

DISTRICT COURT, LARIMER COUNTY, COLORADO
Larimer County Justice Center
201 Laporte Avenue, Suite 100
Fort Collins, CO 80521-2761
(970) 498-6100

DATE FILED: January 15, 2019 12:32 PM
FILING ID: 367B0D255CFDB
CASE NUMBER: 2018CV125

RORY HEATH,

Plaintiff,

v.

**CITY OF FORT COLLINS CITY COUNCIL; CITY
OF FORT COLLINS; AND ELIZABETH STREET
CO. MANAGER, LLC**

Defendants.

COURT USE ONLY

Kimberly B. Schutt, #25947
WICK & TRAUTWEIN, LLC
323 South College Avenue, Suite 3
P.O. Box 2166, Fort Collins, CO 80522
Phone Number: (970) 482-4011
E-mail: kschutt@wicklaw.com
FAX Number: (970) 482-8929

John R. Duval, #10185
FORT COLLINS CITY ATTORNEY'S OFFICE
P.O. Box 580
Fort Collins, CO 80522
Phone: (970) 221-6520
Email: jduval@fcgov.com

Case Number: 2018CV125

Courtroom: 3B

SUBMITTAL OF CERTIFIED RECORD

Defendants, City of Fort Collins City Council and City of Fort Collins [“the City”], by and through its counsel, WICK & TRAUTWEIN, LLC, as required by the Court in its Order Requiring Certification of Record dated November 30, 2018, and also pursuant to C.R.C.P. 106(a)(4)(VII), hereby submits and files with the Court the following record certified by Delynn Coldiron, the City Clerk of the City of Fort Collins, relating to the proceedings underlying the above-captioned action. Said record consists of the following:

DOCUMENT DESCRIPTION	BATES Nos
Certification of the City Clerk pertaining to the City's Submittal of Certified Record relating to the Union on Elizabeth PDP/FDP 170024	000001-00003
Notice of Appeal dated December 28, 2017	000004-000011
Planning and Zoning Board Record of December 14, 2017	000012-000298
City of Fort Collins City Council Record of February 13, 2018	000299-000625
Verbatim Transcript of December 14, 2017 Planning and Zoning Board (Also part of the P&Z Record, item dd.)	000249-000274
Verbatim Transcript of February 13, 2018 City Council Hearing	000626-00654
Video Recording of December 14, 2017 Planning and Zoning Board (Entire Meeting)	<i>See video.</i>
Video Recording of February 13, 2018 City Council Hearing (Entire Meeting)	<i>See video.</i>
City Documents Regarding Union on Elizabeth	000655-001502
Resolution 2018-018 of the Council of the City of Fort Collins Making Findings of Fact and Conclusions of Law Regarding the Appeal of the Planning and Zoning Board's Decision Approving the Union on Elizabeth Project Development Plan/Final Plan PDP/FDP170024	001503-001505
Pertinent portions of the City of Fort Collins Land Use Code ¹ a. Section 3.4.7 Historic and Cultural Resources b. Section 3.5.1(A) Building and Project Compatibility, Purpose c. Section 3.5.1(B) Building and Project Compatibility, General Standard d. Section 3.5.1(C) Building and Project Compatibility, Building Size, Height, Bulk, Mass, Scale e. Section 3.5.1(G)(1) Building and Project Compatibility, Special Height Review/Modifications f. Division 4.18 Community Commercial Standards g. Division 5.1 Definitions	001506-001588
City of Fort Collins Home Rule Charter and Chapter 2, Article II, Division of the Fort Collins Municipal Code titled "Appeals Procedure"	001589-001595

The two videos have been submitted to the court, the plaintiff, and defendant Elizabeth Street Co. Manager, LLC on DVD.

The Court's January 3, 2019 Order required the plaintiff to pay the cost for certification of the record to the City Clerk's Office in the amount of \$255.00. Plaintiff has paid this amount as shown by the attached receipt dated 1/10/19.

¹¹ The City is submitting pertinent portions of the Fort Collins Land Use Code ["LUC"], Home Rule Charter ["Charter"] and Municipal Code, as referenced in the Plaintiff's appeal documents or as are otherwise relevant to the issues raised in Plaintiff's Amended Complaint. The City reserves the right to supplement the record with additional portions of the LUC, Charter and Municipal Code as needed to respond to the arguments raised in Plaintiff's Opening Brief.

DATED this 15th day of January 2019.

WICK & TRAUTWEIN, LLC

This document was served electronically pursuant to C.R.C.P. 121 §1-26. The original pleading signed by Kimberly B. Schutt is on file at the offices of Wick & Trautwein, LLC

By: s/Kimberly B. Schutt
Kimberly B. Schutt, #25947
Attorneys for Defendant

And

John R. Duval, #10185
FORT COLLINS CITY ATTORNEY'S OFFICE
P.O. Box 580
Fort Collins, CO 80522
(970) 221-6520

CERTIFICATE OF ELECTRONIC FILING

The undersigned hereby certifies that a true and correct copy of the foregoing Submittal of Certified Record was filed via Colorado Courts E-Filing System (CCES) and served this 15th day of January, 2019, on the following:

Rory Heath
Pro Se
2831 Ridgelen Way
Colorado Springs, CO 80918
Roryheath1@gmail.com

Sean M. Hanlon
Jessica J. Smith
Hollard & Hart, LLP
555 17th Street, Suite 3200
Denver, CO 80201-8749

/s/ Jody L. Minch _____

*[The original certificate of electronic filing signed by Jody L. Minch
is on file with the law offices of Wick & Trautwein, LLC.]*