

District Court Larimer County, State of Colorado Court Address: 201 La Porte Ave, Suite 100, Fort Collins, CO 80521	FILED IN COMBINED COURTS LARIMER COUNTY COLORADO 2018 MAR 13 PM 4:23 DATE FILED: March 13, 2018 CASE NUMBER: 2018CV125
Rory Heath as an individual plaintiff and on behalf of other concerned residents and parties  <i>Plaintiffs, Pro Se</i>  v.  <b>City of Fort Collins City Council</b> , a municipal governing body; and the <b>City of Fort Collins</b> ,  <i>Defendants</i>	▲ COURT USE ONLY ▲
Plaintiff Rory Heath 2831 Ridgeglen Way Colorado Springs, CO 80918 Phone: 719-216-4319 Email: RoryHeath1@gmail.com	Case Number: 18CV125  Division SA Courtroom
<b>COMPLAINT</b>	

Request to review and reverse Fort Collins City Council decision dated Feb 13<sup>th</sup>, 2017 regarding the Appeal of the Union on Elizabeth proposed project ("*Proposed Project*"), and it's decision to uphold the decision of the Fort Collins Planning and Zoning Board. Plaintiff seeks review and reversal of the decision by Fort Collins City Council on the stated date, pursuant to C.R.C.P. 106 (a)4, C.R.C.P. 57 and § 24-4-106, C.R.S.

The Plaintiff requests a Judicial review of Fort Collins City Council actions on Feb 13<sup>th</sup>, 2018 at 6:00 PM. Within that meeting, Fort Collins City Council did not follow within it's own established procedures as outlined in the Fort Collins Municipal code, and in doing so, exceeded its jurisdiction and abused its discretion. Additionally, Fort Collins City Council did not adhere to the Fort Collins Land Use Code in it's decision. As a related consequence of their actions that day, Fort Collins city council acted arbitrarily and capriciously, without consideration for the circumstances.

\*\*MODIFIED VERSION OF\*\* :

PAID  
 Amt. \$224.75  
 Date 3-18-18

### **Statements of Fact**

On a daily basis, as part of his residency in the immediate surrounding area of the proposed site, the plaintiff walks, drives, and enjoys the aesthetic makeup and beautiful views of said surrounding area, encompassed within the PLSS legal description of:

**Township 6 North Range 69 West, 6<sup>th</sup> P.M.**

**Township 6 North Range 70 West, 6<sup>th</sup> P.M.**

**Township 7 North Range 69 West, 6<sup>th</sup> P.M.**

**Township 7 North Range 70 West, 6<sup>th</sup> P.M.**

The Plaintiff spoke at the Fort Collins Planning and Zoning board meeting held on Dec 14<sup>th</sup>, 2017 regarding the *Proposed Project*.

The Plaintiff filed an appeal and presented, as the appellate, at the appeal hearing held before City Council (in a quasi-judicial role) held at Fort Collins City Hall on Feb 13<sup>th</sup>, 2018, regarding the Fort Collins Planning and Zoning board's approval of the *Proposed Project*.

The Plaintiff resides within the immediate surrounding area of the proposed site.

The Plaintiff requests that the following non-exhaustive list be designated as relevant parts of the record, with the intent and understanding that further relevant documents could be added later, as discovery provides, within the rules of the court.

1. The original or certified copies of all pleadings, applications, evidence, exhibits, and other papers presented to or considered by Fort Collins City Council on Feb 13<sup>th</sup>, 2018, and the Fort Collins Planning and Zoning Board on Dec 14<sup>th</sup>, 2017.
2. A complete transcript of the hearing held on Feb 13<sup>th</sup>, 2018 at 6:00PM by the City Council of Fort Collins, as identified in this action.

\*\*MODIFIED VERSION OF\*\* :

3. The City Administered Video Recording of the hearing held before the City Council of Fort Collins on Feb 13<sup>th</sup>, 2018 at 6:00 PM and City Administered Video Recording of the hearing held before the Planning and Zoning Board of Fort Collins regarding The Union on Elizabeth project on Dec 14<sup>th</sup>, 2017 at 6:00 PM.
4. A complete transcript of the Planning and Zoning board meeting held on Dec 14<sup>th</sup>, 2017 at 6:00 PM.
5. The written order issued by the Fort Collins City Council, as identified in this action.

I, hereby request that this Court find that the Fort Collins City Council decision on Feb 13<sup>th</sup>, 2018 be reversed.

\_\_\_\_\_  
Signature of Attorney for Plaintiff

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Plaintiff

\_\_\_\_\_  
Date

\_\_\_\_\_  
Printed Name of Plaintiff

\_\_\_\_\_  
Address

\_\_\_\_\_  
City, State, Zip Code

\_\_\_\_\_  
Area Code) Telephone Number

*Murray Heath* 3/13/2018  
*Rory Heath*  
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 Colorado Springs, CO 80908  
 718