the Town, together with the Town Attorney, and any and all persons retained or employed by the Town of Parker in the prosecution of this matter, are directed to comply with all notice and good faith negotiation requirements set forth in C.R.S. § 38-1-101, *et seq.*, in the conduct of the within authorized eminent domain actions.

Section 5. In the prosecution of the within authorized eminent domain actions, the Town shall retain all rights and powers lawfully delegated to it by C.R.S. § 38-1-101, *et seq.*

Section 6. Severability. If any section, paragraph, clause, or provision of this Ordinance shall for any reason be held to be invalid or unenforceable, the invalidity or enforceability of such section, paragraph, clause or provision shall not affect any of the remaining provisions of this Ordinance, the intent being that the same are severable.

Section 7. The Board of Trustees hereby finds, determines and declares that this Ordinance is promulgated under the general police power of the Town, that it is promulgated for the health, safety and welfare of the public, and that this Ordinance is necessary for the preservation of health and safety and for the protection of public convenience and welfare. The Board of Trustees further determines that the Ordinance bears a rational relation to the proper legislative object sought to be attained.

Section 8. This Ordinance shall become effective thirty (30) days after publication.

Read and approved at a meeting of the Board of Trustees of the Town of Elizabeth, Colorado, this \_\_\_\_\_ day of \_\_\_\_\_, 2024.

Passed by a vote of \_\_\_\_\_ for and \_\_\_\_\_ against and ordered published.

\_\_\_\_\_  
Tammy Payne, Mayor

ATTEST

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Michelle M. Oeser, Town Clerk

**EXHIBIT A – ORDINANCE 24-09**

**TOWN OF ELIZABETH – BROADWAY STREET ACQUISITION**

Parcel ID Number                    8418103010

Legal Description. Section 18, Township 8, Range 64, Subdivision ELIZABETH ORIGINAL, Block 004, Lot 0013 – and Lot 0014, and more commonly known as 349 E. Broadway Street, Elizabeth, Colorado 80107