



# 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: December 10, 2024  
SUBJECT: Supplemental Memo – Rezone and Site Plan Application for S. Banner Street

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## **BACKGROUND**

The subject property is the parking lot located across the street from the former Frontier High School building. The specific addresses are 530-580 South Banner Street and contains six (6) separate lots. Each lot conforms to the traditionally established zoning at the time of the Town's creation. The current owner is the Elizabeth School District, and the district is seeking to sell the property for financial and other reasons. The School District has joined LG Designs & Construction LLC for the possible development of the property and has sought both a zoning amendment and a site plan approval for the property.

## **ZONING BACKGROUND:**

Zoning in its most basic form includes municipal regulations that govern how real property can and cannot be used within a certain geographic area. The subject property is currently zoned Public Institution (PI), a zoning used for schools and governmental entities. Prior to any development a zoning change is required. This change presents a challenge for development as it must occur in conjunction with the sale of the subject property. To be viewed differently, the purchaser cannot take title with the current PI zoning, and the rezone must be accomplished prior to closing. This zoning concern has been a hinderance for the Elizabeth School District in determining how to proceed and with past offers for the purchase/sale of the former Frontier High School.

Changes to zoning are always treated with some skepticism as it has the potential to make substantial changes to an established neighborhood. In so keeping, it is generally ideal for any change of zoning to mirror adjacent properties to maintain a common design or theme. In the case of the subject property, it is adjacent to both Residential (R-1) and adjacent to Downtown (DT). Consequently, both are potential options for zoning without causing substantial disruption within the area.

The Elizabeth School District, in conjunction with the potential purchaser, LG Designs & Construction LLC, applied for DT zoning. Under the Town Code, these lots cannot be developed for R-1 zoning, because R-1 zoning currently requires at least 9,000 sq. ft. of lot space for a single-family residence. Consequently, under R-1 development only two (2) single family homes could be constructed, even with a replatting of the lots involved. The development of two homes at this location is not economically viable for either the developer or for the Elizabeth School District.

By seeking DT zoning, the applicant would be able to develop a single-family home on each lot due to differing building restrictions. Town Staff has noted that the proposed zoning does meet the requirements of DT zoning, and there are no known hindrances to development under this scenario.



# TOWN OF ELIZABETH

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## SITE PLAN BACKGROUND:

A site plan is a drawing used to depict existing conditions of land as well as proposed conditions of land which may be modified or built upon. Generally, a site plan will include items such as the building footprint, proposed sidewalks, easements, utility locations, and related items that impact the land for development. Additionally, the site plan will provide an architect's rendering of what the proposed building will more or less look like upon the completion of construction.

The Town of Elizabeth has established Design Standards and Guidelines that provide minimal requirements and standards for the development of properties in the community. Unlike some communities in Colorado, architectural designs, color choices, siding material, roofing material and related aesthetic attributes are not specifically addressed. Additionally, there are no Design Standards and Guidelines which have been approved for development within the DT zoning district or which encompass or define "Historic Elizabeth." Consequently, the developer has proposed building construction, dimensions, and designs that fully meet the Town's guidelines.

## PROCEEDINGS:

On Tuesday, December 3, 2024, both the rezoning and the site plan applications were heard by the Planning Commission. Town Staff presented the Staff Report which found that the zoning amendment met the requirements of the Elizabeth Town Code, and that the rezoning to the Downtown District (DT) was generally in conformity with the proposed infill opportunity. Additionally, the Staff Report found the proposed Site Plan should be approved.

The Planning Commission heard from Staff, a representative of LG Designs & Construction LLC, a representative of the Elizabeth School District, and members of the public. Upon closing the public hearing, the Commission discussed the pending matters. While acknowledging that the applications met the appropriate standards for Elizabeth, the Commission denied both the rezoning application and the site plan application, finding that collectively they did not like the size, density, and appearance of the proposed buildings.

## **ANALYSIS**

These applications for both rezoning and a site-plan offer a complex challenge for both the Planning Commission and the Board of Trustees. It is rare that Public Institution (PI) zoning is amended, as it is typical for governmental facilities to remain as such and not sold. This zoning amendment adds an additional challenge as the subject property is undeveloped and not the sale of an existing building to be repurposed for another use. Consequently, the rezone is not simply from governmental use to private use, but also to a specific private use.

A second challenge is encountered with rezoning and the site plan in that the homes – as proposed – are technically undefined within the existing Code and is subject to Staff interpretation. Within the application, the homes are sometimes identified as duplexes or attached single family homes. Unfortunately, the language within the Code itself provides little or no assistance.



# TOWN OF ELIZABETH

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Unlike a more traditional duplex home, these specific buildings do not rely upon a common wall between units; do not share utilities; have no cross easements for purposes of electrical, water and sewer connections; are not required to maintain a fire suppression system; each have a separate water and sewer tap; and rest entirely upon their own individual lot. In many ways they are identical to a traditional single-family residence other than zero setbacks between units, and shared siding to cover the gap between each unit's own exterior wall.<sup>1</sup>

For purposes of residential zoning, "Single-Family Attached Dwellings" are authorized in R-2, R-TH, and R-3 residential zoning districts. The same applies to "Duplex Dwellings" which are likewise permitted in R-2, R-TH, and R-3 zoning. Neither the "Single-Family Attached Dwelling" nor the "Duplex Dwelling" would be authorized within the R-1 which is adjacent on both the North and the South sides of the subject property.

Conversely, the Downtown District (DT) designation provides nominal guidance. The DT designation makes considerable reference to existing "old downtown" business district, with specialty shops and a mix of retail, service and office uses. The DT designation, however, does allow specifically for "Single-Family Attached Dwellings" as an allowed use. DT zoning also specifically authorizes other "residential" types of uses to include bed and breakfast inns; boarding and rooming houses; and home occupations. In keeping with traditional "old downtown" businesses, it would not be uncommon for shop keepers to maintain a business and a residence within the same building, although not specifically identified within the current Code. Again, however, such an analysis is not clearly stated within the Code.

The net effect is that the Planning Commission has made a recommendation to deny both the rezone and the site plan applications. This decision did not come lightly for the Commissioners. The basis for the discussion was largely on the lack of definitions upon which to rely, combined with a general concern as to the DT designation. Equally effective arguments can, and were, proposed during the public comment period as well, placing the Planning Commission in an untenable position.

It generally appears the Board has two means to proceed at this time:

(1) The Board may support the position of the Planning Commission that based on the limited guidance provided in the Town Code; the difficulties arising from the rezoning under such circumstances; and the long-term results of the rezoning and development; resulting in the recommendation of the Planning Commission being upheld. OR

(2) The Board may support the position of the applicant who has met the technical requirements for the rezoning and site plan based on the limited guidance provided within the Town Code, and the lack of comprehensive Design Standards and Guidelines.

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<sup>1</sup> It is noted that while this analysis tends to separate these homes from a traditional duplex home, the fact the applicant identified these homes as "duplex" in several filings is not disputed.