

EXHIBIT A

WOODLAND HILLS CITY APPEAL AUTHORITY/BOARD OF ADJUSTMENT

THE CITY'S ADMINISTRATION, INTERPRETATION & ENFORCEMENT OF THE CITY'S ZONING ORDINANCES §109.04 & §109.05 USING METRICS, METHODS AND APPURTENANCES NOT REFLECTED IN APPROVED CONSTRUCTION PLANS AND FAILING TO DISCLOSE THIS INFORMATION IN A TIMELY WAY TO AN ADVERSELY AFFECTED PARTY

AND/OR

THE CITY'S FAILURE TO INSPECT, ENFORCE & REQUIRE SUBMISSION OF CONSTRUCTION PLANS SHOWING THE MATERIAL FEATURES AND APPURTENANCES USED BY THE CITY IN DETERMINING & ASSERTING COMPLIANCE WITH CITY ZONING ORDINANCES §109.04 & §109.05

AND/OR

THE CITY'S FAILURE TO REQUIRE CONSTRUCTION TO COMPLY WITH APPROVED BUILDING PLANS CONSISTENT WITH MANDATORY LAND USE REGULATIONS OF THE CITY OF WOODLAND HILLS AND THE STATE OF UTAH.

APPEAL

The appellants, Dr. Tannin Fuja and Megan Fuja, hereby submit this Appeal to the City of Woodland Hills Appeal Authority/Board of Adjustment/Board of Appeals (Variance Board) on November 4, 2020 which shall be received as a timely appeal as a result of the City's willful misconduct in withholding important material information used and held by the City related to mandatory land use regulations contained in the City's zoning ordinances §109.04 and §109.05 and not producing this material to an adversely affected party until October 29, 2020.

Said appeal is made to the City Appeal Authority/Board of Adjustment (1) for the correction of interpretation and enforcement of City zoning ordinances §109.04 and §109.05; (2) for the City's land use decision to not require amended plans for construction being built by John and Jennifer Adams at 1115 S. Woodland Hills Drive, Woodland Hills, Utah that reflect material data and appurtenances used in erroneously demonstrating "compliance" with City zoning ordinances §109.04 and §109.05 and the concomitant obstruction for public inspection or appeal; and/or (3) allowing construction to occur that is not reflected in any approved construction plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah which the City relied upon in erroneously asserting "compliance" with City zoning ordinances §109.04 and §109.05.

I. ISSUES BEING APPEALED

A. Interpretation and enforcement of City ordinances §109.04 and §109.05 and willfully withholding and refusing to provide material information in a timely way regarding aspects of the interpretations and enforcement of City zoning ordinances §109.04 and §109.05.

On or about October 29, 2020, the Fujas received critical and material documentation regarding the City's interpretation and enforcement of City zoning ordinances §109.04 and §109.05 as it relates to construction at 1115 South Woodland Hills Drive, Woodland Hills, Utah. This material information was previously willfully withheld by the City from the Fujas. The Fujas have made numerous requests to the City both in writing, in-person with witnesses present and through filed requests under the Government Records Access and Management Act ("GRAMA") to provide any and all information related to the construction at 1115 South Woodland Hills Drive, Woodland Hills, Utah. The City repeatedly misrepresented to the Fujas that they had provided all relevant information in the possession of the City. This was incorrect. Finally, on or about October 29, 2020, in response to the most recent GRAMA request made by the Fujas in September 2020, the City produced material evidence and documentation that clearly shows the City's improper interpretation and enforcement of City zoning ordinances §109.04 and §109.05. This material information should have been provided to the Fujas in advance of their hearing with the City Appeal Authority in July 2020.

B. Interpretation and lack of enforcement of mandatory City and State land use regulations in making a land use decision to not require amended plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah that reflect material data and appurtenances used by the City in determining and asserting compliance with City zoning ordinances §109.04 and §109.05 and the concomitant obstruction for public inspection or appeal.

This is an appeal of the City's interpretation and lack of enforcement of the City and State mandatory land use regulations requiring that construction conform to submitted and approved construction documents used to obtain a building permit. The material information willfully withheld by the City from the Fujas demonstrates that the City's assessment and assertion of compliance with City zoning ordinances §109.04 and §109.05 relies upon data, features and appurtenances not found on any of the construction documents approved by the City.

In addition, the Fujas challenge the City's failure to require the submission or approval of any amended plans reflecting the data and appurtenances the City relied upon in asserting compliance with City zoning ordinances §109.04 and §109.05. The lack of amended plans reflecting these features coupled with the City's willfull withholding of material information regarding the enforcement and interpretation of City zoning ordinances §109.04 and §109.05 makes the Fuja's appeal both relevant and timely.

C. Land use decision allowing construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah that does not comply with any construction documents approved by the City or available for public inspection in violation of mandatory city and state land use regulations.

This is an appeal of the City's improper land use decision regarding mandatory City and State land use regulations in allowing construction at 1115 S. Woodland Hills Drive that does not conform to any construction documents submitted to and approved by the City. The original construction drawings were provided to the Fujas as part of the City's exhaustive GRAMA response and do not match the home as currently constructed by the Adams in significant aspects affecting compliance with ordinances and state building codes that establish safe building standards. Additionally, the City, in asserting compliance with City zoning ordinances §109.04 and §109.05, accepted data and representations that are not found in any of the originally approved construction documents or any amended document approved by the City.

The City has willfully failed to require compliance with the building plans that were submitted by the Adams and approved by the City as part of the Adams' application for and the City's issuance of a building permit on July 5, 2019. Additionally, the City has repeatedly and willfully obstructed the Fujas ability to access public records to verify the City's assertions of compliance with City zoning ordinances §109.04 and §109.05, including repeatedly making false and misleading statements regarding the existence of critical information held by the City showing erroneous compliance with City zoning ordinances §109.04 and §109.05. The City's obstruction and willful misconduct, coupled with the fact that the features the City and the Adam's relied upon in asserting compliance with City zoning ordinances §109.04 and §109.05 are not found in any construction documents submitted to and approved by the City, make the Fuja's appeal both relevant and timely.

The Adams and the City have demonstrated a lack of good faith. The City has willfully withheld information from the Fujas, an adversely affected party. The Fujas made regular requests in writing, in-person with witnesses present, and through form GRAMA requests for the City to release all information related to the Adams construction. The City made repeated representations (both in writing and verbally) that the no additional information existed. This was a false representation. Only in response to the most recent GRAMA request did the City provide the Fujas copies of material information used by the City in interpreting "compliance" with City zoning ordinances §109.04 and §109.05. The Adams' and the City's reliance on their building permit and documentation used to obtain that permit is not in good faith. Information released by the City now clearly shows that the City was aware that the construction documents and site plans originally submitted by the Adams were in error. The UT Property Rights Ombudsman's office has stated regarding good faith and zoning estoppel: It is also necessary that the reliance be "in good faith," meaning that a property owner has an obligation to inquire about a proposed land development or use. Also, if the property owner knows that the representation is wrong or incomplete, reliance is not in good faith. The Adams and the City have clearly relied upon incomplete representations and construction documents in asserting compliance with City zoning ordinances §109.04 and §109.05. Finally, making substantial changes without obtaining those approvals would not be good faith reliance. Such approval was

never obtained by the Adams or granted by the City. The significant differences between the original plans submitted by the Adams (approved by the City in 2019) and what is being built (absent any City approval for the departures) are apparent. Both the Adams and the City rely upon the departures from the approved plans in asserting compliance with City zoning ordinances §109.04 and §109.05. Additionally, the Adams continue to build contrary to approved building plans and contrary to material assertions they have made previously to the City Appeal Authority. The City continues to allow construction at 1115 S. Woodland Hills Drive which is not reflected in any approved construction documents, and the City relies upon departures from the approved plans to assert compliance with City zoning ordinances §109.04 and §109.05.

These actions by the City and the Adams are not in good faith and it is believed represent willful misconduct and obstruction on the part of the City in withholding from an adversely affected party (as defined by Utah state law) critical information regarding compliance with City zoning ordinances 109.04 and 109.05.

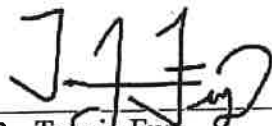
II. IDENTITY OF APPELLANT

The Appellants are Adversely Affected Parties as defined by Utah state law, being residents of the City of Woodland Hills and owners of real property immediately adjacent to and downhill from the residential lot on which the City has erroneously (1) interpreted and enforced City zoning ordinances §109.04 and §109.05; (2) made land use decisions to not require amended plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah that reflect material data and appurtenances used by the City in erroneously asserting "compliance" with City zoning ordinances §109.04 and §109.05 and the concomitant obstruction for public inspection or appeal; and/or (3) allowing construction to occur that is not reflected in any approved construction plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah which the City relied upon in erroneously demonstrating "compliance" with City zoning ordinances §109.04 and §109.05.

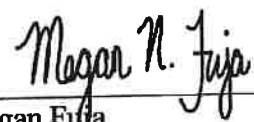
The appellants are:

Dr. Tannin and Megan Fuja
1005 Woodland Hills Drive
Woodland Hills, Utah 84653

DATED this 4th day of November 2020.



Dr. Tannin Fuja



Megan Fuja

Jody Stones

From: Tannin Fuja <tfuja@provindus.com>
Sent: Wednesday, November 4, 2020 3:32 PM
To: Jody Stones; Wendy Pray; 'Benson, Caitlin (G&B)'
Subject: November 2020 WH CITY Appeal Authority Appeal
Attachments: WOODLAND HILLS CITY_NOV2020_APPEAL-AUTHORITY_APPEAL.pdf

Importance: High

Dear City Recorder,

Attached is the duly-executed formal appeal being brought before the City of Woodland Hills City Appeal Authority on this day of November 4, 2020.
Please confirm receipt by reply. Given the city's closure of city offices, please notify us if alternative delivery is required.
Additionally, please notify us of requisite next steps.

Respectfully,

Dr. Tannin & Megan Fuja
Residents

EXHIBIT B

**WOODLAND HILLS CITY BOARD OF ADJUSTMENT//BOARD OF APPEALS
APPEAL AUTHORITY**

**THE CITY'S ADMINISTRATION, INTERPRETATION, &
ENFORCEMENT OF THE DEVELOPMENT &
CONSTRUCTION STANDARDS; THE SUBDIVISION
ORDINANCE SECTION 109.07 (HILLSIDE
DEVELOPMENT); &
THE CITY'S FAILURE TO INSPECT & ENFORCE
COMPLIANCE WITH CONSTRUCTION PLANS
APPROVED AS PART OF THE CITY'S ISSUANCE OF A
BUILDING PERMIT.**

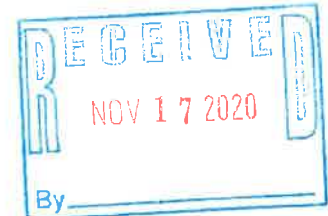
AND/OR

**THE CITY'S ADMINISTRATION, INTERPRETATION, &
ENFORCEMENT OF CITY ZONING ORDINANCES;
CITY DEVELOPMENT & CONSTRUCTION
STANDARDS; THE SUBDIVISION ORDINANCE
SECTION 109.07 (HILLSIDE DEVELOPMENT); &
THE CITY'S FAILURE TO INSPECT & ENFORCE
COMPLIANCE WITH CONSTRUCTION PLANS
APPROVED AS PART OF THE CITY'S ISSUANCE OF A
BUILDING PERMIT OR TO REQUIRE COMPLETE
AMENDMENT OF SUBMITTED AMENDED PLANS TO
FULLY COMPLY WITH THE STRUCTURE AS BUILT &
REQUIRE SUCH AMENDED PLANS TO FULLY
COMPLY WITH THE ABOVE MENTIONED
MANDATORY LAND USE REGULATIONS.**

AND/OR

**THE CITY'S FAILURE TO INSPECT & ENFORCE
COMPLIANCE WITH CONSTRUCTION PLANS
APPROVED AS PART OF THE CITY'S ISSUANCE OF A
BUILDING PERMIT OR TO REQUIRE COMPLETE
AMENDMENT OF SUBMITTED AMENDED PLANS TO
FULLY COMPLY WITH THE STRUCTURE AS BUILT &
REQUIRE SUCH AMENDED PLANS TO FULLY
COMPLY WITH MANDATORY LAND USE
REGULATIONS AS PART OF PASSING THE 4-WAY
INSPECTION.**

**REQUESTED
COMBINED
APPEAL**



The appellants, Dr. Tannin Fuja and Megan Fuja, hereby submit this Combined Appeal at the request of the City of Woodland Hills Board of Adjustment/Board of Appeals (Variance Board) on November 17, 2020 containing information and issues previously presented to the City in separate appeals on June 22, 2020, July 22, 2020, August 27, 2020 and September 21, 2020 for

which the city still has not held a hearing for any of these appeals. Said timely appeal is made to the Board of Adjustment/City Appeal Authority:

- (1) for the interpretation of the Woodland Hills Development and Construction Standards and the Subdivision Ordinance Hillside Site Development Section;
- (2) for the interpretation of the Woodland Hills Zoning Ordinances, Development and Construction Standards and Hillside Development sections of the Subdivision Ordinance as applied to the City's land use decision accepting (or not denying) amended plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah; and/or
- (3) in response to the land use decision passing construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah in the Building Inspector's 4-Way Inspection.

This appeal document will also contain information pertaining to the interrelation between the City Codes and the International Residential Codes (IRC) also adopted directly by the City of Woodland Hills in 2007 and by the State of Utah with amendments also adopted by the State of Utah and are included herein as reference and context in order to render a more complete understanding of the appeal at hand.

The appellants were made aware via electronic communication from the City Recorder on November 5, 2020 that the city had approved amended plans submitted for construction at 1115 S. Woodland Hills Drive on or after July 13, 2020 which the Fugas originally appealed but which may or may not have been revised in the interim. The city has refused to provide the appellants with the approved amended construction documents bearing a city stamp of approval or a date of approval to verify when and which documents were approved. Since July 12, 2020 the appellants have made weekly requests of the city regarding the approval of the amended plans. The city repeatedly confirmed in writing and orally with witnesses present that the plans had not been approved. November 5, 2020 was the first date that the city acknowledged approval of the amended plans, given that the city had allowed inspection of work contained only in the amended plans and not found in the originally approved plans. The appellants hereby appeal the approval of those amended plans and the inspection of the work contained in those amended plans.

I. ISSUES BEING APPEALED

A. Interpretation of the Woodland Hills Development and Construction Standards and the Subdivision Ordinance Hillside Site Development Section

This is an amended appeal of the City's administration, interpretation, application, and enforcement of (1) the City's Development and Construction Standards (the "Development Standards"); (2) Chapter 02.32 (Hillside Site Development), a supplement to the City's Subdivision Ordinance; and (3) the City's Subdivision Ordinance, section 109.07 (Hillside Development). For purposes of this amended appeal, the International Residential Code and the International Building Code shall be referred to herein as the "IRC/IBC"; the City's Development and Construction Standards, Chapter 02.32 (Hillside Site Development) shall be referred to as the "Hillside Development Standards"; and the City's Subdivision Ordinance, section 109.07 shall be referred to as the "Subdivision Ordinance."

In addition, the Fugas challenge the City's failure to inspect and enforce compliance with construction drawings that were approved as part of the City's issuance of a building permit to

John and Jennifer Adams for their construction of a residence at 1115 South Woodland Hills Drive, Woodland Hills, Utah. These construction drawings were provided to the Fugas as part of the City's exhaustive GRAMA response and do not match the home as currently constructed by the Adams in significant aspects affecting compliance with ordinances and state building codes (IRC/IBC) that establish safe building standards.

On or about March 12, 2020, the Fugas, through their legal counsel, sent a letter to the City of Woodland Hills, through the City's legal counsel, David Church. The letter raised issues regarding the City's administration and interpretation of the Hillside Development Standards to the home under construction by the Adams. At approximately the same time that this letter was sent by the Fugas, they also filed a request under the Government Records Access and Management Act ("GRAMA"). That request was fulfilled by the City on June 11, 2020 and the information contained in that GRAMA response confirmed the City's failure to correctly interpret and enforce the Hillside Development Standards and the Subdivision Ordinance as against the Adams' construction project and property. The City's GRAMA response also confirmed the City's failure to require compliance with the building plans that were submitted by the Adams and approved by the City as part of the Adams' application for and the City's issuance of a building permit on July 5, 2019.

B. Interpretation of the Woodland Hills Zoning Ordinances, Development and Construction Standards and Hillside Development sections of the Subdivision Ordinance as applied to the City's land use decision accepting amended plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah

This is an appeal of the City's acceptance (or lack of rejection) of amended building plans submitted to the City on July 13, 2020 regarding construction of a residence by John and Jennifer Adams at 1115 South Woodland Hills Drive, Woodland Hills, Utah. Such amended building plans contain errors and violations relating to (1) the 2015 International Residential Code and the International Building Code; (2) the City's Development and Construction Standards (the "Development Standards"); (3) Chapter 02.32 (Hillside Site Development), of the City's Development and Construction Standards; (4) the City's Subdivision Ordinance, section 109.07 (Hillside Development); and (5) the City's Zoning Ordinances. For purposes of this amended appeal, the International Residential Code and the International Building Code shall be referred to herein as the "IRC" and "IBC"; the City's Development and Construction Standards, Chapter 02.32 (Hillside Site Development) shall be referred to as the "Hillside Development Standards"; and the City's Subdivision Ordinance, section 109.07 shall be referred to as the "Subdivision Ordinance."

In addition, the Fugas challenge the City's failure to inspect and enforce compliance of the amended plans submitted for approval as compared with the structure as actually built at 1115 South Woodland Hills Drive, Woodland Hills, Utah. The amended plans were provided to the Fugas on the afternoon of July 20, 2020 and do not match the home as currently constructed by the Adams or meet specific requirements specified in the building permit packet or the Zoning Ordinance as mandatory for a final site plan.

On July 13, 2020, the City received amended plans for construction at 1115 S. Woodland Hills Drive from John and Jennifer Adams. On July 20, 2020, when Megan Fuja asked to see all

submitted plans for the property at the city building, she was told that no new plans had been submitted and was shown only the plans previously obtained through GRAMA requests. Around 4:20 PM that same day, the amended plans which had been submitted a week earlier were sent to the Fugas via email from the City Recorder. As shown in the forwarded email chain, it is apparent that this amended plan information was available to the Adams on July 7, 2020, two days before an appeal hearing with the Board of Adjustment of the City of Woodland Hills regarding this property, but such amended plans were withheld from being submitted until after such hearing. It is clear that this submission does constitute a new land use approval and that such approval must meet the requirements of the City Zoning Ordinances, the City Development and Construction Standards and the IRC/IBC Codes and State Amendments.

The city reviewed those plans and communicated to the appellants that they were not approved or a form or revised version of the amended plans was not approved until they city gave material notice to the appellants on November 5, 2020 that the amended plans had been approved and that the city had allowed and accepted inspection of the work contained in the amended plans.

The amended plans as submitted or revised do not only do not comply with the structure as currently built but also do not in many instances meet the necessary codes, ordinances and mandatory land use regulations. And, since the original plans did not comply with the codes and the Adams have not complied with the building permit issued, according to both LUDMA and IRC State Codes, the Adams' original building permit is invalid. The amended documents do not meet the State Codes, City Zoning Ordinances and the Development and Construction Standards, and as such the Fugas appeal the land use decision approving (or not denying) such amended construction documents based upon known engineering, structural, and geotechnical issues that lead to irreparable harm to the Fugas.

C. Land use decision passing construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah in the Building Inspector's 4-Way Inspection

This is an appeal of the City's land use decision passing a 4-Way Inspection on August 19, 2020 for construction of a residence by John and Jennifer Adams at 1115 South Woodland Hills Drive, Woodland Hills, Utah. The construction does not appear to comply with the approved building plans in the existing elevation contours, the height and stepping of the foundation walls, and the location and number of doors and windows. Many of these undocumented changes impact the ability of the structure to comply with (1) International Building Code; (2) the City's Development and Construction Standards (the "Development Standards"); (3) Chapter 02.32 (Hillside Site Development), of the City's Development and Construction Standards; (4) the City's Subdivision Ordinance, section 109.07 (Hillside Development); and (5) the City's Zoning Ordinances. For purposes of this appeal, the International Residential Code and the International Building Code shall be referred to herein as the "IRC" and "IBC"; the City's Development and Construction Standards, Chapter 02.32 (Hillside Site Development) shall be referred to as the "Hillside Development Standards"; and the City's Subdivision Ordinance, section 109.07 shall be referred to as the "Subdivision Ordinance."

It is clear that a 4-Way Inspection does constitute a new land use decision and that such a decision must meet the requirements of the City Zoning Ordinances, the City Development and Construction Standards and the IRC/IBC Codes and State Amendments. As part of the 4-Way

Inspection Report, Sunrise Inspection notes "House built according to plans." This statement is very broad in its assertions and should be investigated as part of the notes generated from the inspection. Also, the approved plans as submitted not only do not comply with the structure as currently built but also do not in many instances meet the necessary codes, ordinances and mandatory land use regulations. And, since the original plans did not comply with the codes and the Adams have not complied with the building permit issued, according to both LUDMA and IRC State Codes, the Adams' original building permit is invalid and they should not have passed the 4-Way Inspection. In addition, the City Recorder indicated that the City of Woodland Hills withheld secondary engineering reports related to the structural stability and engineering deficiencies from Sunrise Inspections, the 3rd party contracted to perform the 4-Way Inspection. While the city may not be required to share this information, it does seem that the information contained in those reports might better aid in identifying potential issues that could be encountered. Also, it appears that the city may not have included a letter generated by Michael Raymond, a member of the City Architectural Committee, to Wayne Frandsen, Chair of the City Planning Commission, in response to his request to evaluate the plans and construction ongoing at 1115 S. Woodland Hills Drive which details several of the departures from the approved plans in what has been constructed. The residence as constructed does not match the approved plans supplied in response to recent GRAMA requests and does not meet the State Codes, City Zoning Ordinances and the Development and Construction Standards, and as such the Fugas appeal the land use decision passing 1115 S. Woodland Hills Drive in the 4-Way Inspection on August 19, 2020 based upon known departures from the approved plans and known engineering, structural, and geotechnical issues that result from such departures that lead to irreparable harm to the Fugas.

II. DETAILS OF ISSUES BEING APPEALED

A. Development & Construction Standard Violations

1. Hillside Site Development

- i. The Development Standards are "supplementary to the Subdivision Ordinance of the City of Woodland Hills." See Development Standards, 02.02.10 (General). Therefore, the Development Standards which govern the use or development of land are a land use regulation as that term is defined by Utah Code Ann. §10-9a-103(32). The Development Standards, however, apply to more than just the development of subdivisions by sub-dividers and according to their own terms "provide general requirements for improvements to be built by the developer, sub-divider, owner or contractor for all types of construction." See Development Standards, 02.02.10 (General).
- ii. The Hillside Development Standards state that "[i]t shall be unlawful for the owner, developer, or any contractor or other person to excavate, grade, level, or build upon any lot or property within the City when the average slope of the lot exceeds twenty (20) percent...before such person has submitted to the chief building official a certified report from a qualified civil engineer licensed in the State of Utah containing the information set forth in the following section [02.32.30 Certified Report Specifications]." See Development Standards 02.32.30 (Certified Report Required) (emphasis added). A slope analysis, performed in 2002, by LEI, the City's Engineer, confirms that the Adams' lot exceeds the 20% average slope and is therefore subject to the additional requirements. From the

GRAMA response received from the City in June of 2020, it is clear that the Adams did not submit and the City did not require “a certified report from a qualified civil engineer” that contains the information required by Development Standards 02.32.30, as should have been required by the City according to their own slope survey from 2002.

- iii. The Hillside Development Standards require that “[n]o grading shall take place on a hillside area until the proposed method of handling the problems [identified in the required certified report from a qualified engineer] shall be submitted to and approved by the City Engineer.” See Development Standards, 02.32.20(C) (emphasis added). The GRAMA response in June of 2020 confirmed that the Adams never submitted a certified report and nothing was approved by the City Engineer prior to grading on the hillside areas of the Adams’ lot.
- iv. The Hillside Development Standards next require that the “Owner, Developer, or Contractor shall comply with...” eleven separate standards that are included in the Development Standards, 02.32.20(C). Based on the GRAMA response received in June of 2020, the City did not require compliance and the Adams have not complied with the eleven standards included in this part of the City’s mandatory Hillside Development Standards.
- v. These requirements for development in hillside areas are also included in the City’s Subdivision Ordinance, section 109.07 Hillside Development. The requirements of the Subdivision Ordinance, like the requirements of the Hillside Development Standards, have not been correctly administered, interpreted, or enforced by the City, and the Fujas have been adversely affected thereby.
- vi. The Fujas are adversely and uniquely affected by the City’s failure to correctly interpret, apply, and enforce the mandatory provisions of the Hillside Development Standards and the Subdivision Ordinance as the Fujas own the home immediately below the Adams’ home and would suffer the immediate consequence of slope erosion, flooding, and other problems that the Hillside Development Standards are designed to mitigate or prevent.
- vii. The City has the responsibility to enforce mandatory provisions of its codes, including the mandatory provisions of the Hillside Development Standards and Subdivision Ordinances. The City has been provided with irrefutable and objective proof of violations of the Hillside Development Standards and Ordinances and yet has continued to fail in its responsibilities to enforce the same.
- viii. The Fujas submit the following additional information relevant to this issue:
 - a. Adams did not specify the 30% or greater slope areas on their site plan for their building permit packet as required by the permit, nor did they show correct existing elevations on the north and south sides of their property that would have correctly shown the steeper slopes in those areas.
 - b. Adams did not submit a certified engineering report for the building inspector to pass along to the city engineer, which is required by the Development and Construction Standards for ANY LOT with an average slope in excess of 20%.
 - c. Adams have not submitted plans that comply with the requirements of Chapter 02.32. Hillside Site Development of the city’s Development and Construction Standards. Adams’ original plans have errors in the existing

elevation contours and the existing grade points marked that render their site plan in error, and they have been aware of such errors since July of 2019 but have yet to amend their plans to correctly show the existing grade contours.

d. As such, their reliance on their building permit and plans is not "in good faith."

e. Taken directly from the UT Property Rights Ombudsman's website, regarding good faith and zoning estoppel: "It is also necessary that the reliance be 'in good faith,' meaning that a property owner has an obligation to inquire about a proposed land development or use. Also, if the property owner knows that the representation is wrong or incomplete, reliance is not in good faith. Finally, if the use or development requires specific approval (like a conditional use permit or a subdivision plat), making substantial changes without obtaining those approvals would not be good faith reliance."

f. As a result of changes in the stepping of the foundation walls at the front of the Adams' home, potential substantial changes to the finished grading at the front of the home must be made. Those changes are not shown on any current documents with the city and as such, the city cannot actually rely on the documents submitted to know what the final grading will be and how it will impact the neighboring properties. In fact, it becomes clear by looking at the placement of waterproofing material on the foundation walls that the Adams do not intend to bring the finished grade up to the levels indicated on their current approved plans. This is further illustrated by the building codes of the IRC on waterproofing the foundation walls. IRC R406.2 Concrete and Masonry Foundation Waterproofing: "In areas where a high water table or other severe soil-water conditions are known to exist, exterior foundation walls that retain earth and enclose interior spaces and floors below grade shall be waterproofed from the higher of (a) the top of the footing or (b) 6 inches (152 mm) below the top of the basement floor, to the finished grade." The Adams' lawyer has stated in a previous Board of Adjustment Appeal meeting that the Adams will put the dirt up to the levels indicated at the front of the home on their approved site plan; however, this would mean that the dirt would be sitting against the wood frame at the front of the home where the plans currently show cement foundation walls. The Fujas do not believe that this is sound construction and so believe that the grading must necessarily dramatically change in accordance with the foundation stepping changes.

g. The slope of the Adams' lot REQUIRES review by the city engineer as specified in 02.32.020 and 02.32.030C. Certified Report Required. This should now be required in order to confirm that the Adams' construction as built can comply with these Hillside Slope development standards. The Adams should be required to show on paper that their construction in violation of their approved plans can meet the required standards that have no mechanism for variance. Not requiring such compliance breaks our

City Zoning Ordinances and the State IRC codes and does not ultimately help the Adams nor protect the Fujas.

- h. Per the Northern Engineering Slope Analysis study, based on the original Topographical survey performed for the Adams by Dave Hunt of Level of Focus in 2017 which was subsequently stamped and filed with Utah County, there are multiple sections of the Adams' lot that have unbuildable slopes (>35% grade). Disturbing such slopes is illegal. The Adams' driveway and home sit over sections of the property that are not considered to be buildable. According to geotechnical engineer (Bill Turner) this is not safe for the downhill neighboring property.
 - i. The Adams can only legally grade less than one half of the area of the greater than 20% slope on their lot. The City of Orem and the City of Elk Ridge both include very similar language in their hillside slope ordinances. The City of Orem rendered this common understanding of the common language contained in our City's Development Standard: "You are only allowed to disturb, grade, impact, 50% of the slope area on your lot where the average slope is greater than 20% but less than 35%..., 50% of the contours of that sloped area that has an average slope between 20% and 35%." Thus, as the contours on the Adam's property run east to west, they should only be able to cross half of the contour lines and would either need to build a home that faces the road but is narrow and deep or they would need to turn their current home 90 degrees to run parallel with the contours. Rather than complying with this requirement, the Adams have essentially crossed every conceivable contour line possible within their buildable area. This extreme grading yields significant safety issues for neighboring properties.
 - j. Fill material used inside a structure being built on a lot with a slope exceeding 20% grade "shall be prepared and compacted as specified in the Construction Standards and Specifications for the City of Woodland Hills". These must be met, especially on a hillside slope where more significant safety issues exist and with such high foundation walls that are not engineered to comply with the IRC and UT State amendments per evaluation by structural engineers (Conrad Guymon and Matt Roblez).
 - k. Given the incorrect existing elevations referenced on the site plan currently approved by the city (off by nearly 6 feet on the north side of the property and 10 feet on the south side), it is unclear if the Adams can meet the requirements of the Hillside Slope Development Standards. These standards do not have a variance mechanism. What will happen if the Adams complete their home but cannot meet the minimum safety standards established under this code? Why is the city not requiring the Adams to submit plans that show correct existing elevations and construction drawings showing what has actually been done and which comply with the ordinances, standards and building codes?
- ix. Hillside Slope Standards are widely regarded to contribute to the safety of property development. "When disturbed, steep slopes are highly susceptible to erosion, landslides, and subsidence, which—in addition to constraining

development and resource extraction—can endanger the public, degrade water quality, and damage structures. “ “Tools employed at the municipal level to regulate steep slopes include zoning ordinances and subdivision and land development ordinances (SALDO). This guide focuses on regulating steep slopes via a zoning ordinance, because this strategy generally is the most effective at ensuring that development respects the constraints and issues presented by these slopes.” “Supplemental Regulations - Some municipalities regulate steep slopes with supplemental regulations rather than using an overlay district. Where steep slopes are present, it requires development plans to include detailed information related to grading and erosion as well as sediment control. In practice, overlay districts and supplemental regulations have the same effect: they both augment the standards of base zoning districts. Successful implementation also requires easily understood administrative procedures and a commitment to enforcement. Once these standards are in place, it is crucial that municipal leaders enforce them.”(<https://conservationtools.org/guides/59-steep-slope-ordinance> Pennsylvania Land Trust Association).

- x. Despite numerous requests and attempts to obtain the original slope analysis for Thousand Oaks Subdivision dating back to March of 2020, the city did not turn over the slope analysis to the Fugas until June of 2020. As such, the Fugas did not have access to the data needed to refute the building inspector’s written statement on 3-18-2020 that: “Based on the original plat submittal there are no slopes that would create potential flows.”
- xi. Once the Fugas received access to the original slope analysis, they quickly appealed. This appeal is timely, as they were denied access to this “public” information prior to mid-June 2020 and the original appeal on slope was submitted on June 22, 2020.
- xii. In his letter on March 18, 2020, Corbett specifies that he “spoke with their engineer today and the Adams are already having him design retaining walls making this a moot point.” Why is the city allowing construction to continue for months without requiring the amended plans showing what is actually being constructed? When can we appeal such changes? What will happen if the Adams cannot actually comply with the section of the Development and Construction Standards that deals with Hillside Slope Development once they have already constructed their home? The city should require the Adams to amend their plans to bring them into compliance with both what is already constructed and the city’s zoning ordinances and State Building Codes prior to continuing. Such amendment of plans is necessary to ensure the safety of the construction and compliance with both City and State laws.

2. Development and Construction Standards Chapter 02.14. Earthwork.

- i. 02.14.010. General. This section defines the requirements for excavation and backfill for structures, construction requirements for embankments and fills and sub-grade preparation for pavements and other surface improvements.
- ii. 02.14.020. Sub-grade Soil. Sub-grade soil for all concrete structures, regardless of type or location, shall be firm, dense, thoroughly compacted and consolidated; shall be free from mud and muck; and shall be sufficiently stable to remain firm

and intact under the feet of the workmen engaged in sub-grade surfacing, laying reinforcing steel, and depositing concrete. Coarse gravel or crushed stone may be used for subsoil reinforcement if results are satisfactory to the City engineer or his/her designee. Such material shall be applied in layers, not exceeding 6 (six) inches in thickness, each layer being embedded in the subsoil by thorough tamping. All excess soil shall be removed to compensate for the displacement of the gravel or crushed stone and the finished elevation of any subsoil reinforced in this manner and shall not be above the specified sub-grade.

- iii. 02.14.030. Backfill around Structures. Backfill around structures shall be placed to the lines shown on the approved drawings, or as directed by the City engineer or his/her designee. After completion of foundation, footings and walls and other construction below the elevation of the final grades, and prior to backfilling, all forms shall be removed and the excavation shall be cleaned of all trash and debris. Material for backfilling shall consist of excavated material or borrow of sand, gravel, or other suitable material, and shall be placed in layers not exceeding eight (8) inches in un-compacted thickness. Each layer shall be compacted by hand or machine tampers or by other suitable equipment to a density equal to ninety-five (95) percent of maximum dry density as measured by AASHTO T180 Method C.
- iv. 02.14.040. Construction of Embankments and Fills. Unsuitable materials that occur in the foundation for embankments and fills shall be removed by clearing, stripping and/or grubbing. Where suitable materials occur, after stripping, the foundation shall be scarified to a depth of not less than six (6) inches, and the loosened material shall be moistened and compacted as hereinafter specified for each layer. All materials in embankments and fills shall be placed, moistened, and compacted as provided in the following paragraphs. When the embankment or fill exceeds the amount of excavation, sufficient additional material shall be obtained from borrow pits provided by the contractor. All material proposed to be imported shall be subject to the review and approval of the City engineer or his/her designee prior to starting of hauling operations. The materials used for embankment and fill construction shall be free from sod, grass, trash, rocks larger than six (6) inches in diameter and all other material unsuitable for construction of compacted fills. Grading of completed embankments and fills shall bring the surfaces to a smooth, uniform condition with final grades being within 0.1 foot of the design grade.
- v. 02.14.050. Compacting Earth Materials. The material shall be deposited in horizontal layers having a thickness of not more than 6 (six) inches after being compacted as hereinafter specified; provided, that when mechanical equipment is used for placing and compacting the material on a sloping foundation, the layers may be placed parallel to the foundations. The distribution of materials shall be such that the compacted material will be homogeneous and free from lenses, pockets, or other imperfections. Prior to and during compaction operations the material shall have the optimum moisture content required for the purpose of compaction and the moisture content shall be uniform throughout the layers, insofar as practical. Moistening of the material shall be performed at the site of excavation, but such moistening shall be supplemented, as required by sprinkling at the site of construction. If the moisture content is more than optimum for

compaction the compaction operations shall be delayed until such time as the material has dried to the optimum moisture content. When the material has been conditioned as hereinbefore specified, the backfill or embankment shall be compacted as follows:

- a. Under roadways and extending one foot beyond the proposed curb line the fill or embankment material shall be compacted to a density equal to not less than 95% of maximum dry density as measured by AASHTO T- 180, Method C or the modified proctor test ASTM D-1557.
- b. Under driveways the fill or embankment material (to at least one foot each side of the edge of the slab) shall be compacted to a density equal to not less than 95% of maximum dry density as measured by AASHTO T- 180, Method C or the modified proctor test ASTM D-1557.
- c. Other fills and embankments not listed above shall be compacted to a density equal to not less than 90% of maximum dry density as measured by AASHTO T-180, Method C or the modified proctor test ASTM D-1557.

- vi. Was the testing performed as specified in the Development and Construction Standards? Was the fill material prepared as instructed? What evidence can the city provide that they are meeting any of the standards and regulations included herein? These Development and Construction Standards specify: "Policy 02. Development Standards. - Chapter 02.02. General Improvement Requirements. 02.02.010. General. The provisions of these Development Standards are supplementary to the Subdivision Ordinance of the City of Woodland Hills and provide general requirements for improvements to be built by the developer, subdivider, owner or contractor for all types of construction."
- vii. In the EarthTec Engineering Excavation Observation dated July 26, 2019, the following recommendations are given. "Allowing the foundation soils to become wet at any time during the life of the structure could lead to adverse soil movement. Therefore, we recommend that these additional steps be taken to minimize the potential for surface water entering the soils below the foundation:
 - a. "The contractor should take precautions to prevent significant wetting of the soil at the base of the excavation. Such precautions may include: grading to prevent runoff from entering the excavation, excavating during normally dry times of the year, covering the base of the excavation if significant rain or snow is forecast, backfill at the earliest possible date, frame floors and/or roof at the earliest possible date, other precautions that might become evident during construction."
 - b. "Adequate compaction of foundation wall backfill should be provided i.e. a minimum of 90% ASTM D-1557. Water consolidation methods should not be used."
- viii. Due to these observations, backfilling the large space inside the foundation walls should not have been performed in wet conditions during a blizzard. The dirt used should have been prepared by taking out all organic material which did not appear to be completed. Also, the compaction of foundation wall backfill should be verified according to the standards specified. The mandatory testing data should be required, as it directly impacts the safety of the very tall foundation

walls nearest the Fuja property which are most impacted by the compaction and fill conditions in question as they are the tallest foundation walls with the greatest unbalanced backfill height and have not been properly backfilled to cover them up to the frost line despite strict instructions to do so before inclement weather. They have actually remained largely exposed since they were poured which creates safety issues detailed by Bill Turner of CMT Engineering (a geotechnical engineer) in his letter to the City dated August 17, 2020. They are also believed to be structurally unsafe, as they do not meet the minimum structural standards required by Utah State Building Codes according to both Conrad Guymon and Matt Roblez (structural engineers).

B. Failure to Enforce Compliance with Approved Plans

1. The Fugas assert that the Adams are not following the plans that were approved by the City as part of the City's issuance of a building permit. In the GRAMA response provided in June of 2020, the Fugas were able to confirm that the plans that were originally submitted to the City by the Adams are not the plans that are being followed by the Adams in the construction of their home. Variations from the plans, including significant structural and aesthetic components, can be observed by comparing the Adams' home, as currently constructed, to the plans that the City provided as part of its GRAMA response. From the City's GRAMA response, which it claims to be exhaustive, there is no record that the Adams' sought for or obtained a variance from the Board of Adjustment or were granted some more informal waiver from the Building Inspector or Code Enforcement Officer. Indeed, there is no indication that the Adams have any permission from the City to deviate from their plans in any degree (excepting a few notes from their engineer in August of 2019), yet, there are significant deviations that are easily observable and not discussed in any way in that amendment above mentioned.
2. The Fugas submit the following additional information relevant to this issue:
 - i. The Adams have departed from their plans in both the stepping and the height of their foundation walls. We believe that they have increased the overall height of their home by elevating the basement floor to the top of their north foundation wall which height they increased by about 4 or more feet. The Fugas also believe that many of the foundation walls are actually closer to 10-11 feet tall where they are specified as 9 feet, and on the back area of the pop-out north section of the home the foundation walls are significantly taller than shown on the foundation and footing plans. None of these departures was depicted in the amendment sent by their engineer. These stepping and height changes dramatically affect the sloping of the finished grade, as the Adams cannot put dirt directly up against the wood and windows that are now in place where their plans show cement. Also, the addition of height to many of the foundation walls makes it unclear whether the footing used or the rebar called for in the plans will be sufficient to make the structure safe and compliant with State building codes. This is especially relevant given the note by Matt Roblez that "on page 5 of 10 of the structural calculations it calls for walls taller than 9-ft to be 10" walls, however in the construction documents, 10" walls are not specified." The City should require the Adams to verify by accepted engineering testing protocols that the footings, rebar, and wall

- width are sufficient to ensure the safety of the structure and compliance with IRC Code requirements that cannot be waived.
- ii. UT State Code and IRC Code requires that plans be amended to show what has actually been constructed, and that departures must still fully comply with State building codes and local ordinances. The Adams should be required to demonstrate that they can comply with both the ordinances and the UT building codes on paper prior to being allowed to proceed.
 - iii. If the Adams are allowed to proceed and after construction is completed it is discovered that they cannot comply, how will this be resolved? There is no built-in legal mechanism for granting a variance or waiver from any provisions of the UT State Building Code or from the City Development and Construction Standards. They must be strictly applied for the safety of the homeowner and the neighboring properties.
 - iv. IRC R105.4 Validity of Permit: "The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction."
 - v. Thus, the Adams' permit is not valid as it does not currently comply with either the Utah State building code or the City of Woodland Hills Zoning Ordinances. Additionally, the Building Official should require that the construction documents be corrected, as there are known errors in the existing elevation contours and existing grade points of 5.74 to 10 feet. Those are not small errors and greatly impact the Adams' ability to meet drainage and slope requirements.
 - vi. R106.4 Amended Construction Documents: "Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents."
 - vii. The above section of the IRC makes it clear that ANY changes made during construction SHALL be resubmitted for approval. Also, no mechanism for variance or waiver is provided for any of the provisions of the IRC. This makes it even more critical that those changes be resubmitted for approval as soon as possible so that errors or safety issues can be resolved.
3. The Fugas request that the City meet these mandatory code provisions of the IRC and require the Adams to resubmit their complete amended set of construction documents (which Gilson Engineering has, according to Corbett Stephens, been working on since March) for approval before continuing any further with construction. This is the only way to ensure that the Adams will be able to meet the code given the errors in their approved construction documents and their significant departures from the approved construction plans.

C. Submitted Plans Contain Known Errors and Omissions

1. Existing Elevation Contours are either omitted or incorrectly added. While EG site point marks on the north and south side lot lines of the property were changed by about 6-10 feet in the amended site plan submitted July 13, 2020 in order to correct errors in the previously approved site plan, the existing contours were not corrected on the same amended site plan to make such changes consistent with actual survey data recorded against the property. On the far south side of the Adams' property on their amended site plan, the correct existing grade contours at 5971 and 5972 have been deleted and incorrect existing grade contours at 5969, 5968, 5967, 5966, 5965, 5964, 5963 and 5962 have been added. This makes the existing grade at this portion of the property appear to decrease by a total of 8 feet when in reality it actually increases by 2 feet. On the far north side of the Adams' property on their amended site plan, existing grade contours at 5939, 5938, 5937 and 5936 have been deleted. No existing grade contour lines exist in that section of the amended plans; however, the stamped and recorded Level of Focus topographical survey conducted for the Adams by Mr. Dave Hunt in 2017 clearly shows these existing grade contours. This omission makes it appear that the ground levels off at this point of the property when it actually decreases in elevation by as much as 4 feet over this area. These contours must be added for the site plan to be correct.
2. BFF and FFE appear to be incorrect and should be independently measured and confirmed by a third party to establish the correct elevation of the basement floor and main floor. The BFF is incorrectly shown at 5948.10, the same as in the previously submitted plans. However, it appears that the elevation of the basement floor was changed as the foundation walls were increased in height from 9 feet to either 13 feet or 10-11 feet at the front and north sides of the residence and from 38 inches to about 5 feet under the garage. The 13 foot wall was necessitated by an elevation error of 2 feet in the original site plan below the front north corner of the residence along with an increase of around 2 feet in the overall elevation of the home as compared to the originally approved plans. Most (if not all) of the foundation walls were built taller than the approved construction documents demonstrate, as can be shown through photographic evidence. These measures should be verified by direct measurement by an independent third party.
3. Windows have been added and moved in multiple areas of the structure without documentation. On the northeast side of the structure, 2 windows have been added in the "basement" area where the approved plans call for cement but instead the area is framed. In the back of the structure, on the northwest side, 2 windows have been added that were not called for in the approved or amended plans. Additionally, multiple windows and a doorway have been moved or changed at the rear of the structure without requiring that the plans be amended to reflect the changes. These changes should have required a note specifically from the engineer of record regarding the specific additions of windows and framing in areas shown to be cement on the approved plans and additions and changes to windows and doors in the rear of the structure, but there are no such amendments on file with the city nor had any permissions of the sort been documented by the City prior to the 4-Way Inspection being completed.
4. 30% or greater slopes (unbuildable areas) are not clearly marked on either the amended or originally approved site plan, but do exist in multiple areas of the property. The building permit packet makes clear that the site plan must show the following: "Location

and size of all subsurface and surface water drainage facilities, existing and proposed; and any established floodplain areas, bodies of water or other 'unbuildable areas' (30% grade or greater) if present on the site." This requirement is further emphasized in Zoning Ordinance Chapter 121.04 (O) which states that a final site plan must contain: "The location and size of all subsurface and surface water drainage facilities, existing and proposed; and any established floodplain areas, bodies of water or other unbuildable areas if present on the site." It is further explained in the City's Hillside Development Standards that not only is a 30% or greater slope unbuildable, but "Any area within a Subdivision which has a slope of thirty-five (35%) or greater shall remain un-graded." This actually means that not only can a person not build on such an area, but they cannot even change the grade of such area. Such areas need to be marked on the plans and the plans must be updated to eliminate grading of areas with a 35% or greater existing grade slope (prior to any grading) and eliminate construction on areas of 30% or greater existing grade slope (prior to any grading). This portion of the Hillside Development Standards clearly applies to "any lot" and does not contain any variance mechanism written into the standard. All areas of 30% slope or greater must be marked and plans need to be adjusted accordingly.

5. The Finished Grade points called out at the front of the home are unachievable given the departures from the previously approved plans. Such finish grade elevations would clearly result in a finished grade that would exceed the height of the cement foundation walls and would put dirt directly up against the wood and windows. This would not constitute sound construction nor meet state codes. These finished grade points need to be revised and made to conform to the structure as built. Then, the plans need to be checked for conformity with the City Zoning Ordinances, the City Development and Construction Standards and the Utah State Building Codes and Amendments (IRC/IBC).
6. All Finished Grade points around the structure should be revised to meet the new elevations of the BFF and the FFE upon independent verification. Given photographic evidence that the foundation walls are routinely taller than specified in the originally approved plans, the elevation levels of the finished grade points should be reevaluated and resubmitted.
7. No storm water drainage plan calculations are shown as required by both the Development and Construction Standards and the Zoning Ordinance 121.10.C. The City's Development and Construction Standards, Chapter 02.08.080. Drainage, states: "Homeowners shall provide on-site facilities, piping and appurtenances to convey 80% of a 100 year storm event to an on-site facility, unless otherwise approved by the City Engineer. Design of on-site storm facilities shall be the responsibility of the homeowners' Engineer. The design of the on-site storm facilities shall be shown on and submitted with the Site Plan. No building permit will be allowed before approval of said facilities. (Ordinance. 2006-12)" In Chapter 02.32.030.C9, it reads: "Surface water runoff drainage shall be designed and installed to prevent both on-site flooding and erosion. Such drainage design shall channel water runoff away from cut and fill slopes and away from all buildings." The Zoning Ordinance 121.10.C reads: "All surface water drainage plans shall provide assurances that storm drainage will not negatively impact adjacent properties." All of these clearly show that not only does the site plan need to specifically address surface water runoff and drainage, but calculations should be required showing

how the plan is justified by the numbers. These calculations need to be clearly shown on the amended site plan.

D. Construction Plans Do Not Fully Demonstrate Significant Departures from Approved Construction Plans

1. There are significant changes in the stepping of the footings on the front, back, and North sides of the Adams' home which directly conflict with the stated finished grade elevations shown on the amended site plan. At the front of the residence, on the previously approved plans, all 8 feet of footing stepping was completed within the pop-out portion of the home at the far north end of the residence and the front north corner of the main portion of the residence. As built, there is an approximate 2.5 foot step in the pop-out portion at the north end of the residence, an approximate 2 foot step at the front north corner of the main portion of the residence, an approximate 4 foot step just north of the front door, an approximate 4 foot step just south of the front door, and an approximate 5.5 foot step at the far south side of the front of the home where the garage meets the main residence, for an approximate total of 18 feet of footing stepping as compared with the original 8 feet specified. At the back of the residence, on the previously approved plans, a 4.5 foot step was shown where the pop-out portion of the residence met with the main portion of the house and another 3.5 foot step was shown at the back retaining wall for a total of 8 feet. As built, there are more than 2 steps. There is an approximate 5 foot step midway along the back wall of the pop-out portion of the residence, an approximate 2.5 foot step at the back north corner of the main section of the residence and an approximate 3.5 foot step by the retaining wall at the back of the home for a total of at least 11 feet of stepping as compared with the 8 feet specified. It should also be noted that it is unclear if there may be more footing stepping that occurs to the south of the retaining wall at the back of the residence. On the north side of the residence, no stepping of the footings was specified, and none has been noted on any amended plans thus far, but an approximate 2.5 foot step was inserted midway along that side. These are significant changes, especially when one considers the following statements made by the Building Inspector in his written notes and in the document signed by Jennifer Adams on the day that the Adams' building permit was issued. First, on June 25, 2019: "All steps in ftg [footing] and fnd [foundation] are to occur where specified by engineer of record." Second, on July 3, 2019 (signed on July 5, 2019), "Plans show full height foundation walls and specified locations for steps. Any deviation to the approved plans shall be approved by the engineer of record, prior to inspection. Please give all details adequate attention." No changes specified by the engineer of record address foundation or footing stepping changes and the amended plans submitted to the City on July 13, 2020 include finished grade elevations which directly conflict with the departures from the footing and foundation stepping as shown on the originally approved building plans. These departures and errors present significant structural and safety issues that lead to irreparable harm to the Fugas if left unaddressed.
2. There is photographic evidence that there are significant changes in the heights of many (if not all) of the foundation walls which directly conflict with the stated finished grade elevations shown on the amended site plan. Such height changes require investigation to ensure the safety of the structure. This has not been documented. The only documented change in foundation wall height occurs at the front north corner of the north wall of the

pop-out portion of the residence and structural engineers have submitted documentation to the City stating that the horizontal reinforcement specified in that documented change does not comply with the IRC/IBC and UT State Amendments. All other height changes are undocumented and need to not only be amended but verified for correctness and structural safety and stability given the overall scope of the departures. The front north side of the pop-out portion of the foundation wall of the residence around to the north front corner of the main portion of the house was specified as 9 feet, but appears to be approximately 11 feet tall. The front north section of the foundation wall of the main portion of the residence was specified as 9 feet but appears to be approximately 10 feet. The front middle section of the foundation wall of the main portion of the residence was specified as 9 feet but appears to be approximately 10 feet tall. The front south section of the foundation walls of the main section of the home was specified at 9 feet but appears to be approximately 10 feet tall as built. The garage foundation was specified as 38 inches tall but appears to be approximately 5 feet tall as built. On the east side of the north foundation wall, the amended plans from August of 2019 show 13 feet in foundation wall height. The as built height is close though may be slightly higher, especially as the Adams added a section of cement after the fact to make the height match up with the wall heights on either side. On the west side of the north foundation wall, the approved plans specify a height of 9 feet, but the foundation wall appears to be approximately 11 feet tall as built. The back pop-out portion of the foundation wall on the north end of the residence was originally specified at 38 inches tall. Instead, this section appears to be approximately 11 feet tall at the north end and 7 feet tall at the south end of the pop-out and around the corner to the north end of the back main section of the house. Along the back north section of the main portion of the residence, a 38 inch tall foundation wall is specified, but instead an approximately 5 foot tall foundation wall appears to have been built. As for the retaining wall, it is specified as a 9 foot retaining wall, but appears to be built as an approximately 10 foot retaining wall. On the south side of the retaining wall and the foundation wall forming the north side of the garage, it is specified as a 9 foot foundation wall but appears to be built as an approximately 10 foot foundation wall instead. Even a 10% change in foundation wall height can make a big difference in the structural stability and the footing size, rebar reinforcement, or wall width required to make a building structurally safe. Some of these changes amount to an approximate 247% increase in foundation wall height from that specified in the plans. This is significant and requires a thorough investigation consisting of an independent third party measuring of the actual foundation wall heights and performing verification testing such as ground penetrating radar to ensure that the proper rebar amounts were used and that the foundation is stable and structurally sound. Also, all footing sizes should be checked for conformity with IRC Codes and State Amendments. Then, if found to be structurally stable, the finished grade elevations on the amended site plan submitted to the City on July 13, 2020 must be amended to reflect achievable finished grade elevations based upon the structure as actually built. The City should also require the Adams to submit an amended footing plan that matches the structure as built and perform a proper review to ensure that the structure as built can still meet City Zoning Ordinances, State Building Codes, and City Development and Construction Standards.

3. There is photographic evidence that the footings that are shown connecting the foundation to the front porch columns in the originally approved footing plan were not

poured. The Fugas have photographic evidence that the footings specified in the footing plans of the originally approved construction documents were not poured and are not connecting the front porch columns to the main structure. This area should be excavated to verify compliance. This could result in damage to the residence's structure over time. As was stated by Conrad Guymon of CKR Engineers and confirmed by Matt Roblez of McNeil Engineering (both structural engineers), "No documentation for the change in support for the front porch slab and columns supporting the roof framing was supplied." This should be documented in the amended plans and reviewed for Code compliance and should be a consideration in the establishment of proper finished grade elevations, as shown on the amended site plan.

4. Photographic evidence suggests that there may be less horizontal rebar in sections of the foundation walls than specified in the previously approved plans. Where 7 horizontal #4 wall rebar are called for in a 9 foot tall section of the foundation wall at the front of the home, photographic evidence shows only 6 rebar sections. This could affect the structural stability of the entire home and could suggest other areas of the foundation may also be out of compliance. This is a UT State Building Code Compliance issue and should be immediately investigated.

E. Submitted Amended Plans Violate IRC-UT Stake Building Codes & Amendments Rendering Previously Approved Construction Documents Invalid

1. The foundation walls and footings as designed do not meet code, and as built appear to be taller and even less in compliance with UT State Building Codes in the 2015 IRC and UT amendments. The foundation heights and specified rebar and footing sizes shown in the previously approved but significantly departed from Building Plans have been found by licensed professional engineers to not comply with IRC Code and UT State Amendments. The additional foundation height discrepancies described earlier in this appeal document may further exacerbate these findings and render larger sections of the foundation walls out of compliance with such Code. This must be remedied for the safety of all involved. Safety issues unresolved constitute an irreparable harm.
2. IRC code requirements cannot be waived.
3. Safety issues have been raised by CKR Engineering's Mr. Conrad Guymon and confirmed by McNeil Engineering's Mr. Matt Roblez and CKR Engineering's Chad Kohler, all professional structural engineers licensed in the State of Utah. The following are their observations based upon both the Adams' original approved building plans and the amendment submitted in August of 2019.
 - i. "The soil properties used for design are significantly non-conservative. It is our opinion that the retaining wall design provides an insufficient factor of safety, particularly against sliding."
 - ii. "It is our opinion that the foundation plan provided is lacking a level of detail that should be present for a hillside project."
 - iii. "The front and right elevations show 9' tall foundation walls that do not have top edge support. Absent the top edge support, the construction shown does not meet the conditions of the Amendment. Without top edge support, these walls should properly be designed as free-standing retaining walls. No analysis was provided for these walls."

- iv. "The project drawings show a 10" x 20" continuous footing. This footing size is too small to stabilize a free-standing retaining wall of this height. As shown on the project drawings, the stability of these walls is suspect."
 - v. "The height of the foundation wall on the northeast side of the house was increased to 13' during construction. This height increase was addressed in the letter from Gilson Engineering to John Adams on August 8, 2019. The wall vertical reinforcing was changed to #4 bars at 8" o.c. The horizontal reinforcing was specified as (7) #4 horizontal bars, which is the same as the 9' wall originally shown. The horizontal reinforcing does not meet minimum requirements of ACI 318."
 - vi. "Given the documented height increase and lack of top edge support, the wall design does not meet the conditions of the Utah State Amendment for residential construction. "
 - vii. "The 10" x 20" footing size shown is inadequate to provide stability against the soil load on this foundation wall."
 - viii. "The horizontal reinforcement specified is below minimum requirements of ACI 318."
4. It appeared that layered compaction was not required by the Building Inspector in the fill material placed within the Adam's foundation walls, despite this being a mandatory requirement. Also, the material appeared to still contain large branches and organic material, along with snow and significant moisture (per photographic documentation). The Adams filled their foundation under very wet and snowy conditions in December and January despite the recommendations of EarthTec Engineering in their Excavation Observation to only fill in dry conditions. Significant safety issues can result from such inadequate care in preparing and compacting Fill Materials leading to safety concerns with irreparable harm.
- i. "IRC Section R506 Concrete Floors (On Ground) - R506.1 General: Concrete slab-on-ground floors shall be designed and constructed in accordance with the provisions of this section or ACI 332. Floors shall be a minimum 3 1/2 inches (89 mm) thick (for expansive soils, see Section R403.1.8). The specified compressive strength of concrete shall be as set forth in Section R402.2. R506.2 Site Preparation: The area within the foundation walls shall have all vegetation, top soil and foreign material removed. R506.2.1 Fill: Fill material shall be free of vegetation and foreign material. The fill shall be compacted to ensure uniform support of the slab, and except where approved, the fill depths shall not exceed 24 inches (610 mm) for clean sand or gravel and 8 inches (203 mm) for earth. R506.2.2 Base: A 4-inch-thick (102 mm) base course consisting of clean graded sand, gravel, crushed stone, crushed concrete or crushed blast-furnace slag passing a 2-inch (51 mm) sieve shall be placed on the prepared subgrade where the slab is below grade."
 - ii. Can documentation be shown to verify that the large organic material seen in photographs was taken out of the fill material and that the material was appropriately prepared for fill beneath the basement concrete floor?
 - iii. Material did not appear to be added in layers and routinely compacted between each addition with layers of not greater than 8 inches. What documentation can

be shown to substantiate compliance with the IRC Codes and the City's Development and Construction Standards requirements for fill compaction?

5. In addition to all of these concerns expressed by licensed engineers in the State of Utah, the Fujas have reason to believe that other portions of the foundation walls were increased in height without documentation (per photographic evidence cited previously).
6. Additionally, the entire stepping design of the foundation walls was significantly altered as compared with that approved, without any authorization for such alteration from the engineer of record, Gilson Engineering, who stated in his testimony in court in November of 2019 that he had never performed a site visit.
7. IRC stipulates that any modifications to the Code as stated cannot modify structural requirements. "R104.10 Modifications: Where there are practical difficulties involved in carrying out the provisions of this code, the building official shall have the authority to grant modifications for individual cases, provided the building official shall first find that special individual reason makes the strict letter of this code impractical and the modification is in compliance with the intent and purpose of this code and that such modification does not lessen health, life and fire safety or structural requirements. The details of action granting modifications shall be recorded and entered in the files of the department of building safety."
8. The Adams' permit is not valid based on either the previously approved plans or the amended plans as submitted as they both violate provisions of the IRC and City Zoning Ordinances. "R105.4 Validity of Permit: The issuance or granting of a permit shall not be construed to be a permit for, or an approval of, any violation of any of the provisions of this code or of any other ordinance of the jurisdiction. Permits presuming to give authority to violate or cancel the provisions of this code or other ordinances of the jurisdiction shall not be valid. The issuance of a permit based on construction documents and other data shall not prevent the building official from requiring the correction of errors in the construction documents and other data. The building official is authorized to prevent occupancy or use of a structure where in violation of this code or of any other ordinances of this jurisdiction."
9. The actions of the Adams Invalidating their Building Permit authorize the City to either suspend or revoke the Building Permit until the Adams can remedy their site plan errors, code violations and ordinance violations, as specified in the IRC. "R105.6 Suspension or Revocation: The building official is authorized to suspend or revoke a permit issued under the provisions of this code wherever the permit is issued in error or on the basis of incorrect, inaccurate or incomplete information, or in violation of any ordinance or regulation or any of the provisions of this code."
10. The submission of the Amended Construction Documents constitutes a new land use decision and as such can be appealed. IRC Code States: "R106.4 Amended Construction Documents: Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents." Any changes made during construction must be resubmitted for approval. Such approval constitutes a new land use decision that can be challenged in accordance with LUDMA and Local Ordinances. As such, the Fujas herein exercise their appeal rights based upon the newly amended documents and also request that all other construction documents be amended to match the construction as actually being built.

11. The passing of a 4-Way Inspection constitutes a new land use decision and as such can be appealed. IRC Code States: "R106.4 Amended Construction Documents: Work shall be installed in accordance with the approved construction documents, and any changes made during construction that are not in compliance with the approved construction documents shall be resubmitted for approval as an amended set of construction documents." Any changes made during construction must be resubmitted for approval. Such approval constitutes a new land use decision that can be challenged in accordance with LUDMA and Local Ordinances. As such, the Fujas herein exercise their appeal rights based upon construction at 1115 S. Woodland Hills Drive passing its 4-Way Inspection despite the framing not matching the approved plans or amendments and also require that all other construction documents be amended to match the construction as actually being built.
12. The City should immediately require the Adams to provide documentation and testing data that demonstrate compliance with the mandatory building codes of Utah (IRC/IBC) and the Zoning Ordinances and Development and Construction Standards of the City. It is also necessary for the Adams to document the actual dimensions and specifications for the construction that has already been completed in the building of the residence and demonstrate compliance or devise a plan to alter the structure to bring it into compliance, as the building permit has now been rendered invalid by violation of Utah State Building Code (IRC) and Woodland Hills Ordinances and by the bad faith inaccuracies of the originally submitted plans and the departures from such approved plans.
13. 2015 IRC states that when there is question as to whether the code has been complied with, it is appropriate to require the builder to perform tests to confirm such compliance. IRC 2015 R104.11.1 Tests states: "Where there is insufficient evidence of compliance with the provisions of this code, or evidence that a material or method does not conform to the requirements of this code, or in order to substantiate claims for alternative materials or methods, the building official shall have the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods shall be as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the building official shall approve the testing procedures. Tests shall be performed by an approved agency. Reports of such tests shall be retained by the building official for the period required for retention of public records."
14. The Fujas request verification of compliance with the IRC Codes and related UT Amendments and verification of compliance between submitted building plans and actual construction be independently verified to ensure the safety of such structure and the neighboring properties that could be affected by wall failure, wall sliding or slope failure. There is no option to waive requirements of the UT State Building Code or to grant exceptions to its requirements. Also, there is no timeframe for appeal written into the IRC. Additionally, safety must be the first concern of all decisions. A lack of enforcement of structural building codes constitutes an irreparable harm for the Fujas as it endangers their home, safety and property.

F. Amended Plans Violate City Zoning Ordinances & Development and Construction Standards

1. The concrete buttress walls detailed on the sheet marked C.101 (with a file name of C.102) and shown on the newly amended Final Site Plan (C.101) appear to violate the 15

foot side yard setback at the rear corner of the driveway and proposed buttress wall. According to the notes of the Building Inspector in review of the originally submitted site plan, no concrete retaining walls are allowed within the setback. Please ensure that no portion of the buttress walls fall within the setback, even buried beneath the ground.

2. Many areas of the amended plans appear to build in areas with greater than 30% slope (Unbuildable Areas). In accordance with Zoning Ordinance Chapter 121.04 (O) and the building permit packet requirements as previously detailed, areas with a greater than 30% slope are unbuildable areas. These areas need to be marked and must not be built upon. As such, the porch must be moved so as not to build over a greater than 30% slope. Other areas must be examined for compliance with this Ordinance and for compliance with the building permit process. This requirement is widely accepted as a safety requirement to mitigate geotechnical hazards. It therefore constitutes an irreparable harm to the Fujas to allow the Adams to violate this ordinance and thereby decrease the safety of the Fuja's home and property.
3. The Development Standards are "supplementary to the Subdivision Ordinance of the City of Woodland Hills." See Development Standards, 02.02.10 (General). Therefore, the Development Standards govern the use or development of land and are a land use regulation as that term is defined by Utah Code Ann. §10-9a-103(32). The Development Standards, however, apply to more than just the development of subdivisions by sub-dividers and according to their own terms "provide general requirements for improvements to be built by the developer, sub-divider, owner or contractor for all types of construction." See Development Standards, 02.02.10 (General).
4. The Adams must submit a Certified Report to the City Engineer through the Building Inspector according to the Hillside Development Standards. The Hillside Development Standards state that "[i]t shall be unlawful for the owner, developer, or any contractor or other person to excavate, grade, level, or build upon any lot or property within the City when the average slope of the lot exceeds twenty (20) percent...before such person has submitted to the chief building official a certified report from a qualified civil engineer licensed in the State of Utah containing the information set forth in the following section [02.32.30 Certified Report Specifications]." See Development Standards 02.32.30 (Certified Report Required). A slope analysis, performed in 2002, by LEI, the City's Engineer, confirms that the Adams' lot average slope is in excess of a 20% average grade and that the lot contains areas of slope greater than 30% and therefore presents unique geotechnical hazards which must be considered in all construction and grading activities on the lot. With the submission of an amended site plan with significant changes in existing grade elevations, such a Certified Report is required.
5. The Certified Report must by law be reviewed by the City Engineer, not a designee. The Hillside Site Development Standards require that "[n]o grading shall take place on a hillside area until the proposed method of handling the problems [identified in the required certified report from a qualified engineer] shall be submitted to and approved by the City Engineer." See Development Standards, 02.32.20(C). Additionally, state law requires that the City Engineer must be a professional engineer licensed and registered with the State of Utah (UT State Code 10.3.902).
6. The Adams must comply on the amended site plan with the eleven separate standards specified in 02.32.030 of the City's Development and Construction Standards. The Hillside Development Standards next require that the "Owner, Developer, or Contractor

shall comply with..." eleven separate standards that are included in the Development Standards, 02.32.20(C).

7. These requirements for development in hillside areas are also included in the City's Subdivision Ordinance, section 109.07 Hillside Development. The requirements of the Subdivision Ordinance, like the requirements of the Hillside Development Standards, must be correctly administered, interpreted, and enforced by the City in the approval of this newly amended site plan containing altered EG points and existing grade contours.
8. The Fujas would be adversely and uniquely affected by the City's failure to correctly interpret, apply, and enforce the mandatory provisions of the Hillside Development Standards and the Subdivision Ordinance as the Fujas own the home immediately below the Adams' home and would suffer the immediate consequence of any geotechnical hazards such as slope erosion, flooding, and other problems that the Hillside Development Standards are designed to mitigate or prevent which constitute irreparable harm for the Fujas.
9. Multiple sections of the amended site plan appear to disturb areas with greater than 35% slope which "shall remain un-graded." (Development and Construction Standards Chapter 02.32.030 .C1) For example, on the south side of the amended plan wherein a buttress wall is being proposed, there are sections of 35% slope or greater. The amended site plan proposes that these portions be graded to achieve a 2:1 slope. These areas cannot be graded. The 2:1 slope cannot be achieved, and so a taller buttress wall would necessarily be required. This will result in the need for a taller buttress wall and will present new structural and geotechnical hazards and considerations which must be addressed. Once these areas are marked, they must be left as is and not graded or disturbed. Grading an area that is by law mandated to remain ungraded constitutes an irreparable harm to the downhill neighbor. As such, any areas with greater than 35% slope shall not be graded without creating an irreparable harm for the Fujas.
10. The site plan shows grading of nearly all of the "area of such slope" and violates the Hillside Site Development Standard: "Any area within a Subdivision which has a percent slope between twenty (20%) and thirty-four (34%) may be graded: provided, however, the grading area shall be less than one half of the area of such slope." (Development and Construction Standards Chapter 02.32.030.C2) The City of Orem and the City of Elk Ridge both include very similar language in their hillside slope ordinances. The City of Orem rendered this common understanding of the common language also contained in our City's Hillside Development Standard: "You are only allowed to disturb, grade, impact, 50% of the slope area on your lot where the average slope is greater than 20% but less than 35%..., 50% of the contours of that sloped area that has an average slope between 20% and 35%." Almost the entire property at 1115 S. Woodland Hills Drive has a slope greater than 20% and 5 separate signed and stamped engineering reports have been submitted to the City demonstrating that, per the calculation detailed in the City's Hillside Development Standard, the average slope of the lot is in excess of a 23% grade. The 2002 Slope Analysis of the Thousand Oaks Subdivision performed by LEI confirms that the lot should have been flagged to receive extra care in the approval process. Thus, as the contours on the Adam's property run east to west, they should only be able to grade half of the contour lines. The proposed extreme grading on the amended plans presents geotechnical hazards and yields significant safety issues for neighboring properties. Allowing the grading of such slopes also constitutes an irreparable harm to

the Fugas, whose property is downhill from the Adams' property and who stand to be affected by the loss or disturbance of such slopes, the loss of vegetation holding that ground in place, and the illegal placement of a building on portions of a property that cannot legally be graded.

11. The fill slope at the north side of the amended site plan for the Adams' lot violates the fill slope standard of the Hillside Site Development section of the City Development and Construction Standards. It reads: "Fill slopes shall be no steeper than two feet horizontal to one foot vertical (2:1) and shall be designed with an acceptable erosion control system. An erosion control system is generally composed of a combination of long-term non-degradable erosion mat, structural geo-grid and/or geo-textile. These materials can be used alone or in combination." Currently, the plans show a nearly 10 foot drop in elevation between the finish grade at the northeast corner of the home and the corresponding EG at the side lot line 15 feet away. This would constitute a 1.5:1 grade which is not allowed. The finished grade elevations in this area must be brought into compliance with the Hillside Site Development standards that are widely acknowledged to contribute to the safety of slopes in hillside site construction such as this.
12. The amended plans disturb the 5 foot area at each side lot line required to remain undisturbed and at natural grade by the Hillside Development Standards in the Development and Construction Standards Chapter 02.32.030.C6. This regulation states: "Tops or toes of slopes shall be set back from property boundaries a minimum distance of five (5) feet. (Excluding Roads)." The amended plans on both the north side where there is already a 1.5:1 slope shown and on the south side where there is currently a 2:1 slope shown do not respect this 5 foot minimum boundary. The Standard is clear that no top or toe of a slope can occur within 5 feet of the property line. The amended site plan must be revised to meet this mandatory land use requirement.
13. The amended plans show grass within areas with a slope of 35% or greater that cannot be graded nor have natural vegetation removed. This is in violation of Hillside Development Standard Chapter 02.32.030.C8: "Natural vegetation shall remain in areas where grading is not permitted. The City may require additional landscaping in areas which were graded in order to supplement the natural vegetation and to prevent erosion and slope failures." It is mandatory that these areas remain natural. Grass cannot be added to these areas, and the natural vegetation (including trees) cannot be removed as shown in the amended plans.

G. Lack of Good Faith by City and Builder

1. Good faith arguments put forth by the Adams and/or the City are not applicable to the administration of the city's mandatory land use regulations, development and construction standards, city ordinances and the application of the IRC State Building Codes and Amendments do not apply.
2. The Adams' original plans have errors in the existing elevation contours and the existing grade points marked that render their site plan in error, and they have been aware of such errors since July of 2019 but are only now seeking to amend their plans.
3. As such, the Adams' reliance on their building permit and plans is not "in good faith."
4. Taken directly from the UT Property Rights Ombudsman's website, regarding good faith and zoning estoppel: "It is also necessary that the reliance be "in good faith," meaning that a property owner has an obligation to inquire about a proposed land development or

use. Also, if the property owner knows that the representation is wrong or incomplete, reliance is not in good faith. Finally, if the use or development requires specific approval (like a conditional use permit or a subdivision plat), making substantial changes without obtaining those approvals would not be good faith reliance." The significant elevation differences between the original plans submitted by the Adams (approved by the City in 2019) and the amended plans submitted to the City by the Adams on July 13, 2020 are very significant. Such a significant difference should have been clear to Mr. Adams (a professional builder) every day he was on site. Additionally, the Adams were aware of the 6 foot error in their existing elevation markings at the north side of their property since July of 2019 but chose to do nothing to correct their plans until July of 2020. The representations in the originally submitted site plans were wrong and incomplete and these errors were known by Mr. Adams and are only now addressed in July 2020. These actions are not in good faith.

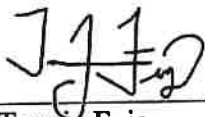
5. The Adams' significant departures from their approved plans are not good faith actions. If the Adams had acted in good faith, they would have had the stepping and height changes submitted to the city for approval prior to construction or immediately thereafter as they knew this was a departure from their approved plans. Instead, they have repeatedly represented or allowed to be represented in their behalf (even under Oath) that they were fully compliant with their approved construction documents. These are not good faith actions.

III. IDENTITY OF APPELLANTS

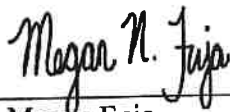
The Appellants are residents of the City of Woodland Hills and owners of real property immediately adjacent to the residential lot on which the City has erroneously (1) interpreted the Woodland Hills Development and Construction Standards and the Subdivision Ordinance Hillside Site Development Section; (2) interpreted the Woodland Hills Zoning Ordinance, Development and Construction Standards and Hillside Development sections of the Subdivision Ordinance as applied to the City's land use decision accepting or not denying amended plans for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah; and (3) passed a 4-Way Inspection at 1115 S. Woodland Hills Drive, Woodland Hills, Utah erroneously applying various statutes of the City Zoning Ordinance, City Development and Construction Standards and IRC/IBC City of Woodland Hills and Utah State Building Codes and Amendments. The appellants are:

Dr. Tannin and Megan Fuja
1005 Woodland Hills Drive
Woodland Hills, Utah 84653

DATED this 17th day of November 2020 being an amendment to the appeals made June 22, 2020, July 22, 2020, August 27, 2020 and September 21, 2020 for which the city still has not held a hearing of appeal.



Dr. Tannin Fuja



Megan Fuja

CHAPTER 121. SITE PLAN REVIEW

- 121.01 Description and Purpose
- 121.02 Regulations
- 121.03 Site Plan
- 121.04 Final Site Plan
- 121.05 Preliminary Site Development Plan
- 121.06 Submittal and Approval
- 121.07 Plat Requirements
- 121.08 Changes in the Approved Site Plan
- 121.09 Appeal
- 121.10 Review Standards

121.01 Description and Purpose

Certain land uses are quite necessary to the proper development of a community, but likewise, possess characteristics which warrant special treatment. These characteristics, in many situations, can easily become undesirable to some degree, basically because their intricate needs and/or appearance have a wide ranging influence beyond their own perimeter. In conformance with the purpose of this Ordinance, it is hereby deemed prudent and necessary to apply limits and guidelines which will both encourage good development and discourage undesirable effects on surrounding development.

121.02 Regulations

In accordance with the provisions of this Chapter, the Planning Commission shall be furnished a site plan of the proposed development in the following circumstances:

- A. Prior to the creation of a use or erection of a building in the districts and conditions cited below and/ or;*
- B. In connection with a rezoning request in any district, the Planning Commission may require a preliminary site development plan.*
(1999-02)

121.03 Site Plan

A site plan shall be submitted for all uses permitted in the following districts (except as noted above):

- 1. RR Rural Residential District
- 2. R-1 Very Low Residential District
- 3. R-2 Low Residential District
- 4. PF Public Facility District

5. PUD

All uses permitted under PUD designation

121.04 Final Site Plan

Each final site plan submitted shall contain the following information, unless specifically waived by the Planning Commission, in whole or in part:

- A. The date, north arrow, and scale. The scale shall be not more than 1" = 100' although supplementary site plans at a 1' = 50' or larger scale are encouraged.
- B. The name and firm address of the professional individual responsible for the preparation of the site plan (including imprint or his professional seal).
- C. The name and address of the property owner or petitioner, and proof of ownership or option to purchase.
- D. A locational sketch drawn to scale.
- E. Legal and common or popular description of the subject property.
- F. The size in acres and square feet of the subject property.
- G. All lot and/or property lines are to be shown with bearings and dimensions, including building setback lines on corner lots.
- H. The location of all existing structures within one hundred (100) feet of the subject property's boundary.
- I. The location and dimensions of all existing and proposed structures on the subject property.
- J. The location and dimensions of all existing and proposed drives, sidewalks, curb openings, signs, exterior lighting, curbing, parking areas including total number of parking spaces (show dimensions of a typical parking space), recreation areas, common use areas, and areas to be conveyed for public use and purpose.
- K. The location, pavement width and right-of-way width of all abutting roads, streets, alleys or easements. Land must be reserved and shown on the site plan for any major or collector streets proposed on the General Plan that would go through any part of the site.
- L. The existing zoning of all properties abutting the subject property.
- M. The location of all existing and proposed landscaping and vegetation and the locations, heights and type of existing and proposed fences and walls.
- N. Size and location of existing and proposed hydrants and utilities including proposed

connections to public sewer (if applicable) or water supply systems.

- O. The location and size of all subsurface and surface water drainage facilities, existing and proposed; and any established floodplain areas, bodies of water or other unbuildable areas if present on the site.
- P. For all site plans, contour intervals shall be shown at a minimum of five (5) feet.
- Q. Summary schedules and views should be affixed as applicable in residential developments, which give the following data:
 - 1. The net residential site expressed in acres and in square feet, including breakdowns of both measured for any subareas or staging areas.
 - 2. The number of dwelling units proposed (by type), including typical floor plans for each type of dwelling unit.
 - 3. Proposed density of the new residential site.

121.05 Preliminary Site Development Plan

For Planned Unit Development or other larger scale developments where the development will be undertaken in several phases, a preliminary site development plan may be submitted when initial approval is sought from the Planning Commission and City Council. If the initial approval is granted, a final site plan incorporating all of the items specified in 121.04 shall then be submitted to the Planning Commission before the development of each phase. Each preliminary site development plan shall contain the following information unless specifically waived by the Planning Commission in whole or in part:

- A. The date, on the arrow and scale. The scale shall be not more than 1" = 100 '.
- B. The name and firm address of the professional individual responsible for the preparation of the site plan (including imprint of his professional seal).
- C. The name and address of the property owner or petitioner, and proof of ownership or option to purchase.
- D. A locational sketch drawn to scale.
- E. Legal and common or popular description of the subject property.
- F. The size in acres and square feet of the subject property.
- G. All lot and/or property lines are to be shown with bearings, and dimensions, including building setback lines on corner lots.

- H. The location of all existing structures within one hundred (100) feet of the subject property's boundary.
- I. The location of all existing and proposed structures on the subject property.
- J. The location and dimensions of all existing and proposed drives, sidewalks, curbs openings, parking areas including total number of parking spaces, recreation areas, common use areas, and areas to be conveyed for public use and purpose.
- K. The location, pavement width and right-of-way width of all abutting roads, streets, alleys or easements. Land must be reserved and shown on the site plan for any major or collector streets proposed on the General Plan that would go through any part of the site.
- L. The existing zoning of all properties abutting the subject property.
- M. The preliminary site development plan must be certified by a registered professional engineer as to whether the preliminary layout of the buildings can be adequately serviced by sanitary sewer and/or septic systems, public water and storm drainage facilities.
- N. The location and size of any established floodplain areas, bodies of water or other unbuildable areas if present on the site.
- O. For all site plans, contour intervals shall be shown at five (5) feet.
- P. Summary schedules and views should be affixed as applicable in residential developments, which given the following data:
 - 1. The net residential site as expressed in acres and in square feet, including breakdowns of both measured for any subareas or stating areas.
 - 2. The number of dwelling units proposed (by type).
 - 3. Typical lot size dimensions if detached housing is contemplated.
 - 4. Proposed density of the residential site.

121.06 Submittal and Approval

The Site Plan, including additional or related information required by the Planning Commission, shall be presented to the Zoning Enforcement Officer by the Petitioner or Property Owner or his designated agent in five (5) copies. The Zoning Enforcement shall cause the submittal to be placed on the agenda of the next regular Planning Commission meeting upon payment by applicant of a fee.

The Planning Commission shall have the responsibility and authorization to approve, disapprove, or approve subject to conditions, the subject Site Plan in accordance with this Chapter and the purposes of this Ordinance.

Any conditions or modifications desired by the Planning Commission shall be recorded in the minutes of the appropriate Planning Commission meeting. The Planning Commission may, as it deems necessary to promote the purposes of this Ordinance, require landscaping, walls, fences, drives and other improvements. When approved, at least two (2) copies of the final approved Site plan shall be signed and dated by the Secretary of the Planning Commission. When a variance is also involved, these two (2) copies shall also bear a dated signature of the Chairman of the Board of Adjustment. One of these two (2) approved copies shall be kept on file by the City Recorder, and the other approved copy shall be returned to the petitioner or his designated representative.

Each approval of a site plan by the Planning Commission pursuant to this section shall expire as follows: (a) If a building permit is required for any of the improvements shown on the site plan, approval shall expire six (6) months after the date of approval unless a complete application for a building permit is submitted to the building official before such expiration. (b) If a building permit is required for any of the improvements shown on the site plan and a building permit is issued but construction is not completed before expiration of the building permit, approval of the site plan shall expire upon expiration of the building permit. (c) If none of the improvements shown on the site plan require a building permit, approval of the site plan shall expire six (6) months after date of approval unless construction is commenced before such expiration; provided, however, if such construction is not prosecuted diligently to completion, approval of the site plan shall expire at the later of (i) failure to diligently continue the construction, or (ii) six (6) months after approval.

The Planning Commission may extend any site plan approval for a period not to exceed six (6) months upon a showing by the applicant that special circumstances prevented the applicant from obtaining a building permit, commencing construction, or completing construction.

If approval of a site plan expires as provided herein, the approved site plan shall be of no further force or effect.

(Ord. 2007-04)

121.07 Plat Requirements

In those instances in which Utah laws related to subdivision design for the City of Woodland Hills are involved, the owner shall, after Site Plan approval, submit the preliminary and final plats to the proper officer in conformance with state and local laws and ordinances, and in accordance with all other applicable codes, acts, and ordinances. Such plats shall remain in conformance with the approved Site Plan.

121.08 Changes in the Approved Site Plan

Major changes (increased density, additional buildings, etc.) to the approved final Site Plan shall

be applied for by the applicant to the Planning Commission. Any major changes approved in the final Site Plan shall be recorded with the Site Plan and shall bear the signature of the Planning Commission Secretary and the date of the approval.

Any minor changes (dimension changes, building location, parking and drives, etc.) may be approved by the Zoning Enforcement Officer. The approved changes shall be noted on the Site Plan and bear the signature of the Zoning Enforcement Officer.

No changes are to be considered as a waiver of conditions or covenants, and all rights to enforce such conditions or covenants against any changes permitted by this Ordinance expressly reserved.

121.09 Appeal

If any person shall be aggrieved by the action of the Planning Commission, appeal in writing to the City Council may be taken within ten (10) days after the date of such action. The City Council shall fix and notify the appellant for a time and a place for a public hearing to be published in the newspaper of general circulation in the City not less than fifteen (15) days prior to the hearing. All parties in interest shall be afforded the opportunity to be heard. After such hearing, the City Council shall affirm or reverse the action of the Planning Commission, stating its findings and the reasons for its action and a written copy of such findings, reasons, and action shall be given to the appellant.

121.10 Review Standards

The following standards shall be utilized by the Planning Commission in the review of all site plans. These standards are intended to provide a frame of reference for the applicant in the preparation of the site plans as well as for the reviewing authority in making a judgment concerning them. These standards shall not be regarded as inflexible requirements. They are not intended to discourage creativity, invention, or innovation.

- A. Landscape Preservation: The landscape shall be preserved in its natural state, insofar as practical, by minimizing tree and soil removal, and any grade changes shall be in keeping with the general appearance of neighboring developed areas.
- B. Relation of Buildings to Environment: Proposed structures shall relate harmoniously to the terrain and to the existing buildings in the vicinity that have a visual relationship to the proposed buildings. The achievement of such relationship may include the enclosure of space in conjunction with other existing buildings or other proposed buildings and the creation of focal points with respect to avenues of approach, terrain features, or other buildings.
- C. Surface Water Drainage: All surface water drainage plans shall provide assurances that storm drainage will not negatively impact adjacent properties.
- D. Utility Service: Any utility installations remaining above ground shall be located so as to have a harmonious relationship to neighboring properties and the site. However, all

utilities capable of being placed underground shall be so accomplished.

- E. Advertising Features: The size, location, and lighting of all permanent sign structures or features shall be consistent with the requirements of Chapter 117 (Signs) of this Ordinance.
- F. Special Features: Detached accessory buildings/use areas shall be subject to such setbacks, screen plantings, or other screening methods as shall reasonably be required to prevent their being incongruous with the existing or contemplated environment and the surrounding properties.
- G. Other: Public health, safety and general welfare.