

DISTRICT COURT, DENVER COUNTY, COLORADO Court Address: 1437 Bannock Street, Rm 256, Denver, CO, 80202	DATE FILED: July 29, 2015 2:09 PM CASE NUMBER: 2015CV32427 <p style="text-align: center;">⚠ COURT USE ONLY ⚠</p>
Plaintiff(s) ARTHUR KEITH WHITELAW, III et al. v. Defendant(s) DENVER CITY COUNCIL et al.	
Case Number: 2015CV32427 Division: 269 Courtroom:	
Order Granting Plaintiffs' Motion Under C.R.C.P. 106(a)(4)(III) Requiring Certification of Record Within 28 Days After Defendants File an Answer	

The motion/proposed order attached hereto: GRANTED.

Issue Date: 7/29/2015



SHELLEY ILENE GILMAN
 District Court Judge

DISTRICT COURT, CITY AND COUNTY OF
DENVER, COLORADO

Court Address: 1437 Bannock St., Room 256
Denver, CO 80202

Plaintiffs: ARTHUR KEITH WHITELAW, III, JOHN
DERUNGS, KATHERINE K. MCCRIMMON, LAURA
PITMON, DENISE SIGON f/k/a DENISE L. SAGER,
and ALAN and RITA SINGER.

Defendants: THE DENVER CITY COUNCIL
(including the individual Council members in their
official capacity, Albus Brooks, Charlie Brown, Jeanne
Faatz, Christopher Herndon, Robin Kniech, Peggy
Lehmann, Paul López, Judy H. Montero, Chris Nevitt,
Debbie Ortega, Jeanne Robb, Susan Shepherd, Mary
Beth Susman;
THE MANAGER OF COMMUNITY PLANNING AND
DEVELOPMENT (Brad Buchanan, in his official
capacity);
THE DENVER PLANNING BOARD (including the
individual Board members in their official capacity,
Andy Baldyga, Jim Bershof, Shannon Gifford, Renee
Martinez-Stone, Brittney Morris Saunders, Joel Noble,
Susan Pearce, Arleen Taniwaki, Julie Underdahl, Frank
Schultz, and Chris Smith);
THE CITY AND COUNTY OF DENVER; and
CEDAR METROPOLITAN LLC (the Property
Owner/zoning Applicant).

▲ COURT USE ONLY ▲

Case Number: 2015CV32427

Courtroom 269

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION UNDER C.R.C.P.
106(A)(4)(III) REQUIRING CERTIFICATION OF RECORD WITHIN 28 DAYS AFTER
DEFENDANTS FILE AN ANSWER**

Upon consideration of "Plaintiffs' Motion Under C.R.C.P. 106(a)(4)(III) Requiring
Certification Of Record Within 28 Days After Defendants File An Answer" (filed July 6, 2015),
and being fully advised in the premises, the Court hereby ORDERS:

Plaintiffs' Motion is granted.

The Defendants Denver City Council, Denver Manager of Community Planning and Development, Denver Planning Board, and City and County of Denver (the "City of Denver Defendants") shall file with the Court the administrative record relating to the following administrative decisions approving the 195 S. Monaco Zoning Change as defined in Paragraph 2 of Plaintiffs' Complaint, together with a certificate of authenticity, within 28 days after Defendants' Answer to the Complaint is due:

a. the June 8-9, 2015 decision by the Denver City Council to approve the 195 S. Monaco Zoning Change.

b. the January 21, 2015 decision by the Denver Planning Board to recommend approval of Cedar Metropolitan LLC's proposed zoning change for the Mt. Gilead Parcel (defined in Paragraph 1 of Plaintiffs' Complaint), located at 195 S. Monaco.

c. the June 2015 decision by the Department of Community Planning and Development ("CPD") declining to apply the Protest Petition procedure in Denver Zoning Code 12.4.10.5 and Article 3.2.9.E of the Denver Charter at the June 8-9, 2015 public hearing on the 195 S. Monaco Zoning Change.

That administrative record will include the following materials:

1. The original or certified copies of all pleadings, applications, evidence, memoranda, exhibits, and other papers presented to, or considered by, the City Council or the Denver Planning Board.

City Council materials

2. A CD with the entire videotape of the June 8-9, 2015 public hearing on the 195 S. Monaco Zoning Change [currently available on the City's SIRE website], together with a complete transcript of the City Council's deliberations in the early morning of June 9, 2015 after the close of the June 8-9, 2015 public hearing on the 195 S. Monaco Zoning Change. [Plaintiffs will retain a court reporter to prepare a transcript of the deliberations by the City Council members in the early morning of June 9, 2015 after the close of that public hearing.]

3. A certified copy of all letters, emails, petitions, or other public comments received by the Denver City Council or CPD before the beginning of the June 8-9, 2015 City Council public hearing concerning Cedar Metropolitan LLC's proposed zoning change for the Mt. Gilead Parcel.

4. A CD with the entire videotape of the meetings of the Denver City Council Neighborhoods and Planning ("NAP") Committee concerning Cedar Metropolitan LLC's

proposed zoning change for the Mt. Gilead Parcel including the NAP committee meetings on February 18, 2015 and March 4, 2015..

5. All notes, emails, memos, letters, or other records of any written communications created between January 21, 2015 and June 9, 2015 concerning Cedar Metropolitan LLC's proposed zoning change for the Mt. Gilead Parcel between: a) any Denver City Council member or his or her staff persons; and b) any representative of Cedar Metropolitan LLC (including without limitation, Peter Kudla, Jim Bershof, Sean Maley (CRL), Kim Kucera (CRL), David Foster, Marcus Pachner, and Phil Workman).

Planning Board materials

6. A CD with the entire audiotape of the Denver Planning Board public hearing on January 21, 2015 concerning Cedar Metropolitan LLC's proposed zoning change for the Mt. Gilead Parcel.

7. A certified copy of all letters, emails, petitions, or other public comments received by CPD or the Denver Planning Board before the beginning of the January 21, 2015 Denver Planning Board public hearing concerning Cedar Metropolitan LLC's proposed zoning change for the Mt. Gilead Parcel.

8. A certified copy of any written materials provided to the Planning Board, or any of its individual members, by CPD, representatives of the zoning applicant (Cedar Metropolitan LLC), or Jim Bershof, before the January 21, 2015 hearing or during the hearing.

9. A certified copy of any "Meeting Record" or other notes or minutes concerning the January 21, 2015 Planning Board Meeting.

10. A record of any findings made by the Planning Board at the January 21, 2015 hearing apart from statements made by the members at the January 21, 2015 hearing as reflected in the audiotape of the hearing.

CPD materials

11. All documents relating to CPD's June 2015 decision declining to apply the Protest Petition procedure in Denver Zoning Code 12.4.10.5 and Article 3.2.9.E of the Denver Charter at the June 8-9, 2015 public hearing on the 195 S. Monaco Zoning Change, including documents created in March 2015 when CPD representatives first discussed the protest petition procedure with neighborhood representatives.

Dated: _____, 2015

BY THE COURT

Shelley I. Gilman
District Court Judge
Denver District Court

Attachment to Order - 15CV32427