

DISTRICT COURT, CITY AND COUNTY OF DENVER, COLORADO

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

DATE FILED: March 3, 2016 1:14 PM
FILING ID: 2809FF4AEF277
CASE NUMBER: 2015CV32427

Plaintiffs: ARTHUR KEITH WHITE LAW, 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).

Attorney for Plaintiffs

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Case Number: 2015cv032427

Ctrm: 269

**PLAINTIFFS' REQUEST THAT THE COURT SCHEDULE ORAL ARGUMENT
ON ISSUES PRESENTED BY PARTIES' MERITS BRIEFS**

Plaintiffs respectfully request under C.R.C.P. 121, Section 1-15(4) that the Court schedule oral argument on the issues presented in the parties' merits briefs, i.e., Plaintiffs' Opening Brief (filed January 14, 2016), Defendants' Answer Briefs (filed February 18, 2016), and Plaintiffs' Reply Brief (filed March 3, 2016).

1. This Court's ruling in this case will set an important precedent on recurring issues that arise in most of the contested rezoning requests that come before the Denver City Council:

a. The concerns Plaintiffs raise about whether the Rezoning was consistent with the Denver Zoning Code's mandatory criteria for a map amendment: i.e., consistent with Adopted Plans, and warranted by a justifying circumstance, arise in most rezoning disputes. In addition, many objecting parties have been asking the Denver Planning Board and City Council to consider adverse traffic and parking impacts as part of the rezoning process.

b. There are only a few published Colorado appellate decisions discussing spot zoning concepts, so this case may become an important precedent in that area too.

c. In addition, the concerns Plaintiffs raise about the quasi-judicial procedures the City Council should be following, and the Due Process violations that occurred, potentially affect every contested rezoning request in Denver, including whether: i) Council members are permitted to communicate privately about a proposed rezoning with lobbyists for the rezoning applicant, outside of the public hearing process, and ii) lobbyists may contribute money or services to Council members who serve in a quasi-judicial role on rezoning.

2. Plaintiffs believe it will be helpful for the parties' counsel to discuss the legal issues with the Court at an oral argument. In addition, at such an oral argument counsel can discuss the small portions of the administrative record that are relevant to this dispute, even though the entire administrative record is voluminous.

WHEREFORE, Plaintiffs respectfully request that the Court schedule oral argument on the issues presented in the parties' merits briefs.

Dated: March 3, 2016.

Respectfully submitted,

/s/ Gregory J. Kerwin

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CERTIFICATE OF SERVICE

I hereby certify that on March 3, 2016, I caused a copy of the foregoing PLAINTIFFS' REQUEST THAT THE COURT SCHEDULE ORAL ARGUMENT ON ISSUES PRESENTED BY PARTIES' MERITS BRIEFS was served on the parties listed below through the ICCES system:

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s/ Loretta Howard

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