DISTRICT COURT, WELD COUNTY, STATE OF COLORADO 901 9th Avenue, P.O. Box 2038 Greeley, CO 80631	DATE FILED November 26, 2024 2:30 PM FILING ID: F5387AA37FDA6 CASE NUMBER: 2024CV30673
Plaintiff: STRATUS REDTAIL RANCH, LLC v. **Defendants:** TOWN OF ERIE TOWN COUNCIL; TOWN OF ERIE	**▲COURT USE ONLY▲**
Attorneys for Plaintiff: David Wm. Foster, #27283 Larry G. Katz, #32724 Chip G. Schoneberger, #41922 Amelia M. Stefan, #59438 Foster, Graham, Milstein & Calisher, LLP 360 South Garfield, Sixth Floor Denver, CO 80209 Phone: (303) 333-9810 Email: david@fostergraham.com; lkatz@fostergraham.com; cschoneberger@fostergraham.com; astefan@fostergraham.com	Case No. 2024CV30673 Div: Ctrm:
AMENDED COMPLAINT	

Plaintiff, Stratus Redtail Ranch, LLC, by and through its undersigned counsel, submits this Amended Complaint, as follows:

PARTIES, JURISDICTION, AND VENUE

1. Plaintiff is a Colorado limited liability company that owns certain real property located in Erie, Colorado, as described below.

2. Defendant, the Town Council of Erie, Colorado ("Town Council" or "Defendant") is a governmental body responsible for reviewing and approving or denying certain land use applications relating to property within its territorial boundaries, including preliminary plat applications.

3. Defendant Town of Erie is a home rule municipality located in Boulder and Weld Counties.

4. This Court has jurisdiction over this Complaint pursuant to Colorado Constitution, Article VI, Section 9, C.R.C.P. 106, or otherwise.

EXHIBIT A

5. Venue is proper pursuant to C.R.C.P. 98(c) because the real property giving rise to this action is located in Weld County, Colorado and the Town of Erie ("Town") is partially located in Weld County, Colorado.

GENERAL ALLEGATIONS

6. On or before April 7, 2021, Plaintiff submitted a complete land use application seeking a preliminary plat, titled Redtail Ranch Filing No. 1 Preliminary Plat ("Preliminary Plat Application") affecting approximately 290 acres of land in Erie, Colorado ("Property").

7. The Town annexed and zoned the Property in 2007 at which time the Property was assigned low-density residential zoning and the terms of the annexation limited the number of residential units allowed on the Property to 587 units.

8. The Preliminary Plat Application originally requested 587 lots on approximately 85 acres of land, including approximately 45 acres of public right of way and sought approval for residential development consistent with the zoning for the Property.

9. Pursuant to the Town of Erie Unified Development Code ("Code") § 10-7-7(D)(1), in order to subdivide and develop property, an application for preliminary plat must first be heard by the Town's planning commission ("Planning Commission") at a public hearing.

10. At the Planning Commission hearing, the Planning Commission considers Town staff's ("Staff") recommendations and any comments received from referral agencies, public comments, and based on the approval criteria in Code § 10-7-7(D)(2), the Planning Commission recommends that Town Council either approve, conditionally approve, or deny a preliminary plat application.

11. After recommendation by the Planning Commission, the Town Council will hold a public hearing on the application and make a final decision based on the approval criteria in Code § 10-7-7(D)(2).

12. After Plaintiff submitted the Preliminary Plat Application, between April 7, 2021, and January 17, 2024, Staff worked with the Plaintiff to ensure the Preliminary Plat Application met all legal requirements.

13. Before January 17, 2024, Staff issued its first recommendation to the Planning Commission, recommending that the Planning Commission recommend that Town Council approve the Preliminary Plat Application, with certain conditions.

14. On January 17, 2024, the Planning Commission held a public hearing on the Preliminary Plat Application.

15. At the Planning Commission hearing, the Planning Commission unanimously recommended the Town Council approve the Preliminary Plat Application with the only condition of approval being that "Applicant shall make technical corrections to the Preliminary Plat and documents as directed by Town staff." Resolution. No. P24-01.

16. Subsequently, a Town Council hearing ("Town Council Hearing") was scheduled on April 23, 2024, for Town of Erie Resolution No. 24-062 regarding the approval of the Preliminary Plat Application.

17. At the time of the April 23, 2024, Town Council Hearing, Town Council consisted of the following members: Justin Brooks, Mayor; Sara Loflin, Mayor Pro Tem; and the following Councilmembers: Emily Baer, Andrew Sawusch, Brandon Bell, Dan Hoback, and Ari Harrison.

18. Six of the seven Town Council members attended the April 23, 2024, Town Council Hearing. Mayor Justin Brooks was not in attendance.

19. At the April 23, 2024, Town Council Hearing, Staff gave a presentation summarizing the Preliminary Plat Application and reiterating, as the Staff report concluded, that the Preliminary Plat Application met the applicable approval criteria within the Code. This was followed by a presentation by Plaintiff discussing the Preliminary Plat Application.

20. Then, the Town Council heard public comment, followed by Town Council deliberations in which the Town Council provided overall comments regarding the Preliminary Plat Application.

21. The Town Council expressed concern about the Preliminary Plat Application's distance from oil and gas facilities, traffic calming features, trail locations, landscape maintenance, and environmental disclosures.

22. At the April 23, 2024, Town Council Hearing, the Plaintiff requested that the hearing for the Preliminary Plat Application be continued to a date certain so that the Plaintiff could improve the Preliminary Plat Application in response to the Town Council's feedback. The motion to continue the hearing failed by a vote of 3-3.

23. On May 14, 2024, the Town Council reconsidered the motion to continue the hearing and voted 4-2 in favor of reconsideration. The Town Council then voted to continue the Town Council Hearing to June 25, 2024.

24. At the June 25, 2024, Town Council Hearing, Staff and Plaintiff gave presentations on the updated Preliminary Plat Application.

25. After the Staff's and Plaintiff's presentations, the Town Council heard public comments, followed by Town Council deliberations.

26. The Code requires that the body conducting the hearing shall approve, approve with conditions, or deny the application based on its compliance with the applicable approval criteria. Code § 10-7-2(H)(1). The Code further requires "findings" and that "all decisions shall include a clear statement of approval, approval with conditions, or denial, whichever is appropriate." Code § 10-7-2(H)(2).

27. At the June 25, 2024 hearing, Town Council was prepared to vote on the Preliminary Plat Application but unprepared to state any findings justifying its vote under the

applicable Code criteria. Town Council thus instructed the Town Attorney to draft findings of fact purportedly based upon the record of its deliberations.

28. Town Council then voted 4-1 in favor of a "motion to deny Resolution 24-062 and request a finding of fact."

29. On July 9, 2024, the Town Council approved Resolution No. 24-107: A Resolution of the Town Council of the Town of Erie Adopting Findings of Fact Related to the Denial of the Application for Approval of a Preliminary Plat for Redtail Ranch and Ratifying the Denial ("Resolution").

30. The Resolution includes "Findings of Fact" that include the criteria applicable to the Preliminary Plat Application but embedded amongst other inapplicable criteria.

31. The Code's approval criteria for preliminary plat applications ("Criteria") are as follows:

Code § 10-7-7(D).

a. The subdivision is generally consistent with the town's comprehensive plan.

b. The subdivision is generally consistent with and implements the intent of the specific zoning district in which it is located.

c. The general layout of lots, streets, driveways, utilities, drainage facilities, and other services within the proposed subdivision is designed to meet the town's standards related to health and safety and in a way that minimizes the amount of land disturbance, maximizes the amount of open space in the development, preserves existing trees/vegetation and riparian areas, protects critical wildlife habitat, and otherwise accomplishes the purposes and intent of this UDC.

d. The subdivision complies with all applicable use, development, and design standards set forth in chapters 3, 5 and 6 of this UDC that have not otherwise been modified or waived pursuant to this chapter or this UDC. Applicants shall refer to the development standards in chapter 5 of this UDC and shall consider them in the layout of the subdivision in order to avoid creating lots or patterns of lots in the subdivision that will make compliance with such development and design standards difficult or infeasible.

e. The subdivision complies with all applicable regulations, standards, requirements, or plans of the federal or state governments and other relevant jurisdictions, including, but not limited to, wetlands, water quality, erosion control, and wastewater regulations.

f. The subdivision will not result in significant adverse impacts on the natural environment, including air, water, noise, storm water management, wildlife, and vegetation, or such impacts will be substantially mitigated.

g. The subdivision shall be integrated and connected, where appropriate, with adjacent development through street connections, sidewalks, trails, and similar features.

h. The subdivision will not result in significant adverse impacts on adjacent properties, or such impacts will be substantially mitigated.

i. Adequate and sufficient public safety, transportation, utility facilities and services, recreation facilities, parks, and schools are available to serve the subject property, while maintaining sufficient levels of service to existing development.

j. As applicable, the proposed phasing plan for development of the subdivision is rational in terms of available infrastructure capacity.

32. Although the Preliminary Plat Application met the applicable Criteria, during the June 25, 2024, Town Council Hearing, Town Councilmembers expressed certain concerns over issues unrelated to the Criteria and unsupported by evidence in the record, including adjacency to oil and gas facilities, their own opinions on needed traffic mitigation measures, and purported contamination of the Property.

OIL AND GAS SETBACKS

33. Both Mayor Pro Tem Sara Loflin and Councilmember Baer expressed concerns before the vote that future homes built in accordance with the Preliminary Plat Application would be too close to the neighboring oil and gas facilities in the area.

34. However, at the time the Preliminary Plat Application was submitted, the Town's own Code required that all residential development be set back 350 feet from all oil and gas facilities, which is the standard upon which the Preliminary Plat Application was to be reviewed.

35. In response to feedback by the Planning Commission and Town Council at the April 23 Town Council Hearing, the Plaintiff voluntarily increased the distance between the neighboring oil and gas facilities and the residential development to 500 feet to assuage the Town Council's concerns and conform with the current Code setback requirement (although Plaintiff was not legally required to do so).[1] This voluntary increase in the oil and gas setback resulted in the loss of 63 lots.

36. The Preliminary Plat Application requires all future homes to be built far enough away from the oil and gas facilities to meet and exceed the Code requirements applicable to the Preliminary Plat Application for setbacks from oil and gas facilities. Thus, the distance between the future homes and oil and gas facilities in the Preliminary Plat Application met the Code requirements.

37. Despite the Plaintiff's willingness to amend the Preliminary Plat Application to assuage the Town Council's concerns around oil and gas setbacks, the Resolution states that "[t]he site contains active oil and gas operations that have been subject to numerous complaints and releases of toluene, methane and other toxic aerosols (together, the "Environmental Hazards"). Further, the site is directly adjacent to oil and gas operations managed by KPK, an operator that

[1] During the Planning Commission hearing on January 17, 2024, the City Attorney confirmed that the Preliminary Plat Application was subject to the 350' setback requirement, not the new 500' setback requirement because an imposition of the new 500' setback would be considered a retrospective application of the new requirement.

has been subject to numerous sanctions, fines, and stop work and cleanup orders issued by the State of Colorado."

38. In addition to this finding not being related to any of the Criteria in Code § 10-7-7(D)(2), the Town Council effectively contradicted and amended its own Code by finding the 500-foot oil and gas setback inadequate, which is a clear abuse of discretion.

TRAFFIC

39. Additionally, some of the Town Council members who voted to deny the Preliminary Plat Application expressed concerns that additional traffic mitigation measures were needed. As a result, the Resolution states the Preliminary Plat Application, "creates traffic concerns by creating 524 residential lots primarily taking access from County Road 5, which is currently a congested roadway and without sufficient mitigation measures."

40. No evidence supports the "traffic concerns" finding. The Town's traffic engineer found that any increase in traffic from the proposed development under the Preliminary Plat Application would not warrant or need any additional traffic mitigation measures.

41. The Staff report detailed during the June 25 Town Council Hearing stated, "[t]raffic signals at Redtail Pkwy and Falcon Ridge Dr are not warranted at this time. Developer will pay fair share contribution to signals when warranted," and "[t]he plans show two speed feedback signs, bike lanes and 10' travel lanes to help slow traffic. Further strategies can be explored at Final Plat."

42. Mayor Pro Tem Sara Loflin called the Erie Police Chief as an "expert witness" to opine on whether the Preliminary Plat Application has sufficient means of entrance to the neighborhood from County Road 5 for emergency services. The Erie Police Chief stated that "the way it's presented to me, it doesn't necessarily present an access concern for me when it comes to emergency services."

43. Traffic is measured through objective standards and there are no engineering reports nor traffic studies that support the finding that additional traffic mitigation measures are needed.

44. The Town Council's mere speculation does not trump science, overrule objective engineering and traffic regulations, nor negate the findings of technical traffic studies.

ENVIRONMENTAL CONCERNS

45. A portion of the 290 acre Property located within tract A of the Preliminary Plat Application, but outside of the proposed residential development, had a history of environmental issues.

46. However, as presented at the Planning Commission Hearing and Town Council Hearing, the Plaintiff invested years of time and millions of dollars to clean up areas of the Property.

47. In fact, the Colorado Department of Public Health and Environment ("CDPHE") issued a No Action Determination that the portion of the Property on which residential development will occur as being safe for residential development. CDPHE staff gave testimony that supported Plaintiff's application.

48. Despite this, the Town Council made unsupported and irrelevant findings about the environmental condition of the Property.

49. For example, the Resolution states that, "[p]ortions of the site are subject to such stringent mitigation and maintenance requirements that trees cannot be planted in several locations without violating restrictions applicable to landfills."

50. This is unrelated to the Criteria and irrelevant because no building will occur on any of the portions of the Property that were formerly contaminated.

51. There is no evidence in the record to support that the portions of the Property planning for residential development are contaminated at all.

52. Both Mayor Pro Tem Loflin and Councilmember Baer improperly based their denial on Code § 10-1-3 (the general purpose of the UDC) instead of applying the Criteria to the Preliminary Plat Application.

53. Councilmember Baer stated the Property is "spectacularly contaminated" multiple times, without citing any evidence presented at the Town Council Hearing or otherwise in support of that statement.

54. The Preliminary Plat Application met all requirements of the Code.

55. As a result, the Town Council's decision and Resolution lack any basis in the Criteria or evidentiary support in the record.

USE OF INAPPLICABLE CRITERIA

56. The Code provides that, "[t]o be approved, a development application must satisfy all approval criteria required for the applicable development application." Code § 10-7-2(I)

57. The Code specifically provides at § 10-7-7(D)(2) that a, "preliminary plat may be approved only if the town council finds that all of the [Criteria] have been met."

58. Code § 10-7-7(D)(2) is the only applicable criteria for the approval of a preliminary plat.

59. The Resolution mischaracterizes Code § 10-7-2(I) when it states "Section 10-7-2 of the UDC requires that development applications must satisfy all applicable approval criteria, and if any criterion is not met, then the applicable decision-maker must deny the application."

60. The Resolution's paraphrasing of Code § 10-7-2 is misleading and a misrepresentation because the Town Council failed to cite the section of Code § 10-7-2(I) that states "for the applicable development."

61. Despite Code § 10-7-7(D)(2) being the only applicable Criteria for the Preliminary Plat Application, the Resolution cites to multiple inapplicable sections of the Code.

62. Namely, the Resolution cites Code § 10-1-3 (the general intent of the Code), Code § 10-2-2-A (the intent of the Rural Residential Zone District), and Code § 10-7-2 (standard review procedures).

63. These sections are inapplicable to the Preliminary Plat Application. Moreover, the Property is not located in the Rural Residential Zone District.

64. The Town Council denied the Preliminary Plat Application based on inapplicable criteria.

65. The Town Council's denial of the Preliminary Plat Application was not supported by competent evidence in the administrative record showing it fails to meet the approval Criteria.

66. As discussed in the Staff report and during the Staff presentation at the Town Council Hearing, and as determined by the Planning Commission, the Preliminary Plat Application met all applicable approval criteria in the Code.

67. The Town Council's concerns, as expressed above, were unrelated to the Code's Criteria and were primarily focused on other issues such as unnecessary traffic mitigation measures, adjacency to oil and gas facilities, and a self-made determination by Councilmember Baer that the Property is "spectacularly contaminated." These concerns, however, were beyond the Code's requirements and constitute a clear abuse of discretion by the Town Council.

68. The Town Council's vote to deny the motion to approve the Preliminary Plat Application based on unsupported speculation about how far residential development should be sited from oil and gas facilities, needed traffic mitigation, and the environmental state of property within the Preliminary Plat application but not being developed effectively, and illegally, amended the Code to increase the requirements beyond what the Code actually requires.

69. The Town Council does not have the authority to amend the Code during a quasi-judicial hearing.

70. The Town Council exceeded its jurisdiction and abused its discretion by denying the Preliminary Plat Application based on irrelevant Code provisions and absent any competent evidence in the record.

71. Plaintiff is materially and adversely affected by the Town Council's denial of the Preliminary Plat Application, including the use and the enjoyment of its Property.

72. The Property is approximately 290 acres.

73. Prior to 2007, there were landfills on approximately 45 acres in the northern portion of the Property (the North 45 Acres of the Property). However, these landfills are not on the portion of the Property that is being developed. .

74. In the 1960s , the then owner of the Property, had leased the North 45 Acres of the Property to a third party for use as a landfill.

75. In the 1960's the third party allowed IBM to dispose of metal drums containing chemicals on the North 45 Acres of the Property .

76. Prior to 2007, there was oil and gas drilling on and adjacent to the Property.

77. The oil and gas drilling on the Property is located on approximately 25 acres that is not being developed (the Oil and Gas 25 Acres). In fact, the development has been designed to accommodate the oil and gas drilling and comply with or exceed code requirements.

78. Prior to 2007 there were other landfills not anywhere on the Property, but that were adjacent to the Property.

79. Prior to 2007, the Town of Erie knew; (1) that there were landfills adjacent to the Property and (2) there was the oil and gas drilling on and adjacent to the Property. Moreover, upon information and belief, the Town of Erie knew about the landfills and metal drums with chemicals on the North 45 Acres of the Property. The information and belief are based on the following: before 2007, there was (1) a public certificate of designation by Weld County designating the North 45 Acres of the Property as a landfill in the 1960's; (2) after the 1960's, but before 2007, Weld County publicly revoked the certificate of designation; (3) in 1990 CDPHE/EPA conducted a study that clearly identified presence of drums on the property and which study was public; (4) fires at the landfill on the North 45 Acres of the Property with public fire department investigations about the fire at the landfill that was in the newspapers; and (5) public hearings in 2007 during the annexation process. Moreover, by 2015, when the Town revised its comprehensive plan, the Town also knew about the landfill on the North 45 Acres of the Property. In 2015, during the sketch plan hearings, there was testimony about the landfill on the North 45 Acres of the Property.

80. With full knowledge of the landfills adjacent to the Property, the disposal of drums on the Property and oil and gas drilling on the Property, the Town of Erie agreed to annex the Property into the Town of Erie. [

81. In 2007, when the Town of Erie annexed the Property, it zoned the Property low-density residential ("LR").

82. Thus, the Town of Erie, with knowledge of the landfills, the disposal of the drums, and the oil and gas drilling, determined that the Property was suitable for residential development.

83. In 2015, the Town of Erie reconfirmed that the Property was suitable for residential development. In 2015, the Town of Erie revised its comprehensive plan. In the 2015 comprehensive plan, the Town of Erie could have phased out residential on the Property: it did not, and still designated the Property as LR.

84. In 2019, the Town of Erie again amended its comprehensive plan and again the Property retained a residential designation.

85. In 2015 the Plaintiff purchased the Property for $7.8 million with the intent of developing residential units on the Property.

86. The Plaintiff, in determining to purchase the Property, relied on the zoning of the Property as LR, the Annexation Agreement, and the comprehensive plan, all of which stated that the Plaintiff could develop the property with residential units.

87. Had the Property not been zoned LR, Plaintiff would not have purchased the Property.

88. To date, the Plaintiff has spent approximately $23 million on the Property, including millions of dollars to purchase the Property, to remediate the environmental issues, and to prepare the Property for development.

89. The remediation occurred on the North 45 Acres of the Property – no environmental remediation was necessary on the areas to be developed.

90. Plaintiff spent the approximate $23 million solely to develop the property as low density residential.

91. Plaintiff spent the approximate $23 million on the Property in reliance on the zoning, annexation agreement and revised comprehensive plan.

92. Had the Property not still been zoned LR, Plaintiff would not have spent $10 million remediating the Property.

93. Plaintiff reasonably expected that it could develop the Property with low density residential units.

94. If Plaintiff were permitted to develop the Property with low density residential units, Plaintiff could not only recover the $23 million it has spent to date, but it would also have earned millions of dollars in profits.

95. Plaintiff reasonably expected to earn a substantial profit by developing the Property with residential units.

96. CDPHE issued a No Action Determination that the portions of the Property where the preliminary plat contemplated the location of residences as safe for residential development without any remediation whatsoever.

97. Nevertheless, when Plaintiff submitted an application to develop the Property with residential units, the Town denied the application.

98. The Town's rational for denying the application was: (1) the Property is adjacent to landfills; (2) IBM had disposed of the metal drums with chemicals on the North 45 Acres of the

Property (even though this issue was remediated and even though this is not the portion of the Property where residential development will occur); [and (3) there are oil/gas operations on and adjacent to the Property.

99. Thus, the Town, with full knowledge of the adjacent landfills, the disposal of the metal drums, and the oil and gas operations, zoned the Property LR in 2007 as part of the Annexation process, and confirmed that the Property was suitable for residential development in 2015 and 2019 when it amended its comprehensive plan.

100. Then, after the Plaintiff spent $23 million to purchase the property, remediate any environmental issues, and prepare the Property for development, the Town, while still maintaining the LR zoning, has stated that the Property cannot be developed with residential units because of the adjacent landfills, the disposed of metal drums and the oil/gas operations.

101. There is no way to eliminate: (1) the landfills that are adjacent to, but not on the Property, (2) the fact that IBM disposed of metal drums on the Property, and (3) the oil and gas drilling.

102. Consequently, there is no way to satisfy the Town's concerns about residential development on the Property.

103. As a result, the Town's actions mean that the Property can never be developed with residential units.

104. Moreover, because the Town has chosen to maintain the zoning as LR, the Property cannot be used at all.

105. The Property cannot be used for agricultural, commercial, industrial or any other purpose.

106. The only economically viable use of the Property is with residential development and the only way that Plaintiff can recover the costs it has incurred as well as its investment expectations is to develop the Property with residential units.

FIRST CLAIM FOR RELIEF
(Judicial Review Pursuant to C.R.C.P. 106(a)(4))

107. Plaintiff incorporates the preceding paragraphs set forth above.

108. At all times relevant hereto, the Town Council was exercising a quasi-judicial function within the meaning C.R.C.P. 106 with respect to its actions which are subject of this Complaint.

109. The Town Council abused its discretion and exceeded its jurisdiction in denying the Preliminary Plat Application based on inapplicable Code provisions.

110. The Town Council's foregoing actions are contrary to law, contrary to the Code, unsupported by competent evidence in the administrative record and are arbitrary and capricious. Therefore, the Town Council abused its discretion in denying the Preliminary Plat Application.

111. There exists no plain, speedy and adequate remedy otherwise provided by law.

SECOND CLAIM FOR RELIEF
(Takings in Violation of Article II, Section 15 of the Colorado Constitution)

112. Plaintiff incorporates and re-alleges the preceding paragraphs of this Amended Complaint as if fully set forth herein.

113. Defendants violated Plaintiff's state constitutional rights by taking and damaging Plaintiff's Property without just compensation.

114. The Town of Erie has the power of eminent domain but chose not to exercise that power. Instead, it took Plaintiff's Property without compensation.

115. Defendants, with full knowledge of the adjacent landfills, the IBM disposal, and the oil and gas operations, zoned the Property as LR.

116. Defendants then used the adjacent landfills, the fact of the IBM disposal, and the oil and gas operations, as justification for denying Plaintiff the right to develop the property with residential units.

117. As a result, the Property cannot be used for any purpose and the value of the Property has been completely destroyed.

118. Defendants' actions were final.

119. Defendants' actions have prohibited all use, including but not limited to, all reasonable use of the Property. Plaintiff cannot use the Property for any purpose.

120. Defendants have prevented all reasonable economically viable use of the Property.

121. Defendants did not justly compensate Plaintiff for the takings.

122. Defendants' actions harmed Plaintiff and caused Plaintiff damages in an amount to be proven at trial, including, but not limited to, causing Plaintiff to lose the $23 million it has already invested and the loss of profits.

123. Defendants acted willfully, wantonly and with a reckless disregard to Plaintiff's rights.

WHEREFORE, Plaintiff respectfully requests that judgment enter in its favor, and against Defendants, as follows:

a. Declaring that in denying the Preliminary Plat Application, Town Council was performing a quasi-judicial function;

b. Determining that, in doing so, the Town Council exceeded its jurisdiction and abused its discretion;

c. Vacating the Town Council's denial and approving the Preliminary Plat Application or alternatively remanding the matter to the Town Council to make a decision on the Preliminary Plat Application based on the Code's preliminary plat approval Criteria and evidence;

d. Damages in an amount to be proven at trial;

e. Pre and Post-judgment interest and attorney's fees;

f. For all such further relief the Court deems appropriate.

PLAINTIFF DEMANDS A JURY TRIAL

DATED this 26th day of November, 2024.

FOSTER GRAHAM MILSTEIN & CALISHER, LLP

Original signatures on file at the offices of Foster Graham Milstein & Calisher, LLP pursuant to C.R.C.P. 121 §1-26(7).

/s/ Larry G. Katz
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