

I, Matthew Roblez, am a structural engineer for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. What is your engineering title and what professional licenses, certifications, awards, service on professional boards, associations, etc. and years of experience do you have in that field?

Matthew Roblez. I am a board certified and licensed structural engineer. I graduated with a Bachelor of Science in Civil Engineering in 1993. I am an owner of McNeil Engineering in Sandy, Utah. I am a current American Society of Civil Engineers Region 8 Governor. I was the ASCE Utah Section Engineer of the Year 2017.

2. You have submitted a stamped and signed engineering report to the City of Woodland Hills that details violations for construction at 1115 S. Woodland Hills Drive, Woodland Hills, UT. Is that correct?

Yes

3. Do those violations you have cited include violations of the Utah State Building Code?

Yes

4. Do you stand by everything in those stamped and signed reports?

Yes

5. In your professional opinion regarding a certified building inspector licensed in the State of Utah as a combination inspector (the highest qualification of building inspector in the State of Utah-- more qualified than a limited inspector), what is the industry expected response of such a qualified building inspector after receiving a certified engineering report like the one you submitted to the city? How should such a highly-qualified building inspector be reasonably expected to respond to a certified engineering report like the one you have submitted to the City of Woodland Hills? Would you believe such a highly qualified inspector to have willfully ignored such a report if that building inspector takes no action, does not investigate the claims in that report or fails to even reach out to the engineer submitting such a stamped report as you have submitted with clear errors identified by a licensed engineering professional?

I personally can't determine if it is "willful" or not, but I can say that based on my knowledge of the situation he ignored two reports from two engineers that hold the highest qualification given by the State of Utah to structural engineers. I think at the very least a phone call to the engineer should have been made and in my opinion a meeting with all concerned parties should have been called.

6. Written statements made by City officials, council members, employees, contractors and/ or consultants have insinuated that your report should not be taken seriously. They have stated, referring to engineering reports submitted to the City:

- a. that, "there are some things that don't sound or look right" and that there are "many errors and inconsistencies"; and
- b. that the reports are based on "illegitimate and emotional claims"; and
- c. that "basically it is just an engineer's opinion based upon the bias they were hired to justify"; and
- d. that "you can have as many answers as you have firms [engineering] to ask the question."

What is your response to these assertions regarding the stamped and signed engineering report you have submitted to the City of Woodland Hills?

They are incorrect and I stand by my report.

- 7. Has any City Official, Employee, or Representative ever contacted you to investigate the claims you made in those reports?

No

- 8. In your professional experience is this typical behavior for a City to ignore professional engineering reports of construction violations? It is not typical behavior.

Typically, I get a phone call to discuss my findings.

- 9. In your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have done in response to your certified report?

It is not typical at all. As stated previously, a meeting should have been called between all concerned parties. In this day and age, this is very easy with one of the virtual platforms.

- 10. In your professional experience, when is it not only appropriate but expected or required to "red-tag" or stop construction?

When a signed and sealed report is received stating there are life safety issues with construction or design.

In your professional experience, what are the problems in not requiring violations to be corrected immediately, once they are brought to a City's attention?

Life safety is compromised. When dealing with life safety issues that are brought about by two licensed structural engineers, it is a DUTY of the city to investigate and call a meeting between all concerned parties. Lives are at stake, does anything else need to be stated?

In your professional opinion, is it industry standard practice for a city not to require a builder to show in construction plans how they will correct a violation or problem once such an issue is brought to the City's attention?

It is not standard practice.

In your professional opinion, is it standard practice for a city to allow a violation to persist and "allow them [a builder] to fix it" without forcing the builder to stop construction until the builder can prove how they will correct a violation?

It is standard practice to stop the construction until a violation of this type is addressed.

In your professional opinion, is it acceptable or standard practice for a city to not require corrections of errors in a construction document until after the error is actually built?

It is not standard practice.

Why would these approaches be problematic?

Because it is very difficult to rectify once the construction has been completed.

11. In your professional experience, does the City still have a duty to correct these violations and ensure public safety?

Yes 100%

12. In your professional experience, do you believe that the violations identified for construction at 1115 S. Woodland Hills Drive represent safety risks?

Yes, see my report and Conrad Guymon's report.

13. In your professional experience, when a City in the State of Utah receives a certified engineering report like the one you have submitted to the City of Woodland Hills, what is the industry-standard or expected response and action of the City?

As stated before, a phone call at the least. Usually, a meeting between concerned parties is called.

Has the City of Woodland Hills responded to your report in a reasonable way that is typical of municipalities in Utah?

No, they have not.

Again, in your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have reasonably done in response to your certified report?

As stated previously, they should have called for further investigation and called a meeting of all concerned parties.

14. In your professional opinion does the as-built construction at 1115 S. Woodland Hills Drive depart from the approved site plans and/or construction documents used to obtain the building permit? Do these departures create violations of Mandatory Land Use Regulations and/or State Building Codes?

Yes they do depart from the approved construction documents and the departures do constitute state building code violations as stated in the reports.

15. Do you have any other comments regarding your report, your statements, the action or inaction of the City or anything else related to this matter?

The way the city has apparently handled this is very disconcerting and needs to be addressed. This is a problem that could have grave consequences if not rectified asap.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.

Matthew Roblez

Date

MATTHEW ROBLEZ

Digitally signed by MATTHEW ROBLEZ
DN: cn=Matthew Roblez, o=Matthew Roblez
Date: 2011.03.01 11:18:54-0700

I, William G. Turner, am a geotechnical engineer for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. What is your engineering title and what professional licenses, certifications, awards, service on professional boards, associations, etc. and years of experience do you have in that field?

My name is William G. Turner; I am a Senior Geotechnical Engineer with a professional engineering license within the states of Utah, California, Nevada, Oregon and Wyoming. I am a past-president of the Utah Section of the American Society of Civil Engineers (ASCE), and as a member of that organization, prescribe to a strict code of ethics for civil engineers. I have been practicing geotechnical engineering for over 34 years, and am currently employed by CMT Engineering Laboratories.

2. In your professional experience do geographical contour lines affect drainage? In your professional opinion, would errors in site plan contour lines of nearly 6 feet or nearly 10 feet from those of a recorded survey be easily identifiable, and would these errors impact drainage and flow? In your professional experience would it be reasonable to expect that such errors in contour lines be easily identified during a review of the site plan?

Water drainage/flow is directly related to topographical contour lines; for instance, water will flow in the direction of descending contour lines, i.e. from a higher elevation to a lower elevation.

I believe that errors in site plan contour lines of about 6 feet from those of a recorded survey would typically be relatively easy to identify, since the contours at or just beyond site boundaries would not match up with existing contours; in actuality the drainage flow will not go the way it is shown on the plans due to such errors.

In my opinion, an experienced inspector should be able to identify such errors during a review of the site plan.

3. In your professional opinion would a certified building inspector licensed in the State of Utah as a combination inspector (the highest qualification of building inspector in the State of Utah--more qualified than a limited inspector), reasonably be expected to identify errors of this nature in the site plan as found on the site plan for 1115 S. Woodland Hills Drive? What is the industry typical response when such errors as those on the plans for 1115 S. Woodland Hills Drive are found? Would such a highly qualified inspector have to be willfully ignoring such obvious errors to claim that such errors cannot be found and to fail to act in accordance with an industry typical response? Would such a highly qualified inspector have to willfully ignore such obvious errors in order to fail to act in an industry expected way when these errors are identified by a licensed engineering professional?

Yes, in my opinion, a certified building inspector should be able to identify such errors during a review of the site plan.

It has been my professional experience that when errors such as those on the plans for 1115 S. Woodland Hills Drive are alleged or found, the municipality requests that the project civil engineer rectify/clarify or make changes to the site plan.

In my professional opinion, either the highly qualified inspector would have to be willfully ignoring the errors, or the inspector is not able to read site plans correctly.

I understand that the highly qualified inspector has not requested substantive clarifications or changes to the site plan in response to my detailed report of identified errors, even after a licensed engineering professional identified errors in the site plan; this is the first time in my 34 years of experience that such a situation has occurred.

4. In your professional experience does water flow uphill from a lower contour point to a higher contour point?

Under normal gravity flow, water will not flow uphill from a lower contour point to a higher contour point.

5. In your professional experience do steep slopes affect water drainage and flow rates? How would drainage and flow rate be affected differently on a 35% slope, 30% slope, 25% slope, 20% slope, 15% slope, 10% slope, or a slope less than 10%?

In my professional experience, steep slopes affect water drainage and flow rates, and any resulting soil erosion. For instance, water flowing down a steep 35% slope could cause significant erosion, whereas a 25% slope would likely cause some erosion, but a 10% slope (or less) would typically cause very little to no erosion.

6. In your professional experience does soil compaction or the lack of proper compaction affect water drainage and flow?

Soil compaction (or the lack of proper soil compaction) can significantly affect water drainage and surface water flow, because inadequately compacted soil will settle (especially when it becomes wet), which would cause ponding and/or change water drainage/flow direction.

7. In your professional experience does the presence or absence of retaining walls affect water drainage and flow?

The presence or absence of retaining walls can significantly affect water drainage and flow. For instance, a retaining wall constructed in an area with a relatively steep slope will usually slow the water flow rate and reduce potential soil erosion.

8. The City Building Inspector and Building Official stated in writing, regarding 1115 S. Woodland Hills Drive, "Based on the original plat submittal there are no slopes that would create potential flows." In your professional opinion, do you agree with this assertion and do you have any other comments on this matter?

In my review of the site plan, there are multiple areas on the site containing steep slopes that could create issues with water flow and drainage on-site, as well as having the potential to affect (i.e. flood or cause erosion) adjacent properties downhill of the site.

9. The City Building Inspector and Building Official stated in writing, regarding 1115 S. Woodland Hills Drive, "It appears the graded area they are claiming exceeds ½ of the area of the slope includes the area of the home footprint. The areas of the home and driveway are not included in the calculations for the percent of grading areas." Do you agree with this assertion and what is your reply to it?

Section 02.32.010 of the Development and Construction Standards does not state that the areas of the home and driveway should be excluded from calculations for the percent of grading areas. If the City wants to exclude those areas from the calculations, it should revise those Standards accordingly, but as of right now, there is nothing that says they should be excluded.

10. The City Building Inspector and Building Official stated in writing on March 18, 2020, regarding 1115 S. Woodland Hills Drive, "They haven't done any fill yet. When they do, they will be required to use appropriate material and obtain adequate compaction. We cannot and do not enforce this while they are still under construction. It is something they will have to show before a certificate of occupancy is issued." Given that you have reviewed all documentation submitted by the builder, and the City has issued a temporary certificate of occupancy, in your professional opinion has the builder shown use of appropriate material and adequate compaction? Do fill requirements also apply to fill within foundation walls? Do you have any other comments on this matter?

I have not seen any documentation showing that appropriate material was used for compaction and that adequate compaction was achieved.

Fill requirements apply to all fill and backfill on a site, even within or between foundation walls.

11. City standards require that fill slopes shall be no steeper than 2 feet horizontal to 1 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. In your professional opinion has this mandatory land use regulation been complied with at 1115 S. Woodland Hills Drive?

No such erosion control system was shown on the plans, and I have not seen any documentation that an erosion control system was constructed.

12. The City Building Inspector has represented in writing that, "The contours on the Adams plan match the Fuja [Level of Focus Survey recorded against the property]. I have blown it up and looked at this very closely and I cannot see the differences they are claiming." In your professional opinion are the contours on the Adam's site plan and the contours on the Level of Focus Survey recorded against the property the same? In your professional experience are differences between the two easily identifiable? In your professional experience, would it be reasonable for a Building Inspector making routine visits to the construction site, to identify those differences between the Adams site plan and the elevations/contours at the building site? Do you have any comments on this matter?

The contours on the Adams plan generally match the Fuja Level of Focus Survey (FLFS) within the northwest portion (non-disturbance area) and southwest sides of the site, but there is a noticeable difference between the two within the east corner area that continues along the northeast boundary to nearly the north corner. For instance, elevation 5,950 is about halfway between the south corner and the east corner (along the property boundary parallel to the street) on both the plan and the FLFS, but between that point and the east corner, the plan and the FLFS show different contours, with an

elevation at the east corner of 5946 shown on the FLFS and 5948 shown on the Adams plan)a difference of about 2 feet). In addition, the existing grade (EG) points along the northeast property boundary near the home on the Adams plan indicate EG elevations of 5941.58 and 5942.74 feet; at those same approximate locations on the FLFS the elevation contour shows 5937 feet, which is a difference between approximately 4.5 and 5.75 feet.

The differences I pointed out are easily identifiable when comparing the Adams plan and the FLFS, especially if someone were to have "looked at this very closely."

Up to nearly 6 feet of elevation difference between the Adams plan and the actual contours would have been obvious in the field because the ground surface at the northeast side of the home would not closely match what is shown on the plans.

13. The city Building Inspector has stated, "The design contours show the finished grading at 5 units horizontal to 1 unit vertical." In your professional opinion do you agree with the statement of the Building Inspector? Do you have any other comments on this matter?

The design contours within the northern portion of the lot (beyond the limits of disturbance) do show finished grading at 5H:1V (Horizontal:Vertical), but that is not true within the area to be disturbed where home construction and grading will occur.

14. You have submitted a stamped and signed engineering report to the City of Woodland Hills that details violations for construction at 1115 S. Woodland Hills Drive, Woodland Hills, UT. Is that correct?

Yes, on August 17, 2020, I submitted a stamped and signed engineering report to the City of Woodland Hills that details violations for construction at 1115 S. Woodland Hills Drive, Woodland Hills, Utah (CMT Project No. 13752).

15. Do those violations you have cited include violations of the Utah State Building Code?

The State of Utah has adopted the 2018 International Residential Code (IRC); yes, some of the violations I cited include violations of the IRC.

16. Do you stand by everything in those stamped and signed reports?

Yes, I stand by everything that I have written and stamped/signed in the report.

17. Written statements made by City officials, council members, employees, contractors and/ or consultants have insinuated that your report should not be taken seriously. They have stated, referring to engineering reports submitted to the City:

a. that, "there are some things that don't sound or look right" and that there are "many errors and inconsistencies"; and

b. that the reports are based on "illegitimate and emotional claims"; and

c. that "basically it is just an engineer's opinion based upon the bias they were hired to justify"; and

d. that "you can have as many answers as you have firms [engineering] to ask the question."

What is your response to these assertions regarding the stamped and signed engineering report and email statements you have submitted to the City of Woodland Hills?

As a geotechnical engineer, I write a lot of reports and letters, some of which are in response to reviews by other engineers. I always try to stay objective and keep emotions out of those reports and letters. As indicated above in answer to question 1, I am a member of ASCE which holds its members to a strict code of ethics. This code of ethics for engineers includes the following:

- a. act as faithful agents of their clients and employers with integrity and professionalism;***
- b. make clear to clients and employers any real, potential, or perceived conflicts of interest;***
- c. communicate in a timely manner to clients and employers any risks and limitations related to their work;***
- d. present clearly and promptly the consequences to clients and employers if their engineering judgment is overruled where health, safety, and welfare of the public may be endangered;***
- e. keep clients' and employers' identified proprietary information confidential;***
- f. perform services only in areas of their competence; and***
- g. approve, sign, or seal only work products that have been prepared or reviewed by them or under their responsible charge.***

As indicated in this list, I certify that I have acted in this case with integrity and professionalism, and have presented clearly that the health, safety and welfare of the public (particularly the Fuja's) may be endangered because of the lack of action from city officials in this matter.

18. Has either the City Building Official (Corbett Stephens), City Mayor (Wendy Pray), City Recorder (Jody Stones), the City Engineer (LEI) or the Zoning Enforcement Officer (Craig Northup) ever contacted you to investigate the claims you made in those reports?

No.

19. The City Building Inspector has represented in writing that, "The Adams are not required to provide a certified report as described in City Ordinance 02-32-030B." In your professional opinion, do you agree, and what impact would slopes have on drainage and flow?

According to Section 02-32-020 of the Woodland Hills Development and Construction Standards, a certified report is required "when the average slope of the lot exceeds twenty (20) percent."

20. Additionally, you submitted an email to the City of Woodland Hills regarding the placement of approximately 6 feet of backfill dirt at the property line between 1115 S. Woodland Hills Drive and 1105 S. Woodland Hills Drive, and that report notified the City in October 2020 that this loose fill dirt was not properly compacted, did not comply with mandatory land use regulations and presented a safety hazard. Is that correct?

Yes, that is correct.

21. In your professional experience is this typical behavior of a City to ignore professional engineering reports of material geotechnical violations?

No, usually the City will call or email me to clarify the situation if they have any questions regarding a geotechnical report or letter.

22. In your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have done in response to your certified report and email?

No, it is not typical. The City should have called or emailed me if they had any concerns about what was in my report or email.

23. In your professional experience, when is it not only appropriate but expected or required to "red-tag" or stop construction? In your professional experience, what are the problems in not requiring violations to be corrected immediately, once they are brought to a City's attention? In your professional opinion, is it industry standard practice for a city not to require a builder to show in construction plans how they will correct a violation or problem once such an issue is brought to the City's attention? In your professional opinion, is it standard practice for a city to allow a violation to persist and "allow them [a builder] to fix it" without stopping construction until the builder can prove how they will correct a violation? In your professional opinion, is it acceptable or standard practice for a city to not require corrections of errors in a construction document until after the error is actually built? Why would these approaches be problematic?

The City should stop construction when multiple (2 or more) professional engineers raise concerns about the site plans and/or specifications being used for construction.

If violations are not corrected, improper construction can occur that could affect adjacent properties.

In my opinion, the standard practice is for a City to stop construction until any violations are either mitigated or shown to be in compliance with appropriate ordinances.

I have never heard of a City allowing construction to proceed when major code violations have occurred, until such violations are either mitigated or shown to be in compliance with codes.

In my opinion, it is not acceptable, nor is it standard practice, for a City to allow construction to occur when errors are found in plans and/or specifications that significantly affects the construction.

Allowing construction to continue with erroneous plans and/or specifications could result in unsafe conditions, unsafe slopes, improper drainage, etc. that could possibly affect the site and adjacent properties.

24. In your professional experience, does the City still have a duty to correct these violations and ensure public safety?

Yes.

25. In your professional experience, do you believe that the violations identified for construction at 1115 S. Woodland Hills Drive represent safety risks?

Yes, particularly with respect to steep slopes and drainage, as outlined in my report.

26. In your professional experience, when a City in the State of Utah receives a certified engineering report like the one you have submitted to the City of Woodland Hills, what is the industry-standard or expected response and action of the City? Has the City of Woodland Hills responded to your report in a

reasonable way that is typical of municipalities in Utah? Again, in your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have reasonably done in response to your certified report?

In my opinion, the City should have contacted me with their concerns about my report.

I have not heard from the City regarding my report, with the exception of Mr. Bob Ottley in October 2020. Mr. Ottley asked 6 questions via email, which I responded to, mainly regarding fill that was not properly compacted at the site.

The fact that someone from the City had some concerns is encouraging.

27. In your professional opinion does the as-built construction at 1115 S. Woodland Hills Drive depart from the approved site plans and/or construction documents used to obtain the building permit? Do these departures create violations of Mandatory Land Use Regulations and/or State Building Codes?

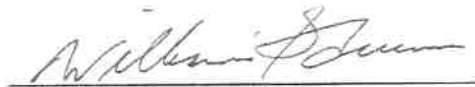
Yes, with the errors in the site plan, the builder could not have completely followed the site plan.

Yes, those errors violate the State Building Code.

28. Do you have any other comments regarding your report, your statements, the action or inaction of the City or anything else related to this matter?

I am troubled that the City seems to be ignoring, and possibly even dismissing, reports and letters from multiple professional engineers in this matter. In my 34 years of experience, this is the first time I have heard of this happening. Usually, cities are responsive to concerns expressed by professional engineers, especially when such concerns come from more than one engineer.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.



William G. Turner, P.E.

3/3/21

Date

I, Kyle M Spencer, am a civil engineer for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. What is your engineering title and what professional licenses, certifications, awards, service on professional boards, associations, etc. and years of experience do you have in that field?

Kyle M Spencer Professional Engineer (effective Date 07/29/1999) licensed in the State of Utah No 276243-2202

2. In your professional experience do geographical contour lines affect drainage? In your professional opinion, would errors in site plan contour lines of nearly 6 feet or nearly 10 feet from those of a recorded survey be easily identifiable, and would these errors impact drainage and flow? In your professional experience would it be reasonable to expect that such errors in contour lines be easily identified during a review of the site plan?

Yes, topographical contours do affect drainage patterns.

Yes, those errors in site plan contours should be easily identifiable and will impact drainage patterns.

Errors of 6-ft to 10-ft would be identifiable in a site plan review or site visit.

3. In your professional opinion would a certified building inspector licensed in the State of Utah as a combination inspector (the highest qualification of building inspector in the State of Utah--more qualified than a limited inspector), reasonably be expected to identify errors in the site plan of this nature as found on the site plan for 1115 S. Woodland Hills Drive? What is the industry typical response when such errors as those on the plans on 1115 S. Woodland Hills Drive are found? Would such a highly qualified inspector have to willfully be ignoring such obvious errors to claim that such an error cannot be found and fail to act in accordance with an industry typical response? Would such a highly qualified inspector have to willfully ignore such obvious errors to fail to act in an industry expected way when these errors are identified by a licensed engineering professional?

Yes, a certified building inspector would reasonably be expected to identify such errors, and if technical questions arise during the review, they could rely on support from the city engineer or contract city engineer.

Intent would be to catch errors in the site plan design review process. If errors are not caught in the review process, and the project is under construction, a site visit would be appropriate. The design team should meet and determine if a design alternative is an option. Typically the site improvements are placed on hold until the design alternative is complete, reviewed, and accepted by all parties.

An error to a design should be considered and addressed in a timely manner.

Yes.

4. In your professional experience can finished grade soil be placed against a wood-based wall and how is that different than placing finished grade soil against the cement part of a foundation wall?

No. There should be a minimum of 6-inches of concrete foundation exposed above any finish grade backfill. No backfill should be placed up to and including burying wood-based material.

5. The City Building Official has indicated that the finished grade soils should not be placed higher than 6 inches below the top of the cement foundation wall, in your professional experience why is this good practice? Is this typical with industry standards?

As mentioned above, this is to protect the finish of wood-based material from decomposition, etc..

Yes.

6. In your professional experience, would it be advisable to place finished grade soils above the cement foundation wall so that it is above where the wall is wood framed?

No.

7. Given your statements in questions 3-6, in your professional experience would change in the height of a building and the cement stepping of a foundation affect how the finished grading could be done?

Yes.

8. In your professional experience, would changes in finished grade requirements due to changes in building height and the cement stepping of a foundation affect water drainage?

Yes.

9. In your professional experience can you increase the height of a foundation wall while maintaining the heights of the floors above that increased foundation height without making the building taller? In other words, in your professional experience, does an increase in the foundation wall heights result in a taller building if the floor is at the top of the foundation wall?

Yes, the height of a foundation wall can be increased without increasing the overall height of the building if the building floor is independent of the foundation wall (typical basement floor is lower than the top of foundation wall).

Yes, an increase in foundation wall heights will result in a taller building if the building floor is at the top of the foundation wall.

10. The City Building Inspector and Building Official stated in writing, regarding 1115 S. Woodland Hills Drive, "It appears the graded area they are claiming exceeds ½ of the area of the slope includes the area of the home footprint. The areas of the home and driveway are not included in the calculations for the percent of grading areas." Do you agree with this assertion and what is your reply to it?

No. It is my interpretation that the area of disturbance would include ALL areas of the original lot that will be disturbed and regraded during construction including the building footprint and driveway.

11. The City Building Inspector has represented in writing that, "The contours on the Adams plan match the Fuja [Level of Focus Survey recorded against the property]. I have blown it up and looked at this very closely and I cannot see the differences they are claiming." In your professional opinion, are the contours on the Adam's site plan and the contours on the Level of Focus Survey recorded against the property the same? In your professional experience are differences between the two easily identifiable? In your professional experience, would it be reasonable for a Building Inspector making routine visits to the construction site, to identify those differences between the Adams site plan and the elevations/contours at the building site? Do you have any comments on this matter?

The original plan prepared by Gilson used in reference to this question had the existing contour elevations at 5941.48 and 5942.74 along the common lot line of Lots 103 (Adams) & 102 (Fuja). Gilson revised the site plan on 7-1-20 (Revision No. 4) to reflect the true existing ground elevation of 5937.0 and 5937.0 accordingly. This was a difference of 4.48-feet and 5.74 feet which the design engineer corrected after the statement above was made.

Yes

A site visit would help, but a direct comparison of the Gilson Plan contours to the Level of Focus survey (L.O.F. survey) contour lines identify the differences between contour lines and elevations shown on the two documents.

The Gilson site plan claims to have used the original L.O.F. survey file for their site design and would have identified the grading constraints earlier on if they would have used the correct survey data in the original design, however there were modifications made to data from the L.O.F. survey when added to the Gilson site plan that misrepresents the true existing ground surface at critical design locations of the site plan. A simple comparison of the Gilson design contours to the L.O.F. survey contours revealed the discrepancies.

12. The City Building Inspector has represented in writing that, "The Adams are not required to provide a certified report as described in City Ordinance 02-32-030B." In your professional opinion, do you agree, and what impact would slopes have on drainage and flow?

The certified slope report should be required as a confirmation that the average slope of the lot does exceed 20% and also to identify the slope areas within the lot that exceed 35% slope. If this certified report were prepared, the modifications made by Gilson Engineering on the site plan to contain contour lines that differ from the L.O.F. survey would have been apparent.

13. In your professional experience, when someone builds on an individual parcel of land do slopes need to be considered within a "building envelope" designated in a subdivision plat, or can they build anywhere within the building envelope without regard to slopes? In your professional opinion, what does the building envelope define and does the defining of a building envelope define the area that any building activity may occur without regard to features within the building envelope such as unbuildable slopes? Do you have anything else to say on this matter?

Follow city ordinances. Areas within a subdivision which have a slope of thirty-five (35%) or greater slope shall remain ungraded.

To be consistent with the code, all slopes over 35% should remain ungraded.

Conceptually a design professional can depend on a recorded building envelope to define the limits of where you can place a house footprint. If the city code specifies limits of disturbance for areas of 35% slope or greater, this area should be identified on the professionally prepared site plan and show how the steep slope area can be preserved or mitigated with final approval by city officials. So, if the 35% slope occurs within the building envelope, it still cannot be disturbed and the final placement of the home within the building envelope must not disturb the 35% or greater slope.

14. You have submitted stamped and signed engineering reports to the City of Woodland Hills and the stated City Engineer of the City of Woodland Hills (LEI) that detail violations for construction at 1115 S. Woodland Hills Drive, Woodland Hills, UT. Is that correct?

Yes

15. Do you stand by everything in those stamped and signed reports?

Yes

16. The Chair of the City Planning Commission has insinuated that since you are part of a "competing engineering firm" to LEI (City Engineer) that your reports should not be trusted. Do you agree with this claim and how do you respond to such a claim?

I totally disagree. I have a great working and professional relationship with LEI and consider their opinions and design recommendations often. I feel that they respect our level of professionalism and ability to design and give constructive review comments.

17. Written statements made by City officials, council members, employees, contractors and/or consultants have insinuated that your report should not be taken seriously. They have stated, referring to your report:

- a. that, "there are some things that don't sound or look right" and that there are "many errors and inconsistencies"; and
- b. that "what they [Northern Engineering] state is incorrect and misleading"; and
- c. that your report is based on "illegitimate and emotional claims"; and

- d. that "basically it is just an engineer's opinion based upon the bias they were hired to justify"; and
- e. that "you can have as many answers as you have firms [engineering] to ask the question."

What is your response to these assertions regarding the stamped and signed engineering reports you have submitted to the City of Woodland Hills?

I will stand behind my written comments and reports as prepared on this subject. If there are several grammatical errors in my report, I ask for forgiveness (engineers are not famous for our grammar skills.) I find it highly offensive that any city official would claim my written response as illegitimate and emotional, incorrect and misleading without giving me an in-person opportunity to defend my statement. Facts are facts and not made to be offensive.

17. Has any City Official, Employee, or Representative ever contacted you to investigate the claims you made in those reports?

No

18. In your professional experience is this typical behavior for a City to ignore professional engineering reports of construction violations?

No

19. In your professional experience, when is it not only appropriate but expected or required to "red-tag" or stop construction? In your professional experience, what are the problems in not requiring violations to be corrected immediately, once they are brought to a City's attention? In your professional opinion, is it industry standard practice for a city not to require a builder to show in construction plans how they will correct a violation or problem once such an issue is brought to the City's attention? In your professional opinion, is it standard practice for a city to allow a violation to persist and "allow them [a builder] to fix it" without forcing the builder to stop construction until the builder can prove how they will correct a violation? In your professional opinion, is it acceptable or standard practice for a city to not require corrections of errors in a construction document until after the error is actually built? Why would these approaches be problematic?

When it is determined that a project is deviating from an original design that is either un-buildable, or may go against design recommendations or ordinances.

The correction solutions may become very costly to remediate.

No. It is my experience that a city normally does require construction plan approval before construction and updated plans once a revision is required.

No.

No

It is common practice to have an approved design for the contractor to follow and construct to standards and specifications. Options to rectify a problem if construction is

allowed to proceed prior to an approved design is to "REMOVE AND REPLACE" improvements.

20. In your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have done in response to your certified report?

No

Require a revised plan to be re-designed and submitted for review and approval by city staff. City staff could use my certified report to as a checklist to confirm that specific design elements are properly re-designed to the satisfaction of the city. If the city decides to be lenient on items brought to the attention of the city, staff should note on the plan set of approval a statement of findings and decision as to why they allowed a certain design element to deviate from city standard.

21. In your professional experience, does the City still have a duty to correct these violations and ensure public safety?

Yes

22. In your professional experience, do you believe that the violations identified for construction at 1115 S. Woodland Hills Drive represent safety risks?

Yes

23. In your professional experience, when a City in the State of Utah receives a certified engineering report like the one you have submitted to the City of Woodland Hills, what is the industry-standard or expected response and action of the City? Has the City of Woodland Hills responded to your report in a reasonable way that is typical of municipalities in Utah? Again, in your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have reasonably done in response to your certified report?

Prepare an itemized response of how the design or construction concern has been met or not met in detail.

No.

No.

I would have expected at least a written response to my certified letter followed with an opportunity to respond in letter form, digital meeting, or in person. If needed, the city could facilitate a meeting with each property owner and their design professionals present to discuss the items of concern and the city could then be aware of the items of concern and ultimately enforce the city ordinance throughout the design and construction process.

24. Do you have any other comments regarding your report, your statements, the action or inaction of the City or anything else related to this matter?

I will keep my schedule open and available to discuss any portion of my professional statement and reports that the city or others may have.

25. In your professional opinion does the as-built construction at 1115 S. Woodland Hills Drive depart from the approved site plans and/or construction documents used to obtain the building permit? Do these departures create violations of Mandatory Land Use Regulations and/or State Building Codes?

It is clearly evident that the Adams as-constructed site plan and house plan deviates from the original prepared and approved site plan used to obtain the original building permit. As stated by myself and other professionals, if the Adams site plan and house plan would have been submitted in its entirety to match how the house is currently built and the finish grades completed to date, the Adams house plan and site plan would not have met the current city ordinance and site plan requirements.

26. Have you evaluated the building height calculations performed by Corbett Stephens, the Building Inspector and Building Official, for both the Fuja and Adams homes? Are the calculations documented for the two structures both done using the same calculation process or mathematical formula? If not, what are the differences between the two calculation processes or mathematical formulas used? How does this difference in the calculation process or formulas used influence the resulting building heights calculated?

Yes, I have reviewed the Woodland Hills "Section 109.05 of the City of Woodland Hills City Code notes that the height/building stories of a home cannot exceed 35 feet or 2 stories." Two forms appear to have been filled out with the title of each as follows: 1) John & Jennifer Adams 1115 S. Woodland Hills Dr. (Adams Site) and 2) Fuja Home Height Worksheet prepared by Corbett Stephens using Northern Engineering data and original site plan (Fujas Site).

No

The Adams Site building height calculations uses a MEAN roof height. The Fujas Site building height calculations uses only the maximum building ridge height.

Given the exact same house building height section values or facts for reference, the building height formula using the maximum building ridge height calculations would be greater than the building height formula using the MEAN building ridge height calculations.

27. In your professional opinion, would this type of inconsistent application of the ordinances meet the definition of an arbitrary and capricious land use decision? (Arbitrary and Capricious means doing something according to one's will or caprice and therefore conveying a notion of a tendency to abuse the possession of power. A decision is arbitrary if it is not supported by logic or the necessary facts; a decision is capricious if it is adopted without thought or reason or is irrational.) In your professional opinion, would the differences in the methods used be sufficiently obvious in the industry that using the two different methods would require a willfully arbitrary or capricious action by a highly qualified building inspector?

When calculating the building height calculations for comparison between two separate buildings or certification of code compliance, the calculation process, variables, approach, and equations should be consistent and supported by cross section exhibits if possible.

Yes, the methods used between the Adams site and the Fugas site are sufficiently obvious. By comparing the end calculation numbers to the actual in-person building site visit would be another confirmation that the two calculation methods were used.

28. In your professional experience, do either of the calculations performed for the Fuja or the Adams homes comply with the plain language of the building height ordinance for the City of Woodland Hills?

The code reads:

103.09 Building Height

The vertical distance to a maximum of 35 feet from the natural lowest point to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip or gambrel roofs.

As I mentioned above, the actual calculation of the building height is a very simple equation. A simple exhibit could be used to reference the actual values needed in the equation that can easily be identified and confirmed such as: a) elevation of the "natural lowest point"; b) highest roof ridge elevation of the house plan; c) the bottom elevation of the roof or eave referenced in the house plan; d) simple average or mean calculation as needed using c & d values.

If not, how are they non-compliant?

Neither the Adams site plan or the Fugas site plan include a simple exhibit. The Adams site plan calculations identify how the mean roof elevation was determined lacking an exhibit to back up the lowest eave and the highest ridge elevations. The Fugas site plan clearly did not calculate the average or mean roof height.

What should have been done differently, and how would that influence the resulting building height calculations?

Section exhibits should have been referenced to back up values a, b, c, & d as mentioned above. The values shown or noted on a simple exhibit can easily be confirmed in the field or pulled from house plan documents.

In your professional opinion are there any possible industry-standard interpretations of the plain language of the Woodland Hills building height ordinances which would allow the structure at 1115 S. Woodland Hills Drive to be considered compliant?

No. There needs to be clarification on how the roof mean elevation was calculated with emphasis on the value used for the lowest eave value of 5955.1

29. In your professional experience, is it reasonable for the Building Inspector or Building Official to find that the roof height is taller than the entire building height given the

design of the house at 1115 S. Woodland Hills Drive? Would such a determination be a red-flag indicator that there were problems in the building height calculations? Would such a red-flag be of a sufficient magnitude that ignoring it would have to be willful?

No. It does not make sense to have a roof height calculation be taller than entire building height.

Yes.

Overlooked or willful.

30. In your professional experience, would it be reasonable for a Building Inspector or Building Official to use two separate calculation processes or mathematical formulas to determine compliance with the same ordinance? In your professional experience, would this type of error easily happen by chance or is this an atypical type of error? Would this action of using two different methods of building height calculation based upon the same ordinance be a sufficiently obvious error in the industry that using the two different methods would require a highly-qualified building inspector to willfully make such an arbitrary and capricious error?

No.

There should be a standard equation or calculation process for all to follow.

The building inspector should require the professional preparing the design or site plan to do the height calculation using a specific mathematical equation.

31. In your professional opinion, would an architectural feature above a basement or first story window which is not connected in any way to the roof be considered an eave of such roof when calculating the mean height level of a roof? In your professional opinion, is it standard engineering practice to use a design feature not shown on any plans as a substantive data point in making a building height calculation? In your professional opinion, should a Building Inspector or Building Official require the amendment of plans to add features upon which they are relying for ordinance compliance?

No.

No.

Yes. If the house plan changes during the design, addendum plans should be provided with supporting structural, engineering, and architecture showing said changes and impacts to the overall site and structure. Said addendum plans should be reviewed and accepted by the city prior to construction.

32. Have you reviewed the letter to the Chair of the Woodland Hills Planning Commission generated at the request of such Chair by Mr. Michael Raymond, a retired architect who serves on the City Architectural Board, on March 2, 2020? Do you agree with the findings of such letter? In your professional opinion, what actions would be typical in response to such an internally generated letter?

Yes.

Yes.

As mentioned in Mr. Raymond's letter, a "request for review" was made by the city Planning Commission Chairman for a specific purpose and that legal action had been taken. Follow up from city staff and Planning Commission at a minimum should be taken and findings added to the permit file and shared with legal council. It is the responsibility of Woodland Hills City to follow up with specific items of concern or not in compliance with the plans submitted and enforce current ordinances. Mr. Raymond also states in his letter "The front elevation of the structure now appears to be three stories in height" as shown in an attached independent photo.... "If the original plans had shown the design as now constructed, it would have been classified as a 'three story' design and would not comply with City ordinances. Mr. Raymond clearly states in this letter that "The role of the Architectural Committee is to review exterior finish materials and proposed residential designs based on consistency with architectural design standards of Woodland Hills City. The members of this committee reviewed and approved the design and exterior materials as being consistent with existing architectural vocabulary of the community. It is not the Committee's responsibility to check for nor enforce compliance with City Building Ordinances, but it is clear in this project that modifications have been made to the original set of plans as reviewed by the Architectural Committee." The City should reference provided professional advice and enforce current city ordinances and design standards.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.


Kyle Spencer

3-3-2021
Date

I, Conrad Guymon, am a structural engineer retained by the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. What is your engineering title and what professional licenses, certifications, awards, service on professional boards, associations, etc. and years of experience do you have in that field?
 - a. ***Principal, practicing structural engineering since 1996, 24 years of experience. Projects have consistently included residential design over the entire time period.***
 - b. ***Bachelor of Science in Civil Engineering from Brigham Young University, 1993***
 - c. ***Masters of Engineering Management from Brigham Young University, 1996***
 - d. ***Civil Engineering licenses in the following states:***
 1. ***Utah, granted 2002, by examination (superseded in 2008)***
 2. ***California, granted 2005, by examination***
 3. ***Kentucky, Minnesota, Montana, Nevada, New Jersey, North Carolina, North Dakota, Pennsylvania, South Carolina, Texas, West Virginia by comity.***
 - e. ***Structural Engineering licenses in the following states:***
 1. ***Utah, granted 2008, grandfathered.***
 2. ***California, granted 2012, by examination***
 3. ***Nevada, Hawaii, Georgia by comity.***
 - f. ***Chair, Structural Engineering Institute Utah Section (SEI) for the American Society of Civil Engineers***
 - g. ***Board member, American Society of Civil Engineers, Utah Section***
 - h. ***NCEES Model Law Engineer and Model Law Structural Engineer designations, NCEES International Registry of Professional Engineers. (Education and examination requirements related to license qualifications)***
2. You have submitted a stamped and signed engineering report to the City of Woodland Hills that details violations for construction at 1115 S. Woodland Hills Drive, Woodland Hills, UT. Is that correct?

The report was sent to our client, who submitted the report to the City of Woodland Hills.
3. Do those violations you have cited include violations of the Utah State Building Code?

Yes, specific State code sections were listed in the reports.
4. Do you stand by everything in those stamped and signed reports?

Yes.
5. In your professional opinion regarding a certified building inspector licensed in the State of Utah as a combination inspector (the highest qualification of building inspector in the State of Utah--more qualified than a limited inspector), what is the industry expected response of such a qualified building inspector after receiving a certified engineering report like the one you submitted to the city? How should such a highly-qualified building inspector be reasonably expected to respond to a certified engineering report like the one you have submitted to the City of Woodland Hills? Would you believe such a highly qualified inspector to have willfully ignored such a report if that building inspector takes no action, does not investigate the claims in that report or fails to even reach out to the engineer submitting such a stamped report as you have submitted with clear errors identified by a licensed engineering professional?

I am not familiar with the qualifications needed for various levels of building inspector certifications. This situation is significantly different than others encountered in my professional experience. I have no basis to form an opinion regarding a typical industry expected response.

6. Written statements made by City officials, council members, employees, contractors and/ or consultants have insinuated that your report should not be taken seriously. They have stated, referring to engineering reports submitted to the City:
- a. that, "there are some things that don't sound or look right" and that there are "many errors and inconsistencies"
I have not received any feedback regarding potential mis-statements, errors or inconsistencies.
 - b. that the reports are based on "illegitimate and emotional claims";
The report lists only specifically documented items listed in the referenced building code sections.
 - c. that "basically it is just an engineer's opinion based upon the bias they were hired to justify"
The report was limited to those items that could be definitively shown to be a clear violation of the building code. The report did not delve into speculation or items that were unclear based on the information available. CKR Engineers regularly prepares reports for legal cases. The professional opinions stated in this report are based on the evidence available to us and are not skewed to fit a desired narrative.
 - d. that "you can have as many answers as you have firms [engineering] to ask the question."
Engineers can have differences of opinion. The report only listed items that were clearly a violation of building code provisions.
 - e. What is your response to these assertions regarding the stamped and signed engineering reports you have submitted to the City of Woodland Hills?
Responses to the assertions are noted above.
7. Has any City Official, Employee, or Representative ever contacted you to investigate the claims you made in those reports?
No, I have not been contacted by anyone representing the City of Woodland Hills.
8. In your professional experience is this typical behavior for a City to ignore professional engineering reports of construction violations?
No, I have not experienced a professional engineering report being disregarded.
9. In your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have done in response to your certified report?
The response has not been typical. I have typically seen violations listed in a correction notice written by a representative of the building department. I have been contacted personally by building inspectors when there have been questions on items listed in submitted reports.
10. In your professional experience, when is it not only appropriate but expected or required to "red-tag" or stop construction? In your professional experience, what are the problems in not requiring violations to be corrected immediately, once they are brought to a City's attention? In your professional opinion, is it industry standard practice for a city not to require a builder to show in construction plans how they will correct a violation or problem once such an issue is brought to the City's attention? In your professional opinion, is it standard practice for a city to allow a violation to persist and "allow them [a builder] to fix it" without forcing the builder to stop construction until the builder can prove how they will correct a violation? In your professional opinion, is it acceptable or standard practice for a city to not require corrections of errors in a construction document until after the error is actually built? Why would these approaches be problematic?

The measures taken by the building official are generally tailored to the violation. Some items can be addressed as construction proceeds, while others may require a stop work order if they cannot be addressed while construction proceeds. The nature of some of the items listed in this situation are is such that a stop work order would have been appropriate.

11. In your professional experience, does the City still have a duty to correct these violations and ensure public safety?

Where the items were brought to the City's attention during the course of construction, a responsible course of action would require correction before a final occupancy permit is issued.

12. In your professional experience, do you believe that the violations identified for construction at 1115 S. Woodland Hills Drive represent safety risks?

The preface to the 2018 International Building Code states "This code is intended to establish provisions that adequately protect public health, safety and welfare...". The submitted report lists items that are a clear violation of specific building code provisions. As such, the items identified in the report present safety risks.

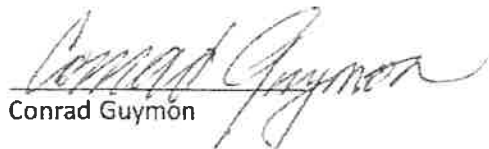
13. In your professional experience, when a City in the State of Utah receives a certified engineering report like the one you have submitted to the City of Woodland Hills, what is the industry-standard or expected response and action of the City? Has the City of Woodland Hills responded to your report in a reasonable way that is typical of municipalities in Utah? Again, in your professional experience, is the response by the City of Woodland Hills in this matter typical? If not, what should the City have reasonably done in response to your certified report?

A typical response would be to investigate the items noted and to contact the registered design professional if there are questions regarding the statements made. The response from the City of Woodland Hills has not been typical.

14. Do you have any other comments regarding your report, your statements, the action or inaction of the City or anything else related to this matter?

The engineering reports submitted represent professional opinions based on the evidence submitted for review. We have not received additional evidence since those reports were written that would warrant modifying any statement made in the report.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.


Conrad Guymon


Date

I, Sharon Wright, am a resident of the City of Woodland Hills and respectfully submit this written witness testimony for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. How long have you lived in Woodland Hills? While you have lived in Woodland Hills have you ever served in city government or on any city committees or commissions? If so, what were they?

We moved into our home in Woodland Hills in November, 1992. (28+ years)

I was on the W.H. Planning Commission from January 2006 – June 2011

I served as the chairperson for Woodland Hills Days on three separate occasions and was awarded a plaque in 2005 as Citizen of the Year by the City Council.

I put in many hours, as did most citizens, in helping to build our Fire Station/Offices.

I served on the working group during the summer of 2020 to try to move forward the Codification project in our City.

2. Did you recently serve on a citizen working group? Who authorized this group and what was the purpose of that committee? Did that committee identify changes to the city laws which were not adopted legally?

I was asked by Councilman David Pratt, with Mayor Wendy Pray's approval, to serve with Jeremy Searle and Mike and Marlene Lauritzen under his (Dave's) direction and chairmanship. Our goal was to compare the last codified ordinances from our City (2008) with the currently recommended documents, identify differences, get "backing" (documentation of changes), and make recommendations for approval by the City Council prior to sending documents to the codifiers (American Legal Publishers). Hundreds of changes were identified through a side-by-side analysis done by the Lauritzens.

They fell into five categories:

- 1. Typographic changes - generally made by the codifiers to standardize wording or correct spelling*
- 2. Additions to laws – changes made to our laws since 2008 for which proper documentation was found*
- 3. Undocumented changes – possibly made legally but for which no backing documents could be found*
- 4. Zoning changes – some documented and some not*
- 5. Additions or removals of sections – some with no explanation, some upon the anecdotal recommendation of the Planning Commission, most with no backing and no one accepting credit for having made the changes*

3. Did city officials ever make statements publicly indicating that laws being codified did not contain any changes? According to your knowledge, did those laws contain changes? If so, what were those changes?

Dave Pratt, in a public statement circulated by the City Transparency Committee, said that the purpose of codification was to digitize our City Code to make it more accessible to our citizens and that there were "no substantive changes" to our laws. This was the statement echoed by all city officials when questioned.

Dave Pratt, and some others, admitted that they were embarrassed to learn that many changes had been slipped in to the proposed documents - substantive changes regarding building heights, definitions, fencing, zoning, etc. These major changes precipitated the assembling of the working codification group and the referendum.

4. Is it your understanding that the city attempted to change the building height restrictions of the city ordinances as part of codification without notifying the citizens of the changes? Do you believe this was legal?

I attended the City Council Meeting in February 2020 when Planning Commission Chairman Wayne Frandsen handed out papers showing his proposal for changing the building height definitions. He then said, "I have learned that we need to have a public hearing before these changes can be made." A public hearing was scheduled, Covid hit, the hearing was canceled, and then codification became the big topic. The public were told that "there are no substantive changes" and then, SURPRISE: all of the changes were carefully nestled in the documents to be codified. This is why and when I became involved. The changes may be good and they may not but when people are so determined to pass them without proper public participation and input, I question motives and honesty. Trying to change long-standing standards and laws through improper means is illegal and dramatically emphasizes the need for strict adherence to our law.

5. Is it your understanding that the city attempted to remove the hillside development restrictions of the city ordinances as part of codification? You asked members of the city council to provide you with documentation proving that those restrictions had been properly removed prior to codification, is that correct? Were they able to provide you with any documentation supporting the city's claims that these restrictions had been removed previously?

I am not sure who "the city" is but I do know that someone in Woodland Hills moved the Hillside Development Standards from the Subdivision Ordinances (where they were in the 2008 documents) to the Development and Construction Standards with some changes. When I spoke to Dave Pratt about the agreement we had as a working group that no changes would be made without backing (documentation that changes were properly made according to law), he agreed and said that he would find the backing. After eight days of searching City records, Dave Pratt was unable to find any documentation that the Hillside Development Standards had been legally moved. He, and the City Council, agreed in the Feb. 23 City Council Meeting that the Standards should be returned to the City Ordinances for codification. I wish I knew who "Someone" was. They have stolen hours of many lives as we have tried to get our city ordinances properly documented for codification.

6. Recently you participated in a referendum in Woodland Hills. What was the purpose of that referendum?

The purpose of the referendum was to get the City Council Members to reverse the vote to automatically codify all city documents, sight unseen. Council Members Ottley, Malkovich, and Kynaston had said that they were tired of the whole codification mess and just wanted to get it done. After the referendum successfully passed, Councilman Kynaston said (referring to his previous vote), "That was the worst decision I ever made."

7. Do you believe that most homes in Woodland Hills are in violation of the city's building height restrictions? Do you believe that there are approximately 100 homes in Woodland Hills that are in violation of the city's building height restrictions?

Absolutely not. That is a popular misconception often repeated by city officials in a misguided effort to justify changing current building height restrictions. They are just so hard to understand." Competent architects and engineers have felt that our building height definition was clear and very understandable for decades.

8. Did you ever have conversations with the Mayor regarding the engineering reports submitted by the Fijas to the City? If so, what did the Mayor communicate to you and what was the purpose of those communications to you?

Mayor Pray told me that she had not read the reports but that Corbett Stephens had. She also said that when Corbett spoke to the engineers, they said that the Fijas had misrepresented the information. Wendy quoted the engineers as saying to Corbett, "That's not what we said." Wendy said these things to me when we were working on an article together to send to Woodland Hills citizens answering a list of questions that citizens had sent to City officials. I wrote down her answers as she spoke and then reread them to her to be sure that I had not misquoted her.

9. Did you ever speak with Mr. Corbett Stephens regarding whether he contacted the engineers submitting certified reports of violations the engineers found for construction at 1115 S. Woodland Hills Drive? If so, what did he say to you?

I called Corbett Stephens to ask what the engineers had said about the letters they had sent to the City. He told me he had never called any of the Fijas' engineers. The only engineers he had spoken to were City-contracted engineers regarding subdivision development.

10. Have any city officials, staff, employees or appointees ever spoken to you regarding the Fijas, their actions with the City or the character of the Fijas? If so, could you detail those interactions and communications and the purpose you perceived in them speaking to you about the Fijas?

No City officials have initiated conversations about the Fijas but when I have engaged both Wendy Pray and Dave Pratt in discussion about the Fuja/Adams situation, they have implied that I obviously do not understand all of the details and that the Fijas do not have a valid argument against the Adams. Wendy has said that she doesn't have time to read the Fijas letters and that she just forwards them to the City Attorney. I do know that Councilman Malkovich's husband (Milan) posted a very mean and inflammatory letter about the Fuja/Adams situation at the mailboxes and that "someone" also anonymously posted a newspaper article about Mr. Fuja from a decade ago which was roundly disproven by all involved. Wayne Frandsen used this false information in an effort to get people not to sign the referendum. There is a general feeling that the Fijas have over-reacted to a non-issue, that they are trying to bully their new neighbors, that they are "suing the city", and that city officials should not engage in conversations with the Fijas because there will be legal implications.

11. Is there anything else related to these matters you would like to share?

I am deeply troubled when I see people I have loved and admired for years stooping to under-handed tactics to cover big mistakes they have made. The Fuja/Adams situation is a MESS that should have never happened. The Fijas went to the City with their concerns about grade, building height, and setbacks before any concrete was poured. Their concerns were ignored

and dismissed and the Fugas were villainized. I have never found the Fugas to be anything but absolutely correct and honest in their assessment of the situation and their portrayal of what is happening. They badly want to find peaceable solutions, have plead for mediation, and continue to believe that they can find honest people in our city leadership and that right will prevail. The safety of their home and family is at stake and they are fighting valiantly to find honest people who will read the engineering reports and require safe practices to be enforced.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.

Sharon Wright
Sharon Wright

Mar. 3, 2021
Date

I, Rod Sager, am a resident of the City of Woodland Hills and respectfully submit this written witness testimony for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. How long have you lived in Woodland Hills?

Since September 2016.

2. Recently you participated in a referendum in Woodland Hills. What was the purpose of that referendum?

The purpose was to have the City Council nullify their previous vote for Ordinance 2020-5 wherein they adopted the rough draft version of the current laws rather than waiting to get a final version. The rough draft version of supposedly current laws contained changes to those laws that had not been legally adopted.

3. Did you recently make a visual inspection review of the homes in Woodland Hills to determine what homes were out of compliance with the plain reading of the City's building height restrictions?

Yes, I drove on every city street at looked at at least 90% of the current homes.

After making that review, do you believe that most homes in Woodland Hills are in violation of the City's building height restrictions?

No. I noted that 3 homes were suspect and would require an official measurement to determine if they were in violation. One home was obviously at least 10 feet over the maximum height of 35 feet.

Do you believe the structure at 1115 S. Woodland Hills Drive to be in compliance with the City's building height restrictions?

No. This is the home I noted above that is in gross violation.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.

Rod Sager
Rod Sager

3-3-2021
Date

I, Michael Lauritzen, am a resident of the City of Woodland Hills and respectfully submit this written witness testimony for the Petitioners, Dr. Tannin and Megan Fuja, and am in all respects competent to make this Declaration.

I hereby give my opinions in answer to the questions below. My answers are italicized and bolded.

1. How long have you lived in Woodland Hills?

17 years

While you have lived in Woodland Hills have you ever served in city government or on any city committees or commissions?

Yes

If so, what were they?

Planning Commission from approximately 2006 to 2010 Maintained the city website from approximately 2012 through August of 2018

2. Did you recently serve on a citizen working group?

Yes

Who authorized this group and what was the purpose of that committee?

Councilman David Pratt (with Mayor Pray's approval) ... to evaluate the codification document

What work did you do as part of this working group?

I did a side-by-side comparison of old city ordinances with the proposed codified ordinances.

Did that committee identify changes to the city laws which were not adopted legally?

I was unable to review all of the old ordinances because the city recorder could not find most of them so I can't say what was properly changed and what was not. This is an incorrect statement. I sat down with Mike and his wife in late summer/early fall of 2020 and found everything he had questions about.

3. Did city officials ever make statements publically indicating that laws being codified did not contain any changes?

Yes

According to your knowledge, did those laws contain changes?

Yes

If so, what were those changes?

There were missing parts and dozens of changes. I provided a list of changes.

4. Is it your understanding that the city attempted to change the building height restrictions of the city ordinances as part of codification without notifying the citizens of the changes?

Yes

Why do you think that happened?

I was told by the planning commission chairman that the old ordinance was subject to individual interpretation so it was unenforceable

5. Have you ever served on the City's planning commission?

Yes

At that time what was the commission's understanding of the City's building height regulations—specifically how the natural lowest point was determined and how the height of the building was calculated?

The lowest natural point referred to the height of the undisturbed earth at the lowest point on the perimeter of the foundation. The building height regulation read: "The vertical distance to a maximum of thirty five feet (35') from the natural lowest point to the highest point of the coping of a flat roof, or to the deck line of a mansard roof, or the mean height level between eaves and ridge for gable, hip or gambrel roofs." Also, a building can be no taller than two stories.

6. Is it your understanding that the city attempted to remove the hillside development restrictions of the city ordinances as part of codification?

Yes

In your service on the working group investigating undocumented changes to the city's laws, did you find proper documentation regarding the proper removal of the hillside development ordinances from the subdivision ordinance or the drainage requirements from the Development and Construction Standards?

No

7. In your service on the working group, how many of the city ordinances did you review?

All

Was it the group's purpose to review all of the legally documented city laws?

We were supposed to review the "codification"

In your service on this working group, explain your working in reading, reviewing and comparing the city ordinances with the versions being put forward for codification.

The city recorder had apparently lost all of the old ordinances, but I obtained from the fire chief, Craig Northup, a copy of the ordinances he was using in his duties as the city enforcement officer. I knew what he had given me was outdated, but it was all I could get from the city. I did a side-by-side comparison of the old ordinances with the version of the codified ordinances provided me by councilman Pratt. I highlighted additions, deletions, and changes. Later I was given copies of modified proposed codifications of Titles 10, 11 and 12 and I did similar comparisons of those against the old ordinances. This is an in correct statement I sat with Mike and Marlene and we went through every ordinance that he had questions with. He obtained copies of everything the city had. He has never been denied access to anything. He had all the documents previously as he did the city's website under the direction of the former Mayor who was his son. There are boxes of hard copies of ordinances and when asked to search for records I did so on my own time.

8. Do you believe that most homes in Woodland Hills are in violation of the city's building height restrictions?

No

Do you believe that there are approximately 100 homes in Woodland Hills that are in violation of the city's building height restrictions?

No

Do you believe the structure at 1115 S. Woodland Hills Drive to be in compliance with city building height restrictions?

No

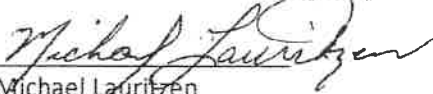
9. Have any city officials, staff, employees or appointees ever spoken to you regarding the Fugas, their actions with the City or the character of the Fugas?

Yes

If so, could you explain those interactions and communications and the purpose you perceived in them speaking to you about the Fugas?

In the past year I had occasion to speak directly with two city officials on separate occasions in which they brought up a newspaper article from another state regarding prior business dealings of Tannin Fuja. The newspaper report purportedly alleged that Tannin Fuja mishandled funds and evaded responsibility for a failed business venture. In both instances and by their own admission, the city officials shared the story for the explicit purpose of exposing what they viewed to be the shoddy character of Tannin Fuja in order to discredit his testimony on any point of fact.

I HEREBY CERTIFY under criminal penalty under the law of the State of Utah that I have drafted, read, and know the contents of the foregoing Declaration to be true and correct of my own personal knowledge, and acknowledge my intent to be bound thereby.


Michael Lauritzen

3 Mar 2021
Date